SENATE BILL 139

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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AN ACT

RELATING TO MEDICAL CANNABIS; AMENDING A SECTION OF THE LYNN AND ERIN COMPASSIONATE USE ACT TO LIMIT THE DEFINITION OF "QUALIFIED PATIENT" TO RESIDENTS OF NEW MEXICO; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 26-2B-3 NMSA 1978 (being Laws 2007, Chapter 210, Section 3, as amended) is amended to read:

"26-2B-3. DEFINITIONS.--As used in the Lynn and Erin Compassionate Use Act:

A. "adequate supply" means an amount of cannabis, in any form approved by the department, possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the department to be no more than .216304.1GLG"
reasonably necessary to ensure the uninterrupted availability
of cannabis for a period of three months and that is derived
solely from an intrastate source;

B. "cannabis":

(1) means all parts of the plant Cannabis
sativa L. containing a delta-9-tetrahydrocannabinol
concentration of more than three-tenths percent on a dry weight
basis, whether growing or not; the seeds of the plant; the
resin extracted from any part of the plant; and every compound,
manufacture, salt, derivative, mixture or preparation of the
plant, its seeds or its resin; and

(2) does not include the mature stalks of the
plant; fiber produced from the stalks; oil or cake made from
the seeds of the plant; any other compound, manufacture, salt,
derivative, mixture or preparation of the mature stalks, fiber,
oil or cake; the sterilized seed of the plant that is incapable
of germination; the weight of any other ingredient combined
with cannabis to prepare topical or oral administrations, food,
drink or another product; or hemp;

C. "cannabis consumption area" means an area within
a licensed premises approved by the department where cannabis
may be consumed that complies with rule as established by the
department;

D. "cannabis courier" means a person that is
licensed by the department to transport usable cannabis and
cannabis products within the state from a cannabis establishment to:

(1) a qualified patient;
(2) a primary caregiver; or
(3) another cannabis establishment;

E. "cannabis establishment" means:

(1) a licensed cannabis courier;
(2) a licensed cannabis testing facility;
(3) a licensed cannabis manufacturer;
(4) a licensed cannabis producer; or
(5) such other person that the department may by rule approve for participation in the medical cannabis program;

F. "cannabis manufacturer" means a person that is licensed by the department to:

(1) manufacture cannabis products;
(2) package, transport or courier cannabis products;
(3) have cannabis products tested by a cannabis testing facility;
(4) purchase, obtain, sell and transport cannabis products to other cannabis establishments; and
(5) prepare products for personal production license holders;

G. "cannabis producer" means a person that is
licensed by the department to possess, produce, dispense, 
distribute and manufacture cannabis and cannabis products and 
sell wholesale or by direct sale to qualified patients and 
primary caregivers;

H. "cannabis product":

(1) means a product that contains cannabis, 
including edible or topical products that may also contain 
other ingredients; and

(2) does not include the weight of any other 
ingredient combined with cannabis or cannabis extract to 
prepare topical or oral administrations, food, drink or another 
product;

I. "cannabis testing facility" means a person that 
is licensed by the department to perform tests of cannabis 
products to analyze the strength or purity of the items and to 
collect cannabis samples and transport cannabis products to the 
cannabis testing facility from cannabis establishments;

J. "debilitating medical condition" means:

(1) cancer;

(2) glaucoma;

(3) multiple sclerosis;

(4) damage to the nervous tissue of the spinal 
cord, with objective neurological indication of intractable 
spasticity;

(5) seizure disorder, including epilepsy;
(6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;
(7) admitted into hospice care in accordance with rules promulgated by the department;
(8) amyotrophic lateral sclerosis;
(9) Crohn's disease;
(10) hepatitis C infection;
(11) Huntington's disease;
(12) inclusion body myositis;
(13) inflammatory autoimmune-mediated arthritis;
(14) intractable nausea or vomiting;
(15) obstructive sleep apnea;
(16) painful peripheral neuropathy;
(17) Parkinson's disease;
(18) posttraumatic stress disorder;
(19) severe chronic pain;
(20) severe anorexia or cachexia;
(21) spasmodic torticollis;
(22) ulcerative colitis; or
(23) any other medical condition, medical treatment or disease as approved by the department;

K. "department" means the department of health;

L. "hemp" means the plant Cannabis sativa L. and any part of the plant, whether growing or not, containing a
delta-9-tetrahydrocannabinol concentration of no more than
three-tenths percent on a dry weight basis;

M. "license" means a license issued pursuant to the
Lynn and Erin Compassionate Use Act;

N. "licensee" means a person that holds a license;

O. "licensee representative" means an owner,
director, officer, manager, employee, agent or other
representative of a licensee, to the extent that person acts in
a representative capacity;

P. "manufacture" means to prepare a cannabis
product;

Q. "medical cannabis program" means the program
established pursuant to the Lynn and Erin Compassionate Use Act
for authorization and regulation of the medical use of cannabis
in the state;

R. "personal production license" means a license
issued to a qualified patient or to a qualified patient's
primary caregiver participating in the medical cannabis program
to permit the qualified patient or the qualified patient's
primary caregiver to produce cannabis for the qualified
patient's use at an address approved by the department;

S. "practitioner" means a person licensed in New
Mexico to prescribe and administer drugs that are subject to
the Controlled Substances Act;

T. "primary caregiver" means a resident of New
Mexico who is at least eighteen years of age and who has been

designated by the patient's practitioner as being necessary to

take responsibility for managing the well-being of a qualified

patient with respect to the medical use of cannabis pursuant to

the provisions of the Lynn and Erin Compassionate Use Act;

U. "produce" means to engage in any activity

related to the planting or cultivation of cannabis;

V. "qualified patient" means a [person] resident of

New Mexico who has been diagnosed by a practitioner as having a
debilitating medical condition and has received written

certification and a registry identification card pursuant to

the Lynn and Erin Compassionate Use Act on the basis of having

been diagnosed, in person or via telemedicine, by a

practitioner as having a debilitating medical condition;

provided that a practitioner may only issue a written

certification on the basis of an evaluation conducted via

telemedicine if the practitioner has previously examined the

patient in person;

W. "reciprocal participant" means an individual who

holds proof of authorization to participate in the medical

cannabis program of another state of the United States, the

District of Columbia, a territory or commonwealth of the United

States or a New Mexico Indian nation, tribe or pueblo;

X. "registry identification card" means a document

that the department issues:
(1) to a qualified patient that identifies the bearer as a qualified patient and authorizes the qualified patient to use cannabis for a debilitating medical condition; or

(2) to a primary caregiver that identifies the bearer as a primary caregiver authorized to engage in the intrastate possession and administration of cannabis for the sole use of a qualified patient who is identified on the document;

Y. "safety-sensitive position" means a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another;

Z. "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a site apart from the site where the patient is located, in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or off-site patient monitoring and telecommunications in order to deliver health care services;

AA. "THC" means delta-9-tetrahydrocannabinol, a substance that is the primary psychoactive ingredient in cannabis; and

BB. "written certification" means a statement made
on a department-approved form and signed by a patient's practitioner that indicates, in the practitioner's professional opinion, that the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient."

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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