

HOUSE BILL 156

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Andrea Reeb and William "Bill" R. Rehm

AN ACT

RELATING TO HEALTH; ENACTING THE CANNABIS SCHOOL USE PREVENTION RESOURCE ACT; REQUIRING THE DEPARTMENT OF HEALTH TO DEVELOP, MAINTAIN AND OVERSEE A CANNABIS SCHOOL USE PREVENTION RESOURCE PROGRAM; ALLOWING THE DEPARTMENT OF HEALTH TO PROMULGATE RULES.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Cannabis School Use Prevention Resource Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Cannabis School Use Prevention Resource Act:

A. "cannabis" means all parts of the plant genus Cannabis 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

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1 resin extracted from any part of the plant; and every compound,  
2 manufacture, salt, derivative, mixture or preparation of the  
3 plant, its seeds or its resin;

4 B. "cannabis product" means a product that is or  
5 that contains cannabis or cannabis extract, including edible or  
6 topical products that may also contain other ingredients;

7 C. "department" means the department of health;

8 D. "school" means a public school or a charter  
9 school;

10 E. "school personnel" means a person employed by a  
11 public school and includes administrators, teachers, teaching  
12 aides, coaches and bus drivers; and

13 F. "unauthorized use of cannabis" means use of  
14 cannabis by a minor that is:

15 (1) inconsistent with Section 22-33-5 NMSA  
16 1978; or

17 (2) illegal pursuant to state and federal law.

18 SECTION 3. [NEW MATERIAL] CANNABIS SCHOOL USE PREVENTION  
19 RESOURCE PROGRAM--DEPARTMENT DUTIES--SCHOOL BOARD AND GOVERNING  
20 BODY OF CHARTER SCHOOL ACCESS--REPORTING.--

21 A. By July 1, 2023, the department shall develop,  
22 maintain and oversee a cannabis school use prevention resource  
23 program for school personnel, including:

24 (1) evidence- and research-based educational  
25 materials pursuant to Section 4 of the Cannabis School Use

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1 Prevention Resource Act; and

2 (2) a school juvenile use targeted advertising  
3 campaign pursuant to Section 7 of the Cannabis School Use  
4 Prevention Resource Act.

5 B. The department shall ensure that each school  
6 board and governing body of a charter school has access to the  
7 cannabis school use prevention resource program by July 1,  
8 2023. A school and the employees of the school may use the  
9 material provided by the department pursuant to this section.

10 C. From 2023 through 2028, the department shall  
11 present a report to the legislative education study committee  
12 and the legislative health and human services committee before  
13 December 31 of each year.

14 SECTION 4. [NEW MATERIAL] CANNABIS SCHOOL USE PREVENTION  
15 RESOURCE PROGRAM--EDUCATIONAL MATERIALS--DEVELOPMENT--  
16 ACCESSIBILITY.--

17 A. The department shall develop evidence- and  
18 research-based educational materials for school personnel in  
19 the course of:

- 20 (1) identifying:
- 21 (a) cannabis;
  - 22 (b) cannabis products, including food
  - 23 products, based on packaging of the food product and other
  - 24 ascertainable features of a food item containing cannabis and
  - 25 cannabis-containing food products that appear to replicate

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1 existing non-cannabis-containing food products; and

2 (c) student impairment caused by  
3 unauthorized use of cannabis; and

4 (2) reporting incidents of student impairment.

5 B. The department shall maintain and operate a web  
6 page that:

7 (1) is free for school personnel to access;  
8 and

9 (2) provides a downloadable format of  
10 educational materials pursuant to Subsection A of this section.

11 C. Pursuant to Subsection B of this section, the  
12 department shall:

13 (1) provide a link to the web page on the  
14 department's website; and

15 (2) ensure that each school board and  
16 governing body of a charter school receives a link to the web  
17 page.

18 SECTION 5. [NEW MATERIAL] CANNABIS SCHOOL USE PREVENTION  
19 RESOURCE PROGRAM--NEW MEXICO POISON AND DRUG INFORMATION CENTER  
20 TO PROVIDE MATERIALS.--

21 A. Prior to the 2023-2024 school year, the New  
22 Mexico poison and drug information center shall provide  
23 materials to school personnel on how to:

24 (1) identify cannabis-containing items;

25 (2) recognize student impairment caused by

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1 unauthorized use of cannabis; and

2 (3) refer impaired students for medical  
3 evaluation and treatment.

4 B. The department shall collaborate with school  
5 boards, governing bodies of charter schools and the New Mexico  
6 poison and drug information center to ensure that school  
7 personnel have access to materials pursuant to this section.

8 SECTION 6. [NEW MATERIAL] CANNABIS SCHOOL USE PREVENTION  
9 RESOURCE PROGRAM--OVERSIGHT.--

10 A. The department shall ascertain information that  
11 is needed by the department and the New Mexico poison and drug  
12 information center when receiving a report of an incident of  
13 impairment; provided that the information reported is in  
14 compliance with the federal Family Educational Rights and  
15 Privacy Act of 1974 and other state and federal law.

16 B. If impairment results from willful or wanton  
17 misconduct or disregard of a qualified student's treatment plan  
18 pursuant to Section 22-33-5 NMSA 1978, a school personnel  
19 member with access to that student's personally identifiable  
20 health information shall omit the qualified student's  
21 personally identifiable health information, pursuant to state  
22 and federal law.

23 SECTION 7. [NEW MATERIAL] CANNABIS SCHOOL USE PREVENTION  
24 RESOURCE PROGRAM--JUVENILE USE ADVERTISING CAMPAIGN.--The  
25 department shall develop and publish advertisements:

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1           A. with the target demographic of school personnel,  
2 juveniles and parents and guardians; and

3           B. that contain:

4                   (1) the web page link provided pursuant to  
5 Section 4 of the Cannabis School Use Prevention Resource Act;  
6 and

7                   (2) information relevant to:

8                           (a) the prevention of cannabis use by  
9 students; and

10                           (b) the identification of cannabis and  
11 cannabis products.

12           **SECTION 8. [NEW MATERIAL] CANNABIS SCHOOL USE PREVENTION**  
13 **RESOURCE PROGRAM--RULE PROMULGATION.--**The department may  
14 promulgate rules to implement the requirements of the Cannabis  
15 School Use Prevention Resource Act.

16           **SECTION 9.** Section 22-33-5 NMSA 1978 (being Laws 2019,  
17 Chapter 247, Section 1 and Laws 2019, Chapter 261, Section 1)  
18 is amended to read:

19                   "22-33-5. MEDICAL CANNABIS--POSSESSION--STORAGE--  
20 ADMINISTRATION--RESTRICTION--EXEMPTIONS.--

21                           A. Except as provided pursuant to Subsection [G] D  
22 of this section, local school boards and the governing bodies  
23 of charter schools shall adopt policies and procedures to  
24 authorize the possession, storage and administration of medical  
25 cannabis by parents and legal guardians, or by designated

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1 school personnel, to qualified students for use in school  
2 settings; provided that:

3 (1) a student shall not possess, store or  
4 self-administer medical cannabis in a school setting;

5 (2) a parent, legal guardian or designated  
6 school personnel shall not administer medical cannabis in a  
7 manner that creates disruption to the educational environment  
8 or causes other students to be exposed to medical cannabis;

9 (3) a written treatment plan for the  
10 administration of the medical cannabis is agreed to and signed  
11 by the principal or the principal's designee of the qualified  
12 student's school and the qualified student's parent or legal  
13 guardian; and

14 (4) before the first administration of medical  
15 cannabis in a school setting, the qualified student's parent or  
16 legal guardian completes and submits documentation as required  
17 by local school board or charter school rules that includes a:

18 (a) copy of the qualified student's  
19 written certification for use of medical cannabis pursuant to  
20 the Lynn and Erin Compassionate Use Act; and

21 (b) written statement from the qualified  
22 student's parent or legal guardian releasing the school and  
23 school personnel from liability, except in cases of willful or  
24 wanton misconduct or disregard of the qualified student's  
25 treatment plan.

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1                    B. In cases of willful or wanton misconduct or  
2                    disregard of a qualified student's treatment plan that results  
3                    in the unauthorized use of cannabis or impairment of a student,  
4                    the local school board or governing body of a charter school  
5                    shall report the incident pursuant to the requirements of the  
6                    Cannabis School Use Prevention Resource Act for confidential  
7                    disclosure.

8                    [~~B.~~] C. A local school board or the governing body  
9 of a charter school may adopt policies that:

10                                (1) restrict the types of designated school  
11 personnel who may administer medical cannabis to qualified  
12 students;

13                                (2) establish reasonable parameters regarding  
14 the administration and use of medical cannabis and the school  
15 settings in which administration and use are authorized; and

16                                (3) ban student possession, use, distribution,  
17 sale or being under the influence of a cannabis product in a  
18 manner that is inconsistent with the provisions of this  
19 subsection.

20                    [~~C.~~] D. The provisions of Subsection A of this  
21 section shall not apply to a charter school or school district  
22 if:

23                                (1) the charter school or school district  
24 reasonably determines that it would lose, or has lost, federal  
25 funding as a result of implementing the provisions of

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1 Subsection A of this section; and

2 (2) the determination is appealable by any  
3 parent to the secretary, based on rules established by the  
4 department.

5 ~~[D.]~~ E. A public school, charter school or school  
6 district shall not:

7 (1) discipline a student who is a qualified  
8 student on the basis that the student requires medical cannabis  
9 as a reasonable accommodation necessary for the student to  
10 attend school;

11 (2) deny eligibility to attend school to a  
12 qualified student on the basis that the qualified student  
13 requires medical cannabis as a reasonable accommodation  
14 necessary for the student to attend school or a school-  
15 sponsored activity; or

16 (3) discipline a school employee who refuses  
17 to administer medical cannabis.

18 ~~[E.]~~ F. As used in this section:

19 (1) "certifying practitioner" means a health  
20 care practitioner who issues a written certification to a  
21 qualified student;

22 (2) "designated school personnel" means a  
23 school employee whom a public school, charter school or school  
24 district authorizes to possess, store and administer medical  
25 cannabis to a qualified student in accordance with the

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1 provisions of this section;

2 (3) "medical cannabis" means cannabis that is:

3 (a) authorized for use by qualified  
4 patients in accordance with the provisions of the Lynn and Erin  
5 Compassionate Use Act; and

6 (b) in a form that is not an aerosol and  
7 cannot be smoked or inhaled in particulate form as a vapor or  
8 by burning;

9 (4) "qualified student" means a student who  
10 demonstrates evidence to the school district that the student  
11 is authorized as a qualified patient pursuant to the Lynn and  
12 Erin Compassionate Use Act to carry and use medical cannabis in  
13 accordance with the provisions of that act;

14 (5) "school" means a public school or a  
15 charter school;

16 (6) "school setting" means any of the  
17 following locations during a school day:

18 (a) a school building;

19 (b) a school bus used within the state  
20 during, in transit to or in transit from a school-sponsored  
21 activity;

22 (c) a public vehicle used within the  
23 state during, in transit to or in transit from a school-  
24 sponsored activity in the state; or

25 (d) a public site in the state where a

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1 school-sponsored activity takes place; and

2 (7) "written certification" means a statement  
3 in a qualified student's medical records or a statement signed  
4 by a qualified student's certifying practitioner that, in the  
5 certifying practitioner's professional opinion, the qualified  
6 student has a debilitating medical condition and the certifying  
7 practitioner believes that the potential health benefits of the  
8 medical use of cannabis would likely outweigh the health risks  
9 for the qualified student. A written certification is not  
10 valid for more than one year from the date of issuance."

11 SECTION 10. Section 23-10-3 NMSA 1978 (being Laws 2013,  
12 Chapter 56, Section 3) is amended to read:

13 "23-10-3. DUTIES.--The New Mexico poison and drug  
14 information center shall:

15 A. provide expert, twenty-four-hour, seven-day-a-  
16 week assistance to the residents of New Mexico during possible  
17 poisoning emergencies;

18 B. provide expert, twenty-four-hour, seven-day-a-  
19 week emergency management and treatment referral of victims of  
20 poisoning to determine whether treatment can be accomplished at  
21 the scene of the incident or if transport to an emergency  
22 treatment or other facility is required;

23 C. provide expert, twenty-four-hour, seven-day-a-  
24 week treatment recommendations for all types of poisonings,  
25 chemical exposures, drug overdoses and exposure to chemical

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1 weapons of mass destruction. This information shall be  
2 provided to medical and nonmedical providers;

3 D. carry out follow-up for hospitalized and non-  
4 hospitalized poison patients to assess progress and recommend  
5 additional treatment as necessary;

6 E. carry out follow-up to families and other  
7 individuals, where practicable, to ensure that adequate care is  
8 provided;

9 F. work to improve the health of the residents of  
10 New Mexico by reducing illness and death associated with  
11 poisoning and by encouraging proper use of medications;

12 G. identify and address problems associated with  
13 poisoning and medication-related illness through education and  
14 public service;

15 H. work to reduce the costs associated with  
16 poisoning by treating people with less severe exposures at  
17 their homes with the center's guidance;

18 I. train health care professionals in the field of  
19 clinical toxicology;

20 J. expand knowledge in the field of clinical  
21 toxicology through an active research program;

22 K. prevent poisonings through surveillance of toxic  
23 events, education, regulation and collaboration with local,  
24 state and federal agencies;

25 L. offer drug information services that provide

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1 individualized, accurate, relevant and unbiased information to  
2 consumers and health care professionals regarding medication-  
3 related inquiries;

4 M. help train pharmacists to become drug  
5 information providers;

6 N. seek to effectively use the center's resources;  
7 ~~[and]~~

8 O. work to advance the center's institutional  
9 mission while supporting professional and personal growth; and

10 P. provide materials to school personnel pursuant  
11 to the Cannabis School Use Prevention Resource Act."

12 SECTION 11. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2023.

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