

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 128

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO CANNABIS REGULATION; CHANGING DEFINITIONS;
PROVIDING POWERS AND DUTIES; INCREASING PLANT COUNT FOR
MICROBUSINESSES; PROVIDING PROCEDURES FOR CRIMINAL HISTORY
BACKGROUND CHECKS; REMOVING THE PROHIBITION AGAINST A PERSON
OWNING BOTH A CANNABIS LICENSE AND A LICENSE UNDER THE LIQUOR
CONTROL ACT; PROHIBITING CO-LOCATION OF CANNABIS ACTIVITIES AND
ALCOHOLIC BEVERAGE SALES OR SERVICE ACTIVITIES TO THE PUBLIC OR
MEMBERS OF PRIVATE CLUBS; PROVIDING FOR INVESTIGATORY
CONFIDENTIALITY; ALLOWING FOR LICENSEE CONVERSION FROM
NONPROFIT TO FOR-PROFIT CORPORATE STATUS; CHANGING PACKAGING
REQUIREMENTS; REPLACING LICENSURE WITH REGISTRATION OF CANNABIS
TRAINING AND EDUCATION PROGRAMS; INCLUDING THE CANNABIS
REGULATION ACT IN THE RACKETEERING ACT, THE DELINQUENCY ACT AND
THE UNIFORM LICENSING ACT; INCLUDING CANNABIS IN A LIST OF
CONTRABAND IN JAILS AND PRISONS; CREATING CRIMES; PRESCRIBING

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underscoring material = new
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1 PENALTIES; REPEALING A DELAYED REPEAL; AMENDING, REPEALING AND
2 ENACTING SECTIONS OF THE NMSA 1978.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 SECTION 1. Section 14-2-1 NMSA 1978 (being Laws 1947,
6 Chapter 130, Section 1, as amended) is amended to read:

7 "14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--
8 Every person has a right to inspect public records of this
9 state except:

10 A. records pertaining to physical or mental
11 examinations and medical treatment of persons confined to an
12 institution;

13 B. letters of reference concerning employment,
14 licensing or permits;

15 C. letters or memoranda that are matters of opinion
16 in personnel files or students' cumulative files;

17 D. portions of law enforcement records as provided
18 in Section 14-2-1.2 NMSA 1978;

19 E. as provided by the Confidential Materials Act;

20 F. trade secrets;

21 G. attorney-client privileged information;

22 H. long-range or strategic business plans of public
23 hospitals discussed in a properly closed meeting;

24 I. tactical response plans or procedures prepared
25 for or by the state or a political subdivision of the state,

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1 the publication of which could reveal specific vulnerabilities,
2 risk assessments or tactical emergency security procedures that
3 could be used to facilitate the planning or execution of a
4 terrorist attack;

5 J. information concerning information technology
6 systems, the publication of which would reveal specific
7 vulnerabilities that compromise or allow unlawful access to
8 such systems; provided that this subsection shall not be used
9 to restrict requests for:

10 (1) records stored or transmitted using
11 information technology systems;

12 (2) internal and external audits of
13 information technology systems, except for those portions that
14 would reveal ongoing vulnerabilities that compromise or allow
15 unlawful access to such systems; or

16 (3) information to authenticate or validate
17 records received pursuant to a request fulfilled pursuant to
18 the Inspection of Public Records Act;

19 K. submissions in response to a competitive grant,
20 land lease or scholarship and related scoring materials and
21 evaluation reports until finalists are publicly named or the
22 award is announced; ~~and~~

23 L. information developed or obtained by the
24 cannabis control division of the regulation and licensing
25 department during an enforcement investigation; and

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1 ~~[E.]~~ M. as otherwise provided by law."

2 SECTION 2. Section 26-2C-1 NMSA 1978 (being Laws 2021
3 (1st S.S.), Chapter 4, Section 1) is amended to read:

4 "26-2C-1. SHORT TITLE.--~~[Sections 1 through 42 of this~~
5 ~~act]~~ Chapter 26, Article 2C NMSA 1978 may be cited as the
6 "Cannabis Regulation Act"."

7 SECTION 3. Section 26-2C-2 NMSA 1978 (being Laws 2021
8 (1st S.S.), Chapter 4, Section 2) is amended to read:

9 "26-2C-2. DEFINITIONS.--As used in the Cannabis
10 Regulation Act:

11 ~~[A. "advertisement":~~

12 ~~(1) means a statement or a depiction that is~~
13 ~~intended to induce the purchase of cannabis products and that~~
14 ~~is displayed in printed material or on a sign or other outdoor~~
15 ~~display or presented in a radio, television or other media~~
16 ~~broadcast or in digital media; and~~

17 ~~(2) does not include:~~

18 ~~(a) a sign or outdoor display or other~~
19 ~~statement permanently affixed to a licensed premises that is~~
20 ~~intended to induce the sale of a cannabis product produced or~~
21 ~~sold on the premises;~~

22 ~~(b) a label affixed to a cannabis~~
23 ~~product or the covering, wrapper or container of a cannabis~~
24 ~~product; or~~

25 ~~(c) an editorial or other material~~

1 ~~printed in a publication when the publication of the editorial~~
 2 ~~or material was not paid for by a licensee and was not intended~~
 3 ~~to promote the sale of cannabis products by a particular brand~~
 4 ~~or company;~~

5 ~~B.]~~ A. "cannabis":

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

13 (2) does not include:

14 (a) the mature stalks of the plant;
 15 fiber produced from the stalks; oil or cake made from the seeds
 16 of the plant; any other compound, manufacture, salt,
 17 derivative, mixture or preparation of the mature stalks, fiber,
 18 oil or cake; or the sterilized seed of the plant that is
 19 incapable of germination; or

20 (b) the weight of any other ingredient
 21 combined with cannabis [~~products~~] to prepare topical or oral
 22 administrations, food, drink or [~~another~~] other product;

23 [~~G.]~~ B. "cannabis consumption area" means an area
 24 of a licensed premises where cannabis products may be served
 25 and consumed;

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1 ~~[D.]~~ C. "cannabis courier" means a person that
2 transports commercial or medical cannabis products to
3 ~~[qualified patients, primary caregivers or reciprocal~~
4 ~~participants or directly to]~~ consumers;

5 ~~[E.]~~ D. "cannabis establishment" means:

- 6 (1) a cannabis testing laboratory;
7 (2) a cannabis manufacturer;
8 (3) a cannabis producer;
9 (4) a cannabis retailer;
10 (5) a cannabis research laboratory;
11 (6) a vertically integrated cannabis
12 establishment;
13 (7) a cannabis producer microbusiness; ~~[or]~~
14 (8) an integrated cannabis microbusiness; or
15 (9) a cannabis consumption area;

16 ~~[F.]~~ E. "cannabis extract":

17 (1) means a product obtained by separating
18 resins, tetrahydrocannabinols or other substances from cannabis
19 by extraction methods approved by the division; and

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

23 ~~[G.]~~ F. "cannabis flowers" means only the flowers
24 of a cannabis plant;

25 ~~[H.]~~ G. "cannabis manufacturer" means a person

1 that:

2 (1) manufactures cannabis products;

3 (2) packages cannabis products for resale; or

4 ~~[(3) has cannabis products tested by a~~
5 ~~cannabis testing laboratory; or~~

6 ~~(4)]~~ (3) purchases, acquires, sells or
7 transports wholesale cannabis products to other cannabis
8 establishments;

9 ~~[F.]~~ H. "cannabis producer" means a person that:

10 (1) cultivates cannabis plants;

11 ~~[(2) has unprocessed cannabis products tested~~
12 ~~by a cannabis testing laboratory;~~

13 ~~(3)]~~ (2) transports unprocessed cannabis
14 ~~[products]~~ only to other cannabis establishments; or

15 ~~[(4)]~~ (3) sells cannabis ~~[products]~~ wholesale;

16 ~~[J.]~~ I. "cannabis producer microbusiness" means a
17 cannabis producer at a single licensed premises that possesses
18 no more than ~~[two]~~ five hundred total mature cannabis plants at
19 any one time;

20 ~~[K.]~~ J. "cannabis product" means a product that is
21 or that contains cannabis or cannabis extract, including edible
22 or topical products that may also contain other ingredients;

23 ~~[L.]~~ K. "cannabis research laboratory" means a
24 facility that produces or possesses cannabis products and all
25 parts of the plant genus *Cannabis* for the purpose of studying

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1 cannabis cultivation, characteristics or uses;

2 ~~[M.]~~ L. "cannabis retailer" means a person that
3 sells cannabis products to ~~[qualified patients, primary~~
4 ~~caregivers or reciprocal participants or directly to]~~
5 consumers;

6 ~~[N.]~~ ~~"cannabis server permit" means an authorization~~
7 ~~that allows a person to directly offer, sell or serve cannabis~~
8 ~~or cannabis products as part of commercial cannabis activity in~~
9 ~~a cannabis consumption area;~~

10 ~~Ø.~~ ~~"cannabis server permit education provider"~~
11 ~~means a person that provides cannabis server education courses~~
12 ~~and examinations;~~

13 ~~P.]~~ M. "cannabis testing laboratory" means a
14 ~~[person]~~ facility that samples, collects and tests cannabis
15 products and transports cannabis products for the purpose of
16 testing;

17 ~~[Q.]~~ ~~"cannabis training and education program" means~~
18 ~~a practical or academic curriculum offered by a New Mexico~~
19 ~~public post-secondary educational institution designed to~~
20 ~~prepare students for participation in the cannabis industry;~~

21 ~~R.]~~ N. "commercial cannabis activity":
22 (1) means the cultivation, production,
23 possession, manufacture, storage, testing, researching,
24 packaging and labeling, transportation, couriering, purchase
25 for resale, sale or consignment of cannabis products; and

1 (2) does not include activities related only
2 to the medical cannabis program [~~to cannabis training and~~
3 ~~education programs~~] or to the personal cultivation or use of
4 cannabis products;

5 [~~S.~~] O. "consumer" means a person twenty-one years
6 of age or older who legally purchases, acquires, owns,
7 possesses or uses a commercial cannabis product [~~for a purpose~~
8 ~~other than~~] not for resale or a person who holds a medical
9 cannabis program registry identification card issued by the
10 department of health or is a reciprocal participant;

11 [~~T.~~] P. "contaminant" means pesticides and other
12 foreign material, such as hair, insects or other similar
13 adulterants, in harvested cannabis;

14 [~~U.~~] Q. "controlling person":

15 (1) means a person that controls a financial
16 or voting interest of ten percent or more of, or an officer or
17 board member of, a cannabis establishment; and

18 (2) does not include a bank or licensed
19 lending institution;

20 [~~V.~~] R. "cultivation" means any activity involving
21 the planting, growing, harvesting, drying, curing, grading or
22 trimming of cannabis;

23 [~~W.~~] S. "department" means the regulation and
24 licensing department;

25 [~~X.~~] T. "director" means the director of the

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1 division;

2 ~~[Y.]~~ U. "division" means the cannabis control
3 division of the department;

4 ~~[Z.]~~ V. "dry weight basis", when used in the
5 context of regulation of commercial cannabis activity, means a
6 process by which delta-9-tetrahydrocannabinol concentration is
7 measured relative to the aggregate weight of all parts of the
8 plant genus *Cannabis*, whether growing or not, including the
9 leaves of the plant, the flowers and buds of the plant, the
10 seeds of the plant, the resin of the plant and the stalks of
11 the plant at the point of harvest by a licensee and with no
12 moisture added to the harvested plant;

13 ~~[AA.]~~ W. "facility" means a building, space or
14 grounds licensed for the production, ~~[possession]~~ storage,
15 testing, manufacturing, ~~[or]~~ sale or consumption
16 of ~~[cannabis, cannabis extracts or]~~ cannabis products;

17 ~~[BB.]~~ X. "financial consideration" means value that
18 is given or received, directly or indirectly, through sales,
19 barter, trade, fees, charges, dues, contributions or donations;

20 ~~[CC.]~~ Y. "homegrown" or "homemade" means grown or
21 made for purposes that are not ~~[dependent or conditioned upon~~
22 ~~the provision or receipt of financial consideration]~~ for
23 resale;

24 ~~[DD.]~~ "household" means a housing unit and includes
25 any place in or around the housing unit at which an occupant of

1 ~~the housing unit produces, manufactures, keeps or stores~~
2 ~~homegrown cannabis or homemade cannabis products;]~~

3 Z. "illegal cannabis product" means a cannabis
4 product that is:

5 (1) produced or manufactured outside New
6 Mexico;

7 (2) produced, manufactured, distributed or
8 sold in New Mexico by a person not licensed to produce,
9 manufacture, distribute or sell the cannabis product; or

10 (3) produced, manufactured, distributed or
11 sold by a person acting outside the limits of the person's
12 license;

13 provided that "illegal cannabis product" does not include
14 homegrown or homemade cannabis products that comply with the
15 provisions of the Cannabis Regulation Act;

16 ~~[EE.]~~ AA. "immature cannabis plant" means a
17 cannabis plant that has no observable flowers or buds;

18 ~~[FF.]~~ BB. "industry standards" means the prevailing
19 customary standards of business practice in the cannabis
20 industry in jurisdictions within the United States;

21 ~~[GG.]~~ CC. "integrated cannabis microbusiness" means
22 a person that is ~~[authorized]~~ licensed to conduct one or more
23 of the following:

24 (1) production of cannabis at a single
25 licensed premises; provided that the person shall not possess

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1 more than [~~two~~] five hundred total mature cannabis plants at
2 any one time;

3 (2) manufacture of cannabis products at a
4 single licensed premises;

5 (3) sales and transportation of [~~only~~]
6 cannabis products produced or manufactured by that person or
7 another cannabis producer microbusiness or integrated cannabis
8 microbusiness;

9 (4) operation of only one retail
10 establishment; and

11 (5) couriering of cannabis products [~~to~~
12 ~~qualified patients, primary caregivers or reciprocal~~
13 ~~participants or directly~~] to consumers;

14 [~~HH.~~] DD. "licensed premises" means a location that
15 includes:

16 (1) all enclosed public and private areas at
17 the location that are used in the business and includes
18 cannabis consumption areas, offices, kitchens, restrooms and
19 storerooms;

20 (2) all areas outside of a building that are
21 specifically included in the license; [~~for the production,~~
22 ~~manufacturing, wholesale sale or retail sale of cannabis~~
23 ~~products; and]~~

24 (3) all areas of a standalone cannabis
25 consumption area, including retail and other areas, whether in

1 enclosed or outside spaces, and including private or members-
 2 only clubs where cannabis products are available for sale or
 3 consumption; and

4 ~~[(3)]~~ (4) with respect to a location that is
 5 specifically licensed for the production of cannabis outside of
 6 a building, the ~~[entire unit]~~ amount of land that ~~[is created~~
 7 ~~by subsection or partition of land that]~~ the licensee owns,
 8 leases or has a right to occupy that is identified in the
 9 application for licensure for cultivation of cannabis; provided
 10 that the licensed premises may be decreased but shall not be
 11 increased without permission of the division;

12 ~~[HH.]~~ EE. "local jurisdiction" means a
 13 municipality, including a home rule municipality, or county;

14 ~~[JJ.]~~ FF. "manufacture" means to compound, blend,
 15 extract, infuse, package and label or otherwise prepare a
 16 cannabis product;

17 ~~[KK.]~~ GG. "medical cannabis" means cannabis
 18 products used by a qualified patient or reciprocal participant
 19 in accordance with the Lynn and Erin Compassionate Use Act;

20 ~~[LL.]~~ HH. "medical cannabis program" means the
 21 program created pursuant to the Lynn and Erin Compassionate Use
 22 Act;

23 ~~[MM.]~~ II. "medical cannabis registry" means the
 24 system by which the department of health approves or denies
 25 applications and issues and renews registry identification

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1 cards for qualified patients and primary caregivers;

2 [NN-] JJ. "primary caregiver" means a resident of
3 New Mexico who is at least eighteen years of age and who is
4 responsible for managing the well-being of a qualified patient
5 with respect to the medical use of cannabis pursuant to the
6 Lynn and Erin Compassionate Use Act;

7 [OO-] KK. "public [~~place~~] space" means [~~a~~] any
8 place to which the general public has access [~~and includes~~
9 ~~hallways, lobbies and other parts of apartment houses and~~
10 ~~hotels that do not constitute rooms or apartments designed for~~
11 ~~actual residence; highways; streets; schools; places of~~
12 ~~amusement; parks; playgrounds; and places used in connection~~
13 ~~with public passenger transportation];~~

14 [PP-] LL. "qualified patient" means a resident of
15 New Mexico who holds a registry identification card pursuant to
16 the Lynn and Erin Compassionate Use Act;

17 [QQ-] MM. "reciprocal participant" means a person
18 who is not a resident of New Mexico and who holds proof of
19 enrollment by a governmental regulatory authority to
20 participate in the medical cannabis program of another state of
21 the United States, the District of Columbia or a territory or
22 commonwealth of the United States in which the person resides
23 or a person who holds proof of enrollment by a governmental
24 regulatory authority of a New Mexico Indian nation, tribe or
25 pueblo to participate in its medical cannabis program;

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1 NN. "residence" or "household" means a housing unit
2 and includes any place in or around the housing unit that is
3 not a public space and at which an occupant of the housing unit
4 produces, manufactures, keeps or stores homegrown or homemade
5 cannabis products or stores legally purchased cannabis;

6 ~~[RR.]~~ OO. "retail establishment" means a location
7 at which cannabis products are sold ~~[to qualified patients,~~
8 ~~primary caregivers and reciprocal participants and]~~ directly to
9 consumers;

10 ~~[SS.]~~ PP. "superintendent" means the superintendent
11 of regulation and licensing;

12 ~~[TT.]~~ QQ. "unprocessed" means unaltered from an
13 original, raw or natural state; and

14 ~~[UU.]~~ RR. "vertically integrated cannabis
15 establishment" means a person that is authorized to act as
16 ~~[any]~~ one or more of the following:

- 17 (1) a cannabis courier;
- 18 (2) a cannabis manufacturer;
- 19 (3) a cannabis producer; and
- 20 (4) a cannabis retailer."

21 SECTION 4. Section 26-2C-6 NMSA 1978 (being Laws 2021
22 (1st S.S.), Chapter 4, Section 6, as amended) is amended to
23 read:

24 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
25 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR

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underscored material = new
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1 MEDICAL PROGRAM--CONVERSION OF NONPROFIT MEDICAL CANNABIS
2 CORPORATIONS.--

3 A. The division shall regulate [~~and administer and~~
4 ~~may collect fees in connection with the administration of~~] the
5 following in accordance with the Uniform Licensing Act, unless
6 otherwise provided in the Cannabis Regulation Act:

7 (1) commercial cannabis activity [~~and~~
8 ~~licensing related to commercial cannabis activity~~];

9 (2) the medical cannabis program, except for
10 the medical cannabis registry; and

11 (3) all aspects of cannabis relating to
12 cannabis training and education programs.

13 B. The division [~~shall follow the provisions of the~~
14 ~~Uniform Licensing Act when licensing or permitting~~] may issue,
15 renew, deny, suspend or revoke licenses or discipline licensees
16 for the following:

17 (1) cannabis consumption areas;

18 (2) cannabis couriers;

19 (3) cannabis manufacturers;

20 (4) cannabis producer microbusinesses;

21 (5) cannabis producers;

22 (6) cannabis research laboratories;

23 (7) cannabis retailers;

24 (8) cannabis servers;

25 (9) cannabis testing laboratories;

- 1 (10) cannabis training and education programs;
 2 (11) integrated cannabis microbusinesses; and
 3 (12) vertically integrated cannabis
 4 establishments.

5 C. The division shall include a clear designation
 6 on all licenses [~~and permits~~] that indicates whether the
 7 license [~~or permit~~] is for medical cannabis activity,
 8 commercial cannabis activity or both [~~or for cannabis training
 9 and education programs~~].

10 D. The division shall issue a license to a cannabis
 11 retailer applicant at a discount if the applicant provides
 12 documentation of an agreement to accept cannabis products on
 13 consignment from a cannabis producer microbusiness or an
 14 integrated cannabis microbusiness [~~licensed pursuant the
 15 Cannabis Regulation Act~~].

16 E. A license is valid for twelve months from the
 17 date the license is issued and may be renewed annually [~~except
 18 that a license issued for a cannabis training and education
 19 program is valid until terminated by the licensee or suspended
 20 or revoked by the division~~]. A licensee shall notify the
 21 division when the licensee begins or ends operations pursuant
 22 to the license.

23 F. The director shall not renew a license [~~issued
 24 pursuant to the provisions of the Cannabis Regulation Act~~]
 25 until the director receives notification from the secretary of

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1 taxation and revenue or the secretary's designee that on a
2 certain date:

3 (1) the licensee is not a delinquent taxpayer
4 pursuant to Section 7-1-16 NMSA 1978 only with respect to the
5 cannabis excise tax or the gross receipts tax; and

6 (2) there are no unfiled tax returns due with
7 respect to the cannabis excise tax or the gross receipts tax.

8 G. ~~No~~ A license shall not be transferable or
9 assignable from a licensee to another person. The division
10 shall not allow a person that is licensed as any type of
11 cannabis establishment other than a cannabis research
12 laboratory to hold, directly or indirectly, a cannabis testing
13 laboratory license.

14 H. A license shall not be subject to execution,
15 attachment, a security transaction, liens or receivership.

16 ~~[H.]~~ I. Except for verification of age, the
17 division shall not require licensees to request information
18 from consumers or impose any residency requirement upon
19 consumers for the purchase of commercial cannabis products
20 ~~[pursuant to the commercial cannabis activity authorized by the~~
21 ~~Cannabis Regulation Act]~~. The division may require licensees
22 to request information from consumers for the purchase of
23 medical cannabis products, ~~[pursuant to the medical cannabis~~
24 ~~program]~~ which may include the presentation of legal
25 identification issued by an authorized governmental entity or

1 other documents as required by the medical cannabis program.

2 ~~[F.]~~ J. Except as otherwise provided in the
 3 Cannabis Regulation Act, the division shall not limit the
 4 number of licensed premises a licensee may occupy or operate
 5 under a license. Multiple licensees may occupy a single
 6 licensed premises, and the division shall not place any
 7 restriction or prohibition on the number of licensees occupying
 8 a single licensed premises or on the number of licensed
 9 premises of a cannabis establishment except as otherwise
 10 specifically provided for by ~~[the Cannabis Regulation]~~ that
 11 act. A licensee may conduct any lawful activity or any
 12 combination of lawful activities at a licensed premises
 13 ~~[provided that the licensee is not a licensee pursuant to the~~
 14 ~~Liquor Control Act]~~ except that a cannabis licensee shall not
 15 occupy any premises that also houses a business holding a
 16 license under the Liquor Control Act that allows the sale or
 17 giving away of alcoholic beverages by the glass or package,
 18 including growlers, to the public or to members of a private
 19 club or otherwise allows consumption of alcohol on the
 20 premises.

21 K. Smoking in a cannabis consumption area on a
 22 licensed premises shall be allowed only if the cannabis
 23 consumption area is in a designated smoking area or in a
 24 standalone building from which smoke does not infiltrate other
 25 indoor workplaces or other indoor public places where smoking

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1 is otherwise prohibited pursuant to the Dee Johnson Clean
2 Indoor Air Act.

3 ~~[J.]~~ L. Licensees are specifically allowed to
4 conduct other licensed activities, including activities
5 pursuant to the Hemp Manufacturing Act ~~[except for sales of~~
6 ~~alcoholic beverages]~~ and the Liquor Control Act except for co-
7 location as specified in Subsection J of this section.

8 ~~[K.]~~ M. A person properly licensed and in good
9 standing pursuant to the Lynn and Erin Compassionate Use Act on
10 the effective date of the Cannabis Regulation Act may continue
11 to operate ~~[under]~~ pursuant to that license for medical
12 cannabis until comparable licenses for commercial cannabis
13 activity are available. The division shall determine when
14 retail sales of commercial cannabis products begin, but no
15 later than April 1, 2022. A facility of such a licensee, upon
16 issuance of the applicable cannabis establishment license,
17 shall constitute licensed premises of the licensee and the
18 licensee shall be entitled to continued and uninterrupted
19 operations of the licensed premises. As to activity under the
20 medical cannabis program, the licensee shall continue to
21 operate under rules promulgated for the medical cannabis
22 program until the division promulgates rules for medical
23 cannabis activity, ~~[except that]~~ and a qualified patient, ~~[a]~~
24 primary caregiver ~~[and a]~~ or reciprocal participant shall not
25 be prohibited from purchasing and obtaining cannabis products

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1 [pursuant to] through the medical cannabis program.

2 [~~E.~~] N. To address a shortage of cannabis supply in
3 the medical cannabis program, the division may:

4 (1) require all cannabis establishment
5 licensees to ensure that at least ten percent of their cannabis
6 in stock on a monthly basis is designated for sale to qualified
7 patients, primary caregivers and reciprocal participants;

8 (2) initially take reasonable measures to
9 expeditiously incentivize increased production of cannabis
10 plants to remedy a shortage of cannabis supply in the medical
11 cannabis program;

12 (3) after having first exhausted measures to
13 increase production of cannabis plants to address the shortage
14 of cannabis supply in the medical cannabis program, exclude
15 commercial cannabis activity from the scope of new licenses
16 issued to initial applicants for a vertically integrated
17 cannabis establishment, cannabis producer, integrated cannabis
18 microbusiness, cannabis producer microbusiness or cannabis
19 manufacturer license, which limitation shall be in force for a
20 period of at least six months; and

21 (4) require licensees who are licensed to
22 produce cannabis to produce a specified quota of mature
23 cannabis plants to be designated for use in the medical
24 cannabis program; provided that:

25 (a) the division may require a licensee

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1 to devote no more than twenty-five percent of the licensee's
2 cultivated cannabis plants on a monthly basis for use in the
3 medical cannabis program; and

4 (b) the division may require specific
5 tracking of cannabis plants.

6 ~~[M.]~~ O. As used in this section, "shortage of
7 cannabis supply in the medical cannabis program" means that the
8 average number of cannabis plants in production in the medical
9 cannabis program per qualified patient after ~~[the effective~~
10 ~~date of the Cannabis Regulation Act]~~ June 29, 2021 is
11 substantially less than the average number of cannabis plants
12 in production in the medical cannabis program per qualified
13 patient as of ~~[the effective date of the Cannabis Regulation~~
14 ~~Act]~~ June 29, 2021, where:

15 (1) the average number of cannabis plants in
16 production after ~~[the effective date of the Cannabis Regulation~~
17 ~~Act]~~ June 29, 2021 is measured over a period of three
18 consecutive months; and

19 (2) the average number of cannabis plants in
20 production as of ~~[the effective date of the Cannabis Regulation~~
21 ~~Act]~~ June 29, 2021 is measured over a period of three
22 consecutive months immediately preceding ~~[the effective date of~~
23 ~~the Cannabis Regulation Act]~~ June 29, 2021.

24 ~~[N. A person who is a member of the New Mexico~~
25 ~~senate or the New Mexico house of representatives on the~~

1 ~~effective date of the Cannabis Regulation Act shall not apply~~
 2 ~~for or be granted a license to engage in any commercial~~
 3 ~~cannabis activity prior to July 1, 2026.]~~

4 P. A medical cannabis legacy nonprofit corporation
 5 that was required by the department of health to organize under
 6 the provisions of the Nonprofit Corporation Act in order to
 7 qualify for a medical cannabis license may be converted into a
 8 corporation under the Business Corporation Act, a limited
 9 liability company under the Limited Liability Company Act, a
 10 limited partnership under the Uniform Revised Limited
 11 Partnership Act or a partnership under the Uniform Partnership
 12 Act (1994) upon the nonprofit corporation's filing with the
 13 secretary of state of restated articles of incorporation,
 14 articles of organization, certificate of limited partnership or
 15 statement under Section 54-1A-105 NMSA 1978. The conversion
 16 shall be approved pursuant to an agreement of conversion in the
 17 manner provided for the conversion of a limited liability
 18 company in Section 53-19-60.1 NMSA 1978."

19 SECTION 5. Section 26-2C-7 NMSA 1978 (being Laws 2021
 20 (1st S.S.), Chapter 4, Section 7) is amended to read:

21 "26-2C-7. [~~COMMERCIAL~~] CANNABIS ACTIVITY LICENSING--
 22 APPLICATION--ISSUANCE AND DENIAL OF A LICENSE--SUSPENSION AND
 23 REVOCAATION.--

24 ~~[A. A license issued pursuant to the Cannabis~~
 25 ~~Regulation Act shall not be subject to execution, attachment, a~~

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1 ~~security transaction, liens or receivership.~~

2 ~~B.]~~ A. In carrying out its commercial cannabis
3 activity licensing duties, the division shall:

4 (1) no later than September 1, 2021, accept
5 and begin processing license applications for cannabis
6 producers, cannabis producer microbusinesses and any person
7 properly licensed and in good standing as a licensed cannabis
8 producer pursuant to the Lynn and Erin Compassionate Use Act;

9 (2) no later than January 1, 2022, accept and
10 begin processing license applications for all license types;

11 (3) if a cannabis producer or cannabis
12 producer microbusiness, require as a condition of licensing
13 [~~pursuant to the Cannabis Regulation Act~~] that the applicant
14 demonstrate that the applicant has a legal right to a
15 commercial water supply, water rights or [~~another~~] other source
16 of water sufficient to meet the water needs as determined by
17 the division related to the license as evidenced by
18 documentation from the office of the state engineer of a valid
19 water right or from a water provider that the use of water for
20 cannabis production is compliant with that water provider's
21 rules; and

22 (4) [~~if an applicant applies for a~~] for any
23 type of cannabis producer [~~license or a cannabis~~] or
24 manufacturer license, [~~in addition to the requirements in~~
25 Paragraph (3) of this subsection] require [~~that~~] the applicant

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1 to submit a plan to use, or demonstrate to the division that
 2 the applicant cannot feasibly use, energy [~~and~~] or water
 3 reduction opportunities, including:

4 (a) for a cannabis producer, drip
 5 irrigation and water collection;

6 (b) natural lighting and energy
 7 efficiency measures; and

8 (c) renewable energy generation. [~~and~~

9 ~~(5) allow commercial cannabis activity retail~~
 10 ~~sales no later than April 1, 2022 and otherwise allow~~
 11 ~~activities authorized by the Cannabis Regulation Act or the~~
 12 ~~medical cannabis program as of the time of licensure of a~~
 13 ~~licensee, so long as a minimum of twenty-five percent of~~
 14 ~~monthly cannabis sales are to qualified patients, primary~~
 15 ~~caregivers and reciprocal participants or sold wholesale to~~
 16 ~~other licensees that meet or exceed the twenty-five percent~~
 17 ~~sales to qualified patients, primary caregivers and reciprocal~~
 18 ~~participants until December 31, 2022.~~

19 ~~G.]~~ B. Once the division deems an application
 20 complete, the division has ninety days to issue or deny a
 21 license application.

22 ~~D.]~~ C. The division shall deny an application for
 23 an initial license or renewal if [~~(1)~~] the application does not
 24 include information required by the division or [~~(2)~~] the
 25 applicant does not meet the requirements of the Cannabis

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1 Regulation Act or rules promulgated in accordance with that
2 act.

3 D. The division may refuse to issue, suspend or
4 revoke a license of any person who does not meet the
5 qualifications for licensure, who is not in compliance with the
6 Cannabis Regulation Act or rules promulgated in accordance with
7 that act or for whom one or more of the following are
8 substantially related to the qualifications, functions or
9 duties of the applicant's or licensee's business in New Mexico:

10 (1) a tax lien related to cannabis activity in
11 this or another state;

12 (2) a pending investigation or a felony
13 indictment or conviction of the applicant or licensee or a
14 controlling person of the applicant [~~has been convicted of an~~
15 ~~offense that is substantially related to the qualifications,~~
16 ~~functions or duties of the applicant's business provided that]~~
17 or licensee in this state or another state or by the federal
18 government involving fraud, deceit or embezzlement;

19 (3) a pending investigation or a felony
20 indictment or conviction of the applicant or licensee or a
21 controlling person of the applicant or licensee involving
22 producing, manufacturing, distributing, selling or giving away
23 illegal cannabis products;

24 (4) the denial, suspension or revocation of a
25 cannabis license in another state that would have the same

1 result if occurring in New Mexico;

2 (5) a pending investigation or a felony
3 indictment or conviction for hiring, employing or otherwise
4 using a person younger than eighteen years of age or a person
5 of any age who is a victim of trafficking, forced labor or
6 other exploitation to produce, manufacture, transport or sell
7 cannabis or a controlled substance;

8 (6) a licensee or controlling person that
9 after a notice of noncompliance issued by the division refuses
10 to follow division licensing requirements, state or local
11 operational rules, public health and safety laws or rules or
12 other provisions of state law pertaining to cannabis products;
13 or

14 (7) any other governmental action pending or
15 taken against an applicant, licensee or controlling person that
16 in the division's determination makes the person unqualified to
17 be licensed or involved in a cannabis business in New Mexico.

18 E. Production, manufacture, distribution, sale or
19 possession of illegal cannabis product is grounds for denial,
20 suspension or revocation of a license or for taking any other
21 disciplinary action allowed by law or rule of the division.

22 F. If the division determines after a review of
23 pertinent circumstances provided in Subsection D of this
24 section that the applicant, licensee or controlling person [is]
25 otherwise [qualified] meets the qualifications for [a license]

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1 licensure and that issuing a license [~~to the applicant would~~]
2 does not compromise the state's cannabis program or the public
3 health or safety, the division shall [~~conduct a thorough review~~
4 ~~of the conviction, including the nature of the offense,~~
5 ~~surrounding circumstances and, any evidence of the applicant's~~
6 ~~or controlling person's rehabilitation following the~~
7 ~~conviction, and based on that review determine whether the~~
8 ~~applicant should be issued a license~~] issue the license or
9 close the suspension or revocation case.

10 [~~E. For purposes of Subsection D of this section,~~
11 ~~the following are considered substantially related to the~~
12 ~~qualifications, functions or duties of a person seeking a~~
13 ~~license:~~

14 (1) ~~a felony conviction involving fraud,~~
15 ~~deceit or embezzlement;~~

16 (2) ~~a felony conviction for hiring, employing~~
17 ~~or otherwise using a person younger than eighteen years of age~~
18 ~~to:~~

19 (a) ~~prepare for sale, transport or carry~~
20 ~~a controlled substance; or~~

21 (b) ~~sell, give away or offer to sell a~~
22 ~~controlled substance to any person; and~~

23 (3) ~~any other offense as determined by the~~
24 ~~division.~~

25 F.] G. A conviction for which the related sentence,

1 including any term of probation or parole, ~~[is]~~ has been
 2 completed for the production, possession, use, manufacture,
 3 distribution or ~~[dispensing]~~ sale or the possession with the
 4 intent to manufacture, distribute or ~~[dispense]~~ sell cannabis
 5 is not considered substantially related to the qualifications,
 6 functions or duties of a person seeking a license and shall not
 7 be the sole ground on which an application is denied. The
 8 ~~[division shall comply with the]~~ provisions of the Uniform
 9 Licensing Act and the Criminal Offender Employment Act shall
 10 govern consideration of criminal records required or permitted
 11 by the Cannabis Regulation Act.

12 ~~[G.]~~ H. The division shall deny an application if
 13 an applicant, a controlling person or the premises for which a
 14 license is sought does not qualify for licensure pursuant to
 15 the Cannabis Regulation Act.

16 ~~[H.]~~ I. The division shall not license a person who
 17 has had a license that was issued pursuant to the Cannabis
 18 Regulation Act or the Lynn and Erin Compassionate Use Act
 19 revoked by the division or the department of health in the
 20 three years immediately preceding the date on which the person
 21 filed a new application.

22 ~~[I.]~~ J. Unless otherwise provided in the Cannabis
 23 Regulation Act, a person whose license has been revoked may
 24 reapply for a license after a period of three years. The
 25 division may consider all of the circumstances resulting in the

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1 revocation in determining whether to issue a new license.

2 ~~[J. The division shall adopt rules providing for~~
3 ~~submission of an applicant's fingerprints to the federal bureau~~
4 ~~of investigation to conduct a national criminal history~~
5 ~~background check and to the department of public safety to~~
6 ~~conduct a state criminal history check for the following~~
7 ~~licensees:~~

8 ~~(1) cannabis manufacturer;~~

9 ~~(2) cannabis producer;~~

10 ~~(3) cannabis producer microbusiness;~~

11 ~~(4) cannabis research laboratory;~~

12 ~~(5) cannabis retailer;~~

13 ~~(6) cannabis testing laboratory;~~

14 ~~(7) integrated cannabis microbusiness; and~~

15 ~~(8) vertically integrated cannabis~~

16 ~~establishment.~~

17 ~~K. The division shall conduct national criminal~~
18 ~~history background checks and state criminal history checks on~~
19 ~~the following:~~

20 ~~(1) if an applicant is a limited partnership,~~
21 ~~each partner of the limited partnership;~~

22 ~~(2) if the applicant is a limited liability~~
23 ~~company, each member of the limited liability company;~~

24 ~~(3) if the applicant is a corporation, each~~
25 ~~director and officer of the corporation; and~~

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1 ~~(4) any controlling person of the applicant.~~

2 ~~L. Arrest record information received from the~~
3 ~~federal bureau of investigation and the department of public~~
4 ~~safety shall be confidential, shall not be considered a public~~
5 ~~record pursuant to the Public Records Act and shall not be~~
6 ~~disclosed to persons not directly involved in the decision~~
7 ~~affecting the applicant.~~

8 ~~M. Electronic live fingerprint scans may be used~~
9 ~~when conducting criminal history background checks.]"~~

10 SECTION 6. A new section of the Cannabis Regulation Act
11 is enacted to read:

12 "[NEW MATERIAL] CRIMINAL HISTORY BACKGROUND CHECKS--
13 PROCESSES AND PROCEDURES.--

14 A. As used in this section:

15 (1) "director" means a person who serves on
16 the corporate board of directors of a corporation licensed by
17 the division as a cannabis establishment;

18 (2) "member and manager" includes those
19 persons who are members in or managers of a limited liability
20 company licensed by the division as a cannabis establishment
21 and who are responsible for the operations of the limited
22 liability company;

23 (3) "officer" means a president, one or more
24 vice presidents, a secretary, a treasurer or a secretary-
25 treasurer or a member of the executive committee, if different

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1 from these named officers, of a corporation licensed by the
2 division as a cannabis establishment; and

3 (4) "partner" means a person who is a co-owner
4 of a business licensed by the division as a cannabis
5 establishment.

6 B. The division shall adopt rules providing the
7 procedures to be followed for submission of an applicant's
8 biometric scan to the department of public safety to conduct a
9 state criminal history background check and for its submission
10 of the biometric scan to the federal bureau of investigation to
11 conduct a national criminal history background check for the
12 following cannabis establishments:

- 13 (1) cannabis courier;
- 14 (2) cannabis manufacturer;
- 15 (3) cannabis producer;
- 16 (4) cannabis producer microbusiness;
- 17 (5) cannabis research laboratory;
- 18 (6) cannabis retailer;
- 19 (7) cannabis testing laboratory;
- 20 (8) integrated cannabis microbusiness;
- 21 (9) vertically integrated cannabis
22 establishment; and
- 23 (10) cannabis consumption licensees if
24 different from cannabis retailer.

25 C. The division shall require state and national

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1 criminal history background checks for the following persons:

2 (1) if an applicant for licensure is a sole
3 proprietor business, the sole proprietor;

4 (2) if an applicant for licensure is a limited
5 partnership, each partner of the limited partnership;

6 (3) if the applicant for licensure is a
7 limited liability company, each member and manager of the
8 limited liability company;

9 (4) if the applicant for licensure is a
10 corporation, each director and officer of the corporation; and

11 (5) any controlling person of the applicant
12 for licensure, as defined in Section 26-2C-2 NMSA 1978.

13 D. The division shall use the information from the
14 criminal history background check to evaluate the applicant's
15 qualifications for licensure.

16 E. Arrest record information received from the
17 federal bureau of investigation and the department of public
18 safety shall be confidential, shall not be considered a public
19 record pursuant to the Public Records Act and shall not be
20 disclosed to persons not directly involved in the decision
21 affecting the applicant."

22 **SECTION 7.** Section 26-2C-9 NMSA 1978 (being Laws 2021
23 (1st S.S.), Chapter 4, Section 9) is amended to read:

24 "26-2C-9. APPLICATION AND LICENSING FEES.--

25 A. Every application for the issuance or renewal of

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1 the following licenses shall be accompanied by a license fee
2 [~~in the following specified amounts~~] as follows:

3 (1) a cannabis courier license, up to one
4 thousand five hundred dollars (\$1,500) per year and an
5 additional fee of up to one thousand dollars (\$1,000) per year
6 for each additional licensed premises of the licensee;

7 (2) a cannabis testing laboratory license, up
8 to two thousand five hundred dollars (\$2,500) per year and an
9 additional fee of up to one thousand dollars (\$1,000) per year
10 for each additional licensed premises of the licensee;

11 (3) a cannabis manufacturer license, two
12 thousand five hundred dollars (\$2,500) per year and an
13 additional fee of one thousand dollars (\$1,000) per year for
14 each additional licensed premises of the licensee;

15 (4) a cannabis producer license, two thousand
16 five hundred dollars (\$2,500) per year and an additional fee of
17 one thousand dollars (\$1,000) per year for each additional
18 licensed premises of the licensee;

19 (5) a cannabis retailer license, two thousand
20 five hundred dollars (\$2,500) per year and an additional fee of
21 one thousand dollars (\$1,000) per year for each additional
22 licensed premises of the licensee;

23 (6) a cannabis research laboratory license,
24 two thousand five hundred dollars (\$2,500) per year and an
25 additional fee of one thousand dollars (\$1,000) per year for

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1 each additional licensed premises of the licensee;

2 (7) a vertically integrated cannabis
3 establishment license, seven thousand five hundred dollars
4 (\$7,500) per year and an additional fee of one thousand dollars
5 (\$1,000) per year for each licensed premises of the licensee;

6 (8) a cannabis producer microbusiness license,
7 up to one thousand dollars (\$1,000) per year;

8 (9) an integrated cannabis microbusiness
9 license, up to two thousand five hundred dollars (\$2,500) per
10 year and an additional fee of five hundred dollars (\$500) per
11 year for each licensed premises of the licensee; and

12 (10) a cannabis consumption area license, up
13 to two thousand five hundred dollars (\$2,500) per year.

14 B. Except for cannabis producer microbusinesses and
15 integrated cannabis microbusinesses, a licensee cultivating
16 cannabis plants shall be assessed an additional annual fee no
17 greater than fifty dollars (\$50.00) per mature cannabis plant
18 at the time of licensing or renewal.

19 C. A licensee may increase the number of mature
20 plants licensed at the time of renewal and one other time per
21 year in increments of five hundred mature plants. Fees may be
22 prorated for the remainder of the licensing year.

23 D. ~~[The initial application fee and the annual~~
24 ~~renewal fee for a vertically integrated cannabis establishment~~
25 ~~license shall not exceed one hundred twenty-five thousand~~

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1 ~~dollars (\$125,000) for a license for both medical cannabis~~
2 ~~activity and commercial cannabis activity.]~~ The initial
3 application fee and the annual renewal fee for a license or
4 renewal of a license that authorizes only medical cannabis
5 activity shall be one-half the fee applicable to a license
6 authorizing both medical cannabis activity and commercial
7 cannabis activity.

8 E. If a cannabis producer microbusiness or an
9 integrated cannabis microbusiness enters into a business
10 arrangement with another licensee with the purpose of or having
11 the effect of evading the limitations of the licensee's
12 license, [~~such~~] that licensee shall not be eligible for the
13 lower fee prescribed in Subsection A of this section and shall
14 pay the per-plant fee prescribed in Subsection B of this
15 section.

16 F. The division shall collect all renewal fees,
17 including the renewal fees for all licensed premises, at the
18 time of renewal of a license.

19 G. The fee for the issuance of a cannabis server
20 permit shall not exceed thirty-five dollars (\$35.00).

21 H. The division shall deposit all fees collected
22 pursuant to the Cannabis Regulation Act in the cannabis
23 regulation fund."

24 **SECTION 8.** Section 26-2C-10 NMSA 1978 (being Laws 2021
25 (1st S.S.), Chapter 4, Section 10) is repealed and a new

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1 Section 26-2C-10 NMSA 1978 is enacted to read:

2 "26-2C-10. [NEW MATERIAL] CANNABIS TRAINING AND
3 EDUCATION PROGRAMS--REGISTRATION WITH DIVISION.--A New Mexico
4 public post-secondary educational institution may offer a
5 practical or academic curriculum designed to prepare students
6 for participation in the cannabis industry. The institution
7 shall register its cannabis training and education program with
8 the division, which shall include the information about the
9 program on its website."

10 SECTION 9. Section 26-2C-17 NMSA 1978 (being Laws 2021
11 (1st S.S.), Chapter 4, Section 17) is amended to read:

12 "26-2C-17. CANNABIS PRODUCTS--PACKAGING AND LABELING--
13 DIVISION RULEMAKING.--

14 A. Cannabis or cannabis extract included in a
15 cannabis product that is manufactured in compliance with
16 applicable law is not considered to be an adulterant under
17 state law.

18 B. The division shall promulgate rules consistent
19 with industry standards for cannabis products that establish
20 labeling and packaging requirements, including that:

21 (1) packages shall be resealable and child-
22 resistant [~~compostable and recyclable or made from recycled~~
23 ~~materials~~];

24 (2) packages and labels shall not be designed
25 to be appealing to a child and shall not mimic the brand,

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1 design, name, logo or colorway of a non-cannabis consumer
2 product marketed to children;

3 (3) packages and labels shall not use cartoons
4 or symbols or images, including images of celebrities or
5 celebrity likenesses, that are commonly used to market to
6 children;

7 (4) packages containing edible cannabis
8 products shall be opaque; and

9 [~~3~~] (5) labels shall include:

10 (a) for a package containing only
11 cannabis leaf or flower, the net weight of cannabis in the
12 package;

13 (b) identification of the licensee or
14 licensees that produced or manufactured the cannabis product,
15 the date on which the cannabis was harvested, the type of
16 cannabis product and the date on which the cannabis product was
17 manufactured and packaged;

18 (c) potency and pesticide use;

19 (d) a list of pharmacologically active
20 ingredients;

21 (e) for cannabis products containing
22 non-cannabis ingredients, a list of all ingredients and a
23 disclosure of nutritional information for the product or
24 cannabis extract disclosed in the same manner required under
25 federal law for nutritional labeling for food for human

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1 consumption;

2 (f) a warning if nuts or other known
3 allergens are used in the item or in its manufacture;

4 (g) a logo designed by the division that
5 is distinctive in design, color, size and location such that
6 the logo notifies a reasonable person that the package contains
7 cannabis;

8 (h) a warning of possible adverse
9 effects of consumption and the New Mexico poison and drug
10 information center phone number;

11 (i) an expiration date; and

12 (j) other information as required by
13 rules promulgated [~~pursuant to~~] in accordance with the Cannabis
14 Regulation Act."

15 SECTION 10. Section 26-2C-18 NMSA 1978 (being Laws 2021
16 (1st S.S.), Chapter 4, Section 18) is amended to read:

17 "26-2C-18. TESTING CANNABIS PRODUCTS--HEALTH AND SAFETY
18 OF EMPLOYEES AND CONSUMERS.--

19 A. A cannabis testing laboratory's testing of
20 cannabis products shall comply with the requirements set forth
21 in applicable law and rules.

22 B. In consultation with the department of
23 environment and consistent with industry standards, the
24 division shall promulgate rules to:

25 (1) [~~ensure that testing of cannabis products~~

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1 ~~occurs]~~ require all cannabis producers and cannabis
2 manufacturers to have their cannabis products tested prior to
3 distribution to cannabis retailers or for sales by integrated
4 cannabis microbusinesses;

5 (2) specify how often licensees shall test
6 cannabis products;

7 (3) specify which persons bear the cost of
8 testing commercial or medical cannabis products [~~and medical~~
9 ~~cannabis~~];

10 (4) provide for recordkeeping;

11 (5) establish chain of custody protocols for
12 the transportation of testing [~~sample transportation~~] samples;

13 (6) ensure that testing samples are
14 transported and stored in a manner that prevents degradation,
15 contamination, tampering or diversion;

16 (7) specify protocols for testing sample
17 collection that ensure accurate test results, including
18 requiring that testing samples be collected by laboratory staff
19 trained in the collection of testing [~~sample collection~~]
20 samples; and

21 (8) require destruction of a tested batch of
22 cannabis products if the testing samples from the tested batch
23 indicate noncompliance with applicable health and safety
24 standards promulgated by the division, unless remedial measures
25 can bring the cannabis products into compliance with the

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1 standards or the cannabis products can be used for research
2 purposes.

3 C. Beginning no later than April 1, 2022, the
4 division shall identify, in consultation with the department of
5 environment, a set of updated certified reference materials for
6 which laboratory testing [~~to~~] shall be measured against.

7 D. The division shall work cooperatively with the
8 department of environment to implement inspection of cannabis
9 establishments to ensure the health and safety of employees in
10 accordance with the Occupational Health and Safety Act, [~~and~~]
11 to determine compliance with rules promulgated by the
12 environmental improvement board and to protect the health and
13 safety of consumers."

14 SECTION 11. Section 26-2C-20 NMSA 1978 (being Laws 2021
15 (1st S.S.), Chapter 4, Section 20) is amended to read:

16 "26-2C-20. ADVERTISING AND MARKETING RESTRICTIONS.--

17 A. As used in this section, "advertising" does not
18 mean:

19 (1) a sign or outdoor display or other
20 statement permanently affixed to a licensed premises that is
21 intended to induce the sale of a cannabis product produced,
22 manufactured or sold on the licensed premises;

23 (2) a label affixed to a cannabis product or
24 the covering, wrapper or container of a cannabis product; or

25 (3) an editorial or other material printed in

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1 a publication when the publication of the editorial or material
2 was not paid for by a licensee and was not intended to promote
3 the sale of cannabis products by a particular brand or company.

4 B. The division shall promulgate rules consistent
5 with industry standards that:

6 [~~A.~~] (1) prohibit the advertisement and
7 marketing of cannabis products:

8 [~~1.~~] (a) on radio, television or other
9 broadcast media, internet pop-ups and mass transit vehicles;
10 provided that the division shall not prohibit advertising and
11 marketing to [~~a.~~]: 1) subscribers of subscription-based
12 radio, television or other broadcast media who are twenty-one
13 years of age or older; or [~~b.~~] 2) persons twenty-one years of
14 age or older who have solicited the advertising or marketing;

15 [~~2.~~] (b) that are false, deceptive or
16 misleading, including making unproven health benefit claims;

17 [~~3.~~] (c) that are on billboards,
18 posters, handbills or other visual media that are located or
19 can be viewed within three hundred feet of a school, daycare
20 center or church;

21 [~~4.~~] (d) that depict consumption by
22 children or other persons who appear to be younger than twenty-
23 one years of age;

24 [~~5.~~] (e) that use predatory marketing
25 and advertising practices targeting minors; or

1 [~~(6)~~] (f) that are designed using
2 cartoon characters or to mimic any other product brand; and

3 [~~B-~~] (2) require:

4 [~~(1)~~] (a) all advertisements and
5 marketing to accurately and legibly identify all persons
6 responsible for its content; and

7 [~~(2)~~] (b) advertisements in print and
8 digital communications to be placed only where the audience is
9 reasonably expected to be twenty-one years of age or older as
10 determined by reliable, current audience composition data."

11 SECTION 12. Section 26-2C-28 NMSA 1978 (being Laws 2021
12 (1st S.S.), Chapter 4, Section 28) is amended to read:

13 "26-2C-28. [~~UNLICENSED SALES OF~~] TRAFFICKING CANNABIS
14 PRODUCTS--PENALTIES.--

15 A. As used in this section, [~~"traffic" means the~~
16 ~~(1) distribution, sale, barter or giving away of~~] "trafficking
17 cannabis products" means to:

18 (1) produce, manufacture, distribute, courier
19 or sell illegal cannabis products; or

20 (2) [~~possession~~] possess with intent to
21 manufacture, distribute, courier or sell [~~barter or give away~~]
22 illegal cannabis products.

23 B. Trafficking cannabis products applies only to
24 quantities of more than fifteen ounces of cannabis flower, one
25 hundred twenty grams of concentrate or six grams of edibles.

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1 ~~[B-]~~ C. Unless otherwise provided in the Cannabis
2 Regulation Act or the Lynn and Erin Compassionate Use Act, it
3 is unlawful for a person ~~[without a license]~~ to intentionally
4 traffic cannabis products.

5 ~~[C-]~~ D. In addition to the penalties provided in
6 the Delinquency Act, a person under eighteen years of age who
7 violates Subsection ~~[B]~~ C of this section shall be subject to:

8 (1) attendance at a four-hour evidence-based
9 drug education and legal rights program at no cost to the
10 person; or

11 (2) four hours of community service.

12 ~~[D-]~~ E. Except as otherwise provided in Section ~~[14~~
13 ~~of the Cannabis Regulation Act]~~ 26-2C-14 NMSA 1978, a person
14 between eighteen and twenty-one years of age ~~[or older]~~ who
15 violates Subsection ~~[B]~~ C of this section is guilty of a
16 misdemeanor and shall be sentenced pursuant to the provisions
17 of Section 31-19-1 NMSA 1978.

18 ~~[E. A person eighteen years of age or older who~~
19 ~~violates Subsection B of this section and who conducts~~
20 ~~unlicensed cannabis product sales from a building, room or~~
21 ~~other area open to the public in a manner that would lead a~~
22 ~~reasonable person to believe that the area is a cannabis~~
23 ~~establishment licensed pursuant to the Cannabis Regulation Act~~
24 ~~is guilty of a fourth degree felony and shall be sentenced~~
25 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978.]~~

1 F. A person twenty-one years of age or older who
2 traffics cannabis products is guilty of a fourth degree felony
3 for a first offense. A person who traffics cannabis products
4 is guilty of a third degree felony for a second and subsequent
5 offense. Sentencing pursuant to this subsection shall be as
6 provided in Section 31-18-15 NMSA 1978.

7 G. The provisions of the Forfeiture Act apply to
8 the seizure, forfeiture and disposal of such property."

9 SECTION 13. A new section of the Cannabis Regulation Act
10 is enacted to read:

11 "[NEW MATERIAL] WHEN CANNABIS PRODUCT DEEMED
12 ADULTERATED.--A cannabis product is deemed to be adulterated
13 if:

14 A. it bears or contains mold, mildew or other
15 deleterious or poisonous substance that may render it injurious
16 to health;

17 B. it consists in whole or in part of a diseased,
18 contaminated, filthy, impure or infested ingredient or putrid
19 or decomposed substance or if it is otherwise unfit for
20 consumption;

21 C. it has been produced, prepared, packed or held
22 under unsanitary conditions so that it may have been
23 contaminated with filth or rendered diseased, unwholesome or
24 injurious to health;

25 D. its container is composed in whole or in part of

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1 a poisonous or deleterious substance that may render the
2 contents injurious to health;

3 E. a valuable constituent has been, in whole or in
4 part, omitted or abstracted from the cannabis product;

5 F. a substance has been substituted in whole or in
6 part that is contrary to the ingredient list on the package
7 unless a notification of substitution is adhered to the
8 packaging;

9 G. damage or inferiority has been concealed in any
10 manner;

11 H. a substance has been added so as to increase the
12 cannabis product's bulk or weight, reduce its quality or
13 strength or make it appear better or of greater value than it
14 is; or

15 I. the cannabis product is a confectionery, it
16 contains alcohol or other non-nutritive article or substance
17 except harmless coloring, flavoring, natural gum, pectin or
18 resinous glaze not in excess of four-tenths of one percent;
19 provided that a confectionery may include less than two and
20 one-fourth percent by weight of alcohol derived solely from the
21 use of flavoring extracts or to any chewing gum by reason of
22 its containing harmless non-nutritive masticatory substances."

23 SECTION 14. A new section of the Cannabis Regulation Act
24 is enacted to read:

25 "[NEW MATERIAL] WHEN CANNABIS DEEMED MISBRANDED.--

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1 Cannabis is deemed to be misbranded if:

2 A. its labeling is false or misleading in any
3 particular;

4 B. it is offered for sale under the name of another
5 cannabis product;

6 C. it is an imitation of another cannabis product,
7 unless its label bears, in type of uniform size and prominence,
8 the word "imitation" and, immediately following, the name of
9 the cannabis product imitated;

10 D. its container is so made, formed or filled as to
11 be misleading; or

12 E. the label otherwise does not conform to the
13 requirements of Section 26-2C-17 NMSA 1978 and labeling rules
14 promulgated by the division."

15 SECTION 15. Section 26-2C-36 NMSA 1978 (being Laws 2021
16 (1st S.S.), Chapter 4, Section 36) is amended to read:

17 "26-2C-36. PUBLIC RECORDS AND OPEN MEETINGS.--Except for
18 information developed or obtained by the division during an
19 enforcement investigation, records of the division are subject
20 to the Inspection of Public Records Act. Rulemaking and other
21 hearings of the division are subject to the Open Meetings Act."

22 SECTION 16. Section 30-22-14 NMSA 1978 (being Laws 1976,
23 Chapter 15, Section 1, as amended) is amended to read:

24 "30-22-14. BRINGING CONTRABAND INTO PLACES OF
25 IMPRISONMENT--PENALTIES--DEFINITIONS.--

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1 A. Bringing contraband into a prison consists of
2 knowingly and voluntarily carrying, transporting or depositing
3 contraband onto the grounds of the penitentiary of New Mexico
4 or any other institution designated by the corrections
5 department for the confinement of adult prisoners. Whoever
6 commits bringing contraband into a prison is guilty of a third
7 degree felony.

8 B. Bringing contraband into a jail consists of
9 knowingly and voluntarily carrying contraband into the confines
10 of a county or municipal jail. Whoever commits bringing
11 contraband into a jail is guilty of a fourth degree felony.

12 C. As used in this section, "contraband" means:

13 (1) a deadly weapon, as defined in Section
14 30-1-12 NMSA 1978, or an essential component part thereof,
15 including ammunition, explosive devices and explosive
16 materials, but does not include a weapon carried by a peace
17 officer in the lawful discharge of duties;

18 (2) currency brought onto the grounds of the
19 institution for the purpose of transfer to a prisoner, but does
20 not include currency carried into areas designated by the
21 warden as areas for the deposit and receipt of currency for
22 credit to a prisoner's account before contact is made with the
23 prisoner;

24 (3) an alcoholic beverage;

25 (4) a controlled substance, as defined in the

1 Controlled Substances Act, or cannabis, as defined in the
2 Cannabis Regulation Act, but does not include a controlled
3 substance or medical cannabis carried into a prison through
4 regular prison channels and pursuant to the direction or
5 prescription of a [~~regularly~~] licensed physician; or

6 (5) an electronic communication or recording
7 device brought onto the grounds of the institution for the
8 purpose of transfer to or use by a prisoner.

9 D. As used in this section, "electronic
10 communication or recording device" means any type of
11 instrument, device, machine or equipment that is designed to
12 transmit or receive telephonic, electronic, digital, cellular,
13 satellite or radio signals or communications or that is
14 designed to have sound or image recording abilities or any part
15 or component of such instrument, device, machine or equipment.
16 "Electronic communication or recording device" does not include
17 a device that is or will be used by prison or jail personnel in
18 the regular course of business or that is otherwise authorized
19 by the warden.

20 E. Nothing in this section shall prohibit the use
21 of hearing aids, voice amplifiers or other equipment necessary
22 to aid prisoners who have documented hearing or speech
23 deficiencies or their visitors. Rules for such devices shall
24 be established by the warden or director of each jail,
25 detention center and prison."

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1 SECTION 17. Section 30-42-3 NMSA 1978 (being Laws 1980,
2 Chapter 40, Section 3, as amended by Laws 2009, Chapter 253,
3 Section 7 and by Laws 2009, Chapter 261, Section 7) is amended
4 to read:

5 "30-42-3. DEFINITIONS.--As used in the Racketeering Act:

6 A. "racketeering" means any act that is chargeable
7 or indictable under the laws of New Mexico and punishable by
8 imprisonment for more than one year, involving any of the
9 following cited offenses:

10 (1) murder, as provided in Section 30-2-1 NMSA
11 1978;

12 (2) robbery, as provided in Section 30-16-2
13 NMSA 1978;

14 (3) kidnapping, as provided in Section 30-4-1
15 NMSA 1978;

16 (4) forgery, as provided in Section 30-16-10
17 NMSA 1978;

18 (5) larceny, as provided in Section 30-16-1
19 NMSA 1978;

20 (6) fraud, as provided in Section 30-16-6 NMSA
21 1978;

22 (7) embezzlement, as provided in Section
23 30-16-8 NMSA 1978;

24 (8) receiving stolen property, as provided in
25 Section 30-16-11 NMSA 1978;

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1 (9) bribery, as provided in Sections 30-24-1
2 through 30-24-3.1 NMSA 1978;

3 (10) gambling, as provided in Sections
4 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

5 (11) illegal kickbacks, as provided in
6 Sections 30-41-1 and 30-41-2 NMSA 1978;

7 (12) extortion, as provided in Section 30-16-9
8 NMSA 1978;

9 (13) trafficking in controlled substances, as
10 provided in Section 30-31-20 NMSA 1978;

11 (14) arson and aggravated arson, as provided
12 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA
13 1978;

14 (15) promoting prostitution, as provided in
15 Section 30-9-4 NMSA 1978;

16 (16) criminal solicitation, as provided in
17 Section 30-28-3 NMSA 1978;

18 (17) fraudulent securities practices, as
19 provided in the New Mexico Uniform Securities Act [~~of 1986~~];

20 (18) loan sharking, as provided in Sections
21 30-43-1 through 30-43-5 NMSA 1978;

22 (19) distribution of controlled substances or
23 controlled substance analogues, as provided in Sections
24 30-31-21 and 30-31-22 NMSA 1978;

25 (20) a violation of the provisions of Section

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1 30-51-4 NMSA 1978;

2 (21) unlawful taking of a vehicle or motor
3 vehicle, as provided in Section 30-16D-1 NMSA 1978;

4 (22) embezzlement of a vehicle or motor
5 vehicle, as provided in Section 30-16D-2 NMSA 1978;

6 (23) fraudulently obtaining a vehicle or motor
7 vehicle, as provided in Section 30-16D-3 NMSA 1978;

8 (24) receiving or transferring stolen vehicles
9 or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;

10 [~~and~~]

11 (25) altering or changing the serial number,
12 engine number, decal or other numbers or marks of a vehicle or
13 motor vehicle, as provided in Section 30-16D-6 NMSA 1978; and

14 (26) trafficking cannabis products, as
15 provided in Section 26-2C-28 NMSA 1978;

16 B. "person" means an individual or entity capable
17 of holding a legal or beneficial interest in property;

18 C. "enterprise" means a sole proprietorship,
19 partnership, corporation, business, labor union, association or
20 other legal entity or a group of individuals associated in fact
21 although not a legal entity and includes illicit as well as
22 licit entities; and

23 D. "pattern of racketeering activity" means
24 engaging in at least two incidents of racketeering with the
25 intent of accomplishing any of the prohibited activities set

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1 forth in Subsections A through D of Section 30-42-4 NMSA 1978;
2 provided at least one of the incidents occurred after February
3 28, 1980 and the last incident occurred within five years after
4 the commission of a prior incident of racketeering."

5 **SECTION 18.** Section 32A-2-3 NMSA 1978 (being Laws 1993,
6 Chapter 77, Section 32, as amended) is amended to read:

7 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

8 A. "delinquent act" means an act committed by a
9 child that would be designated as a crime under the law if
10 committed by an adult, not including a violation of Section
11 30-9-2 NMSA 1978, including the following offenses:

12 (1) any of the following offenses pursuant to
13 municipal traffic codes or the Motor Vehicle Code:

14 (a) driving while under the influence of
15 intoxicating liquor or drugs;

16 (b) failure to stop in the event of an
17 accident causing death, personal injury or damage to property;

18 (c) unlawful taking of a vehicle or
19 motor vehicle;

20 (d) receiving or transferring of a
21 stolen vehicle or motor vehicle;

22 (e) homicide by vehicle;

23 (f) injuring or tampering with a
24 vehicle;

25 (g) altering or changing of an engine

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1 number or other vehicle identification numbers;

2 (h) altering or forging of a driver's
3 license or permit or any making of a fictitious license or
4 permit;

5 (i) reckless driving;

6 (j) driving with a suspended or revoked
7 license; or

8 (k) an offense punishable as a felony;

9 (2) buying, attempting to buy, receiving,
10 possessing or being served any alcoholic liquor or being
11 present in a licensed liquor establishment, other than a
12 restaurant or a licensed retail liquor establishment, except in
13 the presence of the child's parent, guardian, custodian or
14 adult spouse. As used in this paragraph, "restaurant" means an
15 establishment where meals are prepared and served primarily for
16 on-premises consumption and that has a dining room, a kitchen
17 and the employees necessary for preparing, cooking and serving
18 meals. "Restaurant" does not include an establishment, as
19 defined in regulations promulgated by the director of the
20 special investigations unit of the department of public safety,
21 that serves only hamburgers, sandwiches, salads and other fast
22 foods;

23 (3) a violation of Section 30-29-2 NMSA 1978,
24 regarding the illegal use of a glue, aerosol spray product or
25 other chemical substance;

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1 (4) a violation of the Controlled Substances
2 Act;

3 (5) escape from the custody of a law
4 enforcement officer or a juvenile probation or parole officer
5 or from any placement made by the department by a child who has
6 been adjudicated a delinquent child;

7 (6) a violation of Section 30-15-1.1 NMSA 1978
8 regarding unauthorized graffiti on personal or real property;
9 [~~or~~]

10 (7) a violation of an order of protection
11 issued pursuant to the provisions of the Family Violence
12 Protection Act; or

13 (8) trafficking cannabis as provided in
14 Section 26-2C-28 NMSA 1978;

15 B. "delinquent child" means a child who has
16 committed a delinquent act;

17 C. "delinquent offender" means a delinquent child
18 who is subject to juvenile sanctions only and who is not a
19 youthful offender or a serious youthful offender;

20 D. "detention facility" means a place where a child
21 may be detained under the Children's Code pending court hearing
22 and does not include a facility for the care and rehabilitation
23 of an adjudicated delinquent child;

24 E. "felony" means an act that would be a felony if
25 committed by an adult;

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1 F. "misdemeanor" means an act that would be a
2 misdemeanor or petty misdemeanor if committed by an adult;

3 G. "restitution" means financial reimbursement by
4 the child to the victim or community service imposed by the
5 court and is limited to easily ascertainable damages for injury
6 to or loss of property, actual expenses incurred for medical,
7 psychiatric and psychological treatment for injury to a person
8 and lost wages resulting from physical injury, which are a
9 direct and proximate result of a delinquent act. "Restitution"
10 does not include reimbursement for damages for mental anguish,
11 pain and suffering or other intangible losses. As used in this
12 subsection, "victim" means a person who is injured or suffers
13 damage of any kind by an act that is the subject of a complaint
14 or referral to law enforcement officers or juvenile probation
15 authorities. Nothing contained in this definition limits or
16 replaces the provisions of Subsections A and B of Section
17 32A-2-27 NMSA 1978;

18 H. "serious youthful offender" means an individual
19 fifteen to eighteen years of age who is charged with and
20 indicted or bound over for trial for first degree murder. A
21 "serious youthful offender" is not a delinquent child as
22 defined pursuant to the provisions of this section;

23 I. "supervised release" means the release of a
24 juvenile, whose term of commitment has not expired, from a
25 facility for the care and rehabilitation of adjudicated

1 delinquent children, with specified conditions to protect
2 public safety and promote successful transition and
3 reintegration into the community. A juvenile on supervised
4 release is subject to monitoring by the department until the
5 term of commitment has expired and may be returned to custody
6 for violating conditions of release; and

7 J. "youthful offender" means a delinquent child
8 subject to adult or juvenile sanctions who is:

9 (1) fourteen to eighteen years of age at the
10 time of the offense and who is adjudicated for at least one of
11 the following offenses:

12 (a) second degree murder, as provided in
13 Section 30-2-1 NMSA 1978;

14 (b) assault with intent to commit a
15 violent felony, as provided in Section 30-3-3 NMSA 1978;

16 (c) kidnapping, as provided in Section
17 30-4-1 NMSA 1978;

18 (d) aggravated battery, as provided in
19 Subsection C of Section 30-3-5 NMSA 1978;

20 (e) aggravated battery against a
21 household member, as provided in Subsection C of Section
22 30-3-16 NMSA 1978;

23 (f) aggravated battery upon a peace
24 officer, as provided in Subsection C of Section 30-22-25 NMSA
25 1978;

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1 (g) shooting at a dwelling or occupied
2 building or shooting at or from a motor vehicle, as provided in
3 Section 30-3-8 NMSA 1978;

4 (h) dangerous use of explosives, as
5 provided in Section 30-7-5 NMSA 1978;

6 (i) criminal sexual penetration, as
7 provided in Section 30-9-11 NMSA 1978;

8 (j) robbery, as provided in Section
9 30-16-2 NMSA 1978;

10 (k) aggravated burglary, as provided in
11 Section 30-16-4 NMSA 1978;

12 (l) aggravated arson, as provided in
13 Section 30-17-6 NMSA 1978; or

14 (m) abuse of a child that results in
15 great bodily harm or death to the child, as provided in Section
16 30-6-1 NMSA 1978;

17 (2) fourteen to eighteen years of age at the
18 time of the offense, who is adjudicated for any felony offense
19 and who has had three prior, separate felony adjudications
20 within a three-year time period immediately preceding the
21 instant offense. The felony adjudications relied upon as prior
22 adjudications shall not have arisen out of the same transaction
23 or occurrence or series of events related in time and location.
24 Successful completion of consent decrees is not considered a
25 prior adjudication for the purposes of this paragraph; or

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1 (3) fourteen years of age and who is
2 adjudicated for first degree murder, as provided in Section
3 30-2-1 NMSA 1978."

4 **SECTION 19.** Section 61-1-2 NMSA 1978 (being Laws 1957,
5 Chapter 247, Section 2, as amended) is amended to read:

6 "61-1-2. DEFINITIONS.--As used in the Uniform Licensing
7 Act:

8 A. "board" means:

9 (1) the construction industries commission,
10 the construction industries division and the electrical bureau,
11 mechanical bureau and general construction bureau of the
12 construction industries division of the regulation and
13 licensing department;

14 (2) the manufactured housing committee and the
15 manufactured housing division of the regulation and licensing
16 department;

17 (3) the crane operators licensure examining
18 council;

19 (4) a board, commission or agency that
20 administers a profession or occupation licensed pursuant to
21 Chapter 61 NMSA 1978;

22 (5) the cannabis control division of the
23 regulation and licensing department; and

24 ~~[(5)]~~ (6) any other state agency to which the
25 Uniform Licensing Act is applied by law;

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1 B. "applicant" means a person who has applied for a
2 license;

3 C. "expedited license", whether by examination,
4 endorsement, credential or reciprocity, means a license issued
5 to a person in this state based on licensure in another state
6 or territory of the United States, the District of Columbia or
7 a foreign country, as applicable;

8 D. "initial license" means the first regular
9 license received from a board for a person who has not been
10 previously licensed;

11 E. "license" means a certificate, permit or other
12 authorization to engage in a profession or occupation regulated
13 by a board;

14 F. "licensing jurisdiction" means another state or
15 territory of the United States, the District of Columbia or a
16 foreign country, as applicable;

17 G. "party" means a respondent licensee, applicant
18 or unlicensed person who is the subject of a disciplinary
19 proceeding or the civil administrative prosecutor representing
20 the state and the board;

21 H. "probation" means to allow, for a stated period
22 of time, the conduct authorized by a license, subject to
23 conditions or other restrictions that are reasonably related to
24 the grounds for probation;

25 I. "regular license" means a license that is not

1 issued as a temporary or provisional license;

2 J. "revocation" means to prohibit the conduct
3 authorized by the license for an indefinite period of time; and

4 K. "suspension" means to prohibit, for a stated
5 period of time, the conduct authorized by the license."

6 SECTION 20. REPEAL.--Laws 2021 (1st S.S.), Chapter 4,
7 Section 73 is repealed.

8 SECTION 21. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2024.

underscoring material = new
~~bracketed material~~ = delete