

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 128

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

AN ACT

RELATING TO CANNABIS; CHANGING CANNABIS REGULATION ACT
DEFINITIONS; PROVIDING POWERS AND DUTIES; 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 REDACTION OF CERTAIN PERSONAL IDENTIFIER INFORMATION DURING
INVESTIGATIONS; 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, PRISONS AND JUVENILE DETENTION FACILITIES;

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underscoring material = new
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1 CREATING CRIMES; PRESCRIBING PENALTIES; REPEALING A DELAYED
2 REPEAL; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
3 1978.

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

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

8 "26-2C-1. SHORT TITLE.--~~[Sections 1 through 42 of this~~
9 ~~act]~~ Chapter 26, Article 2C NMSA 1978 may be cited as the
10 "Cannabis Regulation Act".

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

13 "26-2C-2. DEFINITIONS.--As used in the Cannabis
14 Regulation Act:

15 [A. ~~"advertisement":~~

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

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

22 ~~(a) a sign or outdoor display or other~~
23 ~~statement permanently affixed to a licensed premises that is~~
24 ~~intended to induce the sale of a cannabis product produced or~~
25 ~~sold on the premises;~~

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1 ~~(b) a label affixed to a cannabis~~
2 ~~product or the covering, wrapper or container of a cannabis~~
3 ~~product; or~~

4 ~~(c) an editorial or other material~~
5 ~~printed in a publication when the publication of the editorial~~
6 ~~or material was not paid for by a licensee and was not intended~~
7 ~~to promote the sale of cannabis products by a particular brand~~
8 ~~or company;~~

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

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

17 (2) does not include:

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

24 (b) the weight of any other ingredient
25 combined with cannabis [~~products~~] to prepare topical or oral

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~~[bracketed material] = delete~~

1 administrations, food, drink or ~~[another]~~ other product;

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

5 ~~[D.]~~ C. "cannabis courier" means a person that
6 transports commercial or medical cannabis products to
7 ~~[qualified patients, primary caregivers or reciprocal~~
8 ~~participants or directly to]~~ consumers;

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

10 (1) a cannabis testing laboratory;

11 (2) a cannabis manufacturer;

12 (3) a cannabis producer;

13 (4) a cannabis retailer;

14 (5) a cannabis research laboratory;

15 (6) a vertically integrated cannabis

16 establishment;

17 (7) a cannabis producer microbusiness; ~~[or]~~

18 (8) an integrated cannabis microbusiness; or

19 (9) a cannabis consumption area;

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

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

24 (2) does not include the weight of any other
25 ingredient combined with cannabis extract to prepare topical or

1 oral administrations, food, drink or another product;

2 [G.] F. "cannabis flowers" means only the flowers
3 of a cannabis plant;

4 [H.] G. "cannabis manufacturer" means a person
5 that:

6 (1) manufactures cannabis products;

7 (2) packages cannabis products for resale; or

8 [~~(3)~~] ~~has cannabis products tested by a~~
9 ~~cannabis testing laboratory; or~~

10 [~~(4)~~] (3) purchases, acquires, sells or
11 transports wholesale cannabis products to other cannabis
12 establishments;

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

14 (1) cultivates cannabis plants;

15 [~~(2)~~] ~~has unprocessed cannabis products tested~~
16 ~~by a cannabis testing laboratory;~~

17 [~~(3)~~] (2) transports unprocessed cannabis
18 [~~products~~] only to other cannabis establishments; or

19 [~~(4)~~] (3) sells cannabis [~~products~~] wholesale;

20 [~~J.~~] I. "cannabis producer microbusiness" means a
21 cannabis producer at a single licensed premises that possesses
22 no more than two hundred total mature cannabis plants at any
23 one time;

24 [~~K.~~] J. "cannabis product" means a product that is
25 or that contains cannabis or cannabis extract, including edible

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1 or topical products that may also contain other ingredients;

2 [E.] K. "cannabis research laboratory" means a
3 facility that produces or possesses cannabis products and all
4 parts of the plant genus *Cannabis* for the purpose of studying
5 cannabis cultivation, characteristics or uses;

6 [M.] L. "cannabis retailer" means a person that
7 sells cannabis products to [~~qualified patients, primary~~
8 ~~caregivers or reciprocal participants or directly to~~]
9 consumers;

10 [N. ~~"cannabis server permit" means an authorization~~
11 ~~that allows a person to directly offer, sell or serve cannabis~~
12 ~~or cannabis products as part of commercial cannabis activity in~~
13 ~~a cannabis consumption area;~~

14 ~~O. "cannabis server permit education provider"~~
15 ~~means a person that provides cannabis server education courses~~
16 ~~and examinations;~~

17 ~~P.] M. "cannabis testing laboratory" means a~~
18 [~~person~~] facility that samples, collects and tests cannabis
19 products and transports cannabis products for the purpose of
20 testing;

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

25 ~~R.] N. "commercial cannabis activity":~~

1 (1) means the cultivation, production,
2 possession, manufacture, storage, testing, researching,
3 packaging and labeling, transportation, couriering, purchase
4 for resale, sale or consignment of cannabis products; and

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

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

15 [~~F.~~] P. "contaminant" means pesticides and other
16 foreign material, such as hair, insects or other similar
17 adulterants, in harvested cannabis;

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

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

22 (2) does not include a bank or licensed
23 lending institution;

24 [~~V.~~] R. "cultivation" means any activity involving
25 the planting, growing, harvesting, drying, curing, grading or

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1 trimming of cannabis;

2 [W-] S. "department" means the regulation and
3 licensing department;

4 [X-] T. "director" means the director of the
5 division;

6 [Y-] U. "division" means the cannabis control
7 division of the department;

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

17 [AA-] W. "facility" means a building, space or
18 grounds licensed for the production, [~~possession~~] storage,
19 testing, manufacturing, [~~or~~] sale or consumption
20 of [~~cannabis, cannabis extracts or~~] cannabis products;

21 [BB-] X. "financial consideration" means value that
22 is given or received, directly or indirectly, through sales,
23 barter, trade, fees, charges, dues, contributions or donations;

24 [CC-] Y. "homegrown" or "homemade" means grown or
25 made for purposes that are not [~~dependent or conditioned upon~~

1 ~~the provision or receipt of financial consideration] for~~
2 resale;

3 ~~[DD. "household" means a housing unit and includes~~
4 ~~any place in or around the housing unit at which an occupant of~~
5 ~~the housing unit produces, manufactures, keeps or stores~~
6 ~~homegrown cannabis or homemade cannabis products;]~~

7 Z. "illegal cannabis product":

8 (1) means a cannabis product that is:

9 (a) produced or manufactured outside New
10 Mexico;

11 (b) produced, manufactured, distributed
12 or sold in New Mexico by a person not licensed to produce,
13 manufacture, distribute or sell the cannabis product; or

14 (c) produced, manufactured, distributed
15 or sold by a person acting outside the limits of the person's
16 license; and

17 (2) does not include homegrown or homemade
18 cannabis products that comply with the provisions of the
19 Cannabis Regulation Act;

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

22 ~~[FF-]~~ BB. "industry standards" means the prevailing
23 customary standards of business practice in the cannabis
24 industry in jurisdictions within the United States;

25 ~~[GG-]~~ CC. "integrated cannabis microbusiness" means

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1 a person that is [~~authorized~~] licensed to conduct one or more
2 of the following:

3 (1) production of cannabis at a single
4 licensed premises; provided that the person shall not possess
5 more than two hundred total mature cannabis plants at any one
6 time;

7 (2) manufacture of cannabis products at a
8 single licensed premises;

9 (3) sales and transportation of [~~only~~]
10 cannabis products produced or manufactured by that person or
11 another cannabis producer microbusiness or integrated cannabis
12 microbusiness;

13 (4) operation of only one retail
14 establishment; and

15 (5) couriering of cannabis products [~~to~~
16 ~~qualified patients, primary caregivers or reciprocal~~
17 ~~participants or directly~~] to consumers;

18 [~~HH-]~~ DD. "licensed premises" means a location that
19 includes:

20 (1) all enclosed public and private areas at
21 the location that are used in the business and includes
22 cannabis consumption areas, offices, kitchens, restrooms and
23 storerooms;

24 (2) all areas outside of a building that are
25 specifically included in the license [~~for the production,~~

1 ~~manufacturing, wholesale sale or retail sale of cannabis~~
 2 ~~products; and];~~

3 (3) all areas of a standalone cannabis
 4 consumption area, including retail and other areas, whether in
 5 enclosed or outside spaces, and including private or members-
 6 only clubs where cannabis products are available for sale or
 7 consumption; and

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

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

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

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

24 [~~LL~~] HH. "medical cannabis program" means the
 25 program created pursuant to the Lynn and Erin Compassionate Use

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1 Act;

2 [MM-] II. "medical cannabis registry" means the
3 system by which the department of health approves or denies
4 applications and issues and renews registry identification
5 cards for qualified patients and primary caregivers;

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

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

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

21 [QQ-] MM. "reciprocal participant" means a person
22 who is not a resident of New Mexico and who holds proof of
23 enrollment by a governmental regulatory authority to
24 participate in the medical cannabis program of another state of
25 the United States, the District of Columbia or a territory or

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1 commonwealth of the United States in which the person resides
 2 or a person who holds proof of enrollment by a governmental
 3 regulatory authority of a New Mexico Indian nation, tribe or
 4 pueblo to participate in its medical cannabis program;

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

10 ~~[RR.]~~ OO. "retail establishment" means a location
 11 at which cannabis products are sold ~~[to qualified patients,~~
 12 ~~primary caregivers and reciprocal participants and]~~ directly to
 13 consumers;

14 ~~[SS.]~~ PP. "superintendent" means the superintendent
 15 of regulation and licensing;

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

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

- 21 (1) a cannabis courier;
- 22 (2) a cannabis manufacturer;
- 23 (3) a cannabis producer; and
- 24 (4) a cannabis retailer."

25 **SECTION 3.** Section 26-2C-6 NMSA 1978 (being Laws 2021

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1 (1st S.S.), Chapter 4, Section 6, as amended) is amended to
2 read:

3 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
4 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR
5 MEDICAL PROGRAM--CONVERSION OF NONPROFIT MEDICAL CANNABIS
6 CORPORATIONS.--

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

11 (1) commercial cannabis activity [~~and~~
12 ~~licensing related to commercial cannabis activity~~];

13 (2) the medical cannabis program, except for
14 the medical cannabis registry; and

15 (3) all aspects of cannabis relating to
16 cannabis training and education programs.

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

21 (1) cannabis consumption areas;

22 (2) cannabis couriers;

23 (3) cannabis manufacturers;

24 (4) cannabis producer microbusinesses;

25 (5) cannabis producers;

- 1 (6) cannabis research laboratories;
2 (7) cannabis retailers;
3 (8) cannabis servers;
4 (9) cannabis testing laboratories;
5 (10) cannabis training and education programs;
6 (11) integrated cannabis microbusinesses; and
7 (12) vertically integrated cannabis
8 establishments.

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

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

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

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1 to the license.

2 F. The director shall not renew a license [~~issued~~
3 ~~pursuant to the provisions of the Cannabis Regulation Act]~~
4 until the director receives notification from the secretary of
5 taxation and revenue or the secretary's designee that on a
6 certain date:

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

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

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

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

20 [~~H.~~] I. Except for verification of age, the
21 division shall not require licensees to request information
22 from consumers or impose any residency requirement upon
23 consumers for the purchase of commercial cannabis products
24 [~~pursuant to the commercial cannabis activity authorized by the~~
25 ~~Cannabis Regulation Act~~]. The division may require licensees

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1 to request information from consumers for the purchase of
2 medical cannabis products, [~~pursuant to the medical cannabis~~
3 ~~program~~] which may include the presentation of legal
4 identification issued by an authorized governmental entity or
5 other documents as required by the medical cannabis program.

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

25 K. Smoking in a cannabis consumption area on a

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1 licensed premises shall be allowed only if the cannabis
2 consumption area is in a designated smoking area or in a
3 standalone building from which smoke does not infiltrate other
4 indoor workplaces or other indoor public places where smoking
5 is otherwise prohibited pursuant to the Dee Johnson Clean
6 Indoor Air Act.

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

12 ~~[K.]~~ M. A person properly licensed and in good
13 standing pursuant to the Lynn and Erin Compassionate Use Act on
14 the effective date of the Cannabis Regulation Act may continue
15 to operate ~~[under]~~ pursuant to that license for medical
16 cannabis until comparable licenses for commercial cannabis
17 activity are available. The division shall determine when
18 retail sales of commercial cannabis products begin, but no
19 later than April 1, 2022. A facility of such a licensee, upon
20 issuance of the applicable cannabis establishment license,
21 shall constitute licensed premises of the licensee and the
22 licensee shall be entitled to continued and uninterrupted
23 operations of the licensed premises. As to activity under the
24 medical cannabis program, the licensee shall continue to
25 operate under rules promulgated for the medical cannabis

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1 program until the division promulgates rules for medical
 2 cannabis activity, [~~except that~~] and a qualified patient, [~~a~~]
 3 primary caregiver [~~and a~~] or reciprocal participant shall not
 4 be prohibited from purchasing and obtaining cannabis products
 5 [~~pursuant to~~] through the medical cannabis program.

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

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

12 (2) initially take reasonable measures to
 13 expeditiously incentivize increased production of cannabis
 14 plants to remedy a shortage of cannabis supply in the medical
 15 cannabis program;

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

25 (4) require licensees who are licensed to

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1 produce cannabis to produce a specified quota of mature
2 cannabis plants to be designated for use in the medical
3 cannabis program; provided that:

4 (a) the division may require a licensee
5 to devote no more than twenty-five percent of the licensee's
6 cultivated cannabis plants on a monthly basis for use in the
7 medical cannabis program; and

8 (b) the division may require specific
9 tracking of cannabis plants.

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

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

23 (2) the average number of cannabis plants in
24 production as of ~~[the effective date of the Cannabis Regulation~~
25 ~~Act]~~ June 29, 2021 is measured over a period of three

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1 consecutive months immediately preceding [~~the effective date of~~
2 ~~the Cannabis Regulation Act~~] June 29, 2021.

3 ~~[N.]~~ P. A person who is a member of the New Mexico
4 senate or the New Mexico house of representatives on [~~the~~
5 ~~effective date of the Cannabis Regulation Act~~] June 29, 2021
6 shall not apply for or be granted a license to engage in any
7 commercial cannabis activity prior to July 1, 2026.

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

23 **SECTION 4.** Section 26-2C-7 NMSA 1978 (being Laws 2021
24 (1st S.S.), Chapter 4, Section 7) is amended to read:

25 "26-2C-7. [~~COMMERCIAL~~] CANNABIS ACTIVITY LICENSING--

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1 APPLICATION--ISSUANCE AND DENIAL OF A LICENSE--SUSPENSION AND
2 REVOCAION.--

3 ~~[A. A license issued pursuant to the Cannabis~~
4 ~~Regulation Act shall not be subject to execution, attachment, a~~
5 ~~security transaction, liens or receivership.~~

6 B.] A. In carrying out its commercial cannabis
7 activity licensing duties, the division shall:

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

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

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

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1 (4) ~~[if an applicant applies for a]~~ for any
 2 type of cannabis producer ~~[license or a cannabis]~~ or
 3 manufacturer license, ~~[in addition to the requirements in~~
 4 ~~Paragraph (3) of this subsection]~~ require ~~[that]~~ the applicant
 5 to submit a plan to use, or demonstrate to the division that
 6 the applicant cannot feasibly use, energy ~~[and]~~ or water
 7 reduction opportunities, including:

8 (a) for a cannabis producer, drip
 9 irrigation and water collection;

10 (b) natural lighting and energy
 11 efficiency measures; and

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

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

23 ~~G.]~~ B. Once the division deems an application
 24 complete, the division has ninety days to issue or deny a
 25 license application.

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1 ~~[D-]~~ C. The division shall deny an application for
2 an initial license or renewal if ~~[(1)]~~ the application does not
3 include information required by the division or ~~[(2)]~~ the
4 applicant does not meet the requirements of the Cannabis
5 Regulation Act or rules promulgated in accordance with that
6 act.

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

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

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

24 (3) a pending investigation or a felony
25 indictment or conviction of the applicant or licensee or a

1 controlling person of the applicant or licensee involving
2 producing, manufacturing, distributing, selling or giving away
3 illegal cannabis products;

4 (4) the denial, suspension or revocation of a
5 cannabis license in another state that would have the same
6 result if occurring in New Mexico;

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

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

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

23 E. Production, manufacture, distribution, sale or
24 possession of illegal cannabis product is grounds for denial,
25 suspension or revocation of a license or for taking any other

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1 disciplinary action allowed by law or rule of the division.

2 F. If the division determines after a review of
3 pertinent circumstances provided in Subsection D of this
4 section that the applicant, licensee or controlling person [~~is~~]
5 otherwise [~~qualified~~] meets the qualifications for [~~a license~~]
6 licensure and that issuing a license [~~to the applicant would~~]
7 does not compromise the state's cannabis program or the public
8 health or safety, the division shall [~~conduct a thorough review~~
9 ~~of the conviction, including the nature of the offense,~~
10 ~~surrounding circumstances and, any evidence of the applicant's~~
11 ~~or controlling person's rehabilitation following the~~
12 ~~conviction, and based on that review determine whether the~~
13 ~~applicant should be issued a license~~] issue the license or
14 close the suspension or revocation case.

15 [~~E. For purposes of Subsection D of this section,~~
16 ~~the following are considered substantially related to the~~
17 ~~qualifications, functions or duties of a person seeking a~~
18 ~~license:~~

19 (1) ~~a felony conviction involving fraud,~~
20 ~~deceit or embezzlement;~~

21 (2) ~~a felony conviction for hiring, employing~~
22 ~~or otherwise using a person younger than eighteen years of age~~
23 ~~to:~~

24 (a) ~~prepare for sale, transport or carry~~
25 ~~a controlled substance; or~~

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

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

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

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

21 ~~[H.]~~ I. The division shall not license a person who
 22 has had a license that was issued pursuant to the Cannabis
 23 Regulation Act or the Lynn and Erin Compassionate Use Act
 24 revoked by the division or the department of health in the
 25 three years immediately preceding the date on which the person

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1 filed a new application.

2 ~~[I.]~~ J. Unless otherwise provided in the Cannabis
3 Regulation Act, a person whose license has been revoked may
4 reapply for a license after a period of three years. The
5 division may consider all of the circumstances resulting in the
6 revocation in determining whether to issue a new license.

7 ~~[J. The division shall adopt rules providing for~~
8 ~~submission of an applicant's fingerprints to the federal bureau~~
9 ~~of investigation to conduct a national criminal history~~
10 ~~background check and to the department of public safety to~~
11 ~~conduct a state criminal history check for the following~~
12 ~~licensees:~~

13 ~~(1) cannabis manufacturer;~~

14 ~~(2) cannabis producer;~~

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

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

17 ~~(5) cannabis retailer;~~

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

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

20 ~~(8) vertically integrated cannabis~~

21 ~~establishment.~~

22 ~~K. The division shall conduct national criminal~~
23 ~~history background checks and state criminal history checks on~~
24 ~~the following:~~

25 ~~(1) if an applicant is a limited partnership,~~

1 ~~each partner of the limited partnership;~~

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

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

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

7 ~~L. Arrest record information received from the~~
8 ~~federal bureau of investigation and the department of public~~
9 ~~safety shall be confidential, shall not be considered a public~~
10 ~~record pursuant to the Public Records Act and shall not be~~
11 ~~disclosed to persons not directly involved in the decision~~
12 ~~affecting the applicant.~~

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

15 SECTION 5. A new section of the Cannabis Regulation Act
16 is enacted to read:

17 "[NEW MATERIAL] CRIMINAL HISTORY BACKGROUND CHECKS--
18 PROCESSES AND PROCEDURES.--

19 A. As used in this section:

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

23 (2) "member and manager" includes those
24 persons who are members in or managers of a limited liability
25 company licensed by the division as a cannabis establishment

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1 and who are responsible for the operations of the limited
2 liability company;

3 (3) "officer" means a president, one or more
4 vice presidents, a secretary, a treasurer or a secretary-
5 treasurer or a member of the executive committee, if different
6 from these named officers, of a corporation licensed by the
7 division as a cannabis establishment; and

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

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

- 18 (1) cannabis courier;
19 (2) cannabis manufacturer;
20 (3) cannabis producer;
21 (4) cannabis producer microbusiness;
22 (5) cannabis research laboratory;
23 (6) cannabis retailer;
24 (7) cannabis testing laboratory;
25 (8) integrated cannabis microbusiness;

1 (9) vertically integrated cannabis
2 establishment; and

3 (10) cannabis consumption licensees if
4 different from cannabis retailer.

5 C. The division shall require state and national
6 criminal history background checks for the following persons:

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

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

11 (3) if the applicant for licensure is a
12 limited liability company, each member and manager of the
13 limited liability company;

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

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

18 D. The division shall use the information from the
19 criminal history background check to evaluate the applicant's
20 qualifications for licensure.

21 E. Arrest record information received from the
22 federal bureau of investigation and the department of public
23 safety shall be confidential, shall not be considered a public
24 record pursuant to the Public Records Act and shall not be
25 disclosed to persons not directly involved in the decision

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1 affecting the applicant."

2 SECTION 6. Section 26-2C-10 NMSA 1978 (being Laws 2021
3 (1st S.S.), Chapter 4, Section 10) is repealed and a new
4 Section 26-2C-10 NMSA 1978 is enacted to read:

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

13 SECTION 7. Section 26-2C-17 NMSA 1978 (being Laws 2021
14 (1st S.S.), Chapter 4, Section 17) is amended to read:

15 "26-2C-17. CANNABIS PRODUCTS--PACKAGING AND LABELING--
16 DIVISION RULEMAKING.--

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

21 B. The division shall promulgate rules consistent
22 with industry standards for cannabis products that establish
23 labeling and packaging requirements, including that:

24 (1) packages shall be resealable and child-
25 resistant [~~compostable and recyclable or made from recycled~~

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1 ~~materials~~];

2 (2) packages and labels shall not be designed
3 to be appealing to a child and shall not mimic the brand,
4 design, name, logo or colorway of a non-cannabis consumer
5 product marketed to children;

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

10 (4) packages containing edible cannabis
11 products shall be opaque; and

12 [~~3~~] (5) labels shall include:

13 (a) for a package containing only
14 cannabis leaf or flower, the net weight of cannabis in the
15 package;

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

21 (c) potency and pesticide use;

22 (d) a list of pharmacologically active
23 ingredients;

24 (e) for cannabis products containing
25 non-cannabis ingredients, a list of all ingredients and a

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1 disclosure of nutritional information for the product or
2 cannabis extract disclosed in the same manner required under
3 federal law for nutritional labeling for food for human
4 consumption;

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

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

11 (h) a warning of possible adverse
12 effects of consumption and the New Mexico poison and drug
13 information center phone number;

14 (i) an expiration date; and

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

18 SECTION 8. Section 26-2C-18 NMSA 1978 (being Laws 2021
19 (1st S.S.), Chapter 4, Section 18) is amended to read:

20 "26-2C-18. TESTING CANNABIS PRODUCTS--HEALTH AND SAFETY
21 OF EMPLOYEES AND CONSUMERS.--

22 A. A cannabis testing laboratory's testing of
23 cannabis products shall comply with the requirements set forth
24 in applicable law and rules.

25 B. In consultation with the department of

1 environment and consistent with industry standards, the
2 division shall promulgate rules to:

3 (1) ~~[ensure that testing of cannabis products~~
4 ~~occurs]~~ require all cannabis producers and cannabis
5 manufacturers to have their cannabis products tested prior to
6 distribution to cannabis retailers or for sales by integrated
7 cannabis microbusinesses;

8 (2) specify how often licensees shall test
9 cannabis products;

10 (3) specify which persons bear the cost of
11 testing commercial or medical cannabis products ~~[and medical~~
12 ~~cannabis]~~;

13 (4) provide for recordkeeping;

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

16 (6) ensure that testing samples are
17 transported and stored in a manner that prevents degradation,
18 contamination, tampering or diversion;

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

24 (8) require destruction of a tested batch of
25 cannabis products if the testing samples from the tested batch

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underscored material = new
~~[bracketed material] = delete~~

1 indicate noncompliance with applicable health and safety
2 standards promulgated by the division, unless remedial measures
3 can bring the cannabis products into compliance with the
4 standards or the cannabis products can be used for research
5 purposes.

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

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

17 SECTION 9. Section 26-2C-20 NMSA 1978 (being Laws 2021
18 (1st S.S.), Chapter 4, Section 20) is amended to read:

19 "26-2C-20. ADVERTISING AND MARKETING RESTRICTIONS.--

20 A. As used in this section, "advertising" does not
21 mean:

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

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1 (2) a label affixed to a cannabis product or
2 the covering, wrapper or container of a cannabis product.

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

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

7 [~~1~~] (a) on radio, television or other
8 broadcast media, internet pop-ups and mass transit vehicles;
9 provided that the division shall not prohibit advertising and
10 marketing to [~~a~~]: 1) subscribers of subscription-based
11 radio, television or other broadcast media who are twenty-one
12 years of age or older; or [~~b~~] 2) persons twenty-one years of
13 age or older who have solicited the advertising or marketing;

14 [~~2~~] (b) that are false, deceptive or
15 misleading, including making unproven health benefit claims;

16 [~~3~~] (c) that are on billboards,
17 posters, handbills or other visual media that are located or
18 can be viewed within three hundred feet of a school, daycare
19 center or church;

20 [~~4~~] (d) that depict consumption by
21 children or other persons who appear to be younger than twenty-
22 one years of age;

23 [~~5~~] (e) that use predatory marketing
24 and advertising practices targeting minors; or

25 [~~6~~] (f) that are designed using

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underscoring material = new
[bracketed material] = delete

1 cartoon characters or to mimic any other product brand; and

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

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

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

10 SECTION 10. Section 26-2C-28 NMSA 1978 (being Laws 2021
11 (1st S.S.), Chapter 4, Section 28) is amended to read:

12 "26-2C-28. [~~UNLICENSED SALES OF~~] TRAFFICKING CANNABIS
13 PRODUCTS--PENALTIES.--

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

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

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

22 B. Unless otherwise provided in the Cannabis
23 Regulation Act or the Lynn and Erin Compassionate Use Act, it
24 is unlawful for a person [~~without a license~~] to intentionally
25 traffic cannabis products.

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1 C. In addition to the penalties provided in the
2 Delinquency Act, a person under eighteen years of age who
3 violates Subsection B of this section shall be subject to:

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

7 (2) four hours of community service.

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

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

22 E. A person twenty-one years of age or older who
23 traffics cannabis products is guilty of a fourth degree felony
24 for a first offense. A person who traffics cannabis products
25 is guilty of a third degree felony for a second or subsequent

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1 offense. Sentencing pursuant to this subsection shall be as
2 provided in Section 31-18-15 NMSA 1978. A conveyance used or
3 intended to be used for the purpose of trafficking cannabis
4 products or money that is the fruit or instrumentality of the
5 crime is subject to forfeiture, and the provisions of the
6 Forfeiture Act apply to the seizure, forfeiture and disposal of
7 such property."

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

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

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

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

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

24 D. its container is composed in whole or in part of
25 a poisonous or deleterious substance that may render the

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1 contents injurious to health;

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

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

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

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

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

22 SECTION 12. A new section of the Cannabis Regulation Act
23 is enacted to read:

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

25 Cannabis is deemed to be misbranded if:

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

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

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

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

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

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

16 "[NEW MATERIAL] ENFORCEMENT--EMBARGO AND RECALL, SEIZURE
17 AND CONDEMNATION--PROCEDURES--PENALTIES.--

18 A. The division may:

19 (1) initiate an investigation of an alleged or
20 suspected violation of the Cannabis Regulation Act and carry
21 out unannounced inspections during the division's
22 investigation;

23 (2) issue an administrative hold on the
24 movement of cannabis products under investigation by the
25 division;

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1 (3) embargo or seize a cannabis product
2 alleged or suspected of being an illegal cannabis product or a
3 cannabis product that is adulterated or so misbranded as to be
4 dangerous or fraudulent; and

5 (4) petition the district court for
6 condemnation or for injunctive or equitable relief.

7 B. The division shall give sufficient notice to the
8 licensee of the division's decision to issue an administrative
9 hold on the licensee's cannabis products. An administrative
10 hold shall not be in place for longer than necessary to
11 complete the investigation; provided that an administrative
12 hold on misbranded cannabis products that are not considered
13 dangerous or fraudulent shall last only as long as it takes the
14 licensee to relabel and repackage the cannabis products as
15 ordered by the division.

16 C. Whenever the division has a reasonable belief
17 that a cannabis product is illegal, adulterated or dangerously
18 or fraudulently misbranded, the director shall embargo or seize
19 that cannabis product and may seize the premises where that
20 cannabis product is located under circumstances provided by
21 rule of the division. The division may issue a recall order
22 for cannabis products embargoed for adulteration or dangerous
23 or fraudulent misbranding or for illegal cannabis products.

24 D. When the division embargoes a cannabis product,
25 the division shall affix to the cannabis product a tag or other

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1 appropriate marking giving notice that the cannabis product is
2 or is suspected of being an illegal cannabis product or is
3 adulterated or dangerously or fraudulently misbranded and that
4 the cannabis product shall not be removed or disposed of.

5 E. When the division embargoes or seizes a cannabis
6 product or a premises, the division shall give written notice
7 to the licensee of the grounds for the seizure.

8 F. The division shall not be required to care for
9 embargoed or seized cannabis products.

10 G. A licensee aggrieved by an embargo or seizure
11 may request an administrative hearing within ten calendar days
12 from the date the embargo was issued or the seizure executed.
13 The hearing shall be held as provided by rule. The final
14 agency decision may be appealed pursuant to Section 39-3-1.1
15 NMSA 1978.

16 H. When the division determines that an embargoed
17 or seized cannabis product is illegal, adulterated or
18 dangerously or fraudulently misbranded, the division shall
19 petition the district court for condemnation of that cannabis
20 product.

21 I. If the district court orders condemnation, the
22 division shall destroy the cannabis product at the licensee's
23 expense.

24 J. Law enforcement, the New Mexico department of
25 agriculture, the department of environment and other state

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1 agencies with relevant expertise shall cooperate with the
2 division at the division's request.

3 K. A person who intentionally, knowingly or
4 recklessly removes, conceals, destroys or disposes of a
5 cannabis product subject to an administrative hold or embargo
6 is guilty of a fourth degree felony and shall be sentenced as
7 provided in Section 31-18-15 NMSA 1978.

8 L. In addition to the actions provided in this
9 section, after an administrative hearing pursuant to the
10 Uniform Licensing Act, the division may take disciplinary
11 action against a licensee, including:

12 (1) suspension or revocation of the license;
13 (2) imposition of an administrative penalty
14 not to exceed ten thousand dollars (\$10,000); or

15 (3) any other disciplinary action allowed
16 under that act or rule of the division."

17 **SECTION 14.** Section 26-2C-36 NMSA 1978 (being Laws 2021
18 (1st S.S.), Chapter 4, Section 36) is amended to read:

19 "26-2C-36. PUBLIC RECORDS AND OPEN MEETINGS.--Records of
20 the division are subject to the Inspection of Public Records
21 Act, except that personal identifier information of a person
22 who reports an alleged violation of the Cannabis Regulation Act
23 shall be redacted from the public record until the enforcement
24 investigation is completed. Rulemaking and other hearings of
25 the division are subject to the Open Meetings Act."

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

3 "30-22-14. BRINGING CONTRABAND INTO PLACES OF
4 IMPRISONMENT--PENALTIES--DEFINITIONS.--

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

12 B. Bringing contraband into a jail consists of
13 knowingly and voluntarily carrying contraband into the confines
14 of a county or municipal jail. Whoever commits bringing
15 contraband into a jail is guilty of a fourth degree felony.

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

17 (1) a deadly weapon, as defined in Section
18 30-1-12 NMSA 1978, or an essential component part thereof,
19 including ammunition, explosive devices and explosive
20 materials, but does not include a weapon carried by a peace
21 officer in the lawful discharge of duties;

22 (2) currency brought onto the grounds of the
23 institution for the purpose of transfer to a prisoner, but does
24 not include currency carried into areas designated by the
25 warden as areas for the deposit and receipt of currency for

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1 credit to a prisoner's account before contact is made with the
2 prisoner;

3 (3) an alcoholic beverage;

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

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

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

24 E. Nothing in this section shall prohibit the use
25 of hearing aids, voice amplifiers or other equipment necessary

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1 to aid prisoners who have documented hearing or speech
2 deficiencies or their visitors. Rules for such devices shall
3 be established by the warden or director of each jail,
4 detention center and prison."

5 SECTION 16. Section 30-22-14.1 NMSA 1978 (being Laws
6 1997, Chapter 44, Section 1) is amended to read:

7 "30-22-14.1. BRINGING CONTRABAND INTO A JUVENILE
8 DETENTION FACILITY OR JUVENILE CORRECTIONAL FACILITY--
9 PENALTY.--

10 A. Bringing contraband into a juvenile detention
11 facility or juvenile correctional facility consists of
12 carrying, transporting or depositing contraband onto the
13 grounds of [~~any~~] a facility designated by the children, youth
14 and families department for the detention or commitment of
15 children. Whoever commits bringing contraband into a juvenile
16 correctional facility is guilty of a third degree felony.
17 Whoever commits bringing contraband into a juvenile detention
18 facility is guilty of a fourth degree felony.

19 B. As used in this section, "contraband" means:

20 (1) any deadly weapon, as defined in Section
21 30-1-12 NMSA 1978, or an essential component part thereof,
22 including ammunition, explosive devices and explosive
23 materials, but does not include a weapon carried by a peace
24 officer in the lawful discharge of [~~his~~] the officer's duties;

25 (2) currency brought onto the grounds of a

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1 juvenile detention facility or juvenile correctional facility
 2 and not declared upon entry to the facility for the purpose of
 3 transfer to a child detained in or committed to the facility,
 4 but does not include currency carried into areas designated by
 5 the facility administrator as areas for the deposit and receipt
 6 of currency for credit to a child's account before contact is
 7 made with any child;

8 (3) any alcoholic beverage brought within the
 9 physical confines of the juvenile detention or juvenile
 10 correctional facility; or

11 (4) any controlled substance, as defined in
 12 the Controlled Substances Act, or cannabis as defined in the
 13 Cannabis Regulation Act, but does not include a controlled
 14 substance or medical cannabis carried into a juvenile detention
 15 facility or juvenile correctional facility through regular
 16 facility channels and pursuant to the direction or prescription
 17 of a [~~regularly~~] licensed physician."

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

22 "30-42-3. DEFINITIONS.--As used in the Racketeering Act:

23 A. "racketeering" means any act that is chargeable
 24 or indictable under the laws of New Mexico and punishable by
 25 imprisonment for more than one year, involving any of the

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1 following cited offenses:

2 (1) murder, as provided in Section 30-2-1 NMSA
3 1978;

4 (2) robbery, as provided in Section 30-16-2
5 NMSA 1978;

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

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

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

12 (6) fraud, as provided in Section 30-16-6 NMSA
13 1978;

14 (7) embezzlement, as provided in Section
15 30-16-8 NMSA 1978;

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

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

20 (10) gambling, as provided in Sections
21 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

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

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

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

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

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

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

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

12 (18) loan sharking, as provided in Sections
13 30-43-1 through 30-43-5 NMSA 1978;

14 (19) distribution of controlled substances or
15 controlled substance analogues, as provided in Sections
16 30-31-21 and 30-31-22 NMSA 1978;

17 (20) a violation of the provisions of Section
18 30-51-4 NMSA 1978;

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

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

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

25 (24) receiving or transferring stolen vehicles

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1 or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;
2 [~~and~~]

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

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

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

10 C. "enterprise" means a sole proprietorship,
11 partnership, corporation, business, labor union, association or
12 other legal entity or a group of individuals associated in fact
13 although not a legal entity and includes illicit as well as
14 licit entities; and

15 D. "pattern of racketeering activity" means
16 engaging in at least two incidents of racketeering with the
17 intent of accomplishing any of the prohibited activities set
18 forth in Subsections A through D of Section 30-42-4 NMSA 1978;
19 provided at least one of the incidents occurred after February
20 28, 1980 and the last incident occurred within five years after
21 the commission of a prior incident of racketeering."

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

24 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

25 A. "delinquent act" means an act committed by a

1 child that would be designated as a crime under the law if
2 committed by an adult, not including a violation of Section
3 30-9-2 NMSA 1978, including the following offenses:

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

6 (a) driving while under the influence of
7 intoxicating liquor or drugs;

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

10 (c) unlawful taking of a vehicle or
11 motor vehicle;

12 (d) receiving or transferring of a
13 stolen vehicle or motor vehicle;

14 (e) homicide by vehicle;

15 (f) injuring or tampering with a
16 vehicle;

17 (g) altering or changing of an engine
18 number or other vehicle identification numbers;

19 (h) altering or forging of a driver's
20 license or permit or any making of a fictitious license or
21 permit;

22 (i) reckless driving;

23 (j) driving with a suspended or revoked
24 license; or

25 (k) an offense punishable as a felony;

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

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

18 (4) a violation of the Controlled Substances
19 Act;

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

24 (6) a violation of Section 30-15-1.1 NMSA 1978
25 regarding unauthorized graffiti on personal or real property;

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1 [~~or~~]

2 (7) a violation of an order of protection
3 issued pursuant to the provisions of the Family Violence
4 Protection Act; or

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

7 B. "delinquent child" means a child who has
8 committed a delinquent act;

9 C. "delinquent offender" means a delinquent child
10 who is subject to juvenile sanctions only and who is not a
11 youthful offender or a serious youthful offender;

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

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

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

20 G. "restitution" means financial reimbursement by
21 the child to the victim or community service imposed by the
22 court and is limited to easily ascertainable damages for injury
23 to or loss of property, actual expenses incurred for medical,
24 psychiatric and psychological treatment for injury to a person
25 and lost wages resulting from physical injury, which are a

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1 direct and proximate result of a delinquent act. "Restitution"
2 does not include reimbursement for damages for mental anguish,
3 pain and suffering or other intangible losses. As used in this
4 subsection, "victim" means a person who is injured or suffers
5 damage of any kind by an act that is the subject of a complaint
6 or referral to law enforcement officers or juvenile probation
7 authorities. Nothing contained in this definition limits or
8 replaces the provisions of Subsections A and B of Section
9 32A-2-27 NMSA 1978;

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

15 I. "supervised release" means the release of a
16 juvenile, whose term of commitment has not expired, from a
17 facility for the care and rehabilitation of adjudicated
18 delinquent children, with specified conditions to protect
19 public safety and promote successful transition and
20 reintegration into the community. A juvenile on supervised
21 release is subject to monitoring by the department until the
22 term of commitment has expired and may be returned to custody
23 for violating conditions of release; and

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

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

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

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

8 (c) kidnapping, as provided in Section
9 30-4-1 NMSA 1978;

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

12 (e) aggravated battery against a
13 household member, as provided in Subsection C of Section
14 30-3-16 NMSA 1978;

15 (f) aggravated battery upon a peace
16 officer, as provided in Subsection C of Section 30-22-25 NMSA
17 1978;

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

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

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

25 (j) robbery, as provided in Section

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1 30-16-2 NMSA 1978;

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

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

6 (m) abuse of a child that results in
7 great bodily harm or death to the child, as provided in Section
8 30-6-1 NMSA 1978;

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

18 (3) fourteen years of age and who is
19 adjudicated for first degree murder, as provided in Section
20 30-2-1 NMSA 1978."

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

23 "61-1-2. DEFINITIONS.--As used in the Uniform Licensing
24 Act:

25 A. "board" means:

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1 (1) the construction industries commission,
 2 the construction industries division and the electrical bureau,
 3 mechanical bureau and general construction bureau of the
 4 construction industries division of the regulation and
 5 licensing department;

6 (2) the manufactured housing committee and the
 7 manufactured housing division of the regulation and licensing
 8 department;

9 (3) the crane operators licensure examining
 10 council;

11 (4) a board, commission or agency that
 12 administers a profession or occupation licensed pursuant to
 13 Chapter 61 NMSA 1978;

14 (5) the cannabis control division of the
 15 regulation and licensing department; and

16 [~~5~~] (6) any other state agency to which the
 17 Uniform Licensing Act is applied by law;

18 B. "applicant" means a person who has applied for a
 19 license;

20 C. "expedited license", whether by examination,
 21 endorsement, credential or reciprocity, means a license issued
 22 to a person in this state based on licensure in another state
 23 or territory of the United States, the District of Columbia or
 24 a foreign country, as applicable;

25 D. "initial license" means the first regular

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1 license received from a board for a person who has not been
2 previously licensed;

3 E. "license" means a certificate, permit or other
4 authorization to engage in a profession or occupation regulated
5 by a board;

6 F. "licensing jurisdiction" means another state or
7 territory of the United States, the District of Columbia or a
8 foreign country, as applicable;

9 G. "party" means a respondent licensee, applicant
10 or unlicensed person who is the subject of a disciplinary
11 proceeding or the civil administrative prosecutor representing
12 the state and the board;

13 H. "probation" means to allow, for a stated period
14 of time, the conduct authorized by a license, subject to
15 conditions or other restrictions that are reasonably related to
16 the grounds for probation;

17 I. "regular license" means a license that is not
18 issued as a temporary or provisional license;

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

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

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

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

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