

1 AN ACT

2 RELATING TO CANNABIS REGULATION; CHANGING DEFINITIONS;
3 PROVIDING POWERS AND DUTIES; PROVIDING PROCEDURES FOR
4 CRIMINAL HISTORY BACKGROUND CHECKS; REMOVING THE PROHIBITION
5 AGAINST A PERSON OWNING BOTH A CANNABIS LICENSE AND A LICENSE
6 UNDER THE LIQUOR CONTROL ACT; PROHIBITING CO-LOCATION OF
7 CANNABIS ACTIVITIES AND ALCOHOLIC BEVERAGE SALES OR SERVICE
8 ACTIVITIES TO THE PUBLIC OR MEMBERS OF PRIVATE CLUBS;
9 PROVIDING FOR INVESTIGATORY CONFIDENTIALITY; ALLOWING FOR
10 LICENSEE CONVERSION FROM NONPROFIT TO FOR-PROFIT CORPORATE
11 STATUS; CHANGING PACKAGING REQUIREMENTS; REPLACING LICENSURE
12 WITH REGISTRATION OF CANNABIS TRAINING AND EDUCATION
13 PROGRAMS; INCLUDING THE CANNABIS REGULATION ACT IN THE
14 RACKETEERING ACT, THE DELINQUENCY ACT AND THE UNIFORM
15 LICENSING ACT; INCLUDING CANNABIS IN A LIST OF CONTRABAND IN
16 JAILS, PRISONS AND JUVENILE DETENTION FACILITIES; CREATING
17 CRIMES; PRESCRIBING PENALTIES; REPEALING A DELAYED REPEAL;
18 AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

23 "26-2C-1. SHORT TITLE.--Chapter 26, Article 2C NMSA
24 1978 may be cited as the "Cannabis Regulation Act"."

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

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

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

4 A. "cannabis":

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

12 (2) does not include:

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

19 (b) the weight of any other ingredient
20 combined with cannabis to prepare topical or oral
21 administrations, food, drink or other product;

22 B. "cannabis consumption area" means an area of a
23 licensed premises where cannabis products may be served and
24 consumed;

25 C. "cannabis courier" means a person that

1 transports commercial or medical cannabis products to
2 consumers;

3 D. "cannabis establishment" means:

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

14 E. "cannabis extract":

- 15 (1) means a product obtained by separating
16 resins, tetrahydrocannabinols or other substances from
17 cannabis by extraction methods approved by the division; and
18 (2) does not include the weight of any other
19 ingredient combined with cannabis extract to prepare topical
20 or oral administrations, food, drink or another product;

21 F. "cannabis flowers" means only the flowers of a
22 cannabis plant;

23 G. "cannabis manufacturer" means a person that:

- 24 (1) manufactures cannabis products;
25 (2) packages cannabis products for resale;

1 or

2 (3) purchases, acquires, sells or transports
3 wholesale cannabis products to other cannabis establishments;

4 H. "cannabis producer" means a person that:

5 (1) cultivates cannabis plants;

6 (2) transports unprocessed cannabis only to
7 other cannabis establishments; or

8 (3) sells cannabis wholesale;

9 I. "cannabis producer microbusiness" means a
10 cannabis producer at a single licensed premises that
11 possesses no more than two hundred total mature cannabis
12 plants at any one time;

13 J. "cannabis product" means a product that is or
14 that contains cannabis or cannabis extract, including edible
15 or topical products that may also contain other ingredients;

16 K. "cannabis research laboratory" means a facility
17 that produces or possesses cannabis products and all parts of
18 the plant genus *Cannabis* for the purpose of studying cannabis
19 cultivation, characteristics or uses;

20 L. "cannabis retailer" means a person that sells
21 cannabis products to consumers;

22 M. "cannabis testing laboratory" means a facility
23 that samples, collects and tests cannabis products and
24 transports cannabis products for the purpose of testing;

25 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 or to the personal
7 cultivation or use of cannabis products;

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

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

17 Q. "controlling person":

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

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

23 R. "cultivation" means any activity involving the
24 planting, growing, harvesting, drying, curing, grading or
25 trimming of cannabis;

1 S. "department" means the regulation and licensing
2 department;

3 T. "director" means the director of the division;

4 U. "division" means the cannabis control division
5 of the department;

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

15 W. "facility" means a building, space or grounds
16 licensed for the production, storage, testing, manufacturing,
17 distribution, sale or consumption of cannabis products;

18 X. "financial consideration" means value that is
19 given or received, directly or indirectly, through sales,
20 barter, trade, fees, charges, dues, contributions or
21 donations;

22 Y. "homegrown" or "homemade" means grown or made
23 for purposes that are not for resale;

24 Z. "illegal cannabis product" means a cannabis
25 product that is:

1 (1) produced or manufactured outside
2 New Mexico;

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

6 (3) produced, manufactured, distributed or
7 sold by a person acting outside the limits of the person's
8 license;

9 provided that "illegal cannabis product" does not include
10 homegrown or homemade cannabis products that comply with the
11 provisions of the Cannabis Regulation Act;

12 AA. "immature cannabis plant" means a cannabis
13 plant that has no observable flowers or buds;

14 BB. "industry standards" means the prevailing
15 customary standards of business practice in the cannabis
16 industry in jurisdictions within the United States;

17 CC. "integrated cannabis microbusiness" means a
18 person that is licensed to conduct one or more of the
19 following:

20 (1) production of cannabis at a single
21 licensed premises; provided that the person shall not possess
22 more than two hundred total mature cannabis plants at any one
23 time;

24 (2) manufacture of cannabis products at a
25 single licensed premises;

1 (3) sales and transportation of cannabis
2 products produced or manufactured by that person or another
3 cannabis producer microbusiness or integrated cannabis
4 microbusiness;

5 (4) operation of only one retail
6 establishment; and

7 (5) couriering of cannabis products to
8 consumers;

9 DD. "licensed premises" means a location that
10 includes:

11 (1) all enclosed public and private areas at
12 the location that are used in the business and includes
13 cannabis consumption areas, offices, kitchens, restrooms and
14 storerooms;

15 (2) all areas outside of a building that are
16 specifically included in the license;

17 (3) all areas of a standalone cannabis
18 consumption area, including retail and other areas, whether
19 in enclosed or outside spaces, and including private or
20 members-only clubs where cannabis products are available for
21 sale or consumption; and

22 (4) with respect to a location that is
23 specifically licensed for the production of cannabis outside
24 of a building, the amount of land that the licensee owns,
25 leases or has a right to occupy that is identified in the

1 application for licensure for cultivation of cannabis;
2 provided that the licensed premises may be decreased but
3 shall not be increased without permission of the division;

4 EE. "local jurisdiction" means a municipality,
5 including a home rule municipality, or county;

6 FF. "manufacture" means to compound, blend,
7 extract, infuse, package and label or otherwise prepare a
8 cannabis product;

9 GG. "medical cannabis" means cannabis products
10 used by a qualified patient or reciprocal participant in
11 accordance with the Lynn and Erin Compassionate Use Act;

12 HH. "medical cannabis program" means the program
13 created pursuant to the Lynn and Erin Compassionate Use Act;

14 II. "medical cannabis registry" means the system
15 by which the department of health approves or denies
16 applications and issues and renews registry identification
17 cards for qualified patients and primary caregivers;

18 JJ. "primary caregiver" means a resident of
19 New Mexico who is at least eighteen years of age and who is
20 responsible for managing the well-being of a qualified
21 patient with respect to the medical use of cannabis pursuant
22 to the Lynn and Erin Compassionate Use Act;

23 KK. "public space" means any place to which the
24 general public has access;

25 LL. "qualified patient" means a resident of

1 New Mexico who holds a registry identification card pursuant
2 to the Lynn and Erin Compassionate Use Act;

3 MM. "reciprocal participant" means a person who is
4 not a resident of New Mexico and who holds proof of
5 enrollment by a governmental regulatory authority to
6 participate in the medical cannabis program of another state
7 of the United States, the District of Columbia or a territory
8 or commonwealth of the United States in which the person
9 resides or a person who holds proof of enrollment by a
10 governmental regulatory authority of a New Mexico Indian
11 nation, tribe or pueblo to participate in its medical
12 cannabis program;

13 NN. "residence" or "household" means a housing
14 unit and includes any place in or around the housing unit
15 that is not a public space and at which an occupant of the
16 housing unit produces, manufactures, keeps or stores
17 homegrown or homemade cannabis products or stores legally
18 purchased cannabis;

19 OO. "retail establishment" means a location at
20 which cannabis products are sold directly to consumers;

21 PP. "superintendent" means the superintendent of
22 regulation and licensing;

23 QQ. "unprocessed" means unaltered from an
24 original, raw or natural state; and

25 RR. "vertically integrated cannabis establishment"

1 means a person that is authorized to act as one or more of
2 the following:

- 3 (1) a cannabis courier;
- 4 (2) a cannabis manufacturer;
- 5 (3) a cannabis producer; and
- 6 (4) a cannabis retailer."

7 SECTION 3. Section 26-2C-6 NMSA 1978 (being Laws 2021
8 (1st S.S.), Chapter 4, Section 6, as amended) is amended to
9 read:

10 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
11 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR
12 MEDICAL PROGRAM--CONVERSION OF NONPROFIT MEDICAL CANNABIS
13 CORPORATIONS.--

14 A. The division shall regulate the following in
15 accordance with the Uniform Licensing Act, unless otherwise
16 provided in the Cannabis Regulation Act:

- 17 (1) commercial cannabis activity;
- 18 (2) the medical cannabis program, except for
19 the medical cannabis registry; and
- 20 (3) all aspects of cannabis relating to
21 cannabis training and education programs.

22 B. The division may issue, renew, deny, suspend or
23 revoke licenses or discipline licensees for the following:

- 24 (1) cannabis consumption areas;
- 25 (2) cannabis couriers;

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

14 C. The division shall include a clear designation
15 on all licenses that indicates whether the license is for
16 medical cannabis activity, commercial cannabis activity or
17 both.

18 D. The division shall issue a license to a
19 cannabis retailer applicant at a discount if the applicant
20 provides documentation of an agreement to accept cannabis
21 products on consignment from a cannabis producer
22 microbusiness or an integrated cannabis microbusiness.

23 E. A license is valid for twelve months from the
24 date the license is issued and may be renewed annually. A
25 licensee shall notify the division when the licensee begins

1 or ends operations pursuant to the license.

2 F. The director shall not renew a license until
3 the director receives notification from the secretary of
4 taxation and revenue or the secretary's designee that on a
5 certain date:

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

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

13 G. A license shall not be transferable or
14 assignable from a licensee to another person. The division
15 shall not allow a person that is licensed as any type of
16 cannabis establishment other than a cannabis research
17 laboratory to hold, directly or indirectly, a cannabis
18 testing laboratory license.

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

21 I. Except for verification of age, the division
22 shall not require licensees to request information from
23 consumers or impose any residency requirement upon consumers
24 for the purchase of commercial cannabis products. The
25 division may require licensees to request information from

1 consumers for the purchase of medical cannabis products,
2 which may include the presentation of legal identification
3 issued by an authorized governmental entity or other
4 documents as required by the medical cannabis program.

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

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

1 other indoor workplaces or other indoor public places where
2 smoking is otherwise prohibited pursuant to the Dee Johnson
3 Clean Indoor Air Act.

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

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

1 program.

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

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

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

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

23 (4) require licensees who are licensed to
24 produce cannabis to produce a specified quota of mature
25 cannabis plants to be designated for use in the medical

1 cannabis program; provided that:

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

6 (b) the division may require specific
7 tracking of cannabis plants.

8 O. As used in this section, "shortage of cannabis
9 supply in the medical cannabis program" means that the
10 average number of cannabis plants in production in the
11 medical cannabis program per qualified patient after June 29,
12 2021 is substantially less than the average number of
13 cannabis plants in production in the medical cannabis program
14 per qualified patient as of June 29, 2021, where:

15 (1) the average number of cannabis plants in
16 production after June 29, 2021 is measured over a period of
17 three consecutive months; and

18 (2) the average number of cannabis plants in
19 production as of June 29, 2021 is measured over a period of
20 three consecutive months immediately preceding June 29, 2021.

21 P. A person who is a member of the New Mexico
22 senate or the New Mexico house of representatives on the
23 effective date of the Cannabis Regulation Act shall not apply
24 for or be granted a license to engage in any commercial
25 cannabis activity prior to July 1, 2026.

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

17 SECTION 4. Section 26-2C-7 NMSA 1978 (being Laws 2021
18 (1st S.S.), Chapter 4, Section 7) is amended to read:

19 "26-2C-7. CANNABIS ACTIVITY LICENSING--APPLICATION--
20 ISSUANCE AND DENIAL OF A LICENSE--SUSPENSION AND
21 REVOCATION.--

22 A. In carrying out its commercial cannabis
23 activity licensing duties, the division shall:

24 (1) no later than September 1, 2021, accept
25 and begin processing license applications for cannabis

1 producers, cannabis producer microbusinesses and any person
2 properly licensed and in good standing as a licensed cannabis
3 producer pursuant to the Lynn and Erin Compassionate Use Act;

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

7 (3) if a cannabis producer or cannabis
8 producer microbusiness, require as a condition of licensing
9 that the applicant demonstrate that the applicant has a legal
10 right to a commercial water supply, water rights or other
11 source of water sufficient to meet the water needs as
12 determined by the division related to the license as
13 evidenced by documentation from the office of the state
14 engineer of a valid water right or from a water provider that
15 the use of water for cannabis production is compliant with
16 that water provider's rules; and

17 (4) for any type of cannabis producer or
18 manufacturer license, require the applicant to submit a plan
19 to use, or demonstrate to the division that the applicant
20 cannot feasibly use, energy or water reduction opportunities,
21 including:

22 (a) for a cannabis producer, drip
23 irrigation and water collection;

24 (b) natural lighting and energy
25 efficiency measures; and

1 (c) renewable energy generation.

2 B. Once the division deems an application
3 complete, the division has ninety days to issue or deny a
4 license application.

5 C. The division shall deny an application for an
6 initial license or renewal if the application does not
7 include information required by the division or the applicant
8 does not meet the requirements of the Cannabis Regulation Act
9 or rules promulgated in accordance with that act.

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

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

21 (2) a pending investigation or a felony
22 indictment or conviction of the applicant or licensee or a
23 controlling person of the applicant or licensee in this state
24 or another state or by the federal government involving
25 fraud, deceit or embezzlement;

1 (3) a pending investigation or a felony
2 indictment or conviction of the applicant or licensee or a
3 controlling person of the applicant or licensee involving
4 producing, manufacturing, distributing, selling or giving
5 away illegal cannabis products;

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

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

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

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

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

5 F. If the division determines after a review of
6 pertinent circumstances provided in Subsection D of this
7 section that the applicant, licensee or controlling person
8 otherwise meets the qualifications for licensure and that
9 issuing a license does not compromise the state's cannabis
10 program or the public health or safety, the division shall
11 issue the license or close the suspension or revocation case.

12 G. A conviction for which the related sentence,
13 including any term of probation or parole, has been completed
14 for the production, possession, use, manufacture,
15 distribution or sale or the possession with the intent to
16 manufacture, distribute or sell cannabis is not considered
17 substantially related to the qualifications, functions or
18 duties of a person seeking a license and shall not be the
19 sole ground on which an application is denied. The
20 provisions of the Uniform Licensing Act and the Criminal
21 Offender Employment Act shall govern consideration of
22 criminal records required or permitted by the Cannabis
23 Regulation Act.

24 H. The division shall deny an application if an
25 applicant, a controlling person or the premises for which a

1 license is sought does not qualify for licensure pursuant to
2 the Cannabis Regulation Act.

3 I. The division shall not license a person who
4 has had a license that was issued pursuant to the Cannabis
5 Regulation Act or the Lynn and Erin Compassionate Use Act
6 revoked by the division or the department of health in the
7 three years immediately preceding the date on which the
8 person filed a new application.

9 J. Unless otherwise provided in the Cannabis
10 Regulation Act, a person whose license has been revoked may
11 reapply for a license after a period of three years. The
12 division may consider all of the circumstances resulting in
13 the revocation in determining whether to issue a new
14 license."

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

17 "CRIMINAL HISTORY BACKGROUND CHECKS--PROCESSES AND
18 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

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

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

8 (4) "partner" means a person who is a co-
9 owner 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 data to the department of public safety to conduct
14 a state criminal history background check and for its
15 submission of the biometric data to the federal bureau of
16 investigation to conduct a national criminal history
17 background check for the 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
10 limited 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;
16 and

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

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

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

1 not be disclosed to persons not directly involved in the
2 decision affecting the applicant."

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

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

14 SECTION 7. Section 26-2C-17 NMSA 1978 (being Laws 2021
15 (1st S.S.), Chapter 4, Section 17) is amended to read:

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

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

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

25 (1) packages shall be resealable and

1 child-resistant;

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

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

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

12 (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
20 was 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

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
8 that is distinctive in design, color, size and location such
9 that the logo notifies a reasonable person that the package
10 contains 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 in accordance with the Cannabis Regulation
17 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
21 SAFETY OF EMPLOYEES AND CONSUMERS.--

22 A. A cannabis testing laboratory's testing of
23 cannabis products shall comply with the requirements set
24 forth 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) require all cannabis producers and
4 cannabis manufacturers to have their cannabis products tested
5 prior to distribution to cannabis retailers or for sales by
6 integrated cannabis microbusinesses;

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

9 (3) specify which persons bear the cost of
10 testing commercial or medical cannabis products;

11 (4) provide for recordkeeping;

12 (5) establish chain of custody protocols
13 for the transportation of testing samples;

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

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

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

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

3 C. Beginning no later than April 1, 2022, the
4 division shall identify, in consultation with the department
5 of environment, a set of updated certified reference
6 materials that laboratory testing 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
10 in accordance with the Occupational Health and Safety Act, to
11 determine compliance with rules promulgated by the
12 environmental improvement board and to protect the health and
13 safety of consumers."

14 SECTION 9. 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
18 not 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
24 or the covering, wrapper or container of a cannabis product;
25 or

1 (3) an editorial or other material printed
2 in a publication when the publication of the editorial or
3 material was not paid for by a licensee and was not intended
4 to promote the sale of cannabis products by a particular
5 brand or company.

6 B. The division shall promulgate rules consistent
7 with industry standards that:

8 (1) prohibit the advertisement and
9 marketing of cannabis products:

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

17 (b) that are false, deceptive or
18 misleading, including making unproven health benefit claims;

19 (c) that are on billboards, posters,
20 handbills or other visual media that are located or can be
21 viewed within three hundred feet of a school, daycare center
22 or church;

23 (d) that depict consumption by
24 children or other persons who appear to be younger than
25 twenty-one years of age;

1 (e) that use predatory marketing and
2 advertising practices targeting minors; or

3 (f) that are designed using cartoon
4 characters or to mimic any other product brand; and

5 (2) require:

6 (a) all advertisements and marketing
7 to accurately and legibly identify all persons responsible
8 for its content; and

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

14 SECTION 10. Section 26-2C-28 NMSA 1978 (being Laws
15 2021 (1st S.S.), Chapter 4, Section 28) is amended to read:

16 "26-2C-28. TRAFFICKING CANNABIS PRODUCTS--PENALTIES.--

17 A. As used in this section, "trafficking cannabis
18 products" means to:

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

21 (2) possess with intent to manufacture,
22 distribute, courier or sell illegal cannabis products.

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

1 edibles.

2 C. Unless otherwise provided in the Cannabis
3 Regulation Act or the Lynn and Erin Compassionate Use Act, it
4 is unlawful for a person to intentionally traffic cannabis
5 products.

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

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

12 (2) four hours of community service.

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

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

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

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

3 "WHEN CANNABIS PRODUCT DEEMED ADULTERATED.--A cannabis
4 product is deemed to be adulterated if:

5 A. it bears or contains mold, mildew or other
6 deleterious or poisonous substance that may render it
7 injurious to health;

8 B. it consists in whole or in part of a diseased,
9 contaminated, filthy, impure or infested ingredient or putrid
10 or decomposed substance or if it is otherwise unfit for
11 consumption;

12 C. it has been produced, prepared, packed or held
13 under unsanitary conditions so that it may have been
14 contaminated with filth or rendered diseased, unwholesome or
15 injurious to health;

16 D. its container is composed in whole or in part
17 of a poisonous or deleterious substance that may render the
18 contents injurious to health;

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

21 F. a substance has been substituted in whole or
22 in part that is contrary to the ingredient list on the
23 package unless a notification of substitution is adhered to
24 the packaging;

25 G. damage or inferiority has been concealed in

1 any manner;

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

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

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

17 "WHEN CANNABIS DEEMED MISBRANDED.--Cannabis is deemed
18 to be misbranded if:

19 A. its labeling is false or misleading in any
20 particular;

21 B. it is offered for sale under the name of
22 another cannabis product;

23 C. it is an imitation of another cannabis
24 product, unless its label bears, in type of uniform size and
25 prominence, the word "imitation" and, immediately following,

1 the name of the cannabis product imitated;

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

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

7 SECTION 13. Section 26-2C-36 NMSA 1978 (being Laws
8 2021 (1st S.S.), Chapter 4, Section 36) is amended to read:

9 "26-2C-36. PUBLIC RECORDS AND OPEN MEETINGS.--Records
10 of the division are public records subject to the Inspection
11 of Public Records Act, except as provided in this section and
12 other applicable provisions of law; provided that the
13 presence of nonpublic information that identifies
14 confidential sources or confidential information may be
15 redacted from a written record or digitally obscured in a
16 visual or audio record. A source who communicates
17 information is confidential if the identity of the source is
18 disclosed in the context of reporting an alleged violation of
19 the Cannabis Regulation Act to the division. Information is
20 confidential if it is developed or obtained by the division
21 during an enforcement investigation or inspection related to
22 violations of the Cannabis Regulation Act. Sources and
23 information cease to be confidential upon the issuance of a
24 notice of contemplated action by the division. If a notice
25 of contemplated action is not issued within thirty days of

1 the disclosure of the identity of the source in the context
2 of reporting an alleged violation of the Cannabis Regulation
3 Act to the division, the source shall not be confidential.
4 If a notice of contemplated action is not issued within
5 thirty days of the initiation of an enforcement investigation
6 or inspection related to violations of the Cannabis
7 Regulation Act, the information developed or obtained by the
8 division during the enforcement investigation or inspection
9 shall not be confidential. Rulemaking and other hearings of
10 the division are subject to the Open Meetings Act."

11 SECTION 14. Section 30-22-14 NMSA 1978 (being Laws
12 1976, Chapter 15, Section 1, as amended) is amended to read:

13 "30-22-14. BRINGING CONTRABAND INTO PLACES OF
14 IMPRISONMENT--PENALTIES--DEFINITIONS.--

15 A. Bringing contraband into a prison consists of
16 knowingly and voluntarily carrying, transporting or
17 depositing contraband onto the grounds of the penitentiary of
18 New Mexico or any other institution designated by the
19 corrections department for the confinement of adult
20 prisoners. Whoever commits bringing contraband into a prison
21 is guilty of a third degree felony.

22 B. Bringing contraband into a jail consists of
23 knowingly and voluntarily carrying contraband into the
24 confines of a county or municipal jail. Whoever commits
25 bringing contraband into a jail is guilty of a fourth degree

1 felony.

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

3 (1) a deadly weapon, as defined in Section
4 30-1-12 NMSA 1978, or an essential component part thereof,
5 including ammunition, explosive devices and explosive
6 materials, but does not include a weapon carried by a peace
7 officer in the lawful discharge of duties;

8 (2) currency brought onto the grounds of
9 the institution for the purpose of transfer to a prisoner,
10 but does not include currency carried into areas designated
11 by the warden as areas for the deposit and receipt of
12 currency for credit to a prisoner's account before contact is
13 made with the prisoner;

14 (3) an alcoholic beverage;

15 (4) a controlled substance, as defined in
16 the Controlled Substances Act, or cannabis, as defined in the
17 Cannabis Regulation Act, but does not include a controlled
18 substance or medical cannabis carried into a prison through
19 regular prison channels and pursuant to the direction or
20 prescription of a licensed physician; or

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

24 D. As used in this section, "electronic
25 communication or recording device" means any type of

1 instrument, device, machine or equipment that is designed to
2 transmit or receive telephonic, electronic, digital,
3 cellular, satellite or radio signals or communications or
4 that is designed to have sound or image recording abilities
5 or any part or component of such instrument, device, machine
6 or equipment. "Electronic communication or recording device"
7 does not include a device that is or will be used by prison
8 or jail personnel in the regular course of business or that
9 is otherwise authorized by the warden.

10 E. Nothing in this section shall prohibit the use
11 of hearing aids, voice amplifiers or other equipment
12 necessary to aid prisoners who have documented hearing or
13 speech deficiencies or their visitors. Rules for such
14 devices shall be established by the warden or director of
15 each jail, detention center and prison."

16 SECTION 15. Section 30-22-14.1 NMSA 1978 (being Laws
17 1997, Chapter 44, Section 1) is amended to read:

18 "30-22-14.1. BRINGING CONTRABAND INTO A JUVENILE
19 DETENTION FACILITY OR JUVENILE CORRECTIONAL FACILITY--
20 PENALTY.--

21 A. Bringing contraband into a juvenile detention
22 facility or juvenile correctional facility consists of
23 carrying, transporting or depositing contraband onto the
24 grounds of a facility designated by the children, youth and
25 families department for the detention or commitment of

1 children. Whoever commits bringing contraband into a
2 juvenile correctional facility is guilty of a third degree
3 felony. Whoever commits bringing contraband into a juvenile
4 detention facility is guilty of a fourth degree felony.

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

6 (1) any deadly weapon, as defined in
7 Section 30-1-12 NMSA 1978, or an essential component part
8 thereof, including ammunition, explosive devices and
9 explosive materials, but does not include a weapon carried by
10 a peace officer in the lawful discharge of the officer's
11 duties;

12 (2) currency brought onto the grounds of a
13 juvenile detention facility or juvenile correctional facility
14 and not declared upon entry to the facility for the purpose
15 of transfer to a child detained in or committed to the
16 facility, but does not include currency carried into areas
17 designated by the facility administrator as areas for the
18 deposit and receipt of currency for credit to a child's
19 account before contact is made with any child;

20 (3) any alcoholic beverage brought within
21 the physical confines of the juvenile detention or juvenile
22 correctional facility; or

23 (4) any controlled substance, as defined in
24 the Controlled Substances Act, or cannabis as defined in the
25 Cannabis Regulation Act, but does not include a controlled

1 substance or medical cannabis carried into a juvenile
2 detention facility or juvenile correctional facility through
3 regular facility channels and pursuant to the direction or
4 prescription of a licensed physician."

5 SECTION 16. Section 30-42-3 NMSA 1978 (being Laws
6 1980, Chapter 40, Section 3, as amended by Laws 2009,
7 Chapter 253, Section 7 and by Laws 2009, Chapter 261,
8 Section 7) is amended to read:

9 "30-42-3. DEFINITIONS.--As used in the Racketeering
10 Act:

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

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

17 (2) robbery, as provided in Section 30-16-2
18 NMSA 1978;

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

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

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

25 (6) fraud, as provided in Section 30-16-6

1 NMSA 1978;

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

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

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

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

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

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

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

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

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

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

23 (17) fraudulent securities practices, as
24 provided in the New Mexico Uniform Securities Act;

25 (18) loan sharking, as provided in

1 Sections 30-43-1 through 30-43-5 NMSA 1978;

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

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

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

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

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

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

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

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

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

24 C. "enterprise" means a sole proprietorship,
25 partnership, corporation, business, labor union, association

1 or other legal entity or a group of individuals associated in
2 fact although not a legal entity and includes illicit as well
3 as licit entities; and

4 D. "pattern of racketeering activity" means
5 engaging in at least two incidents of racketeering with the
6 intent of accomplishing any of the prohibited activities set
7 forth in Subsections A through D of Section 30-42-4 NMSA
8 1978; provided at least one of the incidents occurred after
9 February 28, 1980 and the last incident occurred within five
10 years after the commission of a prior incident of
11 racketeering."

12 SECTION 17. Section 32A-2-3 NMSA 1978 (being Laws
13 1993, Chapter 77, Section 32, as amended) is amended to read:

14 "32A-2-3. DEFINITIONS.--As used in the Delinquency
15 Act:

16 A. "delinquent act" means an act committed by a
17 child that would be designated as a crime under the law if
18 committed by an adult, not including a violation of Section
19 30-9-2 NMSA 1978, including the following offenses:

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

22 (a) driving while under the influence
23 of intoxicating liquor or drugs;

24 (b) failure to stop in the event of an
25 accident causing death, personal injury or damage to

1 property;

2 (c) unlawful taking of a vehicle or
3 motor vehicle;

4 (d) receiving or transferring of a
5 stolen vehicle or motor vehicle;

6 (e) homicide by vehicle;

7 (f) injuring or tampering with a
8 vehicle;

9 (g) altering or changing of an engine
10 number or other vehicle identification numbers;

11 (h) altering or forging of a driver's
12 license or permit or any making of a fictitious license or
13 permit;

14 (i) reckless driving;

15 (j) driving with a suspended or
16 revoked license; or

17 (k) an offense punishable as a felony;

18 (2) buying, attempting to buy, receiving,
19 possessing or being served any alcoholic liquor or being
20 present in a licensed liquor establishment, other than a
21 restaurant or a licensed retail liquor establishment, except
22 in the presence of the child's parent, guardian, custodian or
23 adult spouse. As used in this paragraph, "restaurant" means
24 an establishment where meals are prepared and served
25 primarily for on-premises consumption and that has a dining

1 room, a kitchen and the employees necessary for preparing,
2 cooking and serving meals. "Restaurant" does not include an
3 establishment, as defined in regulations promulgated by the
4 director of the special investigations unit of the department
5 of public safety, that serves only hamburgers, sandwiches,
6 salads and other fast foods;

7 (3) a violation of Section 30-29-2 NMSA
8 1978, regarding the illegal use of a glue, aerosol spray
9 product or other chemical substance;

10 (4) a violation of the Controlled
11 Substances Act;

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

16 (6) a violation of Section 30-15-1.1 NMSA
17 1978 regarding unauthorized graffiti on personal or real
18 property;

19 (7) a violation of an order of protection
20 issued pursuant to the provisions of the Family Violence
21 Protection Act; or

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

24 B. "delinquent child" means a child who has
25 committed a delinquent act;

1 C. "delinquent offender" means a delinquent child
2 who is subject to juvenile sanctions only and who is not a
3 youthful offender or a serious youthful offender;

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

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

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

12 G. "restitution" means financial reimbursement by
13 the child to the victim or community service imposed by the
14 court and is limited to easily ascertainable damages for
15 injury to or loss of property, actual expenses incurred for
16 medical, psychiatric and psychological treatment for injury
17 to a person and lost wages resulting from physical injury,
18 which are a direct and proximate result of a delinquent act.
19 "Restitution" does not include reimbursement for damages for
20 mental anguish, pain and suffering or other intangible
21 losses. As used in this subsection, "victim" means a person
22 who is injured or suffers damage of any kind by an act that
23 is the subject of a complaint or referral to law enforcement
24 officers or juvenile probation authorities. Nothing
25 contained in this definition limits or replaces the

1 provisions of Subsections A and B of Section 32A-2-27 NMSA
2 1978;

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

8 I. "supervised release" means the release of a
9 juvenile, whose term of commitment has not expired, from a
10 facility for the care and rehabilitation of adjudicated
11 delinquent children, with specified conditions to protect
12 public safety and promote successful transition and
13 reintegration into the community. A juvenile on supervised
14 release is subject to monitoring by the department until the
15 term of commitment has expired and may be returned to custody
16 for violating conditions of release; and

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

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

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

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

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

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

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

8 (f) aggravated battery upon a peace
9 officer, as provided in Subsection C of Section 30-22-25 NMSA
10 1978;

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

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

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

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

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

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

24 (m) abuse of a child that results in
25 great bodily harm or death to the child, as provided in

1 Section 30-6-1 NMSA 1978;

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

12 (3) fourteen years of age and who is
13 adjudicated for first degree murder, as provided in Section
14 30-2-1 NMSA 1978."

15 SECTION 18. Section 61-1-2 NMSA 1978 (being Laws 1957,
16 Chapter 247, Section 2, as amended) is amended to read:

17 "61-1-2. DEFINITIONS.--As used in the Uniform
18 Licensing Act:

19 A. "board" means:

20 (1) the construction industries commission,
21 the construction industries division and the electrical
22 bureau, mechanical bureau and general construction bureau of
23 the construction industries division of the regulation and
24 licensing department;

25 (2) the manufactured housing committee and

1 the manufactured housing division of the regulation and
2 licensing department;

3 (3) the crane operators licensure examining
4 council;

5 (4) a board, commission or agency that
6 administers a profession or occupation licensed pursuant to
7 Chapter 61 NMSA 1978;

8 (5) the cannabis control division of the
9 regulation and licensing department; and

10 (6) any other state agency to which the
11 Uniform Licensing Act is applied by law;

12 B. "applicant" means a person who has applied for
13 a license;

14 C. "expedited license", whether by examination,
15 endorsement, credential or reciprocity, means a license
16 issued to a person in this state based on licensure in
17 another state or territory of the United States, the District
18 of Columbia or a foreign country, as applicable;

19 D. "initial license" means the first regular
20 license received from a board for a person who has not been
21 previously licensed;

22 E. "license" means a certificate, permit or other
23 authorization to engage in a profession or occupation
24 regulated by a board;

25 F. "licensing jurisdiction" means another state

1 or territory of the United States, the District of Columbia
2 or a foreign country, as applicable;

3 G. "party" means a respondent licensee, applicant
4 or unlicensed person who is the subject of a disciplinary
5 proceeding or the civil administrative prosecutor
6 representing the state and the board;

7 H. "probation" means to allow, for a stated
8 period of time, the conduct authorized by a license, subject
9 to conditions or other restrictions that are reasonably
10 related to the grounds for probation;

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

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

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

18 SECTION 19. REPEAL.--Laws 2021 (1st S.S.), Chapter 4,
19 Section 73 is repealed.

20 SECTION 20. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2024. _____

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