

HOUSE BILL 230

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO MEDICAL CANNABIS; CLARIFYING WHEN DRUG TESTING FOR CANNABIS IS ALLOWED FOR EMPLOYEES WHO ARE QUALIFIED PATIENTS PURSUANT TO THE LYNN AND ERIN COMPASSIONATE USE ACT; PROVIDING PROTECTIONS AGAINST ADVERSE EMPLOYMENT ACTIONS; **HJC→MAKING CERTAIN EVIDENCE INADMISSIBLE IN CIVIL CASES;** ←HJC PROVIDING REQUIREMENTS FOR DETERMINING IMPAIRMENT; REQUIRING THE DEPARTMENT OF HEALTH AND THE WORKFORCE SOLUTIONS DEPARTMENT TO DEVELOP GUIDELINES FOR EMPLOYERS.

.228944.2AIC March 12, 2025 (9:23pm)

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

SECTION 1. Section 26-2B-9 NMSA 1978 (being Laws 2019, Chapter 247, Section 11) is amended to read:

"26-2B-9. EMPLOYMENT PROTECTIONS.--

A. Unless a failure to do so would cause the employer to lose a monetary or licensing-related benefit under federal law or federal regulations, it is unlawful to take an adverse employment action against an applicant or an employee based on conduct allowed under the Lynn and Erin Compassionate Use Act. An employee shall not be considered to be impaired by cannabis solely because of the presence of metabolites or components of cannabis.

B. Random drug testing of an employee shall not include testing for cannabis. Hf12→~~A~~←Hf12 Hf12→~~An~~←Hf12
employer may require a drug test for cannabis if the employer has a reasonable suspicion of the employee's impairment by cannabis at work or after an accident involving the employee and at least one other person or an accident causing HJC→significant←HJC damage to property if the employer has a reasonable suspicion of the employee's impairment by cannabis at the time of the accident. HHHC→~~The drug test for cannabis shall be reviewed by a medical review officer who shall determine if the reason for a positive test has a legitimate medical explanation.~~←HHHC HHHC→The employer shall follow the cannabis impairment guidelines when testing for cannabis

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impairment.←HHHC

[B-] C. Nothing in this section shall [(+)]
restrict an employer's ability to prohibit or to take an
adverse employment action against an employee for use of or
being impaired by [~~medical~~] cannabis on the premises of the
place of employment or during the hours of employment [~~or~~

~~(2) apply to an employee whose employer deems
that the employee works in a safety-sensitive position].~~

HJC→D. Evidence of an employee's positive cannabis
test that relied solely on the presence of metabolites or
components of cannabis without further evidence of cannabis
impairment as defined in this section is inadmissible in a
civil case exposing the employer to liability arising out of
the employee's on-duty conduct.←HJC

HJC→D.←HJC HJC→E.←HJC Defining "cannabis
impairment" is the responsibility of the employer. The
department of health shall assist the workforce solutions
department in developing cannabis impairment guidelines that
are based on the most reliable research- or evidence-based
cannabis impairment indicators, including the evaluation of
physical symptoms and psychomotor and cognitive performance.
The workforce solutions department shall inform private
employers of this section and provide information related to
the most recent advances in testing protocols for determining
cannabis impairment. The department of finance and

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administration shall disseminate the cannabis impairment guidelines to state agencies and political subdivisions of the state.

HJC→E.←HJC HJC→F.←HJC As used in this section:

(1) "employee" means an employee who is also a qualified patient pursuant to the Lynn and Erin Compassionate Use Act; and

(2) "employer" includes an agent of the employer.

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