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HOUSE BILL 112

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

INTRODUCED BY

Tara L. Lujan

AN ACT

RELATING TO CANNABIS REGULATION; PROVIDING FOR STATE CRIMINAL HISTORY CHECKS AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS AS A CONDITION OF ELIGIBILITY FOR LICENSURE; REQUIRING THAT AN APPLICATION FOR CANNABIS ACTIVITY LICENSURE BE SIGNED BY THE APPLICANT; ADDING DEFINITIONS TO THE CANNABIS REGULATION ACT.

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

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

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

A. "applicant" means a person seeking licensure;

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

(1) means all parts of the plant genus

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1 Cannabis containing a delta-9-tetrahydrocannabinol
2 concentration of more than three-tenths percent on a dry weight
3 basis, whether growing or not; the seeds of the plant; the
4 resin extracted from any part of the plant; and every compound,
5 manufacture, salt, derivative, mixture or preparation of the
6 plant, its seeds or its resin; and

7 (2) does not include:

8 (a) the mature stalks of the plant;
9 fiber produced from the stalks; oil or cake made from the seeds
10 of the plant; any other compound, manufacture, salt,
11 derivative, mixture or preparation of the mature stalks, fiber,
12 oil or cake; or the sterilized seed of the plant that is
13 incapable of germination; or

14 (b) the weight of any other ingredient
15 combined with cannabis to prepare topical or oral
16 administrations, food, drink or other product;

17 [~~B.~~] C. "cannabis consumption area" means an area
18 of a licensed premises where cannabis products may be served
19 and consumed;

20 [~~C.~~] D. "cannabis courier" means a person that
21 transports commercial or medical cannabis products to
22 consumers;

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

24 (1) a cannabis testing laboratory;

25 (2) a cannabis manufacturer;

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

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

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

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

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

18 [~~G.~~] H. "cannabis manufacturer" means a person
19 that:

- 20 (1) manufactures cannabis products;
- 21 (2) packages cannabis products for resale; or
- 22 (3) purchases, acquires, sells or transports
- 23 wholesale cannabis products to other cannabis establishments;

24 [~~H.~~] I. "cannabis producer" means a person that:

- 25 (1) cultivates cannabis plants;

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

3 (3) sells cannabis wholesale;

4 ~~[I.]~~ J. "cannabis producer microbusiness" means a
5 cannabis producer at a single licensed premises that possesses
6 no more than two hundred total mature cannabis plants at any
7 one time;

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

11 ~~[K.]~~ L. "cannabis research laboratory" means a
12 facility that produces or possesses cannabis products and all
13 parts of the plant genus *Cannabis* for the purpose of studying
14 cannabis cultivation, characteristics or uses;

15 ~~[L.]~~ M. "cannabis retailer" means a person that
16 sells cannabis products to consumers;

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

20 ~~[N.]~~ O. "commercial cannabis activity":

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

25 (2) does not include activities related only

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1 to the medical cannabis program or to the personal cultivation
2 or use of cannabis products;

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

9 [P.] Q. "contaminant" means pesticides and other
10 foreign material, such as hair, insects or other similar
11 adulterants, in harvested cannabis;

12 [Ø.] R. "controlling person":

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

16 (2) does not include a bank or licensed
17 lending institution;

18 [R.] S. "cultivation" means any activity involving
19 the planting, growing, harvesting, drying, curing, grading or
20 trimming of cannabis;

21 [S.] T. "department" means the regulation and
22 licensing department;

23 [F.] U. "director" means the director of the
24 division;

25 [U.] V. "division" means the cannabis control

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1 division of the department;

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

11 [W-] X. "facility" means a building, space or
12 grounds licensed for the production, storage, testing,
13 manufacturing, distribution, sale or consumption of cannabis
14 products;

15 [X-] Y. "financial consideration" means value that
16 is given or received, directly or indirectly, through sales,
17 barter, trade, fees, charges, dues, contributions or donations;

18 [Y-] Z. "homegrown" or "homemade" means grown or
19 made for purposes that are not for resale;

20 [Z-] AA. "illegal cannabis product" means a
21 cannabis product that is:

22 (1) produced or manufactured outside New
23 Mexico;

24 (2) produced, manufactured, distributed or
25 sold in New Mexico by a person not licensed to produce,

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1 manufacture, distribute or sell the cannabis product; or

2 (3) produced, manufactured, distributed or
3 sold by a person acting outside the limits of the person's
4 license; provided that "illegal cannabis product" does not
5 include homegrown or homemade cannabis products that comply
6 with the provisions of the Cannabis Regulation Act;

7 ~~[AA-]~~ BB. "immature cannabis plant" means a
8 cannabis plant that has no observable flowers or buds;

9 ~~[BB-]~~ CC. "industry standards" means the prevailing
10 customary standards of business practice in the cannabis
11 industry in jurisdictions within the United States;

12 ~~[CC-]~~ DD. "integrated cannabis microbusiness" means
13 a person that is licensed to conduct one or more of the
14 following:

15 (1) production of cannabis at a single
16 licensed premises; provided that the person shall not possess
17 more than two hundred total mature cannabis plants at any one
18 time;

19 (2) manufacture of cannabis products at a
20 single licensed premises;

21 (3) sales and transportation of cannabis
22 products produced or manufactured by that person or another
23 cannabis producer microbusiness or integrated cannabis
24 microbusiness;

25 (4) operation of only one retail

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1 establishment; and

2 (5) couriering of cannabis products to
3 consumers;

4 ~~DD.~~ EE. "licensed premises" means a location that
5 includes:

6 (1) all enclosed public and private areas at
7 the location that are used in the business and includes
8 cannabis consumption areas, offices, kitchens, restrooms and
9 storerooms;

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

12 (3) all areas of a standalone cannabis
13 consumption area, including retail and other areas, whether in
14 enclosed or outside spaces, and including private or members-
15 only clubs where cannabis products are available for sale or
16 consumption; and

17 (4) with respect to a location that is
18 specifically licensed for the production of cannabis outside of
19 a building, the amount of land that the licensee owns, leases
20 or has a right to occupy that is identified in the application
21 for licensure for cultivation of cannabis; provided that the
22 licensed premises may be decreased but shall not be increased
23 without permission of the division;

24 FF. "licensee" means a person that is licensed
25 pursuant to the Cannabis Regulation Act;

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1 ~~[EE-]~~ GG. "local jurisdiction" means a
2 municipality, including a home rule municipality, or county;

3 ~~[FF-]~~ HH. "manufacture" means to compound, blend,
4 extract, infuse, package and label or otherwise prepare a
5 cannabis product;

6 ~~[GG-]~~ II. "medical cannabis" means cannabis
7 products used by a qualified patient or reciprocal participant
8 in accordance with the Lynn and Erin Compassionate Use Act;

9 ~~[HH-]~~ JJ. "medical cannabis program" means the
10 program created pursuant to the Lynn and Erin Compassionate Use
11 Act;

12 ~~[II-]~~ KK. "medical cannabis registry" means the
13 system by which the department of health approves or denies
14 applications and issues and renews registry identification
15 cards for qualified patients and primary caregivers;

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

21 ~~[KK-]~~ MM. "public space" means any place to which
22 the general public has access;

23 ~~[LL-]~~ NN. "qualified patient" means a resident of
24 New Mexico who holds a registry identification card pursuant to
25 the Lynn and Erin Compassionate Use Act;

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

10 ~~[NN-]~~ PP. "residence" or "household" means a
11 housing unit and includes any place in or around the housing
12 unit that is not a public space and at which an occupant of the
13 housing unit produces, manufactures, keeps or stores homegrown
14 or homemade cannabis products or stores legally purchased
15 cannabis;

16 ~~[OO-]~~ QQ. "retail establishment" means a location
17 at which cannabis products are sold directly to consumers;

18 ~~[PP-]~~ RR. "superintendent" means the superintendent
19 of regulation and licensing;

20 ~~[QQ-]~~ SS. "unprocessed" means unaltered from an
21 original, raw or natural state; and

22 ~~[RR-]~~ TT. "vertically integrated cannabis
23 establishment" means a person that is authorized to act as one
24 or more of the following:

- 25 (1) a cannabis courier;

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

4 SECTION 2. Section 26-2C-3 NMSA 1978 (being Laws 2021
5 (1st S.S.), Chapter 4, Section 3) is amended to read:

6 "26-2C-3. DIVISION--POWERS AND DUTIES--RULEMAKING--
7 ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

8 A. The "cannabis control division" is created in
9 the department to administer the Cannabis Regulation Act and
10 the licensing provisions of the Lynn and Erin Compassionate Use
11 Act and rules promulgated in accordance with those acts. Rules
12 shall be adopted and promulgated as provided in the State Rules
13 Act.

14 B. No later than January 1, 2022, the division
15 shall promulgate rules that are consistent with industry
16 standards necessary for the division to carry out its duties
17 pursuant to the Cannabis Regulation Act as follows:

18 (1) qualifications and procedures for
19 licensure; provided that qualifications shall be directly and
20 demonstrably related to the operation of the applicable
21 cannabis establishment;

22 (2) security requirements for a cannabis
23 establishment;

24 (3) requirements related to:

25 (a) inspection and monitoring of a

1 cannabis establishment;

2 (b) a cannabis establishment's
3 recordkeeping and tracking of cannabis from seed until sale;

4 (c) prevention of the sale or diversion
5 of cannabis products in commercial cannabis activity to a
6 person under the age of twenty-one;

7 (d) labeling of cannabis products
8 packaged, sold or distributed by a cannabis establishment; and

9 (e) language for labels of cannabis
10 products regarding potential adverse effects;

11 (4) rules providing that:

12 (a) a person who is twenty-one years old
13 or older shall not purchase more than two ounces of cannabis,
14 sixteen grams of cannabis extract and eight hundred milligrams
15 of edible cannabis at one time; and

16 (b) as to commercial cannabis activity:
17 1) a consumer shall not possess more than two ounces of
18 cannabis, sixteen grams of cannabis extract and eight hundred
19 milligrams of edible cannabis outside the consumer's private
20 residence; 2) any cannabis in excess of the amounts described
21 in Item 1) of this subparagraph shall be stored in the person's
22 residence and shall not be visible from a public place; and 3)
23 the division shall not limit the amount of tetrahydrocannabinol
24 concentration in a cannabis product; provided that the division
25 may adopt requirements for apportionment and packaging of

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1 cannabis products;

2 (5) rules on advertising and marketing of
3 cannabis products;

4 (6) rules on how a licensee may display
5 cannabis products for sale;

6 (7) procedures that promote and encourage full
7 participation in the cannabis industry governed by the Cannabis
8 Regulation Act by representatives of communities that have been
9 disproportionately harmed by rates of arrest through the
10 enforcement of cannabis prohibitions in law and policy, rural
11 communities likely to be impacted by cannabis production and
12 agricultural producers from economically disadvantaged
13 communities;

14 (8) procedures that promote and encourage
15 racial, ethnic, gender and geographic diversity and New Mexico
16 residency among license applicants, licensees and cannabis
17 industry employees;

18 (9) rules for a certification process to
19 identify cannabis products for consumers from integrated
20 cannabis microbusinesses or cannabis producer microbusinesses
21 or owned by representatives of communities that have been
22 disproportionately harmed by rates of arrest through the
23 enforcement of cannabis prohibitions in law and policy and
24 underserved communities that include tribal, acequia, land
25 grant-merced and other rural historic communities;

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1 (10) in consultation with the economic
2 development department, development of a technical assistance
3 resource guide for rural New Mexico residents who are seeking
4 to establish vertically integrated cannabis establishments,
5 cannabis producer microbusinesses or integrated cannabis
6 microbusinesses;

7 (11) in consultation with the department of
8 environment, rules to establish:

9 (a) health and safety standards
10 applicable to the research, production and manufacture of
11 cannabis products;

12 (b) standards for food and product
13 safety applicable to cannabis products; and

14 (c) which additives are approved for and
15 prohibited from inclusion in cannabis products; provided that
16 nicotine shall be prohibited;

17 (12) in consultation with the New Mexico
18 department of agriculture and the department of environment,
19 rules to establish standards for quality control, inspection
20 and testing of cannabis products for potency and contaminants,
21 except for cannabis produced or harvested for research purposes
22 and not for ingestion; provided that all such rules and
23 standards shall be consistent with the rules and standards for
24 testing of medical cannabis products; and

25 (13) in consultation with the state fire

1 marshal's office of the homeland security and emergency
2 management department, rules with regard to health and safety.

3 C. No later than January 1, 2022, the division
4 shall promulgate rules that are consistent with industry
5 standards relating to cannabis training and education programs,
6 including:

7 (1) qualifications and procedures for
8 licensure; and

9 (2) physical security, cybersecurity and, if
10 applicable, security of information collected under the federal
11 Health Insurance Portability and Accountability Act of 1996
12 requirements.

13 D. No later than January 1, 2022, the division
14 shall promulgate rules in consultation with the New Mexico
15 department of agriculture, the department of environment and
16 the office of the state engineer to establish:

17 (1) environmental protections; and

18 (2) protocols to ensure licensees' compliance
19 with state and local laws and ordinances governing food and
20 product safety, occupational health and safety, environmental
21 impacts, natural resource protection, water use and quality,
22 water supply, hazardous materials, pesticide use and wastewater
23 discharge.

24 E. No later than January 1, 2022, the division
25 shall adopt rules in consultation with the department of health

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1 to establish standards and determinations on requirements for
2 reserving cannabis products for sale to qualified patients,
3 primary caregivers and reciprocal participants.

4 F. The division shall collect and publish annually
5 on the division's website, and present to the appropriate
6 interim committee of the legislature, a report describing
7 demographic data on [~~license~~] applicants, controlling persons
8 and employees of cannabis establishments, including race,
9 ethnicity, gender, age, residential status and whether the
10 applicants, persons, employees or the locations where the
11 cannabis products are produced, manufactured, sold, tested or
12 researched are located in an underserved rural community,
13 including tribal, acequia, land grant-merced or other rural
14 historic communities.

15 G. The "cannabis regulatory advisory committee"
16 shall be created no later than September 1, 2021. The
17 committee shall advise the division on the development of rules
18 pursuant to the Cannabis Regulation Act, including best
19 practices and the promotion of economic and cultural diversity
20 in licensing and employment opportunities and protection of
21 public health and safety while ensuring a regulated environment
22 for commercial cannabis activity that does not impose
23 unreasonable barriers that would perpetuate, rather than reduce
24 and eliminate, the illicit market for cannabis. A person
25 appointed to the cannabis regulatory advisory committee shall

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1 not hold any ownership interest or investment in a licensed
2 person pursuant to the Cannabis Regulation Act; provided that
3 the superintendent may appoint a person who holds an ownership
4 interest in a licensed person as a nonvoting member. The
5 committee shall consist of the following members:

6 (1) the chief public defender or the chief
7 public defender's designee;

8 (2) a district attorney appointed by the New
9 Mexico district attorney association;

10 (3) a municipal police chief appointed by the
11 New Mexico association of chiefs of police;

12 (4) a county sheriff appointed by the
13 executive director of the New Mexico association of counties;
14 and

15 (5) one member for each of the following
16 groups or professional qualifications, appointed by the
17 superintendent:

18 (a) a cannabis policy advocacy
19 organization;

20 (b) a labor organization;

21 (c) a qualified patient;

22 (d) a state or local agency with
23 relevant expertise as the director and the superintendent deem
24 appropriate;

25 (e) an Indian nation, tribe or pueblo

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1 with relevant expertise as the director and the superintendent
2 deem appropriate;

3 (f) expertise in public health;

4 (g) expertise in regulating commercial
5 activity for adult-use intoxicating substances;

6 (h) expertise and experience in cannabis
7 laboratory science;

8 (i) expertise in environmental science;

9 (j) expertise in small business
10 development;

11 (k) expertise in water resources;

12 (l) expertise in other relevant areas as
13 the director and the superintendent deem appropriate; and

14 (m) previous experience as a cannabis
15 retailer, cannabis producer or cannabis manufacturer and who is
16 a nonvoting member.

17 H. The cannabis regulatory advisory committee shall
18 elect from among its members a chair and such other officers as
19 it deems necessary. The committee shall meet at the call of
20 the chair, the director or the superintendent. A majority of
21 members currently serving constitutes a quorum for the conduct
22 of business. Members shall serve at the pleasure of the
23 superintendent.

24 I. Public voting members of the cannabis regulatory
25 advisory committee are entitled to receive per diem and mileage

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1 as provided for state employees pursuant to the Per Diem and
2 Mileage Act and shall receive no other compensation, perquisite
3 or allowance.

4 J. The division shall:

5 (1) monitor the supply and demand of cannabis
6 products produced in New Mexico by licensees and present
7 annually to the appropriate interim committee of the
8 legislature the impacts of supply on illicit cannabis products
9 markets and adequate supply of cannabis products for qualified
10 patients and reciprocal participants;

11 (2) request the department of public safety to
12 enforce the provisions of the Cannabis Regulation Act as deemed
13 necessary; [~~and~~]

14 (3) undertake studies and conduct courses of
15 instruction for division employees that will improve the
16 operations of the division and advance its purposes; and

17 (4) receive and maintain information and data
18 from the department of public safety and the federal bureau of
19 investigation relating to licensing disqualifications based on
20 criminal history."

21 SECTION 3. Section 26-2C-3.1 NMSA 1978 (being Laws 2024,
22 Chapter 38, Section 5) is amended to read:

23 "26-2C-3.1. CRIMINAL HISTORY BACKGROUND CHECKS--PROCESSES
24 AND PROCEDURES.--

25 A. As used in this section:

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

4 (2) "member and manager" includes those
5 persons who are members in or managers of a limited liability
6 company licensed by the division as a cannabis establishment
7 and who are responsible for the operations of the limited
8 liability company;

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

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

17 B. To investigate the suitability of an applicant
18 for the medical cannabis program or commercial cannabis
19 activity, the division shall have access to criminal history
20 records information furnished by the department of public
21 safety and the federal bureau of investigation, subject to any
22 restrictions imposed by federal law. If the division considers
23 an applicant's criminal history record, the division shall also
24 consider information provided by the applicant about the
25 criminal history record, including evidence of rehabilitation,

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1 character references and educational achievements.

2 C. An applicant for a license to conduct commercial
3 cannabis activity shall undergo a state and federal criminal
4 history records check, and the applicant shall submit an
5 electronic set of fingerprints to the department of public
6 safety for that purpose. The department of public safety shall
7 conduct a check of state records and forward the fingerprints
8 to the federal bureau of investigation for a national criminal
9 history records check to determine the existence and content of
10 a record of convictions and arrests in this state or other law
11 enforcement jurisdictions and to generate a criminal history
12 records check in accordance with rules of the department of
13 public safety and regulations of the federal bureau of
14 investigation. The department of public safety may acquire a
15 name-based criminal history records check for an applicant or a
16 licensee who has twice submitted to a fingerprint-based
17 criminal history record check and whose fingerprints are
18 unclassifiable. The department of public safety shall review
19 the information obtained from the criminal history records
20 check and shall compile and provide that information to the
21 division. The division shall use the information resulting
22 from the fingerprint-based criminal history records check to
23 investigate and determine whether an applicant is qualified to
24 hold a cannabis license.

25 D. Criminal history information received from the

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1 department of public safety or the federal bureau of
2 investigation that is not already a matter of public record
3 shall:

4 (1) be confidential;

5 (2) be restricted to the exclusive use of the
6 division for evaluating an applicant's eligibility or
7 disqualification for licensure;

8 (3) not be considered a public record pursuant
9 to the Public Records Act; and

10 (4) not be disclosed to anyone other than
11 public employees directly involved in the decision affecting
12 the applicant.

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

21 ~~(1) cannabis courier;~~

22 ~~(2) cannabis manufacturer;~~

23 ~~(3) cannabis producer;~~

24 ~~(4) cannabis producer microbusiness;~~

25 ~~(5) cannabis research laboratory;~~

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- 1 ~~(6) cannabis retailer;~~
2 ~~(7) cannabis testing laboratory;~~
3 ~~(8) integrated cannabis microbusiness;~~
4 ~~(9) vertically integrated cannabis~~
5 ~~establishment; and~~
6 ~~(10) cannabis consumption licensees if~~
7 ~~different from cannabis retailer.~~

8 ~~G. The division shall require state and national~~
9 ~~criminal history background checks for the following persons:~~

- 10 ~~(1) if an applicant for licensure is a sole~~
11 ~~proprietor business, the sole proprietor;~~
12 ~~(2) if an applicant for licensure is a limited~~
13 ~~partnership, each partner of the limited partnership;~~
14 ~~(3) if the applicant for licensure is a~~
15 ~~limited liability company, each member and manager of the~~
16 ~~limited liability company;~~
17 ~~(4) if the applicant for licensure is a~~
18 ~~corporation, each director and officer of the corporation; and~~
19 ~~(5) any controlling person of the applicant~~
20 ~~for licensure, as defined in Section 26-2G-2 NMSA 1978.~~

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

24 ~~E. Arrest record information received from the~~
25 ~~federal bureau of investigation and the department of public~~

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1 ~~safety shall be confidential, shall not be considered a public~~
2 ~~record pursuant to the Public Records Act and shall not be~~
3 ~~disclosed to persons not directly involved in the decision~~
4 ~~affecting the applicant] to carry out the provisions of this~~
5 ~~section.~~"

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

9 "26-2C-7. CANNABIS ACTIVITY LICENSING--APPLICATION--
10 ISSUANCE AND DENIAL OF A LICENSE--SUSPENSION AND
11 REVOCATION.--

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

14 (1) ~~[no later than September 1, 2021]~~ accept
15 and ~~[begin processing]~~ process license applications; ~~[for~~
16 ~~cannabis producers, cannabis producer microbusinesses and any~~
17 ~~person properly licensed and in good standing as a licensed~~
18 ~~cannabis producer pursuant to the Lynn and Erin Compassionate~~
19 ~~Use Act;~~

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

22 (3) ~~if a cannabis producer or cannabis~~
23 ~~producer microbusiness] (2) require as a condition of~~
24 licensing that the applicant demonstrate that the applicant has
25 a legal right to a commercial water supply, water rights or

.229324.1

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1 other source of water sufficient to meet the water needs as
2 determined by the division related to the license as evidenced
3 by documentation from the office of the state engineer of a
4 valid water right or from a water provider that the use of
5 water for cannabis production is compliant with that water
6 provider's rules; and

7 ~~[(4)]~~ (3) require as a condition of licensing
8 for ~~[any type of]~~ a cannabis producer ~~[or manufacturer license~~
9 ~~require]~~ that the applicant ~~[to]~~ submit a plan to use, or
10 demonstrate to the division that the applicant cannot feasibly
11 use, energy or water reduction opportunities, including:

12 (a) ~~[for a cannabis producer]~~ drip
13 irrigation and water collection;

14 (b) natural lighting and energy
15 efficiency measures; and

16 (c) renewable energy generation.

17 B. An application for licensure shall be signed by
18 the applicant or, if the applicant is a corporation or other
19 legal entity, signed by an officer or other person with legal
20 authority to sign documents for the corporation or other legal
21 entity. Once the division deems an application complete, the
22 division has ninety days to issue or deny a license
23 application.

24 C. The division shall deny an application for an
25 initial license or renewal if the application does not include

.229324.1

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1 information required by the division or the applicant does not
2 meet the requirements of the Cannabis Regulation Act or rules
3 promulgated in accordance with that act.

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

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

14 (2) a pending investigation or a felony
15 indictment or conviction of the applicant or licensee or a
16 controlling person of the applicant or licensee in this state
17 or another state or by the federal government involving fraud,
18 deceit or embezzlement;

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

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

.229324.1

1 result if occurring in New Mexico;

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

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

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

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

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

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1 issuing a license does not compromise the state's cannabis
2 program or the public health or safety, the division shall
3 issue the license or close the suspension or revocation case.

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

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

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

25 J. Unless otherwise provided in the Cannabis

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1 Regulation Act, a person whose license has been revoked may
2 reapply for a license after a period of three years. The
3 division may consider all of the circumstances resulting in the
4 revocation in determining whether to issue a new license."

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