

HOUSE BILL 313

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

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 CANNABIS REGULATION; HGEIC → ~~CREATING A CANNABIS NURSERY LICENSE;~~ ← HGEIC CHANGING THE PLANT COUNT FOR CANNABIS PRODUCER MICROBUSINESSES AND INTEGRATED CANNABIS MICROBUSINESSES; REMOVING THE CANNABIS CONTROL DIVISION OF THE REGULATION AND LICENSING DEPARTMENT FROM THE PROVISIONS OF THE UNIFORM LICENSING ACT; RESTRICTING THE SYNTHESIS OF TETRAHYDROCANNABINOL; Hf11 → **ALLOWING FOR THE CONVERSION OF MICROBUSINESS LICENSES PRIOR TO EXPIRATION OF THE ORIGINAL**

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LICENSES; PROVIDING FOR FEE PRORATION; ←Hf11 DELETING THE APPLICATION AND RENEWAL FEES FOR VERTICALLY INTEGRATED CANNABIS ESTABLISHMENTS; Hf12→**CLARIFYING PACKAGING REQUIREMENTS PERTAINING TO CHILD SAFETY;** ←Hf12 CREATING THE EQUITY BUREAU OF THE CANNABIS CONTROL DIVISION OF THE REGULATION AND LICENSING DEPARTMENT; SPECIFYING HEARING PROCEDURES; GRANTING SUBPOENA POWERS; PROVIDING FOR DISTRIBUTION OF ASSETS OF NONPROFIT CORPORATIONS INCORPORATING AS FOR-PROFIT CORPORATIONS, WHICH ARE ALLOWED UNDER THE CANNABIS REGULATION ACT.

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

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

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

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

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

A. "advertisement":

(1) means a statement or a depiction that is intended to induce the purchase of cannabis products and that is displayed in printed material or on a sign or other outdoor display or presented in a radio, television or other media

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broadcast or in digital media; and

(2) does not include:

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

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

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

B. "cannabis":

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

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds

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of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

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

C. "cannabis consumption area" means an area where cannabis products may be served and consumed;

D. "cannabis courier" means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

E. "cannabis establishment" means:

- (1) a cannabis testing laboratory;
- (2) a cannabis manufacturer;
- (3) a cannabis producer;
- (4) a cannabis retailer;
- (5) a cannabis research laboratory;
- (6) a vertically integrated cannabis

establishment;

- (7) a cannabis producer microbusiness;

HGEIC→[or]←HGEIC HGEIC→or←HGEIC

- (8) an integrated cannabis microbusiness;

HGEIC→or

~~(9) a cannabis nursery;~~←HGEIC

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F. "cannabis extract":

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

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

G. "cannabis flowers" means only the flowers of a cannabis plant;

H. "cannabis manufacturer" means a person that:

(1) manufactures cannabis products;

~~[(2) packages cannabis products;~~

~~(3)]~~ (2) has cannabis products tested by a cannabis testing laboratory; or

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

HGEIC → ~~I. "cannabis nursery" means a person that:~~

~~(1) cultivates cannabis plants for the sale of cannabis seeds and immature cannabis plants;~~

~~(2) purchases, acquires, sells or transports wholesale cannabis seeds and immature cannabis plants to other cannabis establishments; and~~

~~(3) sells cannabis seeds and immature cannabis plants to qualified patients, primary caregivers or reciprocal~~

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~~participants or directly to consumers;~~←HGEIC

[I.] HGEIC→J.←HGEIC HGEIC→I.←HGEIC "cannabis producer" means a person that:

- (1) cultivates cannabis plants;
- (2) has unprocessed cannabis products tested by a cannabis testing laboratory;
- (3) transports unprocessed cannabis products only to other cannabis establishments; or
- (4) sells cannabis products wholesale;

[J.] HGEIC→K.←HGEIC HGEIC→J.←HGEIC "cannabis producer microbusiness" means a cannabis producer at a single licensed premises that possesses no more than [~~two hundred~~] HGEIC→~~one thousand~~←HGEIC HGEIC→one-tenth of the←HGEIC total mature cannabis HGEIC→~~plants at any one time;~~←HGEIC HGEIC→plant count limit set by the division for large cannabis producers;←HGEIC

[K.] HGEIC→L.←HGEIC HGEIC→K.←HGEIC "cannabis product" means a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients;

[L.] HGEIC→M.←HGEIC HGEIC→L.←HGEIC "cannabis research laboratory" means a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses HJC→and is not subject to plant

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limits←HJC ;

[M-] HGEIC→N.←HGEIC HGEIC→M.←HGEIC "cannabis retailer" means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

[N-] HGEIC→O.←HGEIC HGEIC→N.←HGEIC "cannabis server permit" means an authorization that allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area;

[O-] HGEIC→P.←HGEIC HGEIC→O.←HGEIC "cannabis server permit education provider" means a person that provides cannabis server education courses and examinations;

[P-] HGEIC→Q.←HGEIC HGEIC→P.←HGEIC "cannabis testing laboratory" means a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing;

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

[R-] HGEIC→S.←HGEIC HGEIC→R.←HGEIC "commercial cannabis activity":

(1) means the cultivation, production,

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possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and

(2) does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis;

[S-] HGEIC→T.←HGEIC HGEIC→S.←HGEIC "consumer" means a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale;

[T-] HGEIC→U.←HGEIC HGEIC→T.←HGEIC "contaminant" means pesticides and other foreign material, such as hair, insects or other similar adulterants, in harvested cannabis;

[U-] HGEIC→V.←HGEIC HGEIC→U.←HGEIC "controlling person":

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

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

[V-] HGEIC→W.←HGEIC HGEIC→V.←HGEIC "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis;

[W-] HGEIC→X.←HGEIC HGEIC→W.←HGEIC "department"

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means the regulation and licensing department;

[X-] HGEIC→Y.←HGEIC HGEIC→X.←HGEIC "director"

means the director of the division;

[Y-] HGEIC→Z.←HGEIC HGEIC→Y.←HGEIC "division"

means the cannabis control division of the department;

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

[AA-] HGEIC→BB.←HGEIC HGEIC→AA.←HGEIC "facility" means a building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products;

[BB-] HGEIC→CC.←HGEIC HGEIC→BB.←HGEIC "financial consideration" means value that is given or received, directly or indirectly, through sales, barter, trade, fees, charges, dues, contributions or donations;

[CC-] HGEIC→DD.←HGEIC HGEIC→CC.←HGEIC "homegrown" or "homemade" means grown or made for purposes that are not

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dependent or conditioned upon the provision or receipt of financial consideration;

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

[~~EE.~~] HGEIC→FF.←HGEIC HGEIC→EE.←HGEIC "immature cannabis plant" means a cannabis plant that has no observable flowers or buds;

[~~FF.~~] HGEIC→GG.←HGEIC HGEIC→FF.←HGEIC "industry standards" means the prevailing customary standards of business practice in the cannabis industry in jurisdictions within the United States;

[~~GG.~~] HGEIC→HH.←HGEIC HGEIC→GG.←HGEIC "integrated cannabis microbusiness" means a person that is authorized to conduct one or more of the following:

(1) production of cannabis at a single licensed premises; provided that the person shall not possess more than [~~two hundred~~] HGEIC→~~one thousand~~←HGEIC HGEIC→one-tenth of the←HGEIC total mature cannabis HGEIC→~~plants at any one time;~~←HGEIC HGEIC→plant count limit set by the division for large cannabis producers;←HGEIC

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

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(3) sales and transportation of only cannabis products produced or manufactured by that person;

(4) operation of only one retail establishment; and

(5) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

[~~HH.~~] HGEIC→II.←HGEIC HGEIC→HH.←HGEIC "licensed premises" means a location that includes:

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

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

(3) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy;

[~~II.~~] HGEIC→JJ.←HGEIC HGEIC→II.←HGEIC "local jurisdiction" means a municipality, home rule municipality or county;

[~~JJ.~~] HGEIC→KK.←HGEIC HGEIC→JJ.←HGEIC

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"manufacture" means to compound, blend, extract, infuse, package or otherwise prepare a cannabis product;

[~~KK.~~] HGEIC → LL. ← HGEIC HGEIC → KK. ← HGEIC "medical cannabis" means cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act;

[~~LL.~~] HGEIC → MM. ← HGEIC HGEIC → LL. ← HGEIC "medical cannabis program" means the program created pursuant to the Lynn and Erin Compassionate Use Act;

[~~MM.~~] HGEIC → NN. ← HGEIC HGEIC → MM. ← HGEIC "medical cannabis registry" means the system by which the department of health approves or denies applications and issues and renews registry identification cards for qualified patients;

[~~NN.~~] HGEIC → OO. ← HGEIC HGEIC → NN. ← HGEIC "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who is responsible for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act;

[~~OO.~~] HGEIC → PP. ← HGEIC HGEIC → OO. ← HGEIC "public place" means a place to which the general public has access and includes hallways, lobbies and other parts of apartment houses and hotels that do not constitute rooms or apartments designed for actual residence; highways; streets; schools; places of amusement; parks; playgrounds; and places used in connection

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with public passenger transportation;

[PP-] HGEIC→QQ.←HGEIC HGEIC→PP.←HGEIC "qualified patient" means a resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act;

[QQ-] HGEIC→RR.←HGEIC HGEIC→QQ.←HGEIC "reciprocal participant" means a person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program;

[RR-] HGEIC→SS.←HGEIC HGEIC→RR.←HGEIC "retail establishment" means a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers;

[SS-] HGEIC→TT.←HGEIC HGEIC→SS.←HGEIC "superintendent" means the superintendent of regulation and licensing;

[TT-] HGEIC→UU.←HGEIC HGEIC→TT.←HGEIC "unprocessed" means unaltered from an original, raw or natural state; and

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[UU.] HGEIC→VV.←HGEIC HGEIC→UU.←HGEIC "vertically integrated cannabis establishment" means a person that is authorized to act as any of the following:

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

SECTION 3. A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] EQUITY BUREAU--EQUITY INITIATIVES.--The "equity bureau" is created in the division. The equity bureau shall oversee the social and economic equity initiatives of the division."

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

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

A. The division shall regulate and administer and may collect fees in connection with the administration of:

- (1) commercial cannabis activity and licensing related to commercial cannabis activity;
- (2) the medical cannabis program, except for the medical cannabis registry; and
- (3) all aspects of cannabis relating to

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cannabis training and education programs.

~~[B. The division shall follow the provisions of the Uniform Licensing Act when licensing or permitting the following:~~

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

~~establishments.~~

~~G.]~~ B. The division shall include a clear designation on all licenses and permits that indicates whether the license or permit is for medical cannabis activity, commercial cannabis activity or both or for cannabis training and education programs.

~~[D.]~~ C. The division shall issue a license to a cannabis retailer applicant at a discount if the applicant provides documentation of an agreement to accept cannabis

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products on consignment from a cannabis producer microbusiness or an integrated cannabis microbusiness licensed pursuant the Cannabis Regulation Act.

~~[E.]~~ D. A license is valid for twelve months from the date the license is issued and may be renewed annually, except that a license issued for a cannabis training and education program is valid until terminated by the licensee or suspended or revoked by the division.

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

- (1) the licensee is not a delinquent taxpayer;
- and
- (2) there are no unfiled tax returns due from engaging in business authorized by the license.

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

~~[H.]~~ G. Except for verification of age, the division shall not require licensees to request information

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from consumers or impose any residency requirement upon consumers for the purchase of cannabis products pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act. The division may require licensees to request information from consumers for the purchase of cannabis products pursuant to the medical cannabis program, which may include the presentation of legal identification issued by an authorized governmental entity or other documents as required by the medical cannabis program.

[F.] H. Except as otherwise provided in the Cannabis Regulation Act, the division shall not limit the number of licensed premises a licensee may occupy or operate under a license. Multiple licensees may occupy a single licensed premises, and the division shall not place any restriction or prohibition on the number of licensees occupying a single licensed premises or on the number of licensed premises of a cannabis establishment except as otherwise specifically provided for by the Cannabis Regulation Act. A licensee may conduct any lawful activity or any combination of lawful activities at a licensed premises; provided that the licensee is not ~~[a licensee pursuant to]~~ occupying a premises licensed under the provisions of the Liquor Control Act.

Smoking in a cannabis consumption area on a licensed premises shall be allowed only if the cannabis consumption area is in a designated smoking area or in a standalone building from which

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smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

[J-] I. Licensees are specifically allowed to conduct other licensed activities, including activities pursuant to the Hemp Manufacturing Act, except for sales of alcoholic beverages.

[K-] J. A person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on the effective date of the Cannabis Regulation Act may continue to operate under that license for medical cannabis until comparable licenses for commercial cannabis activity are available. The division shall determine when retail sales of commercial cannabis products begin, but no later than April 1, 2022. A facility of such a licensee, upon issuance of the applicable cannabis establishment license, shall constitute licensed premises of the licensee and the licensee shall be entitled to continued and uninterrupted operations of the licensed premises. As to activity under the medical cannabis program, the licensee shall continue to operate under rules promulgated for the medical cannabis program until the division promulgates rules for medical cannabis activity, except that a qualified patient, a primary caregiver and a reciprocal participant shall not be prohibited from purchasing and obtaining cannabis products pursuant to the medical cannabis

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program.

[~~H.~~] K. To address a shortage of cannabis supply in the medical cannabis program, the division may:

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

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

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

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

(a) the division may require a licensee

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

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

[M-] L. As used in this section, "shortage of cannabis supply in the medical cannabis program" means that the average number of cannabis plants in production in the medical cannabis program per qualified patient after the effective date of the Cannabis Regulation Act is substantially less than the average number of cannabis plants in production in the medical cannabis program per qualified patient as of the effective date of the Cannabis Regulation Act, where:

(1) the average number of cannabis plants in production after the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months; and

(2) the average number of cannabis plants in production as of the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months immediately preceding the effective date of the Cannabis Regulation Act.

[N-] M. A person who is a member of the New Mexico senate or the New Mexico house of representatives on the effective date of the Cannabis Regulation Act shall not apply for or be granted a license to engage in any commercial

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cannabis activity prior to July 1, 2026.

N. The director shall suspend or revoke the license or permit and may fine the licensee in an amount not to exceed one thousand dollars (\$1,000), or both, when the director finds that a licensee or the licensee's agent has made any material false statement or concealed any material facts in the licensee's application for the license or permit granted pursuant to the Cannabis Regulation Act or any rule promulgated in accordance with that act. A person aggrieved by an action taken by the division pursuant to this subsection may request and receive a hearing according to the procedures provided in Section 12 of this 2023 act before the disciplinary action becomes effective. Hf11→"~~"←Hf11~~

Hf11→**0. The division shall promulgate rules to allow for the conversion of producer microbusiness and integrated cannabis microbusiness licenses to producer and vertically integrated cannabis establishment licenses prior to the expiration of the original license.**"←Hf11

SECTION 5. Section 26-2C-8 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 8) is amended to read:

"26-2C-8. LICENSEES--DISCIPLINARY ACTIONS--SANCTIONS--CIVIL PENALTY.--

A. A violation of the provisions of the Cannabis Regulation Act by a licensee is grounds for disciplinary action.

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B. The division may:

- (1) impose an intermediate sanction established by rule;
- (2) impose a directed plan of correction;
- (3) assess a civil monetary penalty established by rule; provided that a civil monetary penalty shall not exceed ten thousand dollars (\$10,000) per violation; and provided further that penalties and interest recovered pursuant to the Cannabis Regulation Act on behalf of the state shall be remitted to the state treasurer for deposit in the current school fund; or
- (4) suspend or revoke the license.

C. The division shall promulgate rules specifying the criteria for imposition of sanctions and civil monetary penalties.

D. The provisions of this section do not apply to occupational health and safety rules promulgated pursuant to Section [~~3 of the Cannabis Regulation Act~~] 26-2C-3 NMSA 1978.

~~[E. A person aggrieved by an action taken by the division pursuant to this section may request and receive a hearing with the superintendent for the purpose of reviewing the action in accordance with the Uniform Licensing Act.]"~~

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

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

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A. Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee in the following specified amounts:

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

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

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

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

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

(6) a cannabis research laboratory license, two thousand five hundred dollars (\$2,500) per year and an

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additional fee of one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;

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

HGEIC → ~~(8) a cannabis nursery license, two thousand five hundred dollars (\$2,500) per year and an additional fee of one thousand dollars (\$1,000) per year for each additional licensed premises of the licensee;~~ ← HGEIC

[~~(8)~~] HGEIC → ~~(9)~~ ← HGEIC HGEIC → ~~(8)~~ ← HGEIC a cannabis producer microbusiness license, up to one thousand dollars (\$1,000) per year;

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

[~~(10)~~] HGEIC → ~~(11)~~ ← HGEIC HGEIC → ~~(10)~~ ← HGEIC a cannabis consumption area, up to two thousand five hundred dollars (\$2,500) per year.

B. Except for HJC → **cannabis research laboratories,** ← HJC cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating cannabis plants shall be assessed an additional annual fee no

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greater than fifty dollars (\$50.00) per mature cannabis plant at the time of licensing or renewal.

Hf11→C. For producer licenses and vertically integrated cannabis establishment licenses that have been converted from producer microbusiness licenses or integrated cannabis establishment licenses, the division shall prorate fees for producer and vertically integrated cannabis establishment licenses and apply licensing fees already paid towards the prorated balance.←Hf11

Hf11→G.←Hf11 Hf11→D.←Hf11 A licensee may increase the number of mature plants licensed at the time of renewal and one other time per year in increments of five hundred mature plants. Fees may be prorated for the remainder of the licensing year.

Hf11→D.←Hf11 Hf11→E.←Hf11 [~~The initial application fee and the annual renewal fee for a vertically integrated cannabis establishment license shall not exceed one hundred twenty-five thousand dollars (\$125,000) for a license for both medical cannabis activity and commercial cannabis activity.~~] The initial application fee and the annual renewal fee for a license or renewal of a license that authorizes only medical cannabis activity shall be one-half the fee applicable to a license authorizing both medical cannabis activity and commercial cannabis activity.

Hf11→E.←Hf11 Hf11→F.←Hf11 If a cannabis producer

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microbusiness or an integrated cannabis microbusiness enters into a business arrangement with another licensee with the purpose or having the effect of evading the limitations of the licensee's license, such licensee shall not be eligible for the lower fee prescribed in Subsection A of this section and shall pay the per-plant fee prescribed in Subsection B of this section.

Hf11→F.←Hf11 Hf11→G.←Hf11 The division shall collect all renewal fees, including the renewal fees for all licensed premises, at the time of renewal of a license.

Hf11→G.←Hf11 Hf11→H.←Hf11 The fee for the issuance of a cannabis server permit shall not exceed thirty-five dollars (\$35.00).

Hf11→H.←Hf11 Hf11→I.←Hf11 The division shall deposit all fees collected pursuant to the Cannabis Regulation Act in the cannabis regulation fund."

SECTION 7. Section 26-2C-12 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 12) is amended to read:

"26-2C-12. LOCAL CONTROL.--

A. A local jurisdiction may:

(1) adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses; and

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(2) allow for the smoking, vaporizing and ingesting of cannabis products within an indoor or outdoor cannabis consumption area if:

(a) unless licensed pursuant to the Lynn and Erin Compassionate Use Act, access to the cannabis consumption area is restricted to persons twenty-one years of age and older; and

(b) the cannabis establishment or integrated cannabis microbusiness is located at a minimum distance from a school or daycare center as determined by the local jurisdiction, but which minimum distance shall not be set at any more than three hundred feet from a school or daycare center that was in existence at the time the establishment or microbusiness was licensed.

B. A local jurisdiction shall not:

(1) prevent transportation of cannabis products on public roads by a licensee that transports cannabis products in compliance with the Cannabis Regulation Act;

(2) completely prohibit the operation of a licensee;

(3) prohibit or limit signage attached to or located on licensed premises that identifies the premises as a cannabis establishment;

(4) require a licensed premises [~~or a cannabis consumption area~~] to be any more than three hundred feet from a

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school or daycare center that was in existence at the time the cannabis establishment or integrated cannabis microbusiness was licensed;

(5) require an existing licensee at a licensed premises to relocate; or

(6) prohibit a person from producing homegrown cannabis as provided for in the Cannabis Regulation Act."

SECTION 8. Section 26-2C-17 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 17) is amended to read:

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

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

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

(1) packages shall be Hf12→opaque, ←Hf12 resealable, child-resistant, and, when possible, compostable and recyclable or made from recycled materials;

(2) packages and labels shall not be designed to be appealing to a child Hf12→and shall not mimic the brand, design, name, logo or colorway of a non-cannabis consumer product that has been traditionally marketed to children;

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(3) packages and labels shall not use cartoons or symbols or images, including images of celebrities or celebrity likenesses, that are commonly used to market to minors←Hf12 ; and

Hf12→(3)←Hf12 Hf12→(4)←Hf12 labels shall include:

- (a) for a package containing only cannabis leaf or flower, the net weight of cannabis in the package;
- (b) identification of the licensee or licensees that produced or manufactured the cannabis product, the date on which the cannabis was harvested, the type of cannabis product and the date on which the cannabis product was manufactured and packaged;
- (c) potency and pesticide use;
- (d) a list of pharmacologically active ingredients;
- (e) for cannabis products containing non-cannabis ingredients, a list of all ingredients and a disclosure of nutritional information for the product or cannabis extract disclosed in the same manner required under federal law for nutritional labeling for food for human consumption;
- (f) a warning if nuts or other known allergens are used in the item or in its manufacture;

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

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

(i) an expiration date; and

(j) other information as required by rules promulgated pursuant to the Cannabis Regulation Act."

SECTION 9. Section 26-2C-28 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 28) is amended to read:

"26-2C-28. UNLICENSED SALES OF CANNABIS--PENALTIES.--

A. As used in this section, "traffic" means the:

(1) distribution, sale, barter or giving away of cannabis products; or

(2) possession with intent to distribute, sell, barter or give away cannabis products.

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

C. A person under eighteen years of age who violates Subsection B of this section shall be subject to:

(1) attendance at a four-hour evidence-based

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drug education and legal rights program at no cost to the person; or

(2) four hours of community service.

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

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

F. Cannabis and cannabis products seized by the division or by a law enforcement agency as evidence of unlicensed activities in violation of Subsection B of this section shall be retained and disposed of pursuant to the Forfeiture Act."

SECTION 10. Section 26-2C-31 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 31) is amended to read:

"26-2C-31. UNLICENSED MANUFACTURING OF CANNABIS EXTRACT--
UNLAWFUL SYNTHESIS OF TETRAHYDROCANNABINOL--PENALTY.--

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A. It is unlawful for a person to manufacture cannabis extract without a license issued pursuant to the Cannabis Regulation Act unless the person produces and manufactures cannabis extract from homegrown cannabis using nonvolatile solvents, alcohol or carbon dioxide or no solvents. The use of any other solvent or process is expressly prohibited unless it is approved by the division.

B. It is unlawful to synthesize any tetrahydrocannabinol without prior approval from the division and sufficient scientific evidence showing that synthesized tetrahydrocannabinol will not cause a significant threat to public health and safety.

C. A person who violates this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

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

"[NEW MATERIAL] INVESTIGATIVE AUTHORITY AND POWERS.--

A. To enforce the provisions of the Cannabis Regulation Act, the division is authorized to examine and require the production of pertinent records, books, information or evidence; and require the presence of any person and require that person to testify under oath concerning the subject matter of the inquiry and to make a permanent record of the proceedings.

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B. The division is vested with the power to issue subpoenas. In no case shall a subpoena be made returnable less than five days from the date of service.

C. Any subpoena issued by the division shall state with reasonable certainty the nature of the evidence required to be produced, the time and place of the hearing, the nature of the inquiry or investigation and the consequences of failure to obey the subpoena and shall bear the seal of the department and be attested to by the director.

D. After service of a subpoena upon a person, if the person neglects or refuses to appear or produce records or other evidence in response to the subpoena or neglects or refuses to give testimony, as required, the division may invoke the aid of the New Mexico district courts in the enforcement of the subpoena. In appropriate cases, the court shall issue its order requiring the person to appear and testify or produce the person's books or records and may, upon failure of the person to comply with the order, punish the person for contempt.

E. The division may exchange identification records and information with law enforcement agencies for official use. Identification records received from the United States department of justice, including identification records based on fingerprints, shall be used only to effectuate the licensing purposes and provisions of the Cannabis Regulation Act. The department shall not disseminate such information except to

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other law enforcement agencies for official use only."

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

"[NEW MATERIAL] ADMINISTRATIVE PROCEEDINGS--COMPLAINTS-- INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS-- PROCEDURES--APPEAL.--

A. Administrative hearings held pursuant to the provisions of the Cannabis Regulation Act shall be conducted by a hearing officer appointed by the director and shall be held in the county in which the licensed premises is located, in the county where the principal business address is listed on the license or virtually with the consent of the licensee. All hearings are open to the public.

B. After a complaint has been filed and investigated, the director may issue a signed order for the person to appear at a hearing. The director shall appoint a hearing officer no later than ten days prior to the date set for the hearing at which the licensee shall appear to explain why the licensee's license or permit should not be suspended or revoked or why the licensee should not be fined, or both.

C. The hearing officer may:
(1) administer oaths;
(2) compel the attendance of witnesses and the production of documents, records and physical exhibits in any hearing held under the provisions of the Cannabis Regulation

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Act by the issuance and service of subpoenas and subpoenas
duces tecum;

- (3) rule on offers of proof and receive relevant evidence;
- (4) take, allow or cause depositions to be taken;
- (5) regulate the course of the hearing;
- (6) hold conferences for the settlement or simplification of the issues by consent of the parties;
- (7) dispose of procedural requests or similar matters; and
- (8) reopen the hearing for the taking of additional evidence at any time prior to the taking of an appeal.

D. The director shall send a copy of the complaint and a copy of the order to show cause to the licensee by certified mail at least fourteen days before the date set for the hearing on the order to show cause.

E. If the licensee fails to appear without good cause at the time and place designated in the order to show cause for the hearing, the hearing officer shall order the nonappearance of the licensee to be entered in the record of hearing and shall order the license or permit suspended or revoked or the licensee fined, or both, on all the grounds alleged in the complaint and shall cause the record of hearing

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to show the particulars in detail.

F. If the licensee admits guilt on all grounds set out in the complaint, the hearing officer shall order the suspension or revocation of the license or permit or the licensee fined, or both, and cause a record of hearing to be made showing the facts and particulars of the director's order of suspension or revocation of the license or permit or fine of the licensee, or both. In such a case, there shall be no review or appeal of the proceedings.

G. If the licensee appears at the hearing and does not testify or denies guilt of any of the grounds set out in the charge, the hearing shall proceed as follows:

(1) the hearing officer shall administer oaths to all witnesses, the department shall cause all testimony and evidence in support of the grounds alleged in the complaint to be presented in the presence of the licensee and the hearing officer shall allow the licensee or the licensee's attorney to cross-examine all witnesses;

(2) the licensee shall be allowed to present testimony and evidence the licensee may have in denial or in mitigation of the grounds set out in the charge;

(3) the department shall have the right to cross-examine the licensee or any witness testifying in the licensee's favor;

(4) the department shall present any evidence

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or testimony in rebuttal of that produced by the licensee;

(5) the hearing officer shall make a finding on each ground alleged and a finding of the guilt or innocence of the licensee on each ground;

(6) if the licensee is found guilty on any ground alleged and proved, the director shall make an order of suspension or revocation of the license or permit or fine of the licensee, or both; and

(7) the rules of evidence shall not be required to be observed, but the order of suspension or revocation or fine, or both, shall be based upon substantial, competent and relevant evidence and testimony appearing in the record of hearing.

H. If a license is revoked, the licensee shall not be issued or be the transferee of a license within two years of the date of revocation.

I. The director may compromise a penalty for a violation of the Cannabis Regulation Act or of a rule or order of the division when the director deems it is in the best interest of the state.

J. A licensee aggrieved or adversely affected by an order of suspension, revocation or fine shall have the right to appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

K. No appeal shall have the effect of suspending

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the operation of the order of suspension, revocation or fine, but the hearing officer may suspend the operation of the order of suspension, revocation or fine pending an appeal for good cause shown and upon such terms and conditions as the hearing officer may find are just in the hearing officer's discretion. The court shall tax costs against the losing party.

L. No admission of guilt, admission against interest or transcript of testimony made or given in a hearing pursuant to this section shall be received or used in criminal proceedings in which the licensee is a defendant; provided, however, if the licensee commits perjury in a hearing, the evidence shall be admissible in a perjury trial if otherwise competent and relevant."

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

"[NEW MATERIAL] SEIZURE AND DESTRUCTION OF CANNABIS AND CANNABIS PRODUCT.--

A. The division may issue an administrative hold on the movement of cannabis or cannabis product to prevent the destruction of evidence, diversion or other threat to public safety pending an investigation of an alleged violation of the Cannabis Regulation Act or rules promulgated pursuant to that act.

B. An administrative hold issued pursuant to this section may be lifted only by order of the division or by

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agreement between the division and the licensee subject to the hold.

C. The division may embargo medical or retail cannabis when the division finds objective and reasonable grounds to believe there exists an imminent threat to public health, safety or welfare.

D. The division may order the destruction of cannabis or cannabis products subject to an embargo after notice and opportunity for a hearing before the division. A hearing held pursuant to this section shall be held in accordance with hearing procedures set forth in the Cannabis Regulation Act.

E. If cannabis or cannabis products are ordered destroyed pursuant to this section, the licensee is responsible for completing the destruction in coordination with the division and in accordance with rules promulgated pursuant to this section.

F. The licensee is responsible for all expenses related to the embargo and destruction of cannabis or cannabis products ordered pursuant to this section."

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

"[NEW MATERIAL] SUMMARY SUSPENSION.--

A. As used in this section, "full investigation" means a reasonable ascertainment of the underlying facts on

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which the division action is based.

B. When the division has objective and reasonable grounds to believe and finds, upon a full investigation, that the licensee is conducting itself in a way to pose an imminent threat to public health, safety or welfare Hfll→~~or the licensee has been guilty of deliberate and willful violation of either the Cannabis Regulation Act or rules promulgated pursuant to that act~~←Hfll , the division may summarily suspend the license pending a final decision to be determined by the proceedings for suspension or revocation that shall be instituted and determined promptly.

C. When issuing an order for summary suspension, the division shall incorporate its findings of licensee conduct that poses an imminent threat to public health, safety or welfare or deliberate and willful violations by the licensee.

D. A license may be summarily suspended by the division without notice pending any prosecution, investigation or public hearing pursuant to the Cannabis Regulation Act or rules promulgated pursuant to that act."

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

"[NEW MATERIAL] AUTHORITY OF DIVISION.--The division has the authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Cannabis Regulation Act. The division may request the department of

public safety to provide investigatory and enforcement support as deemed necessary."

SECTION 16. Section 53-8-48 NMSA 1978 (being Laws 1975, Chapter 217, Section 48, as amended) is amended to read:

"53-8-48. DISTRIBUTION OF ASSETS.--

A. Except as provided in Subsection B of this section, the assets of a corporation in the process of dissolution shall be applied and distributed as follows:

~~[A.]~~ (1) all liabilities and obligations of the corporation shall be paid and discharged, or adequate provision shall be made therefor;

~~[B.]~~ (2) assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;

~~[C.]~~ (3) assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more nonprofit domestic or foreign corporations, nonprofit societies or nonprofit organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a

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plan of distribution adopted as provided in the Nonprofit Corporation Act;

[D-] (4) other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws, but in no event may any member, former member, director, former director, officer or former officer receive directly or indirectly any distribution or portion of a distribution of any assets; and

[E-] (5) any remaining assets may be distributed to such persons, nonprofit societies, nonprofit organizations or nonprofit domestic or foreign corporations whether for profit or nonprofit as may be specified in a plan of distribution adopted as provided in the Nonprofit Corporation Act.

B. A nonprofit corporation that was incorporated in order to qualify for a license as a licensed nonprofit producer pursuant to department of health rules under the Lynn and Erin Compassionate Use Act may HGEIC→~~dissolve itself and incorporate~~ as←HGEIC HGEIC→convert into←HGEIC a for-profit corporation pursuant to the Business Corporation Act. The assets of the nonprofit corporation shall be applied and distributed as follows if the corporation did not have a federal tax exemption as a nonprofit corporation:

(1) all liabilities and obligations of the corporation shall be paid and discharged or adequate provision

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shall be made for payment and discharge;

(2) assets held by the corporation on condition requiring return, transfer or conveyance, which condition occurs by reason of the HGEIC→~~dissolution~~←HGEIC HGEIC→conversion←HGEIC , shall be returned, transferred or conveyed in accordance with the requirements;

(3) assets received and held by the corporation subject to limitations permitting their use only for eleemosynary, religious, benevolent, educational or similar purposes, but not held on a condition requiring return, transfer or conveyance by reason of the HGEIC→~~dissolution~~←HGEIC HGEIC→conversion←HGEIC , shall be transferred or conveyed to one or more nonprofit domestic corporations, nonprofit societies or nonprofit organizations engaged in activities substantially similar to those of the HGEIC→~~dissolving~~←HGEIC HGEIC→converting←HGEIC corporation, pursuant to a plan of distribution adopted as provided in the Nonprofit Corporation Act; HGEIC→and←HGEIC

(4) any remaining assets shall be distributed to the new for-profit corporation according to a plan of distribution adopted as provided in the Nonprofit Corporation Act HGEIC→; and←HGEIC HGEIC→"←HGEIC

HGEIC→~~(5) in no event shall any member, former member, director, former director, officer or former officer receive directly or indirectly any distribution or~~

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~~portion of a distribution of any assets of the nonprofit corporation.~~ ←HGEIC

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