

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 6

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

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; CHANGING DEFINITIONS;  
PROVIDING POWERS AND DUTIES; PROVIDING PROCEDURES FOR CRIMINAL  
HISTORY BACKGROUND CHECKS; Sf12→~~PROHIBITING DRIVE-UP WINDOWS AT  
CANNABIS RETAIL ESTABLISHMENTS;~~←Sf12 REMOVING THE PROHIBITION  
AGAINST A PERSON OWNING BOTH A CANNABIS LICENSE AND A LICENSE  
UNDER THE LIQUOR CONTROL ACT; PROHIBITING CO-LOCATION OF  
CANNABIS ACTIVITIES AND ALCOHOLIC BEVERAGE SALES OR SERVICE  
ACTIVITIES TO THE PUBLIC OR MEMBERS OF PRIVATE CLUBS; PROVIDING

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FOR INVESTIGATORY CONFIDENTIALITY; ALLOWING FOR LICENSEE  
 CONVERSION FROM NONPROFIT TO FOR-PROFIT CORPORATE STATUS;  
 CHANGING PACKAGING REQUIREMENTS; REPLACING LICENSURE WITH  
 REGISTRATION OF CANNABIS TRAINING AND EDUCATION PROGRAMS;  
 INCLUDING THE CANNABIS REGULATION ACT IN THE RACKETEERING ACT,  
 THE DELINQUENCY ACT AND THE UNIFORM LICENSING ACT; INCLUDING  
 CANNABIS IN A LIST OF CONTRABAND IN JAILS HJC→~~AND~~←HJC  
 HJC→,←HJC PRISONS HJC→~~AND JUVENILE DETENTION FACILITIES~~←HJC ;  
 CREATING CRIMES; PRESCRIBING PENALTIES; REPEALING A DELAYED  
 REPEAL; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA  
 1978.

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

HJC→~~SECTION 1. Section 14-2-1 NMSA 1978 (being Laws  
 1947, Chapter 130, Section 1, as amended) is amended to read:~~

~~"14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--~~

~~Every person has a right to inspect public records of this  
 state except:~~

~~A. records pertaining to physical or mental  
 examinations and medical treatment of persons confined to an  
 institution;~~

~~B. letters of reference concerning employment,  
 licensing or permits;~~

~~C. letters or memoranda that are matters of opinion  
 in personnel files or students' cumulative files;~~

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~~D. portions of law enforcement records as provided in Section 14-2-1.2 NMSA 1978;~~

~~E. as provided by the Confidential Materials Act;~~

~~F. trade secrets;~~

~~G. attorney-client privileged information;~~

~~H. long-range or strategic business plans of public hospitals discussed in a properly closed meeting;~~

~~I. tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack;~~

~~J. information concerning information technology systems, the publication of which would reveal specific vulnerabilities that compromise or allow unlawful access to such systems; provided that this subsection shall not be used to restrict requests for:~~

~~(1) records stored or transmitted using information technology systems;~~

~~(2) internal and external audits of information technology systems, except for those portions that would reveal ongoing vulnerabilities that compromise or allow unlawful access to such systems; or~~

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~~(3) information to authenticate or validate records received pursuant to a request fulfilled pursuant to the Inspection of Public Records Act;~~

~~K. submissions in response to a competitive grant, land lease or scholarship and related scoring materials and evaluation reports until finalists are publicly named or the award is announced; {and}~~

~~L. information developed or obtained by the cannabis control division of the regulation and licensing department during an enforcement investigation HJC→Sf11→or inspection relating to violations of the Cannabis Regulation Act, which investigation or inspection is pending←Sf11←HJC ; and~~

~~{L.} M. as otherwise provided by law."~~←HJC

SECTION HJC→2.←HJC HJC→1.←HJC 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 HJC→3.←HJC HJC→2.←HJC 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

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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 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.]~~ A. "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

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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 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~~] other product;

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

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

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

- (1) a cannabis testing laboratory;
- (2) a cannabis manufacturer;

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

~~[F.]~~ E. "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.]~~ F. "cannabis flowers" means only the flowers of a cannabis plant;

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

- (1) manufactures cannabis products;
- (2) packages cannabis products for resale; or
- ~~[(3) has cannabis products tested by a cannabis testing laboratory; or~~
- ~~(4)]~~ (3) purchases, acquires, sells or

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transports wholesale cannabis products to other cannabis establishments;

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

(1) cultivates cannabis plants;

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

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

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

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

[K.] J. "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.] K. "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;

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

~~[N. "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. "cannabis server permit education provider" means a person that provides cannabis server education courses and examinations;~~

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

~~[Q. "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.]~~ N. "commercial cannabis activity":

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, packaging and 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 products;

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

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

~~[U.]~~ Q. "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.]~~ R. "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis;

~~[W.]~~ S. "department" means the regulation and licensing department;

~~[X.]~~ T. "director" means the director of the division;

~~[Y.]~~ U. "division" means the cannabis control division of the department;

~~[Z.]~~ V. "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.]~~ W. "facility" means a building, space or grounds licensed for the production, ~~[possession]~~ storage, testing, manufacturing, ~~[or]~~ sale or consumption of ~~[cannabis, cannabis extracts or]~~ cannabis products;

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

~~[CC.]~~ Y. "homegrown" or "homemade" means grown or made for purposes that are not ~~[dependent or conditioned upon the provision or receipt of financial consideration]~~ for resale;

~~[DD.]~~ ~~"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;]~~

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

(1) produced or manufactured outside New Mexico;

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

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

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

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

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

~~[GG-]~~ CC. "integrated cannabis microbusiness" means a person that is ~~[authorized]~~ licensed 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 total mature cannabis plants at any one

time;

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

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

(4) operation of only one retail establishment; and

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

~~HH-~~ DD. "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 cannabis consumption areas, 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 of cannabis products; and]~~

(3) all areas of a standalone cannabis consumption area, including retail and other areas, whether in

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enclosed or outside spaces, and including private or members-only clubs where cannabis products are available for sale or consumption; and

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

~~[(H)]~~ EE. "local jurisdiction" means a municipality, including a home rule municipality, or county;

~~[(J)]~~ FF. "manufacture" means to compound, blend, extract, infuse, package and label or otherwise prepare a cannabis product;

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

~~[(L)]~~ HH. "medical cannabis program" means the program created pursuant to the Lynn and Erin Compassionate Use Act;

~~[(M)]~~ II. "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 and primary caregivers;

[~~NN.~~] JJ. "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.~~] KK. "public [~~place~~] space" means [~~a~~] any 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 with public passenger transportation~~];

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

[~~QQ.~~] MM. "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;

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

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

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

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

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

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

SECTION HJC→4.←HJC HJC→3.←HJC Section 26-2C-6 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 6, as amended)

is amended to read:

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

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

(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  
cannabis training and education programs.

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

- (1) cannabis consumption areas;
- (2) cannabis couriers;
- (3) cannabis manufacturers;
- (4) cannabis producer microbusinesses;
- (5) cannabis producers;

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- (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.

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

E. 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~~]. A licensee shall notify the

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division when the licensee begins or ends operations pursuant to the license.

F. 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 pursuant to Section 7-1-16 NMSA 1978 only with respect to the cannabis excise tax or the gross receipts tax; and

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

G. [~~No~~] A license shall not 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. A license shall not be subject to execution, attachment, a security transaction, liens or receivership.

[~~H.~~] I. Except for verification of age, the division shall not require licensees to request information from consumers or impose any residency requirement upon consumers for the purchase of commercial cannabis products

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~~[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 medical 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.]~~ J. 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]~~ that 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 the Liquor Control Act]~~ except that a cannabis licensee shall not occupy any premises that also houses a business holding a license under the Liquor Control Act that allows the sale or giving away of alcoholic beverages by the glass or package, including growlers, to the public or to members of a private

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club or otherwise allows consumption of alcohol on the premises.

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

~~[K.]~~ M. 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]~~ pursuant to 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

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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~~] and a qualified patient, [~~a~~] primary caregiver [~~and a~~] or reciprocal participant shall not be prohibited from purchasing and obtaining cannabis products [~~pursuant to~~] through the medical cannabis program.

[~~E.~~] N. 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 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.] O. 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]~~ June 29, 2021 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]~~ June 29, 2021, where:

(1) the average number of cannabis plants in

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production after [~~the effective date of the Cannabis Regulation Act~~] June 29, 2021 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~~] June 29, 2021 is measured over a period of three consecutive months immediately preceding [~~the effective date of the Cannabis Regulation Act~~] June 29, 2021.

HJC→~~[N. 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 cannabis activity prior to July 1, 2026.]~~←HJC

HJC→ HJC→~~N.~~←HJC HJC→~~P.~~←HJC 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 cannabis activity prior to July 1, 2026.←HJC

HJC→~~P.~~←HJC HJC→~~Q.~~←HJC A medical cannabis legacy nonprofit corporation that was required by the department of health to organize under the provisions of the Nonprofit Corporation Act in order to qualify for a medical cannabis license may be converted into a corporation under the Business

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Corporation Act, a limited liability company under the Limited Liability Company Act, a limited partnership under the Uniform Revised Limited Partnership Act or a partnership under the Uniform Partnership Act (1994) upon the nonprofit corporation's filing with the secretary of state of restated articles of incorporation, articles of organization, certificate of limited partnership or statement under Section 54-1A-105 NMSA 1978. The conversion shall be approved pursuant to an agreement of conversion in the manner provided for the conversion of a limited liability company in Section 53-19-60.1 NMSA 1978."

SECTION HJC→5.←HJC HJC→4.←HJC Section 26-2C-7 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 7) is amended to read:

"26-2C-7. [~~COMMERCIAL~~] CANNABIS ACTIVITY LICENSING-- APPLICATION--ISSUANCE AND DENIAL OF A LICENSE--SUSPENSION AND REVOCATION.--

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

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

(1) no later than September 1, 2021, accept and begin processing license applications for cannabis producers, cannabis producer microbusinesses and any person

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properly licensed and in good standing as a licensed cannabis producer pursuant to the Lynn and Erin Compassionate Use Act;

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

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

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

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

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(b) natural lighting and energy efficiency measures; and

(c) renewable energy generation. [and

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

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

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

D. The division may refuse to issue, suspend or revoke a license ~~HJC~~ **in accordance with the Uniform Licensing**

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Act ← HJC of any person who does not meet the qualifications for licensure, who is not in compliance with the Cannabis Regulation Act or rules promulgated in accordance with that act or for whom one or more of the following are substantially related to the qualifications, functions or duties of the applicant's or licensee's business in New Mexico:

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

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

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

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

(5) a pending investigation or a felony

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indictment or conviction for hiring, employing or otherwise using a person younger than eighteen years of age or a person of any age who is a victim of trafficking, forced labor or other exploitation to produce, manufacture, transport or sell cannabis or a controlled substance;

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

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

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

F. If the division determines after a review of pertinent circumstances provided in Subsection D of this section that the applicant, licensee or controlling person [is] otherwise [qualified] meets the qualifications for [a license] licensure and that issuing a license [to the applicant would]

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does not compromise the state's cannabis program or the public health or safety, the division shall [conduct a thorough review of the conviction, including the nature of the offense, surrounding circumstances and, any evidence of the applicant's or controlling person's rehabilitation following the conviction, and based on that review determine whether the applicant should be issued a license] issue the license or close the suspension or revocation case.

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

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

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

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

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

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

~~F.]~~ G. A conviction for which the related sentence,

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

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

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

[~~I-~~] J. Unless otherwise provided in the Cannabis Regulation Act, a person whose license has been revoked may reapply for a license after a period of three years. The

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division may consider all of the circumstances resulting in the revocation in determining whether to issue a new license.

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

- ~~(1) cannabis manufacturer;~~
- ~~(2) cannabis producer;~~
- ~~(3) cannabis producer microbusiness;~~
- ~~(4) cannabis research laboratory;~~
- ~~(5) cannabis retailer;~~
- ~~(6) cannabis testing laboratory;~~
- ~~(7) integrated cannabis microbusiness; and~~
- ~~(8) vertically integrated cannabis~~

~~establishment.~~

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

- ~~(1) if an applicant is a limited partnership, each partner of the limited partnership;~~
- ~~(2) if the applicant is a limited liability company, each member of the limited liability company;~~

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

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

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

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

Sf12→~~SECTION 6. A new section of the Cannabis Regulation Act is enacted to read:~~

~~"[NEW MATERIAL] DRIVE-UP WINDOWS PROHIBITED.--No cannabis retail establishment shall sell any cannabis product from a drive-up window."~~←Sf12

SECTION Sf12→7.←Sf12 HJC→Sf12→6.←Sf12←HJC HJC→5.←HJC

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

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

A. As used in this section:

(1) "director" means a person who serves on the corporate board of directors of a corporation licensed by

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the division as a cannabis establishment;

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

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

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

B. The division shall adopt rules providing the procedures to be followed for submission of an applicant's biometric HJC→~~scan~~←HJC HJC→~~data~~←HJC to the department of public safety to conduct a state criminal history background check and for its submission of the biometric HJC→~~scan~~←HJC HJC→~~data~~←HJC to the federal bureau of investigation to conduct a national criminal history background check for the following cannabis establishments:

- (1) cannabis courier;
- (2) cannabis manufacturer;

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- (3) cannabis producer;
- (4) cannabis producer microbusiness;
- (5) cannabis research laboratory;
- (6) cannabis retailer;
- (7) cannabis testing laboratory;
- (8) integrated cannabis microbusiness;
- (9) vertically integrated cannabis

establishment; and

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

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

- (1) if an applicant for licensure is a sole proprietor business, the sole proprietor;
- (2) if an applicant for licensure is a limited partnership, each partner of the limited partnership;
- (3) if the applicant for licensure is a limited liability company, each member and manager of the limited liability company;
- (4) if the applicant for licensure is a corporation, each director and officer of the corporation; and
- (5) any controlling person of the applicant for licensure, as defined in Section 26-2C-2 NMSA 1978.

D. The division shall use the information from the

criminal history background check to evaluate the applicant's qualifications for licensure.

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

HJC → SECTION ~~Sf12~~ → 8. ← Sf12 Sf12 → 7. ← Sf12 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.--~~

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

~~(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~~

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~~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 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;~~

~~(8) a cannabis producer microbusiness license, up to one thousand dollars (\$1,000) per year;~~

~~(9) 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~~

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~~year for each licensed premises of the licensee; and~~

~~(10) a cannabis consumption area license, up to two thousand five hundred dollars (\$2,500) per year.~~

~~B. Except for cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating cannabis plants shall be assessed an additional annual fee no greater than fifty dollars (\$50.00) per mature cannabis plant at the time of licensing or renewal.~~

~~C. 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.~~

~~D. [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.~~

~~E. If a cannabis producer microbusiness or an integrated cannabis microbusiness enters into a business~~

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~~arrangement with another licensee with the purpose of or having the effect of evading the limitations of the licensee's license, [such] that 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.~~

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

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

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

SECTION Sf12→9.←Sf12 HJC→Sf12→8.←Sf12←HJC HJC→6.←HJC

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

"26-2C-10. [NEW MATERIAL] CANNABIS TRAINING AND EDUCATION PROGRAMS--REGISTRATION WITH DIVISION.--A New Mexico public post-secondary educational institution may offer a practical or academic curriculum designed to prepare students for participation in the cannabis industry. The institution shall register its cannabis training and education program with

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the division, which shall include the information about the program on its website."

SECTION ~~Sf12~~→10.←~~Sf12~~ HJC→~~Sf12~~→9.←~~Sf12~~←HJC HJC→7.←HJC  
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 resealable and child-resistant [~~compostable and recyclable or made from recycled materials~~];

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

(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

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children;

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

~~[(3)]~~ (5) 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;

(g) a logo designed by the division that

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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~~] in accordance with the Cannabis Regulation Act."

SECTION ~~Sf12~~→~~11.~~←~~Sf12~~ HJC→~~Sf12~~→~~10.~~←~~Sf12~~←HJC HJC→~~8.~~←HJC

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

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

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

B. In consultation with the department of environment and consistent with industry standards, the division shall promulgate rules to:

(1) [~~ensure that testing of cannabis products occurs~~] require all cannabis producers and cannabis manufacturers to have their cannabis products tested prior to

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distribution to cannabis retailers or for sales by integrated cannabis microbusinesses;

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

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

(4) provide for recordkeeping;

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

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

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

(8) require destruction of a tested batch of cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards promulgated by the division, unless remedial measures can bring the cannabis products into compliance with the standards or the cannabis products can be used for research

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purposes.

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

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

SECTION Sf12→~~12.~~←Sf12 HJC→~~Sf12→11.~~←~~Sf12~~←HJC HJC→~~9.~~←HJC Section 26-2C-20 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 20) is amended to read:

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

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

(1) 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, manufactured or sold on the licensed premises;

(2) a label affixed to a cannabis product or

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the covering, wrapper or container of a cannabis product; or

(3) 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. The division shall promulgate rules consistent with industry standards that:

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

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

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

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

~~[(4)]~~ (d) that depict consumption by children or other persons who appear to be younger than twenty-

one years of age;

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

[~~(6)~~] (f) that are designed using cartoon characters or to mimic any other product brand; and

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

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

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

SECTION ~~Sf12~~→~~13.~~←~~Sf12~~ HJC→~~Sf12~~→~~12.~~←~~Sf12~~←HJC

HJC→~~10.~~←HJC 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~~] TRAFFICKING CANNABIS PRODUCTS--PENALTIES.--

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

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

(2) [~~possession~~] possess with intent to

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manufacture, distribute, courier or sell [~~barter or give away~~]  
illegal cannabis products.

B. Trafficking cannabis products applies only to quantities of more than fifteen ounces of cannabis flower, one hundred twenty grams of HJC→concentrate←HJC HJC→cannabis extract←HJC or six grams of edibles.

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

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

(2) four hours of community service.

[~~D.~~] E. Except as otherwise provided in Section [~~14 of the Cannabis Regulation Act~~] 26-2C-14 NMSA 1978, a person between eighteen and twenty-one years of age [~~or older~~] who violates Subsection [~~B~~] C 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~~

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

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

SECTION Sf12→14.←Sf12 HJC→Sf12→13.←Sf12←HJC

HJC→11.←HJC A new section of the Cannabis Regulation Act is enacted to read:

"[NEW MATERIAL] WHEN CANNABIS PRODUCT DEEMED

ADULTERATED.--A cannabis product is deemed to be adulterated if:

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

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

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

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

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

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

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

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

I. the cannabis product is a confectionery, it

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

SECTION ~~Sf12~~→15.←~~Sf12~~ HJC→~~Sf12~~→14.←~~Sf12~~←HJC

HJC→12.←HJC A new section of the Cannabis Regulation Act is enacted to read:

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

Cannabis is deemed to be misbranded if:

- A. its labeling is false or misleading in any particular;
- B. it is offered for sale under the name of another cannabis product;
- C. it is an imitation of another cannabis product, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately following, the name of the cannabis product imitated;
- D. its container is so made, formed or filled as to be misleading; or
- E. the label otherwise does not conform to the requirements of Section 26-2C-17 NMSA 1978 and labeling rules

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promulgated by the division."

SECTION ~~Sf12~~→16.←~~Sf12~~ HJC→~~Sf12~~→15.←~~Sf12~~←HJC

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

"26-2C-36. PUBLIC RECORDS AND OPEN MEETINGS.--

HJC→~~Except for information developed or obtained by the division during an enforcement investigation HJC→Sf11→or inspection relating to violations of the Cannabis Regulation Act, which investigation or inspection is pending←Sf11←HJC, records of the division are subject to the Inspection of Public Records Act.~~←HJC HJC→Records of the division are public records subject to the Inspection of Public Records Act, except as provided in this section and other applicable provisions of law; provided that the presence of nonpublic information that identifies confidential sources or confidential information may be redacted from a written record or digitally obscured in a visual or audio record. A source who communicates information is confidential if the identity of the source is disclosed in the context of reporting an alleged violation of the Cannabis Regulation Act to the division. Information is confidential if it is developed or obtained by the division during an enforcement investigation or inspection related to violations of the Cannabis Regulation Act. Sources and information cease to be confidential upon the issuance of a notice of

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contemplated action by the division. If a notice of contemplated action is not issued within thirty days of the disclosure of the identity of the source in the context of reporting an alleged violation of the Cannabis Regulation Act to the division, the source shall not be confidential. If a notice of contemplated action is not issued within thirty days of the initiation of an enforcement investigation or inspection related to violations of the Cannabis Regulation Act, the information developed or obtained by the division during the enforcement investigation or inspection shall not be confidential.

←HJC Rulemaking and other hearings of the division are subject to the Open Meetings Act."

SECTION Sf12→17.←Sf12 HJC→Sf12→16.←Sf12←HJC HJC→14.←HJC Section 30-22-14 NMSA 1978 (being Laws 1976, Chapter 15, Section 1, as amended) is amended to read:

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

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

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

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

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

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

(3) an alcoholic beverage;

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

(5) an electronic communication or recording

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device brought onto the grounds of the institution for the purpose of transfer to or use by a prisoner.

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

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

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

"30-22-14.1. BRINGING CONTRABAND INTO A JUVENILE DETENTION FACILITY OR JUVENILE CORRECTIONAL

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FACILITY--PENALTY.--

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

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

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

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

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

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

SECTION Sf12→18.←Sf12 HJC→Sf12→17.←Sf12←HJC

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

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

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

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

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

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- (3) kidnapping, as provided in Section 30-4-1 NMSA 1978;
- (4) forgery, as provided in Section 30-16-10 NMSA 1978;
- (5) larceny, as provided in Section 30-16-1 NMSA 1978;
- (6) fraud, as provided in Section 30-16-6 NMSA 1978;
- (7) embezzlement, as provided in Section 30-16-8 NMSA 1978;
- (8) receiving stolen property, as provided in Section 30-16-11 NMSA 1978;
- (9) bribery, as provided in Sections 30-24-1 through 30-24-3.1 NMSA 1978;
- (10) gambling, as provided in Sections 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;
- (11) illegal kickbacks, as provided in Sections 30-41-1 and 30-41-2 NMSA 1978;
- (12) extortion, as provided in Section 30-16-9 NMSA 1978;
- (13) trafficking in controlled substances, as provided in Section 30-31-20 NMSA 1978;
- (14) arson and aggravated arson, as provided in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA

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1978;

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

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

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

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

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

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

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

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

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

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

[~~and~~]

(25) altering or changing the serial number,

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engine number, decal or other numbers or marks of a vehicle or motor vehicle, as provided in Section 30-16D-6 NMSA 1978; and  
(26) trafficking cannabis products, as  
provided in Section 26-2C-28 NMSA 1978;

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

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

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

SECTION Sf12→19.←Sf12 HJC→Sf12→18.←Sf12←HJC  
HJC→17.←HJC Section 32A-2-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 32, as amended) is amended to read:

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

A. "delinquent act" means an act committed by a child that would be designated as a crime under the law if

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committed by an adult, not including a violation of Section 30-9-2 NMSA 1978, including the following offenses:

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

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

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

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

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

(e) homicide by vehicle;

(f) injuring or tampering with a vehicle;

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

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

(i) reckless driving;

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

(k) an offense punishable as a felony;

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

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

(4) a violation of the Controlled Substances Act;

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

(6) a violation of Section 30-15-1.1 NMSA 1978

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regarding unauthorized graffiti on personal or real property;

[~~or~~]

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

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

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

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

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

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

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

G. "restitution" means financial reimbursement by the child to the victim or community service imposed by the court and is limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical,

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psychiatric and psychological treatment for injury to a person and lost wages resulting from physical injury, which are a direct and proximate result of a delinquent act. "Restitution" does not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses. As used in this subsection, "victim" means a person who is injured or suffers damage of any kind by an act that is the subject of a complaint or referral to law enforcement officers or juvenile probation authorities. Nothing contained in this definition limits or replaces the provisions of Subsections A and B of Section 32A-2-27 NMSA 1978;

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

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

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for violating conditions of release; and

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

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

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

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

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

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

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

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

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

(h) dangerous use of explosives, as

provided in Section 30-7-5 NMSA 1978;

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

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

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

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

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

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

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

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SECTION ~~Sf12~~→20.←Sf12 HJC→Sf12→19.←Sf12←HJC

HJC→18.←HJC Section 61-1-2 NMSA 1978 (being Laws 1957, Chapter 247, Section 2, as amended) is amended to read:

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

A. "board" means:

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

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

(3) the crane operators licensure examining council;

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

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

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

B. "applicant" means a person who has applied for a

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license;

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

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

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

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

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

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

I. "regular license" means a license that is not

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issued as a temporary or provisional license;

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

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

SECTION Sf12→21.←Sf12 HJC→Sf12→20.←Sf12←HJC  
HJC→19.←HJC REPEAL.--Laws 2021 (1st S.S.), Chapter 4, Section 73 is repealed.

SECTION Sf12→22.←Sf12 HJC→Sf12→21.←Sf12←HJC  
HJC→20.←HJC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.

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