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HOUSE BILL 527

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Paul A. Pacheco

AN ACT

RELATING TO MEDICAL CANNABIS; ENACTING A NEW SECTION OF THE
NMSA 1978 TO PROVIDE FOR CRIMINAL BACKGROUND CHECKS FOR PERSONS
PROVIDING CERTAIN GOODS AND SERVICES RELATED TO MEDICAL
CANNABIS; DECLARING AN EMERGENCY.

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

**SECTION 1. [NEW MATERIAL] MEDICAL CANNABIS--CRIMINAL
BACKGROUND CHECKS.--**

A. The department is authorized to require
fingerprinting and obtain the criminal background records of
nonprofit licensed producers, approved entities and applicants
and to exchange fingerprint data directly with the department
of public safety for transmission to the federal bureau of
investigation relating to nonprofit licensed producers,
approved entities and applicants.

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1 B. The secretary shall adopt and promulgate rules
2 to:

3 (1) require criminal background checks for
4 nonprofit licensed producers, approved entities and applicants;

5 (2) specify the convictions that shall, in
6 accordance with this section, form the basis of a denial,
7 suspension or revocation of licensure or approval for, or
8 prohibition against, participation in a medical cannabis
9 program established and administered pursuant to the Lynn and
10 Erin Compassionate Use Act; and

11 (3) otherwise carry out the provisions of this
12 section.

13 C. The following convictions shall permanently
14 disqualify an individual from being employed by or otherwise
15 contracting with a nonprofit licensed producer or approved
16 entity and shall also permanently disqualify an individual from
17 becoming enrolled as a primary caregiver:

18 (1) any single felony conviction for a
19 violation of Section 30-31-20, 30-31-21 or 30-31-22 NMSA 1978;

20 (2) two or more felony convictions for
21 violation of any section of the Controlled Substances Act, with
22 the exception of Sections 30-31-20, 30-31-21 and 30-31-22 NMSA
23 1978; or

24 (3) conviction of any equivalent federal
25 statute or statute from any other jurisdiction.

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1 D. An individual who is convicted of only one
2 violation of a section of the Controlled Substances Act other
3 than Section 30-31-20, 30-31-21 or 30-31-22 NMSA 1978 or an
4 equivalent federal statute or equivalent statute from any other
5 jurisdiction shall be prohibited from being employed by or
6 otherwise contracting with a nonprofit licensed producer or
7 approved entity and shall be prohibited from enrollment as a
8 primary caregiver until the passage of five years from the date
9 of the applicable conviction.

10 E. The department shall comply with applicable
11 confidentiality requirements of the department of public safety
12 and the federal bureau of investigation regarding the
13 dissemination of criminal background check information.

14 F. A person whose license or approval is denied,
15 suspended or revoked on the basis of a criminal background
16 check, or whose participation in a medical cannabis program
17 established and administered pursuant to the Lynn and Erin
18 Compassionate Use Act is otherwise prohibited on the basis of a
19 criminal background check, shall be entitled to review the
20 information obtained pursuant to this section and to appeal the
21 decision pursuant to department rules.

22 G. A nonprofit licensed producer, approved entity
23 or applicant shall bear any costs associated with ordering or
24 conducting that person's criminal background check.

25 H. As used in this section:

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1 (1) "applicant" means a person, including a
2 principal, board member, employee or contractor of an
3 applicant entity, applying to the department for any of the
4 following authorizations under the Lynn and Erin
5 Compassionate Use Act:

6 (a) licensure as a nonprofit licensed
7 producer;

8 (b) enrollment as a primary caregiver;
9 or

10 (c) approval to operate as a courier,
11 laboratory, manufacturer or other business entity and
12 participate in a medical cannabis program pursuant to the
13 Lynn and Erin Compassionate Use Act;

14 (2) "approved entity" means a courier,
15 laboratory, manufacturer or other business entity, including
16 a principal, board member, employee or contractor of an
17 entity, that the department has approved for participation in
18 a medical cannabis program pursuant to the Lynn and Erin
19 Compassionate Use Act;

20 (3) "contracting" means a contractor's entry
21 into a contract for the provision of goods or services;

22 (4) "contractor" means a person that
23 contracts to provide supplies or services and that:

24 (a) works or is anticipated to work on
25 a premises used for the production, manufacture or

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1 distribution of cannabis in any form; or

2 (b) may reasonably be anticipated to
3 come into contact with cannabis, in any form, in the
4 performance of the person's work;

5 (5) "courier" means a person, including a
6 principal, board member, employee or contractor of an entity,
7 that:

8 (a) transports usable medical cannabis
9 within the state from a nonprofit licensed producer to a
10 qualified patient or primary caregiver; and

11 (b) is not a nonprofit licensed
12 producer;

13 (6) "department" means the department of
14 health;

15 (7) "laboratory" means a scientific
16 laboratory that a nonprofit licensed producer or approved
17 entity uses for the testing of cannabis or cannabis-derived
18 products;

19 (8) "manufacturer" means a person that
20 manufactures cannabis-derived products for use by qualified
21 patients enrolled in a medical cannabis program pursuant to
22 the Lynn and Erin Compassionate Use Act;

23 (9) "nonprofit licensed producer" means a
24 private entity organized under the Nonprofit Corporation Act
25 that operates a building or grounds that the department

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1 licenses for the production, possession and distribution of
2 cannabis in any form;

3 (10) "person" means an individual,
4 corporation, business trust, estate, trust, partnership,
5 limited liability company, association, joint venture or any
6 legal or commercial entity;

7 (11) "primary caregiver" means a resident of
8 New Mexico who is at least eighteen years of age and who has
9 been designated by a patient's health care practitioner as
10 being necessary to take responsibility for managing the well-
11 being of a qualified patient with respect to the medical use
12 of cannabis pursuant to the Lynn and Erin Compassionate Use
13 Act;

14 (12) "qualified patient" means a resident of
15 New Mexico who has been diagnosed by a health practitioner as
16 having a debilitating medical condition and has received
17 written certification and a registry identification card
18 issued pursuant to the Lynn and Erin Compassionate Use Act;
19 and

20 (13) "secretary" means the secretary of
21 health.

22 SECTION 2. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect
24 immediately.