

1 SENATE BILL 139

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 AN ACT

11 RELATING TO MEDICAL CANNABIS; AMENDING A SECTION OF THE LYNN
12 AND ERIN COMPASSIONATE USE ACT TO LIMIT THE DEFINITION OF
13 "QUALIFIED PATIENT" TO RESIDENTS OF NEW MEXICO; DECLARING AN
14 EMERGENCY.

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

17 SECTION 1. Section 26-2B-3 NMSA 1978 (being Laws 2007,
18 Chapter 210, Section 3, as amended) is amended to read:

19 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin
20 Compassionate Use Act:

21 A. "adequate supply" means an amount of cannabis,
22 in any form approved by the department, possessed by a
23 qualified patient or collectively possessed by a qualified
24 patient and the qualified patient's primary caregiver that is
25 determined by rule of the department to be no more than

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1 reasonably necessary to ensure the uninterrupted availability
2 of cannabis for a period of three months and that is derived
3 solely from an intrastate source;

4 B. "cannabis":

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

12 (2) does not include the mature stalks of the
13 plant; fiber produced from the stalks; oil or cake made from
14 the seeds of the plant; any other compound, manufacture, salt,
15 derivative, mixture or preparation of the mature stalks, fiber,
16 oil or cake; the sterilized seed of the plant that is incapable
17 of germination; the weight of any other ingredient combined
18 with cannabis to prepare topical or oral administrations, food,
19 drink or another product; or hemp;

20 C. "cannabis consumption area" means an area within
21 a licensed premises approved by the department where cannabis
22 may be consumed that complies with rule as established by the
23 department;

24 D. "cannabis courier" means a person that is
25 licensed by the department to transport usable cannabis and

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1 cannabis products within the state from a cannabis
2 establishment to:

- 3 (1) a qualified patient;
- 4 (2) a primary caregiver; or
- 5 (3) another cannabis establishment;

6 E. "cannabis establishment" means:

- 7 (1) a licensed cannabis courier;
- 8 (2) a licensed cannabis testing facility;
- 9 (3) a licensed cannabis manufacturer;
- 10 (4) a licensed cannabis producer; or
- 11 (5) such other person that the department may

12 by rule approve for participation in the medical cannabis
13 program;

14 F. "cannabis manufacturer" means a person that is
15 licensed by the department to:

- 16 (1) manufacture cannabis products;
- 17 (2) package, transport or courier cannabis
18 products;
- 19 (3) have cannabis products tested by a
20 cannabis testing facility;
- 21 (4) purchase, obtain, sell and transport
22 cannabis products to other cannabis establishments; and
- 23 (5) prepare products for personal production
24 license holders;

25 G. "cannabis producer" means a person that is

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1 licensed by the department to possess, produce, dispense,
2 distribute and manufacture cannabis and cannabis products and
3 sell wholesale or by direct sale to qualified patients and
4 primary caregivers;

5 H. "cannabis product":

6 (1) means a product that contains cannabis,
7 including edible or topical products that may also contain
8 other ingredients; and

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

13 I. "cannabis testing facility" means a person that
14 is licensed by the department to perform tests of cannabis
15 products to analyze the strength or purity of the items and to
16 collect cannabis samples and transport cannabis products to the
17 cannabis testing facility from cannabis establishments;

18 J. "debilitating medical condition" means:

19 (1) cancer;

20 (2) glaucoma;

21 (3) multiple sclerosis;

22 (4) damage to the nervous tissue of the spinal
23 cord, with objective neurological indication of intractable
24 spasticity;

25 (5) seizure disorder, including epilepsy;

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1 (6) positive status for human immunodeficiency
2 virus or acquired immune deficiency syndrome;

3 (7) admitted into hospice care in accordance
4 with rules promulgated by the department;

5 (8) amyotrophic lateral sclerosis;

6 (9) Crohn's disease;

7 (10) hepatitis C infection;

8 (11) Huntington's disease;

9 (12) inclusion body myositis;

10 (13) inflammatory autoimmune-mediated
11 arthritis;

12 (14) intractable nausea or vomiting;

13 (15) obstructive sleep apnea;

14 (16) painful peripheral neuropathy;

15 (17) Parkinson's disease;

16 (18) posttraumatic stress disorder;

17 (19) severe chronic pain;

18 (20) severe anorexia or cachexia;

19 (21) spasmodic torticollis;

20 (22) ulcerative colitis; or

21 (23) any other medical condition, medical
22 treatment or disease as approved by the department;

23 K. "department" means the department of health;

24 L. "hemp" means the plant Cannabis sativa L. and
25 any part of the plant, whether growing or not, containing a

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1 delta-9-tetrahydrocannabinol concentration of no more than
2 three-tenths percent on a dry weight basis;

3 M. "license" means a license issued pursuant to the
4 Lynn and Erin Compassionate Use Act;

5 N. "licensee" means a person that holds a license;

6 O. "licensee representative" means an owner,
7 director, officer, manager, employee, agent or other
8 representative of a licensee, to the extent that person acts in
9 a representative capacity;

10 P. "manufacture" means to prepare a cannabis
11 product;

12 Q. "medical cannabis program" means the program
13 established pursuant to the Lynn and Erin Compassionate Use Act
14 for authorization and regulation of the medical use of cannabis
15 in the state;

16 R. "personal production license" means a license
17 issued to a qualified patient or to a qualified patient's
18 primary caregiver participating in the medical cannabis program
19 to permit the qualified patient or the qualified patient's
20 primary caregiver to produce cannabis for the qualified
21 patient's use at an address approved by the department;

22 S. "practitioner" means a person licensed in New
23 Mexico to prescribe and administer drugs that are subject to
24 the Controlled Substances Act;

25 T. "primary caregiver" means a resident of New

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1 Mexico who is at least eighteen years of age and who has been
2 designated by the patient's practitioner as being necessary to
3 take responsibility for managing the well-being of a qualified
4 patient with respect to the medical use of cannabis pursuant to
5 the provisions of the Lynn and Erin Compassionate Use Act;

6 U. "produce" means to engage in any activity
7 related to the planting or cultivation of cannabis;

8 V. "qualified patient" means a ~~[person]~~ resident of
9 New Mexico who has been diagnosed by a practitioner as having a
10 debilitating medical condition and has received written
11 certification and a registry identification card pursuant to
12 the Lynn and Erin Compassionate Use Act on the basis of having
13 been diagnosed, in person or via telemedicine, by a
14 practitioner as having a debilitating medical condition;
15 provided that a practitioner may only issue a written
16 certification on the basis of an evaluation conducted via
17 telemedicine if the practitioner has previously examined the
18 patient in person;

19 W. "reciprocal participant" means an individual who
20 holds proof of authorization to participate in the medical
21 cannabis program of another state of the United States, the
22 District of Columbia, a territory or commonwealth of the United
23 States or a New Mexico Indian nation, tribe or pueblo;

24 X. "registry identification card" means a document
25 that the department issues:

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1 (1) to a qualified patient that identifies the
2 bearer as a qualified patient and authorizes the qualified
3 patient to use cannabis for a debilitating medical condition;
4 or

5 (2) to a primary caregiver that identifies the
6 bearer as a primary caregiver authorized to engage in the
7 intrastate possession and administration of cannabis for the
8 sole use of a qualified patient who is identified on the
9 document;

10 Y. "safety-sensitive position" means a position in
11 which performance by a person under the influence of drugs or
12 alcohol would constitute an immediate or direct threat of
13 injury or death to that person or another;

14 Z. "telemedicine" means the use of
15 telecommunications and information technology to provide
16 clinical health care from a site apart from the site where the
17 patient is located, in real time or asynchronously, including
18 the use of interactive simultaneous audio and video or
19 store-and-forward technology, or off-site patient monitoring
20 and telecommunications in order to deliver health care
21 services;

22 AA. "THC" means delta-9-tetrahydrocannabinol, a
23 substance that is the primary psychoactive ingredient in
24 cannabis; and

25 BB. "written certification" means a statement made

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1 on a department-approved form and signed by a patient's
2 practitioner that indicates, in the practitioner's professional
3 opinion, that the patient has a debilitating medical condition
4 and the practitioner believes that the potential health
5 benefits of the medical use of cannabis would likely outweigh
6 the health risks for the patient."

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

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