

1 SENATE BILL 274

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Katy M. Duhigg

5
6
7
8
9
10 AN ACT

11 RELATING TO CANNABIS ENFORCEMENT; CREATING THE COMPLIANCE
12 BUREAU IN THE OFFICE OF THE SUPERINTENDENT OF REGULATION AND
13 LICENSING; PROVIDING POWERS AND DUTIES; PROVIDING FOR
14 ENFORCEMENT OF THE CANNABIS REGULATION ACT, INCLUDING EMBARGO,
15 SEIZURE AND DESTRUCTION OF ILLEGAL, ADULTERATED OR DANGEROUSLY
16 OR FRAUDULENTLY MISBRANDED CANNABIS; MAKING AN APPROPRIATION.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. A new section of the Regulation and Licensing
20 Department Act is enacted to read:

21 "[NEW MATERIAL] COMPLIANCE BUREAU--COMPLIANCE INSPECTORS--
22 CERTIFIED LAW ENFORCEMENT OFFICERS.--

23 A. The "compliance bureau" is created in the office
24 of the superintendent.

25 B. The superintendent shall employ compliance

.227715.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 inspectors to investigate and enforce laws and rules of the
2 cannabis control division. Inspectors shall be certified law
3 enforcement officers who report to the superintendent or the
4 person to whom the superintendent has delegated oversight
5 duties of compliance inspectors; provided that the
6 superintendent shall not delegate final employment decisions.

7 C. A compliance inspector has the same power as
8 other law enforcement officers, including the power to
9 undertake a lawful warrantless search and seizure and the power
10 to arrest someone for trafficking illegal cannabis. Any
11 warrant for the arrest of a person shall be issued upon sworn
12 complaint.

13 D. The compliance bureau shall investigate alleged
14 or suspected violations of the Cannabis Regulation Act as
15 directed by the cannabis control division or the superintendent
16 and may investigate on its own initiative and report its
17 findings to the division and superintendent.

18 E. The superintendent may require compliance
19 inspectors to receive training related to law enforcement
20 specific to cannabis regulation and enforcement, which is in
21 addition to training required for law enforcement
22 certification."

23 SECTION 2. A new section of the Cannabis Regulation Act
24 is enacted to read:

25 "[NEW MATERIAL] ENFORCEMENT--DIVISION AND COMPLIANCE

.227715.1

underscoring material = new
~~[bracketed material] = delete~~

1 BUREAU--ADMINISTRATIVE HOLDS--EMBARGO AND RECALL, SEIZURE AND
2 CONDEMNATION--PROCEDURES--PENALTIES.--

3 A. The division or the compliance bureau of the
4 department may carry out announced or unannounced inspections.

5 B. The division may:

6 (1) respond to tips or allegations of
7 wrongdoing or initiate an investigation on the division's own
8 initiative of an alleged or suspected violation of the Cannabis
9 Regulation Act; provided that the division shall refer possible
10 criminal violations to the compliance bureau and shall assist
11 the bureau in the investigation and carrying out of
12 inspections; and

13 (2) issue an administrative hold on the
14 movement of cannabis products that are or are suspected of
15 being adulterated or dangerously or fraudulently misbranded.

16 C. The compliance bureau shall investigate cases
17 referred to it by the division or superintendent or on the
18 bureau's own initiative and may:

19 (1) embargo or seize a cannabis product
20 alleged or suspected of being an illegal cannabis product or,
21 on the determination of the division, a cannabis product that
22 is adulterated or so misbranded as to be dangerous or
23 fraudulent and may seize the premises where the cannabis
24 product is produced, manufactured or stored as provided in a
25 warrant; and

.227715.1

underscoring material = new
~~[bracketed material] = delete~~

1 (2) petition the district court for injunctive
2 or other equitable relief.

3 D. The division shall give sufficient notice to the
4 licensee of the division's decision to issue an administrative
5 hold on the licensee's cannabis products. An administrative
6 hold shall not be in place for longer than necessary to
7 complete the division's or the compliance bureau's
8 investigation; provided that an administrative hold on
9 misbranded cannabis products that are not considered dangerous
10 or fraudulent shall last only as long as it takes the licensee
11 to relabel and repackage the cannabis products as ordered by
12 the division.

13 E. The division may issue a recall order for
14 cannabis products embargoed for adulteration or dangerous or
15 fraudulent misbranding.

16 F. When the compliance bureau embargoes a cannabis
17 product, the bureau shall affix to the cannabis product a tag
18 or other appropriate marking giving notice that the cannabis
19 product is or is suspected of being an illegal cannabis product
20 or is adulterated or dangerously or fraudulently misbranded and
21 that the cannabis product shall not be sold, removed or
22 otherwise disposed of.

23 G. When the compliance bureau embargoes or seizes a
24 cannabis product or a premises, the bureau shall give written
25 notice to the licensee of the grounds for the seizure.

.227715.1

underscoring material = new
~~[bracketed material] = delete~~

1 H. Neither the division nor the compliance bureau
2 shall be required to care for embargoed or seized cannabis
3 products.

4 I. A licensee aggrieved by an embargo or seizure
5 may request an administrative hearing within ten calendar days
6 from the date the embargo was issued or the seizure was
7 executed. The hearing shall be held before a hearing officer
8 as provided by rule. The final agency decision may be appealed
9 pursuant to Section 39-3-1.1 NMSA 1978.

10 J. When the determination is made that an embargoed
11 or seized cannabis product is illegal, adulterated or
12 dangerously or fraudulently misbranded, the division shall
13 petition the district court for condemnation of the cannabis
14 product.

15 K. If the district court orders condemnation, the
16 compliance bureau shall destroy the cannabis product at the
17 licensee's expense.

18 L. The New Mexico department of agriculture, the
19 department of environment and other state agencies with
20 relevant expertise shall cooperate with the division and the
21 compliance bureau at either entity's request.

22 M. A person who intentionally, knowingly or
23 recklessly removes, conceals, destroys or disposes of a
24 cannabis product subject to an administrative hold or embargo
25 is guilty of a fourth degree felony and shall be sentenced as

.227715.1

underscored material = new
[bracketed material] = delete

1 provided in Section 31-18-15 NMSA 1978.

2 N. In addition to the actions provided in this
3 section, after an administrative hearing pursuant to the
4 Uniform Licensing Act, the division may take disciplinary
5 action against a licensee, including:

6 (1) suspension or revocation of the license;

7 (2) imposition of an administrative penalty
8 not to exceed ten thousand dollars (\$10,000); or

9 (3) any other disciplinary action allowed
10 under that act or rule of the division."

11 SECTION 3. APPROPRIATION.--Three hundred twenty-five
12 thousand dollars (\$325,000) is appropriated from the general
13 fund to the regulation and licensing department for expenditure
14 in fiscal year 2025 to create the compliance bureau in the
15 office of the superintendent of regulation and licensing,
16 including staff, office space, furnishings, equipment and
17 supplies. Any unexpended or unencumbered balance remaining at
18 the end of fiscal year 2025 shall revert to the general fund.