

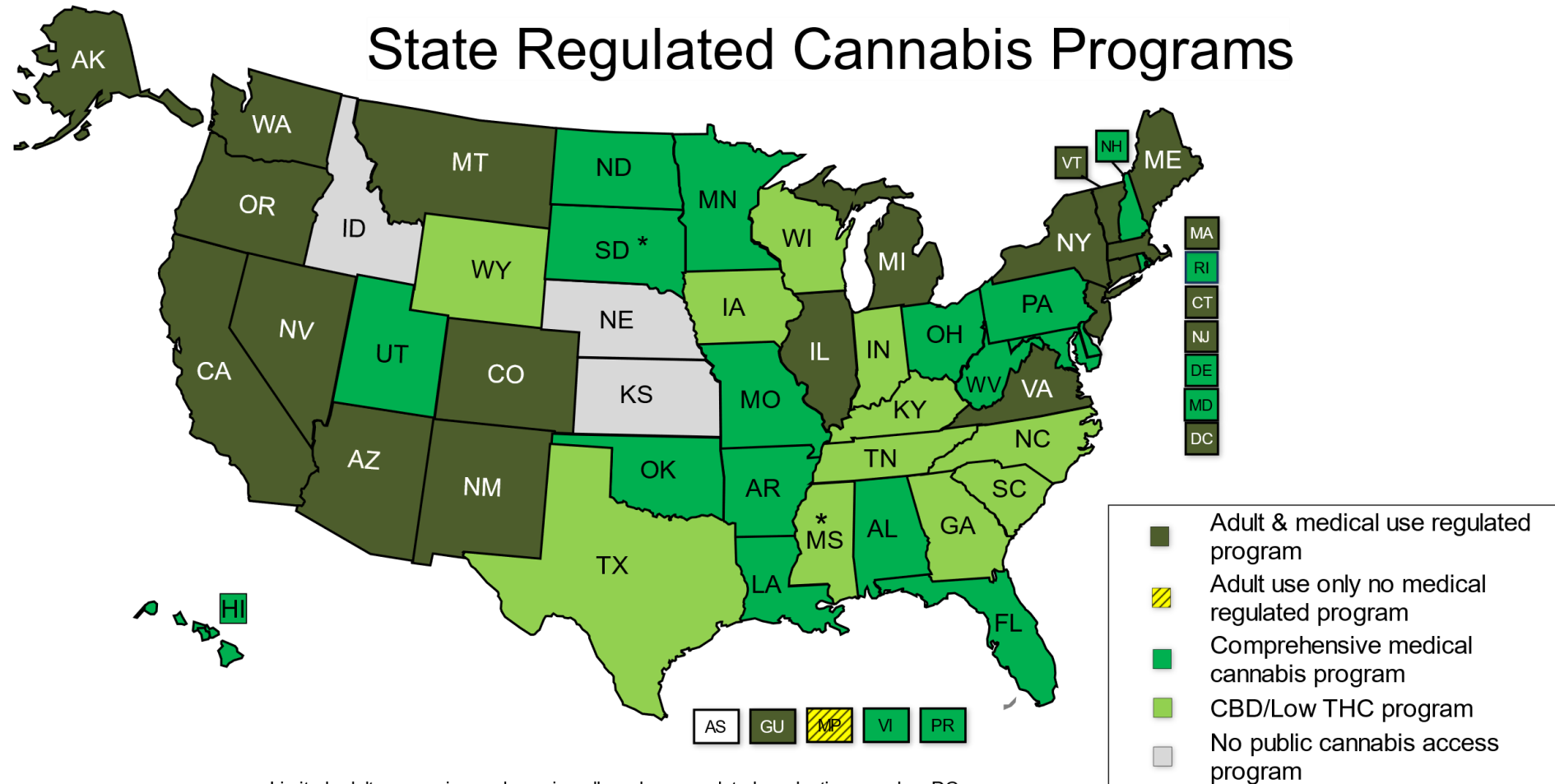
Adult Use Cannabis in New Mexico

OSAP Presentation

February 22, 2022



State Regulated Cannabis Programs



Limited adult possession and growing allowed, no regulated production or sales: DC

June 2021

<https://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>

History of Cannabis Reform in NM.

- 1978: Lynn Pierson Therapeutic Research Program
- 2007: Lynn and Erin Compassionate Use Act
- 2019: Cannabis Decriminalized for Personal Use
- 2021: Cannabis Control Act

NM CRA

- Possession and personal grow is legal today.
- Adult use sales start on April 1st.
- Cannabis Control Division:
<https://ccd.rld.state.nm.us/>

WHAT IS THE AGE & LEGAL AMOUNT TO POSSESS?

- A person must be 21 years or older to possess, grow, and cultivate cannabis for recreational use.
- Adults 21 & older may purchase up to 2 ounces of cannabis flower, and up to 16 grams of extracts and 800 milligrams of edibles.
- Allows for the growing of not more than six mature cannabis plants per person (maximum of 12 per household) and six immature plants per household for adult use cannabis and cannabis products at home. Personal production continues to be allowed for medical cannabis patients.
- All applicants for licensure, including controlling persons of applicants, must be at least 21 years of age. All employees of a commercial cannabis establishment must be at least 21 years of age prior to April 1, 2022.

STATE & LOCAL CONTROL

- Establishes a new division called the Cannabis Control Division within the State Department of Regulation & Licensing.
- Local jurisdictions have some control as well. Jurisdictions may:
 - Enact reasonable zoning, land use & business licensing requirements
 - Prohibit supervised consumption areas
- Local jurisdictions may not:
 - Prohibit local licensed sales, manufacturing, or cultivation of cannabis or cannabis items
 - Prohibit consumption of cannabis in a private residence
 - Prohibit the transport & delivery of cannabis items within their jurisdiction
 - Prohibit personal home grow of cannabis

PROTECTING OUR YOUTH AND PUBLIC SAFETY & HEALTH

- A Public Health Advisory Board is created to monitor cannabis use patterns and emerging data relevant to the health effects associated with legalizing cannabis. Annual reporting from Dept. of Health is required and must include information about youth access to cannabis; road safety and driving while impaired; workplace safety; percentage of emergency room visits and outcomes involving cannabis use; educational needs for youth and adults; consumer and product safety; and the percentage of poison control center calls involving cannabis use.
- Members: Dr. Eileen Barrett; Matt Clark; Dr. Halley Faust; Col. Jack Jones II; Ryan Nix; Dr. Mateo Pearson; Dr. Allen Plymale; Martin Walker; Dr. Katie Witkiewitz
- <https://www.nmhealth.org/about/mcp/svcs/mcphs/>

Packaging & Labeling

- All items must be labeled & placed in re-sealable, child resistant packaging that shall not be designed to be appealing to children. A logo distinctive in design, color, size and location must be placed on the packaging notifying that the package contains cannabis.
 - Child resistant packaging for finished product packaging; does not apply to cannabis flower.
- Packaging shall also include a warning of possible adverse effects of consumption and the NM poison and drug information center phone number.
- Cannabis retailers or integrated cannabis microbusinesses shall be located at a minimum distance as determined by the local jurisdiction, but which distance shall not be any more than 300 feet or more from a school, church or daycare center that was in existence at the time the retailer or microbusiness was licensed.
- <https://ccd.rld.state.nm.us/wp-content/uploads/2022/01/16.8.3.pdf>

Packaging & Labeling

- “For use only by adults 21 and older. Keep out of reach of children. Do not drive a motor vehicle or operate machinery while under the influence of cannabis. BE CAUTIOUS. Cannabinoid edibles can take up to two hours or more to take effect.”
- “This product is not approved by the FDA to treat, cure, or prevent any disease. FDA has not evaluated this product for safety, effectiveness, and quality. There may be long term adverse health effects from consumption of cannabis, including additional risks for women who are or may become pregnant or are breastfeeding.”
- Proposed rules: public comment until March 1:
<https://ccd.rld.state.nm.us/2022/01/24/notice-of-proposed-rulemaking-amendments-march-1-2022/>
 - edible cannabis finished products packaged for commercial sale shall not exceed 10 milligrams of Total THC per serving, or 100 milligrams of Total THC per container;
 - edible cannabis finished products packaged pursuant to the Lynn and Erin Compassionate Use Act shall not exceed 50 milligrams of Total THC per serving, or 500 milligrams of Total THC per container;

Advertising

- Advertising and marketing is prohibited on TV, radio, on public transit except to adult subscribers of subscription-based radio, television, or other broadcast media and adults who have solicited the advertising and marketing.
- Advertising shall not be false, deceptive or misleading including making health benefit claims not supported by the published results of research recognized by the FDA.
- Banning advertising that uses predatory marketing and practices targeting minors.
- Advertising shall not use cartoon characters or be designed to mimic any other product brand or depict consumption by children or other persons who appear to be younger than 21 years of age.
- <https://ccd.rld.state.nm.us/wp-content/uploads/2022/01/16.8.3.pdf>

PROTECTING OUR YOUTH AND PUBLIC SAFETY & HEALTH

- It is UNLAWFUL to: drive while under the influence of cannabis; smoke, vape or ingest cannabis in a public place (unless when permitted in an establishment under the Act); or, possess, smoke, or ingest cannabis or products on school property (exceptions for medical cannabis patients and caregivers).
- Licensees that knowingly sells cannabis products to a person younger than 21 years of age on two separate occasions within a 12-month period shall have their license suspended or revoked and may be fined in an amount up to \$10,000.
- A person can be charged with “delinquency of a minor “- 4th degree felony.

Retail Rules

- Sales of alcoholic beverages are prohibited.
- Protocols to ensure that cannabis products, including any samples of cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or **diversion**;
- **access to the licensed premises** of a retailer shall be limited to the following:
 - **(1) individuals who are at least 21 years of age and possess a valid form of identification; and**
 - **(2) individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program.**

Retail Rules

- Individuals shall be **granted access to the retail area to purchase cannabis products only after the licensed retailer or an employee of the licensed retailer has confirmed the individual's age and identity, and if applicable, the individual's status as a qualified patient, primary caregiver, or reciprocal participant.**
- The licensed retailer or at least one employee shall be physically present in the retail area at all times when individuals who are not employees of the licensed retailer are in the retail area.
- All sales of cannabis products, with the exception of cannabis products sold through delivery, must take place within the retail area of the retailer's licensed premises.
- A licensed retailer shall sell and deliver cannabis products only between the hours reported to the division as regular business hours.

Delivery

- A retail cannabis licensee may, consistent with this rule, and with the consent of a qualifying patient, primary caregiver, reciprocal participant, or **individuals who are at least 21 years of age, utilize a license cannabis courier to deliver cannabis products to a qualifying patient, primary caregiver, reciprocal participant, or individuals who are at least 21 years of age;**
- A retail cannabis licensee shall require a consumer making a purchase for delivery by a cannabis courier licensee to have the valid government-issued identification card, the consumer intends to use to **verify their age at the time of delivery, and if applicable, a medical cannabis program registry identification card, examined and authenticated by the retail cannabis licensee prior to the order;**
- **Pre-verification of the consumer's identity** shall be performed through a division approved electronic means, which may include a third-party technology platform, and shall include examination of a consumer's valid, unexpired, medical cannabis identification card, if applicable, and photo identification issued by a federal or state government that includes the name, date of birth, and picture of the intended recipient.
- **Licensees shall be prohibited from delivering to college or university-designated dormitories or housing;**

What do we mean by social equity in the cannabis industry?

*“One of the ugliest aspects of prohibition are the burdens that have mostly fallen on Black and brown people. These burdens include high rates of arrest, conviction, incarceration, and other forms of punishment like barriers to housing, child custody, employment, and education. **We’re trying to end those harms, but we also think it’s critical to repair past damage.** For people who were incarcerated, separated from their families, or lost opportunities, we can’t get them those years back, but we can do our best to **ensure that the harms aren’t compounded by old convictions hanging over people’s heads or new barriers locking them out of the market.**”* - Maria McFarland Sánchez-Moreno, Former ED of DPA

NM's Cannabis Regulation Act: Equity Provisions

- Unlimited licensing
- Allows individuals with prior cannabis convictions to work in the new cannabis industry and to apply and receive a license.
- Authorizes the Executive to enter into intergovernmental agreements with Indian Nations, Tribes, Pueblos regarding the implementation and compliance in connection with legalization.

NM's Cannabis Regulation Act: Equity Provisions

- Creates two microbusiness licenses & scaled fees
- Decriminalizes and eliminates all fines and fees for minors who violate the Act
- Allows for personal grow.
- Creates a standalone cannabis consumption area license type
- Removes license requirement for medical personal grow
- Creates a cannabis server training program

NM's Cannabis Regulation Act

- Creates protections for the use of cannabis:
 - Prohibits police from stopping and searching an individual or vehicle based on the smell of cannabis alone.
 - Does not allow denial of public benefits or health care based on cannabis use or a positive cannabis drug test.
 - Prohibits prior cannabis convictions to bar anyone from licensure or employment of any kind.
 - Child welfare: A person shall not be denied parental rights or custody of or visitation with a minor child by the state or local government based solely on conduct that is lawful in CRA
 - A person currently under parole, probation or other state supervision or released awaiting trial or other hearing shall not be punished or otherwise penalized based solely on conduct that is lawful in the CRA.

NM's Cannabis Regulation Act: Equity Provisions

- Requires procedures that promote and encourage full participation in the cannabis industry by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy, rural communities likely to be impacted by cannabis production and agricultural producers from economically disadvantaged communities;
- Requires procedures that promote and encourage racial, ethnic, gender and geographic diversity and New Mexico residency among license applicants, licensees and cannabis industry employees;

NM's Cannabis Regulation Act: Equity Provisions

- Requires a certification to identify products for consumers from licensees that are integrated cannabis microbusinesses or cannabis producer microbusinesses or owned by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy and underserved communities that include tribal, acequia, land grant-merced and other rural historic communities;
- Requires the development of a technical assistance/resource guide for rural New Mexico residents who are seeking to establish a cannabis business.

NM's Cannabis Regulation Act: Equity Provisions

- Requires the Division to collect and publish annually on the division's website, and present to the appropriate interim committee of the legislature, a report describing demographic data on license applicants, controlling persons and employees of cannabis establishments, including race, ethnicity, gender, age, residential status and whether the applicants, persons, employees or the location where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced or other rural historic communities.

Expungement & Resentencing Bill

- Automatically **expunges** public records, two years after the arrest or conviction, held by a court or state or local jurisdiction relating to offenses involving cannabis that are no longer a crime on the effective date of the Cannabis Regulation Act, or would have resulted in a lesser offense.
- Requires correctional facilities and jails in which persons are currently incarcerated or who have been incarcerated in the past for offenses that are no longer a crime under the CRA, or would have resulted in a lesser offense, to notify the court that those persons' **cases may be reopened to consider dismissal of their sentences or to have their cases expunged.**

Local Control, Repairing Harms & Promoting Equity

- Local Control
 - Land use & Zoning
 - Supervised Consumption Areas
- Policing
- Employer/Employee Protections
- Cannabis User Protections
- Revenue Allocation & Management
 - Make recommendations through an equity building lens
 - Transparency & Reporting Matters

For more information:

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