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AN ACT

RELATING TO AGRICULTURE; ENACTING A NEW SECTION OF CHAPTER 76
NMSA 1978 TO PROVIDE AUTHORIZATION FOR THE NEW MEXICO
DEPARTMENT OF AGRICULTURE TO ADOPT RULES FOR RESEARCH ON
INDUSTRIAL HEMP; PROVIDING FOR THE ESTABLISHMENT OF THE
NEW MEXICO INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT FUND.

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

SECTION 1. A new section of Chapter 76 NMSA 1978 is
enacted to read:

"INDUSTRIAL HEMP RESEARCH--NEW MEXICO DEPARTMENT OF
AGRICULTURE.--

A. As used in this section, "industrial
hemp" means the plant *Cannabis sativa* L. and any part of
the plant, whether growing or not, containing a
delta-9-tetrahydrocannabinol concentration of no more than
three-tenths percent on a dry weight basis.

B. The intent of this section is to bring
New Mexico into compliance with federal law.

C. The New Mexico department of agriculture will
issue licenses pursuant to rules enacted under Subsection D
of this section to grow industrial hemp for research and
development purposes, including agricultural, agronomic,
ecological, processing, sales and marketing research.

D. The director of the New Mexico department of

1 agriculture shall adopt rules to establish and carry out the
2 provisions of this section, including requirements for
3 licensure, training of law enforcement personnel, inspection,
4 recordkeeping, fees not to exceed program costs and
5 compliance processes. An institution of higher education,
6 person or business planning to grow industrial hemp seed or
7 industrial hemp fiber shall obtain a grower's license by
8 submitting an application to the New Mexico department of
9 agriculture pursuant to promulgated rules.

10 E. A person who holds a license issued pursuant
11 to this section may grow industrial hemp for commercial or
12 research and development purposes, including agricultural,
13 agronomic, ecological, processing, sales and marketing
14 research.

15 F. New Mexico state university shall establish a
16 "New Mexico industrial hemp research and development fund".
17 The fund consists of fees collected by the New Mexico
18 department of agriculture for administration of the
19 industrial hemp research and development program, donations,
20 grants and income earned from investment of the fund and
21 money otherwise accruing to the fund. Money in the fund
22 shall not revert to any other fund at the end of a fiscal
23 year. The New Mexico department of agriculture shall
24 administer the fund, and money in the fund is subject to
25 appropriation by the legislature to the New Mexico department

1 of agriculture to conduct related programs. Money in the
2 fund shall be disbursed on warrants signed by the secretary
3 of finance and administration pursuant to vouchers signed by
4 the director of the New Mexico department of agriculture or
5 the director's authorized representative."

6 SECTION 2. Section 30-31-2 NMSA 1978 (being Laws 1972,
7 Chapter 84, Section 2, as amended) is amended to read:

8 "30-31-2. DEFINITIONS.--As used in the Controlled
9 Substances Act:

10 A. "administer" means the direct application of a
11 controlled substance by any means to the body of a patient or
12 research subject by a practitioner or the practitioner's
13 agent;

14 B. "agent" includes an authorized person who acts
15 on behalf of a manufacturer, distributor or dispenser. It
16 does not include a common or contract carrier, public
17 warehouseperson or employee of the carrier or
18 warehouseperson;

19 C. "board" means the board of pharmacy;

20 D. "bureau" means the narcotic and dangerous drug
21 section of the criminal division of the United States
22 department of justice, or its successor agency;

23 E. "controlled substance" means a drug or
24 substance listed in Schedules I through V of the Controlled
25 Substances Act or rules adopted thereto;

1 F. "counterfeit substance" means a controlled
2 substance that bears the unauthorized trademark, trade name,
3 imprint, number, device or other identifying mark or likeness
4 of a manufacturer, distributor or dispenser other than the
5 person who in fact manufactured, distributed or dispensed the
6 controlled substance;

7 G. "deliver" means the actual, constructive or
8 attempted transfer from one person to another of a controlled
9 substance or controlled substance analog, whether or not
10 there is an agency relationship;

11 H. "dispense" means to deliver a controlled
12 substance to an ultimate user or research subject pursuant
13 to the lawful order of a practitioner, including the
14 administering, prescribing, packaging, labeling or
15 compounding necessary to prepare the controlled substance
16 for that delivery;

17 I. "dispenser" means a practitioner who dispenses
18 and includes hospitals, pharmacies and clinics where
19 controlled substances are dispensed;

20 J. "distribute" means to deliver other than by
21 administering or dispensing a controlled substance or
22 controlled substance analog;

23 K. "drug" or "substance" means substances
24 recognized as drugs in the official United States
25 pharmacopoeia, official homeopathic pharmacopoeia of the

1 United States or official national formulary or any
2 respective supplement to those publications. It does not
3 include devices or their components, parts or accessories;

4 L. "hashish" means the resin extracted from any
5 part of marijuana, whether growing or not, and every
6 compound, manufacture, salt, derivative, mixture or
7 preparation of such resins;

8 M. "manufacture" means the production,
9 preparation, compounding, conversion or processing of a
10 controlled substance or controlled substance analog by
11 extraction from substances of natural origin or independently
12 by means of chemical synthesis or by a combination of
13 extraction and chemical synthesis and includes any packaging
14 or repackaging of the substance or labeling or relabeling of
15 its container, except that this term does not include the
16 preparation or compounding of a controlled substance:

17 (1) by a practitioner as an incident to
18 administering or dispensing a controlled substance in the
19 course of the practitioner's professional practice; or

20 (2) by a practitioner, or by the
21 practitioner's agent under the practitioner's supervision,
22 for the purpose of or as an incident to research, teaching or
23 chemical analysis and not for sale;

24 N. "marijuana" means all parts of the plant
25 cannabis, including any and all varieties, species and

1 subspecies of the genus Cannabis, whether growing or not, the
2 seeds thereof and every compound, manufacture, salt,
3 derivative, mixture or preparation of the plant or its seeds.
4 It does not include the mature stalks of the plant, hashish,
5 tetrahydrocannabinols extracted or isolated from marijuana,
6 fiber produced from the stalks, oil or cake made from the
7 seeds of the plant, any other compound, manufacture, salt,
8 derivative, mixture or preparation of the mature stalks,
9 fiber, oil or cake, or the sterilized seed of the plant that
10 is incapable of germination or the plant Cannabis sativa L.
11 and any part of the plant, whether growing or not, containing
12 a delta-9-tetrahydrocannabinol concentration of no more than
13 three-tenths percent on a dry weight basis;

14 0. "narcotic drug" means any of the following,
15 whether produced directly or indirectly by extraction from
16 substances of vegetable origin or independently by means of
17 chemical synthesis or by a combination of extraction and
18 chemical synthesis:

19 (1) opium and opiate and any salt, compound,
20 derivative or preparation of opium or opiate;

21 (2) any salt, compound, isomer, derivative
22 or preparation that is a chemical equivalent of any of the
23 substances referred to in Paragraph (1) of this subsection,
24 except the isoquinoline alkaloids of opium;

25 (3) opium poppy and poppy straw, including

1 all parts of the plant of the species *Papaver somniferum* L.
2 except its seeds; or

3 (4) coca leaves and any salt, compound,
4 derivative or preparation of coca leaves, any salt, compound,
5 isomer, derivative or preparation that is a chemical
6 equivalent of any of these substances except decocainized
7 coca leaves or extractions of coca leaves that do not contain
8 cocaine or ecgonine;

9 P. "opiate" means any substance having an
10 addiction-forming or addiction-sustaining liability similar
11 to morphine or being capable of conversion into a drug having
12 addiction-forming or addiction-sustaining liability.

13 "Opiate" does not include, unless specifically designated as
14 controlled under Section 30-31-5 NMSA 1978, the
15 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
16 salts, dextromethorphan. "Opiate" does include its racemic
17 and levorotatory forms;

18 Q. "person" means an individual, partnership,
19 corporation, association, institution, political subdivision,
20 government agency or other legal entity;

21 R. "practitioner" means a physician, certified
22 advanced practice chiropractic physician, doctor of oriental
23 medicine, dentist, physician assistant, certified nurse
24 practitioner, clinical nurse specialist, certified
25 nurse-midwife, prescribing psychologist, veterinarian,

1 euthanasia technician, pharmacist, pharmacist clinician or
2 other person licensed or certified to prescribe and
3 administer drugs that are subject to the Controlled
4 Substances Act;

5 S. "prescription" means an order given
6 individually for the person for whom is prescribed a
7 controlled substance, either directly from a licensed
8 practitioner or the practitioner's agent to the pharmacist,
9 including by means of electronic transmission, or indirectly
10 by means of a written order signed by the prescriber, bearing
11 the name and address of the prescriber, the prescriber's
12 license classification, the name and address of the patient,
13 the name and quantity of the drug prescribed, directions for
14 use and the date of issue and in accordance with the
15 Controlled Substances Act or rules adopted thereto;

16 T. "scientific investigator" means a person
17 registered to conduct research with controlled substances in
18 the course of the person's professional practice or research
19 and includes analytical laboratories;

20 U. "ultimate user" means a person who lawfully
21 possesses a controlled substance for the person's own use or
22 for the use of a member of the person's household or for
23 administering to an animal under the care, custody and
24 control of the person or by a member of the person's
25 household;

1 V. "drug paraphernalia" means all equipment,
2 products and materials of any kind that are used, intended
3 for use or designed for use in planting, propagating,
4 cultivating, growing, harvesting, manufacturing, compounding,
5 converting, producing, processing, preparing, testing,
6 analyzing, packaging, repackaging, storing, containing,
7 concealing, injecting, ingesting, inhaling or otherwise
8 introducing into the human body a controlled substance or
9 controlled substance analog in violation of the Controlled
10 Substances Act. It includes:

11 (1) kits used, intended for use or designed
12 for use in planting, propagating, cultivating, growing or
13 harvesting any species of plant that is a controlled
14 substance or controlled substance analog or from which a
15 controlled substance can be derived;

16 (2) kits used, intended for use or designed
17 for use in manufacturing, compounding, converting, producing,
18 processing or preparing controlled substances or controlled
19 substance analogs;

20 (3) isomerization devices used, intended for
21 use or designed for use in increasing the potency of any
22 species of plant that is a controlled substance;

23 (4) testing equipment used, intended for use
24 or designed for use in identifying or in analyzing the
25 strength, effectiveness or purity of controlled substances or

1 controlled substance analogs;

2 (5) scales or balances used, intended for
3 use or designed for use in weighing or measuring controlled
4 substances or controlled substance analogs;

5 (6) diluents and adulterants, such as
6 quinine hydrochloride, mannitol, mannite dextrose and
7 lactose, used, intended for use or designed for use in
8 cutting controlled substances or controlled substance
9 analogs;

10 (7) separation gins and sifters used,
11 intended for use or designed for use in removing twigs and
12 seeds from, or in otherwise cleaning and refining, marijuana;

13 (8) blenders, bowls, containers, spoons and
14 mixing devices used, intended for use or designed for use in
15 compounding controlled substances or controlled substance
16 analogs;

17 (9) capsules, balloons, envelopes and other
18 containers used, intended for use or designed for use in
19 packaging small quantities of controlled substances or
20 controlled substance analogs;

21 (10) containers and other objects used,
22 intended for use or designed for use in storing or concealing
23 controlled substances or controlled substance analogs;

24 (11) hypodermic syringes, needles and other
25 objects used, intended for use or designed for use in

1 parenterally injecting controlled substances or controlled
2 substance analogs into the human body;

3 (12) objects used, intended for use or
4 designed for use in ingesting, inhaling or otherwise
5 introducing marijuana, cocaine, hashish or hashish oil into
6 the human body, such as:

7 (a) metal, wooden, acrylic, glass,
8 stone, plastic or ceramic pipes, with or without screens,
9 permanent screens, hashish heads or punctured metal bowls;

10 (b) water pipes;

11 (c) carburetion tubes and devices;

12 (d) smoking and carburetion masks;

13 (e) roach clips, meaning objects used
14 to hold burning material, such as a marijuana cigarette, that
15 has become too small to hold in the hand;

16 (f) miniature cocaine spoons and
17 cocaine vials;

18 (g) chamber pipes;

19 (h) carburetor pipes;

20 (i) electric pipes;

21 (j) air-driven pipes;

22 (k) chilams;

23 (l) bonges; or

24 (m) ice pipes or chillers; and

25 (13) in determining whether an object is

1 drug paraphernalia, a court or other authority should
2 consider, in addition to all other logically relevant
3 factors, the following:

4 (a) statements by the owner or by
5 anyone in control of the object concerning its use;

6 (b) the proximity of the object, in
7 time and space, to a direct violation of the Controlled
8 Substances Act or any other law relating to controlled
9 substances or controlled substance analogs;

10 (c) the proximity of the object to
11 controlled substances or controlled substance analogs;

12 (d) the existence of any residue of a
13 controlled substance or controlled substance analog on the
14 object;

15 (e) instructions, written or oral,
16 provided with the object concerning its use;

17 (f) descriptive materials accompanying
18 the object that explain or depict its use;

19 (g) the manner in which the object is
20 displayed for sale; and

21 (h) expert testimony concerning its
22 use;

23 W. "controlled substance analog" means a substance
24 other than a controlled substance that has a chemical
25 structure substantially similar to that of a controlled

1 substance in Schedule I, II, III, IV or V or that was
2 specifically designed to produce effects substantially
3 similar to that of controlled substances in Schedule I, II,
4 III, IV or V. Examples of chemical classes in which
5 controlled substance analogs are found include the following:

- 6 (1) phenethylamines;
- 7 (2) N-substituted piperidines;
- 8 (3) morphinans;
- 9 (4) ecgonines;
- 10 (5) quinazolinones;
- 11 (6) substituted indoles; and
- 12 (7) arylcycloalkylamines.

13 Specifically excluded from the definition of "controlled
14 substance analog" are those substances that are generally
15 recognized as safe and effective within the meaning of the
16 Federal Food, Drug and Cosmetic Act or have been
17 manufactured, distributed or possessed in conformance with
18 the provisions of an approved new drug application or an
19 exemption for investigational use within the meaning of
20 Section 505 of the Federal Food, Drug and Cosmetic Act;

21 X. "human consumption" includes application,
22 injection, inhalation, ingestion or any other manner of
23 introduction;

24 Y. "drug-free school zone" means a public school,
25 parochial school or private school or property that is used

1 for a public, parochial or private school purpose and the
2 area within one thousand feet of the school property line,
3 but it does not mean any post-secondary school; and

4 Z. "valid practitioner-patient relationship" means
5 a professional relationship, as defined by the practitioner's
6 licensing board, between the practitioner and the patient."

7 SECTION 3. Section 30-31-6 NMSA 1978 (being Laws 1972,
8 Chapter 84, Section 6, as amended) is amended to read:

9 "30-31-6. SCHEDULE I.--The following controlled
10 substances are included in Schedule I:

11 A. any of the following opiates, including their
12 isomers, esters, ethers, salts, and salts of isomers, esters
13 and ethers, unless specifically exempted, whenever the
14 existence of these isomers, esters, ethers and salts is
15 possible within the specific chemical designation:

- 16 (1) acetylmethadol;
- 17 (2) allylprodine;
- 18 (3) alphacetylmethadol;
- 19 (4) alphameprodine;
- 20 (5) alphasmethadol;
- 21 (6) benzethidine;
- 22 (7) betacetylmethadol;
- 23 (8) betameprodine;
- 24 (9) betamethadol;
- 25 (10) betaprodine;

- 1 (11) clonitazene;
- 2 (12) dextromoramide;
- 3 (13) dextrorphan;
- 4 (14) diampromide;
- 5 (15) diethylthiambutene;
- 6 (16) dimenoxadol;
- 7 (17) dimepheptanol;
- 8 (18) dimethylthiambutene;
- 9 (19) dioxaphetyl butyrate;
- 10 (20) dipipanone;
- 11 (21) ethylmethylthiambutene;
- 12 (22) etonitazene;
- 13 (23) etoxeridine;
- 14 (24) furethidine;
- 15 (25) hydroxypethidine;
- 16 (26) ketobemidone;
- 17 (27) levomoramide;
- 18 (28) levophenacylmorphane;
- 19 (29) morpheridine;
- 20 (30) noracymethadol;
- 21 (31) norlevorphanol;
- 22 (32) normethadone;
- 23 (33) norpipanone;
- 24 (34) phenadoxone;
- 25 (35) phenampromide;

- 1 (36) phenomorphan;
- 2 (37) phenoperidine;
- 3 (38) piritramide;
- 4 (39) proheptazine;
- 5 (40) properidine;
- 6 (41) racemoramide; and
- 7 (42) trimeperidine;

8 B. any of the following opium derivatives, their
9 salts, isomers and salts of isomers, unless specifically
10 exempted, whenever the existence of these salts, isomers and
11 salts of isomers is possible within the specific chemical
12 designation:

- 13 (1) acetorphine;
- 14 (2) acetyldihydrocodeine;
- 15 (3) benzylmorphine;
- 16 (4) codeine methylbromide;
- 17 (5) codeine-N-oxide;
- 18 (6) cyprenorphine;
- 19 (7) desomorphine;
- 20 (8) dihydromorphine;
- 21 (9) etorphine;
- 22 (10) heroin;
- 23 (11) hydromorphenol;
- 24 (12) methyldesorphine;
- 25 (13) methyldihydromorphine;

- 1 (14) morphine methylbromide;
- 2 (15) morphine methylsulfonate;
- 3 (16) morphine-N-oxide;
- 4 (17) myrophine;
- 5 (18) nicocodeine;
- 6 (19) nicomorphine;
- 7 (20) normorphine;
- 8 (21) pholcodine; and
- 9 (22) thebacon;

10 C. any material, compound, mixture or preparation
11 that contains any quantity of the following hallucinogenic
12 substances, their salts, isomers and salts of isomers, unless
13 specifically exempted, whenever the existence of these salts,
14 isomers and salts of isomers is possible within the specific
15 chemical designation:

- 16 (1) 3,4-methylenedioxy amphetamine;
- 17 (2) 5-methoxy-3,4-methylenedioxy
18 amphetamine;
- 19 (3) 3,4,5-trimethoxy amphetamine;
- 20 (4) bufotenine;
- 21 (5) diethyltryptamine;
- 22 (6) dimethyltryptamine;
- 23 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 24 (8) ibogaine;
- 25 (9) lysergic acid diethylamide;

- 1 (10) marijuana;
- 2 (11) mescaline;
- 3 (12) peyote, except as otherwise provided in
- 4 the Controlled Substances Act;
- 5 (13) N-ethyl-3-piperidyl benzilate;
- 6 (14) N-methyl-3-piperidyl benzilate;
- 7 (15) psilocybin;
- 8 (16) psilocyn;
- 9 (17) tetrahydrocannabinols;
- 10 (18) hashish;
- 11 (19) synthetic cannabinoids, including:
- 12 (a) 1-[2-(4-(morpholinyl)ethyl)
- 13 -3-(1-naphthoyl)indole;
- 14 (b) 1-butyl-3-(1-naphthoyl)indole;
- 15 (c) 1-hexyl-3-(1-naphthoyl)indole;
- 16 (d) 1-pentyl-3-(1-naphthoyl)indole;
- 17 (e) 1-pentyl-3-(2-methoxyphenylacetyl)
- 18 indole;
- 19 (f) cannabicyclohexanol (CP 47, 497 and
- 20 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)
- 21 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,
- 22 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
- 23 (g) 6aR,10aR)-9-(hydroxymethyl)
- 24 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,
- 25 10a-tetrahydrobenzo[c]chromen-1-ol);

- 1 (h) dexanabinol, (6aS,10aS)
2 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)
3 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
4 (i) 1-pentyl-3-(4-chloro naphthoyl)
5 indole;
6 (j) (2-methyl-1-propyl-1H-indol-3-yl)
7 -1-naphthalenyl-methanone; and
8 (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy
9 cyclohexyl)-phenol;
10 (20) 3,4-methylenedioxymethcathinone;
11 (21) 3,4-methylenedioxyprovalerone;
12 (22) 4-methylmethcathinone;
13 (23) 4-methoxymethcathinone;
14 (24) 3-fluoromethcathinone; and
15 (25) 4-fluoromethcathinone;

16 D. the enumeration of peyote as a controlled
17 substance does not apply to the use of peyote in bona fide
18 religious ceremonies by a bona fide religious organization,
19 and members of the organization so using peyote are exempt
20 from registration. Any person who manufactures peyote for or
21 distributes peyote to the organization or its members shall
22 comply with the federal Comprehensive Drug Abuse Prevention
23 and Control Act of 1970 and all other requirements of law;

24 E. the enumeration of marijuana,
25 tetrahydrocannabinols or chemical derivatives of

1 tetrahydrocannabinol as Schedule I controlled substances does
2 not apply to:

3 (1) cultivation of industrial hemp by
4 qualified entities pursuant to rules adopted by the
5 New Mexico department of agriculture; or

6 (2) the use of marijuana,
7 tetrahydrocannabinols or chemical derivatives of
8 tetrahydrocannabinol by certified patients pursuant to the
9 Controlled Substances Therapeutic Research Act or by
10 qualified patients pursuant to the provisions of the Lynn and
11 Erin Compassionate Use Act; and

12 F. controlled substances added to Schedule I by
13 rule adopted by the board pursuant to Section 30-31-3 NMSA
14 1978."

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