

1 SENATE BILL 239

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Joseph Cervantes

10 AN ACT

11 RELATING TO CRIME; PROVIDING CONTINUING SENTENCING JURISDICTION
12 TO THE COURT REGARDING CONVICTIONS FOR POSSESSING A CONTROLLED
13 SUBSTANCE.

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

16 **SECTION 1.** Section 30-31-23 NMSA 1978 (being Laws 1972,
17 Chapter 84, Section 23, as amended) is amended to read:

18 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION
19 PROHIBITED.--

20 A. It is unlawful for a person intentionally to
21 possess a controlled substance unless the substance was
22 obtained pursuant to a valid prescription or order of a
23 practitioner while acting in the course of professional
24 practice or except as otherwise authorized by the Controlled
25 Substances Act. It is unlawful for a person intentionally to

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1 possess a controlled substance analog.

2 B. A person who violates this section with respect
3 to:

4 (1) one ounce or less of synthetic
5 cannabinoids is, for the first offense, guilty of a petty
6 misdemeanor and shall be punished by a fine of not less than
7 fifty dollars (\$50.00) or more than one hundred dollars (\$100)
8 and by imprisonment for not more than fifteen days, and, for
9 the second and subsequent offenses, is guilty of a misdemeanor
10 and shall be punished by a fine of not less than one hundred
11 dollars (\$100) or more than one thousand dollars (\$1,000) or by
12 imprisonment for a definite term less than one year, or both;

13 (2) more than one ounce and less than eight
14 ounces of synthetic cannabinoids is guilty of a misdemeanor and
15 shall be punished by a fine of not less than one hundred
16 dollars (\$100) or more than one thousand dollars (\$1,000) or by
17 imprisonment for a definite term less than one year, or both;
18 or

19 (3) eight ounces or more of synthetic
20 cannabinoids is guilty of a fourth degree felony and shall be
21 sentenced pursuant to the provisions of Section 31-18-15 NMSA
22 1978.

23 C. A minor who violates this section with respect
24 to the substances listed in this subsection is guilty of a
25 petty misdemeanor and, notwithstanding the provisions of

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Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be required to perform no more than forty-eight hours of community service.

For the third or subsequent violation by a minor of this section with respect to those substances, the provisions of Section 32A-2-19 NMSA 1978 shall govern punishment of the minor. As used in this subsection, "minor" means a person who is less than eighteen years of age. The provisions of this subsection apply to the following substances:

(1) synthetic cannabinoids;

(2) any of the substances listed in Paragraphs

(17) through (22) of Subsection C of Section 30-31-6 NMSA 1978;

or

(3) a substance added to Schedule I by a rule

of the board adopted on or after March 31, 2011 if the board

determines that the pharmacological effect of the substance,

the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in Paragraph (1) or (2) of this subsection.

D. Except as provided in Subsections B and F of this section, and for those substances listed in Subsection E of this section, a person who violates this section with respect to any amount of any controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV is guilty of

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1 a misdemeanor and shall be punished by a fine of not less than
2 five hundred dollars (\$500) or more than one thousand dollars
3 (\$1,000) or by imprisonment for a definite term less than one
4 year, or both.

5 E. A person who violates this section with respect
6 to phencyclidine as enumerated in Schedule III or a controlled
7 substance analog of phencyclidine; methamphetamine, its salts,
8 isomers or salts of isomers as enumerated in Schedule II or a
9 controlled substance analog of methamphetamine, its salts,
10 isomers or salts of isomers; flunitrazepam, its salts, isomers
11 or salts of isomers as enumerated in Schedule I or a controlled
12 substance analog of flunitrazepam, including naturally
13 occurring metabolites, its salts, isomers or salts of isomers;
14 gamma hydroxybutyric acid and any chemical compound that is
15 metabolically converted to gamma hydroxybutyric acid, its
16 salts, isomers or salts of isomers as enumerated in Schedule I
17 or a controlled substance analog of gamma hydroxybutyric acid,
18 its salts, isomers or salts of isomers; gamma butyrolactone and
19 any chemical compound that is metabolically converted to gamma
20 hydroxybutyric acid, its salts, isomers or salts of isomers as
21 enumerated in Schedule I or a controlled substance analog of
22 gamma butyrolactone, its salts, isomers or salts of isomers; 1-
23 4 butane diol and any chemical compound that is metabolically
24 converted to gamma hydroxybutyric acid, its salts, isomers or
25 salts of isomers as enumerated in Schedule I or a controlled

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1 substance analog of 1-4 butane diol, its salts, isomers or
2 salts of isomers; or a narcotic drug enumerated in Schedule I
3 or II or a controlled substance analog of a narcotic drug
4 enumerated in Schedule I or II is guilty of a fourth degree
5 felony and shall be sentenced pursuant to the provisions of
6 Section 31-18-15 NMSA 1978.

7 F. Except for a minor as provided in Subsection C
8 of this section, a person who violates Subsection A of this
9 section while within a posted drug-free school zone, excluding
10 private property residentially zoned or used primarily as a
11 residence and excluding a person in or on a motor vehicle in
12 transit through the posted drug-free school zone, with respect
13 to:

14 (1) one ounce or less of synthetic
15 cannabinoids is, for the first offense, guilty of a misdemeanor
16 and shall be punished by a fine of not less than one hundred
17 dollars (\$100) or more than one thousand dollars (\$1,000) or by
18 imprisonment for a definite term less than one year, or both,
19 and for the second or subsequent offense, is guilty of a fourth
20 degree felony and shall be sentenced pursuant to the provisions
21 of Section 31-18-15 NMSA 1978;

22 (2) more than one ounce and less than eight
23 ounces of synthetic cannabinoids is guilty of a fourth degree
24 felony and shall be sentenced pursuant to the provisions of
25 Section 31-18-15 NMSA 1978;

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(3) eight ounces or more of synthetic cannabinoids is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) any amount of any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV, except phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(5) phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II, a controlled substance analog of phencyclidine or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. If a person's sentence pursuant to this section was suspended or deferred in whole or in part and the person violates any condition of probation, the court may impose any sentence that the court could have originally imposed, and credit shall not be given for time served by the person on probation."