

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 630 & 865

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO DRUG PRECURSORS; CREATING A NEW CRIME OF POSSESSION
OF CERTAIN SUBSTANCES FOR THE PURPOSE OF UNLAWFULLY
MANUFACTURING A CONTROLLED SUBSTANCE OR A CONTROLLED SUBSTANCE
ANALOG; CREATING A PRESUMPTION; PROVIDING A PENALTY.

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

Section 1. Section 30-31B-12 NMSA 1978 (being Laws 1989,
Chapter 177, Section 12, as amended by Laws 2004, Chapter 9,
Section 5 and by Laws 2004, Chapter 12, Section 5) is amended
to read:

"30-31B-12. DRUG PRECURSORS--PROHIBITED ACTS--
PENALTIES.--

A. It is unlawful for ~~any~~ a person:

(1) to transfer drug precursors except to an
authorized licensee;

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underscored material = new
[bracketed material] = delete

1 (2) to intentionally use in the course of the
2 manufacture or transfer of a drug precursor a license number
3 [~~which~~] that is fictitious, revoked, suspended or issued to
4 another person;

5 (3) to intentionally acquire or obtain, or
6 attempt to acquire or obtain, possession of a drug precursor by
7 misrepresentation, fraud, forgery, deception or subterfuge;

8 (4) to intentionally furnish false or
9 fraudulent material information in, or omit [~~any~~] material
10 information from, [~~any~~] an application, report or other
11 document required to be kept or filed under the Drug Precursor
12 Act or [~~any~~] a record required to be kept by that act;

13 (5) who is a licensee to intentionally
14 manufacture a drug precursor not authorized by [~~his~~] the
15 person's license or to intentionally transfer a drug precursor
16 not authorized by [~~his~~] the person's license to another
17 licensee or authorized person;

18 (6) to intentionally refuse or fail to make,
19 keep or furnish [~~any~~] a record, notification, order form,
20 statement, invoice or information required under the Drug
21 Precursor Act;

22 (7) to intentionally refuse an entry into
23 [~~any~~] a premises for [~~any~~] an inspection authorized by the Drug
24 Precursor Act; [~~or~~]

25 (8) except as provided in Subsection D of

1 Section 30-31B-6 NMSA 1978, to manufacture, possess, transfer
 2 or transport a drug precursor without the appropriate license
 3 or in violation of [~~any~~] a rule or regulation of the board; or
 4 (9) to possess a substance, material,
 5 compound, mixture or preparation, specifically excluded from
 6 the definition of drug precursor provided in Section 30-31B-2
 7 NMSA 1978 and prepared for dispensing pursuant to prescription
 8 or over-the-counter distribution, with the intent to unlawfully
 9 manufacture a controlled substance or a controlled substance
 10 analog in violation of the Controlled Substances Act.
 11 Possession of more than nine grams of such a substance,
 12 material, compound, mixture or preparation raises a rebuttable
 13 presumption that the possession is for the purpose of unlawful
 14 manufacture in violation of this paragraph.

15 B. Any person who violates [~~any~~] a provision of
 16 this section is guilty of a fourth degree felony and shall be
 17 sentenced pursuant to the provisions of Section 31-18-15 NMSA
 18 1978.

19 C. When a person owns or operates a retail
 20 establishment where drug precursors are sold by an employee in
 21 violation of the provisions of this section, it is an
 22 affirmative defense to a prosecution of that owner or operator
 23 if [~~he~~] the owner or operator furnishes documentation that [~~he~~]
 24 the owner or operator provided the employee with a training
 25 program regarding state and federal laws and regulations

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1 regarding drug precursors; provided that, if the owner or
2 operator knew or should have known of the employee's violation,
3 the owner or operator shall also be in violation of the
4 provisions of this section.

5 D. When drug precursors are sold by an employee of
6 a retail establishment in violation of the provisions of this
7 section, it is an affirmative defense to a prosecution of that
8 employee that [~~he~~] the employee did not receive training from
9 [~~his~~] the employer regarding state and federal laws and
10 regulations regarding drug precursors."

11 Section 2. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2009.