

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 200

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

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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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 B. Any person who violates [~~any~~] a provision of
12 this section is guilty of a fourth degree felony and shall be
13 sentenced pursuant to the provisions of Section 31-18-15 NMSA
14 1978.

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

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

7 Section 2. EFFECTIVE DATE.--The effective date of the
 8 provisions of this act is July 1, 2010.

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