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HOUSE BILL 296

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Rhonda S. King

AN ACT

RELATING TO DRUG PRECURSORS; CREATING A NEW CRIME OF POSSESSION OF CERTAIN SUBSTANCES WITH THE INTENT TO UNLAWFULLY MANUFACTURE A CONTROLLED SUBSTANCE OR A CONTROLLED SUBSTANCE ANALOG IN VIOLATION OF THE CONTROLLED SUBSTANCES ACT; 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

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1 authorized licensee;

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

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

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

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

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

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

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1 (8) except as provided in Subsection D of
2 Section 30-31B-6 NMSA 1978, to manufacture, possess, transfer
3 or transport a drug precursor without the appropriate license
4 or in violation of [~~any~~] a rule or regulation of the board; or

5 (9) to possess a substance, material,
6 compound, mixture or preparation, specifically excluded from
7 the definition of drug precursor provided in Section 30-31B-2
8 NMSA 1978 and prepared for dispensing pursuant to prescription
9 or over-the-counter distribution, with the intent to unlawfully
10 manufacture a controlled substance or a controlled substance
11 analog in violation of the Controlled Substances Act.

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

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

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1 provisions of this section.

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

8 SECTION 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2012.