HOUSE BILL 75

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Bill McCamley

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REVENUE AND FREEDOM ACT; PROVIDING DUTIES AND POWERS OF THE REGULATION AND LICENSING DEPARTMENT, THE TAXATION AND REVENUE DEPARTMENT, THE NEW MEXICO DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF HEALTH; REVISING SECTIONS OF LAW RELATED TO MARIJUANA; PROVIDING PENALTIES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 65 of this act may be cited as the "Cannabis Revenue and Freedom Act".

SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the Cannabis Revenue and Freedom Act is:

A. to eliminate problems caused by the prohibition
and uncontrolled manufacture, delivery and possession of marijuana within New Mexico;

B. to protect the safety, welfare, health and peace of the people of this state by prioritizing the state's limited law enforcement resources in the most effective, consistent and rational way;

C. to allow a person who is licensed, controlled, regulated and taxed by this state to legally manufacture and sell marijuana to a person who is twenty-one years of age or older, subject to the provisions of that act;

D. to provide for the New Mexico department of agriculture to issue industrial hemp licenses and agricultural hemp seed production permits;

E. to establish a comprehensive regulatory framework relating to marijuana; and

F. together with existing provisions of law, to prevent:

(1) the distribution of marijuana to a person who is younger than twenty-one years of age;

(2) revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;

(3) the diversion of marijuana from this state to other states;

(4) legal marijuana activity from being used as a cover or pretext for the trafficking of illegal drugs or
for other illegal activity;

(5) violence and the use of firearms in the
cultivation and distribution of marijuana;

(6) impaired driving and the exacerbation of
other adverse public health consequences that are associated
with the use of marijuana;

(7) the growing of marijuana on public land
and the attendant public safety and environmental dangers posed
by marijuana production on public land; and

(8) the possession and use of marijuana on
federal property.

SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
Cannabis Revenue and Freedom Act:

A. "agricultural hemp seed" means seed of the plant
of the genus Cannabis that meets any labeling, quality and
other standards established by the director of the New Mexico
department of agriculture and that is intended for sale or is
sold to or purchased by licensed growers for planting;

B. "consumer" means a person who purchases,
acquires, owns, holds or uses marijuana items for a purpose
other than resale;

C. "crop" means a contiguous field of industrial
hemp grown pursuant to a single license;

D. "department" means the regulation and licensing
department;
E. "financial consideration" means value that is given or received directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations, but does not mean value in homegrown marijuana or homemade marijuana products that are grown or made by another person;

F. "grower" means a person, joint venture or cooperative that produces industrial hemp;

G. "handler" means a person, joint venture or cooperative that receives industrial hemp for processing into commodities, products or agricultural hemp seeds;

H. "homegrown" or "homemade" means grown or made by a person who is twenty-one years old or older for noncommercial purposes;

I. "household" means a housing unit and includes any place in or around the housing unit at which an occupant of the housing unit produces, processes, keeps or stores homegrown marijuana or homemade marijuana products;

J. "housing unit" means a house, an apartment, a mobile home, a group of rooms or a single room that is occupied as separate living quarters in which an occupant lives and eats separately from any other persons in the building who do not occupy the same housing unit, and which unit includes direct access from the outside of the building or through a common hall;

K. "immature marijuana plant" means a marijuana
plant with no observable flowers or buds;

L. "industrial hemp":

(1) means:

(a) all non-seed parts and varieties of the plant of the genus Cannabis, whether growing or not, that contain a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis; and

(b) any Cannabis sativa seed that is part of a growing crop, is retained by a grower for future planting or is for processing into or use as agricultural hemp seed; and

(2) does not mean industrial hemp commodities or products;

M. "license" means a license issued pursuant to the Cannabis Revenue and Freedom Act;

N. "licensed premises" means a location that is licensed pursuant to the Cannabis Revenue and Freedom Act and includes:

(1) all enclosed public and private areas at the location that are used in the business operated at the location, including offices, kitchens, restrooms and storerooms;

(2) all areas outside of a building that the department has specifically licensed for the production,
processing, wholesale sale or retail sale of marijuana items;

and

(3) with respect to a location that the department has specifically licensed for the production of marijuana outside of a building, the entire unit of land that is created by subdivision or partition of land that the licensee owns, leases or has a right to occupy;

O. "licensee" means a person who holds a license issued pursuant to the Cannabis Revenue and Freedom Act;

P. "licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity;

Q. "marijuana" means all parts of the plant cannabis, including any and all varieties, species and subspecies of the genus Cannabis, whether growing or not, but does not mean marijuana extracts, industrial hemp or industrial hemp commodities or products;

R. "marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol or carbon dioxide;

S. "marijuana flowers" means the flowers of the marijuana plant, but does not mean any part of the plant other than the flowers.
T. "marijuana items" means marijuana, marijuana products and marijuana extracts;

U. "marijuana leaves" means the leaves of the marijuana plant, but does not mean any part of the plant other than the leaves;

V. "marijuana processor" means a person who processes marijuana items in this state;

W. "marijuana producer" means a person who produces marijuana in this state;

X. "marijuana products" means products that contain marijuana or marijuana extracts and that are intended for human consumption, but does not mean marijuana by itself or a marijuana extract by itself;

Y. "marijuana retailer" means a person who sells marijuana items to a consumer in this state;

Z. "marijuana wholesaler" means a person who purchases marijuana items in this state for resale in this state to a person other than a consumer;

AA. "mature marijuana plant" means a marijuana plant that is not an immature marijuana plant;

BB. "noncommercial" means not dependent or conditioned upon the provision or receipt of financial consideration;

CC. "person" means a natural person or another legal entity;
DD. "processes":

(1) means:

(a) the processing, compounding or conversion of marijuana into marijuana products or marijuana extracts;

(b) the processing, compounding or conservation of marijuana, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis;

(c) the packaging or repackaging of marijuana items; and

(d) the labeling or relabeling of a package or container of marijuana items; and

(2) does not mean:

(a) the drying of marijuana by a marijuana producer, if the marijuana producer is not otherwise processing marijuana; or

(b) the packaging and labeling of marijuana by a marijuana producer in preparation for delivery to a marijuana processor;

EE. "produces" means the manufacture, planting, cultivation, growing or harvesting of marijuana, but does not include:

(1) the drying of marijuana by a marijuana
processor, if the marijuana processor is not otherwise
producing marijuana; or

(2) the cultivation and growing of an immature
marijuana plant by a marijuana processor, marijuana wholesaler
or marijuana retailer if the marijuana processor, marijuana
wholesaler or marijuana retailer purchased or otherwise
received the plant from a licensed marijuana producer;

FF. "public place" means a place to which the
general public has access and includes hallways, lobbies and
other parts of apartment houses and hotels that do not
constitute rooms or apartments designed for actual residence;
highways; streets; schools; places of amusement; parks;
playgrounds; and places used in connection with public
passenger transportation; and

GG. "usable marijuana" means dried marijuana
flowers and dried marijuana leaves and any mixture or
preparation of those flowers or leaves.

SECTION 4. [NEW MATERIAL] LIMITATIONS--EXEMPTIONS--
PERMISSIBLE CONDUCT.--

A. The Cannabis Revenue and Freedom Act shall not
be construed to:

(1) amend or affect in any way any state or
federal law pertaining to employment matters;

(2) amend or affect in any way any state or
federal law pertaining to landlord-tenant matters;
(3) prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession or use of marijuana to the extent necessary to satisfy federal requirements for the grant;

(4) prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession or use of marijuana to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;

(5) require a person to violate a federal law;

(6) exempt a person from a federal law or obstruct the enforcement of a federal law; or

(7) amend or affect in any way the Lynn and Erin Compassionate Use Act.

B. The Cannabis Revenue and Freedom Act shall not apply to the:

(1) production, processing, keeping or storing of homegrown marijuana at a household by one or more persons who are twenty-one years of age or older, if the total of homegrown marijuana at the household does not exceed four marijuana plants and eight ounces of usable marijuana at any given time;

(2) making, processing, keeping or storing of homemade marijuana products at a household by one or more
persons who are twenty-one years of age or older, if the total of homemade marijuana products at the household does not exceed sixteen ounces in solid form at any given time;

(3) making, processing, keeping or storing of homemade marijuana products at a household by one or more persons who are twenty-one years of age or older, if the total of homemade marijuana products at the household does not exceed seventy-two ounces in liquid form at any given time;

(4) delivery of not more than one ounce of homegrown marijuana at any given time by a person who is twenty-one years of age or older to another person who is twenty-one years of age or older for noncommercial purposes;

(5) delivery of not more than sixteen ounces of homemade marijuana products in solid form at any given time by a person who is twenty-one years of age or older to another person who is twenty-one years of age or older for noncommercial purposes; or

(6) the delivery of not more than seventy-two ounces of homemade marijuana products in liquid form at any given time by a person who is twenty-one years of age or older to another person who is twenty-one years of age or older for noncommercial purposes.

C. The Cannabis Revenue and Freedom Act shall not:

(1) apply to a person, to the extent that a person acts within the scope of and in compliance with the Lynn
and Erin Compassionate Use Act; or

(2) amend or affect the function, duties and
powers of the department of health pursuant to the Lynn and
Erin Compassionate Use Act.

SECTION 5. [NEW MATERIAL] DEPARTMENT--POWERS--DUTIES.--

A. Except as provided in the Lynn and Erin
Compassionate Use Act, the department's jurisdiction,
supervision, powers and duties pursuant to the Cannabis Revenue
and Freedom Act extend to any person who buys, sells, produces,
processes, transports or delivers any marijuana items within
this state. The department may sue and be sued as provided by
law.

B. The department shall:

(1) regulate the purchase, sale, production,
processing, transportation and delivery of marijuana items in
accordance with the provisions of the Cannabis Revenue and
Freedom Act;

(2) grant, refuse, suspend or cancel licenses
for the sale, production or processing of marijuana items and
other licenses related to marijuana items;

(3) investigate and assist with the
prosecution of violations of state law related to marijuana
items;

(4) in consultation with the New Mexico
department of agriculture, the department of health and the
taxation and revenue department, adopt rules and prescribe
forms necessary to implement the provisions of the Cannabis
Revenue and Freedom Act;

(5) promulgate rules that:

(a) prohibit the advertisement, in or by
any medium, of marijuana items by producers, processors,
wholesalers or retailers of marijuana items;

(b) require documentation of the source
of production for all marijuana items; and

(c) require all marijuana items to be
labeled with the items' tetrahydrocannabinol concentration;

(6) regulate the use of marijuana items for
scientific, pharmaceutical, manufacturing, mechanical,
industrial and other purposes; and

(7) on or before January 1, 2017:

(a) examine available research and
conduct or commission any additional necessary research to
investigate the influence of marijuana on a person's ability to
drive a vehicle and on the concentration of delta-9
tetrahydrocannabinol in a person's blood, taking into account
all relevant factors; and

(b) present the results of the
department's examination to the appropriate legislative interim
committees and make recommendations to the legislature
regarding any appropriate amendments to the Motor Vehicle Code.
C. The department may:

(1) allow the transfer of a license issued by
the department pursuant to the Cannabis Revenue and Freedom
Act; and

(2) for the purpose of preventing the resale
of marijuana items, limit the quantity of marijuana items
purchased at any one time by a consumer.

D. The department shall not purchase, own, sell or
possess any marijuana items.

SECTION 6. [NEW MATERIAL] TAXATION AND REVENUE
DEPARTMENT--DUTIES.--The taxation and revenue department shall:

A. assist and cooperate with the department, the
New Mexico department of agriculture and the department of
health to the extent necessary for each department to carry out
powers and duties pursuant to the Cannabis Revenue and Freedom
Act;

B. promulgate rules to implement the taxation
provisions of the Cannabis Revenue and Freedom Act, including
rules that provide for the taxation and revenue department to
issue devices to record the payment of taxes and duties
pursuant to that act; and

C. collect the taxes and duties imposed pursuant to
that act.

SECTION 7. [NEW MATERIAL] NEW MEXICO DEPARTMENT OF
AGRICULTURE--DUTIES.--
A. The New Mexico department of agriculture shall:

(1) assist and cooperate with the department, the department of health and the taxation and revenue department to the extent necessary for each department to carry out powers and duties pursuant to the Cannabis Revenue and Freedom Act;

(2) regulate industrial hemp production and possession and regulate commerce in industrial hemp commodities and products in this state;

(3) promulgate rules necessary to carry out duties pursuant to that act;

(4) issue industrial hemp licenses and agricultural hemp seed production permits; and

(5) make information that identifies sellers of agricultural hemp seed available to growers.

B. The New Mexico department of agriculture shall not impose a civil penalty pursuant to the Cannabis Revenue and Freedom Act that exceeds two thousand five hundred dollars ($2,500). The provisions of the Administrative Procedures Act shall apply when the New Mexico department of agriculture imposes a penalty pursuant to the Cannabis Revenue and Freedom Act.

C. The New Mexico department of agriculture may:

(1) with at least three days' notice and during normal business hours, inspect or audit records required
to be kept by growers and handlers for the purpose of ensuring compliance with:

(a) provisions of the Cannabis Revenue and Freedom Act;

(b) rules promulgated by the New Mexico department of agriculture;

(c) industrial hemp license or agricultural hemp seed production permit requirements; or

(d) orders by the New Mexico department of agriculture regarding growers' or handlers' operations or activities;

(2) inspect any crop during the crop growth phase and take a representative composite sample for field analysis;

(3) detain, seize or embargo a crop if the crop contains an average tetrahydrocannabinol concentration exceeding three-tenths percent on a dry weight basis;

(4) charge growers and handlers reasonable fees;

(5) revoke or refuse to issue or renew an industrial hemp license or an agricultural hemp seed production permit for a violation of the Cannabis Revenue and Freedom Act;

(6) impose a civil penalty for a violation of:

(a) a license or permit requirement,
term or condition;
(b) New Mexico department of agriculture
rules relating to growing or handling industrial hemp; or
(c) orders by the New Mexico department
of agriculture regarding growers' or handlers' operations or
activities; and
(7) revoke or refuse to issue or renew an
industrial hemp license or an agricultural hemp seed production
permit for violation of any New Mexico department of
agriculture rule relating to agricultural operations or
activities other than those that relate to industrial hemp
growing or handling.

SECTION 8. [NEW MATERIAL] DEPARTMENT OF HEALTH--
DUTIES.--The department of health shall assist and cooperate
with the department, the New Mexico department of agriculture
and the taxation and revenue department to the extent necessary
for each department to carry out powers and duties pursuant to
the Cannabis Revenue and Freedom Act.

SECTION 9. [NEW MATERIAL] NO LIABILITY FOR OFFICIAL
ACTS.--Except as provided by law, the department, the taxation
and revenue department, the department of health and the New
Mexico department of agriculture shall not be sued for
performing or failing to perform duties pursuant to the
Cannabis Revenue and Freedom Act.

SECTION 10. [NEW MATERIAL] FEDERAL LAW--DUTIES--
CONTRACTS.--

A. The department, the taxation and revenue department, the department of health and the New Mexico department of agriculture shall not refuse to perform any duty required pursuant to the Cannabis Revenue and Freedom Act on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law.

B. The department and the New Mexico department of agriculture shall not revoke or refuse to issue or renew a license or permit provided for in the Cannabis Revenue and Freedom Act on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law.

C. No contract shall be unenforceable on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law.

SECTION 11. [NEW MATERIAL] INDUSTRIAL HEMP LICENSE--AGRICULTURAL HEMP SEED PRODUCTION PERMIT.--

A. Industrial hemp production and possession and commerce in industrial hemp commodities and products are authorized in New Mexico. Industrial hemp and agricultural hemp seed are deemed to be an agricultural product that is subject to regulation by the New Mexico department of agriculture.

B. All growers and handlers shall obtain an
industrial hemp license issued by the New Mexico department of agriculture. A grower or handler who is engaged in the production of agricultural hemp seed shall also obtain an agricultural hemp seed production permit issued by the New Mexico department of agriculture.

C. A person who seeks a license or permit pursuant to this section shall submit an application to the New Mexico department of agriculture that includes:

(1) the applicant's name and address;

(2) the name and address of the applicant's industrial hemp operation;

(3) the latitude and longitude and legal description for the property being used for industrial hemp production;

(4) if the industrial hemp license or the agricultural hemp seed production permit application is submitted by a grower, information sufficient to establish that the applicant's crop will be at least two and one-half acres in size; and

(5) any other information required to be included pursuant to department of agriculture rules.

D. An industrial hemp license or agricultural hemp seed production permit is valid for three years and may be renewed as provided by New Mexico department of agriculture rule. The license or permit is a personal privilege that is
not transferable.

E. An agricultural hemp seed production permit allows a grower or handler to produce and handle agricultural hemp seed for sale to licensed industrial hemp growers and handlers. An agricultural hemp seed seller shall ensure that the seller's seed complies with standards established by the New Mexico department of agriculture.

F. Subject to New Mexico department of agriculture rules, a grower may retain seed from each crop to ensure a sufficient seed supply for the grower's use in the following year. A grower shall not be required to hold an agricultural hemp seed production permit to retain seed for future planting. Seed retained by a grower shall not be sold or transferred and shall not be required to meet New Mexico department of agriculture standards relating to agricultural hemp seed.

G. The Administrative Procedures Act shall apply to the revocation of or refusal to issue or renew an industrial hemp license or an agricultural hemp seed production permit.

H. The New Mexico department of agriculture shall not revoke or refuse to issue or renew an industrial hemp license or an agricultural hemp seed production permit on the basis that industrial hemp production or possession or commerce in industrial hemp commodities or products is prohibited by federal law.

SECTION 12. [NEW MATERIAL] LICENSEES--LICENSEE
REPRESENTATIVES.--A licensee or a licensee representative may produce, deliver and possess marijuana items subject to the provisions of the Cannabis Revenue and Freedom Act. The production, delivery and possession of marijuana items by a licensee or a licensee representative in compliance with that act shall not constitute a criminal or civil offense pursuant to New Mexico law.

SECTION 13. [NEW MATERIAL] PURCHASER QUALIFICATIONS AND IDENTIFICATION--DEFENSE.--

A. A licensee or licensee representative shall not sell or deliver marijuana items to a person who is younger than twenty-one years of age.

B. If there is a reasonable doubt that a person is twenty-one years of age or older, before selling or serving marijuana items to the person, all licensees and licensee representatives shall require the person to produce one of the following forms of identification:

   (1) the person's passport;

   (2) the person's motor vehicle operator's license that includes a photograph of the person, whether issued in this state or in another state;

   (3) an identification card issued by the motor vehicle division of the taxation and revenue department;

   (4) a United States military identification card; or
(5) any other identification card that was issued by a state or an Indian nation, tribe or pueblo that includes the person's:

(a) photograph;
(b) name;
(c) date of birth; and
(d) physical description.

C. A person shall not produce a form of identification as required by the Cannabis Revenue and Freedom Act that falsely indicates the person's age.

D. In an administrative or criminal prosecution of a licensee or licensee representative for the sale or service of marijuana items to a person younger than twenty-one years of age, the licensee or licensee representative shall not be found to have committed the relevant crime or violation unless it is demonstrated in the administrative or criminal proceeding that a reasonable person would have determined that the identification shown to the licensee or licensee representative and that is offered as evidence in the prosecution was altered or did not accurately describe the person to whom the licensee or licensee representative sold or served marijuana items.

SECTION 14. [NEW MATERIAL] DEPARTMENT LICENSING DUTIES.--The department shall:

A. beginning July 1, 2018, accept applications for licenses to produce, process and sell marijuana within the
state;

B. give priority consideration to applications received on and after July 1, 2018 from applicants who are currently licensed pursuant to the Lynn and Erin Compassionate Use Act and who wish to also be licensed pursuant to the Cannabis Revenue and Freedom Act;

C. issue licenses provided for by the Cannabis Revenue and Freedom Act, subject to the provisions of that act and rules promulgated pursuant to that act;

D. not unreasonably delay the processing, granting or refusal of applications or the issuance of licenses; and

E. not approve a licensed premises that does not have defined boundaries or a licensed premises that is mobile; provided that the department may require that a licensed premises be enclosed by a wall, fence or other structure as a condition of issuing or renewing a license.

SECTION 15. [NEW MATERIAL] PRODUCTION LICENSE.--The department shall regulate the production of marijuana. A marijuana producer shall possess a production license issued by the department for the licensed premises at which the marijuana is produced.

SECTION 16. [NEW MATERIAL] PROCESSOR LICENSE.--The department shall regulate the processing of marijuana items. A marijuana processor shall possess a processor license issued by the department for the licensed premises at which marijuana
items are processed.

SECTION 17. [NEW MATERIAL] WHOLESALE LICENSE.--The department shall regulate the wholesale sale of marijuana items. A marijuana wholesaler shall possess a wholesale license issued by the department for the licensed premises at which marijuana items are received, kept, stored or delivered.

SECTION 18. [NEW MATERIAL] RETAIL LICENSE.--The department shall regulate the retail sale of marijuana items. A marijuana retailer shall possess a retail license issued by the department for the licensed premises on which marijuana items are sold.

SECTION 19. [NEW MATERIAL] INSPECTION OF LICENSEE BOOKS AND LICENSED PREMISES.--

A. The department may:

(1) after seventy-two hours' notice to the owner or the owner's agent, inspect a licensee's books; and

(2) at any time, inspect the licensed premises of a licensee to determine whether the licensee is in compliance with the provisions of the Cannabis Revenue and Freedom Act and rules promulgated pursuant to that act.

B. The department shall not require a licensee's books to be maintained on the licensed premises.

SECTION 20. [NEW MATERIAL] MULTIPLE LICENSES.--A person may hold more than one production license, processor license, wholesale license and retail license.
SECTION 21. [NEW MATERIAL] CHARACTERISTICS OF A LICENSE.--

A. A license issued by the department pursuant to the Cannabis Revenue and Freedom Act shall:

(1) be a purely personal privilege;

(2) be valid only for the period stated on the license;

(3) be renewed in the manner provided in Section 24 of the Cannabis Revenue and Freedom Act;

(4) be revoked or suspended as provided in Section 26 of the Cannabis Revenue and Freedom Act;

(5) be transferred from the licensed premises for which the license was originally issued to another location only as provided for in the Cannabis Revenue and Freedom Act, rules promulgated pursuant to that act and any relevant municipal ordinance or local regulation;

(6) be void upon the licensee's death, except as provided in Subsection B of this section;

(7) not constitute property;

(8) not be alienable;

(9) not be subject to attachment or execution;

and

(10) not descend by the laws of testate or intestate devolution.

B. The department may provide for procedures and
conditions under which:

(1) marijuana items left by a deceased, insolvent or bankrupt person or licensee, or marijuana items that are subject to a security interest, may be foreclosed, sold under execution or otherwise disposed of;

(2) the business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy; and

(3) a business licensed by the department pursuant to the Cannabis Revenue and Freedom Act that is subject to a security interest may be continued in business by a secured party for a reasonable period after a debtor's default on the indebtedness.

SECTION 22. [NEW MATERIAL] LICENSE TERMS.--

A. Except as otherwise provided in this section, all licenses issued or renewed by the department pursuant to the Cannabis Revenue and Freedom Act shall be issued or renewed for a period of one year.

B. Notwithstanding Subsection A of this section, a license that is issued for the first time to an applicant may be issued for less than one year. The fee for a license that is issued for less than one year shall be the annual license fee provided in Section 24 of the Cannabis Revenue and Freedom Act.

SECTION 23. [NEW MATERIAL] DELIVERY OF MARIJUANA.--A
marijuana producer, marijuana processor and marijuana wholesaler shall deliver marijuana items only to or on a licensed premises. The sale of marijuana items pursuant to a retail license shall be restricted to sales made on the licensed premises described in the license; provided that deliveries may be made by the marijuana retailer to consumers pursuant to bona fide orders received on the licensed premises prior to delivery.

SECTION 24. [NEW MATERIAL] LICENSE APPLICATION--RULES--FEES.--

A. An application for a new or renewed license issued by the department pursuant to the Cannabis Revenue and Freedom Act shall be submitted to the department upon an application form provided by the department. The application shall include the applicant's name and address, the location of the place of business that is to be operated pursuant to the license and any other information the department may require.

B. A license shall not be granted or renewed unless an applicant has complied with the provisions of the Cannabis Revenue and Freedom Act and rules promulgated pursuant to that act.

C. The department may deny an application that is not submitted on the form provided by the department. The department shall provide an applicant whose application is denied pursuant to this subsection an opportunity to be heard.
A hearing held pursuant to this subsection is not subject to the Administrative Procedures Act.

D. Notwithstanding the provisions of Subsection B of this section, the department's revocation of or refusal to issue or renew a license is subject to the Administrative Procedures Act.

E. The department shall assess a nonrefundable fee not greater than five hundred dollars ($500) for processing an application for a new or renewal license.

F. The department shall charge an annual license fee of not more than two thousand dollars ($2,000) for a license issued pursuant to the Cannabis Revenue and Freedom Act. The annual license fee is nonrefundable and shall be paid by an applicant upon the issuance of a license.

SECTION 25. [NEW MATERIAL] GROUNDS FOR REFUSING A LICENSE.--

A. The department shall not issue a license to any applicant who is younger than twenty-one years of age.

B. The department may refuse to issue a license to an applicant if the department reasonably believes:

(1) that there are sufficient licensed premises in the locality set out in the application, or that issuing a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there is a sufficient number of licensed premises in a
locality, the department shall consider seasonal fluctuations
in the locality's population and the needs of the locality
during the peak seasons; or

(2) that the applicant:

(a) uses alcoholic beverages, habit-
forming drugs, marijuana or controlled substances to excess;

(b) has made false statements to the
department;

(c) is incompetent or otherwise unable
to carry on the management of the establishment proposed to be
licensed;

(d) notwithstanding Subsection C of this
section, has been convicted of violating a federal law or the
law of any state or any local government, if the conviction is
substantially related to the applicant's fitness and ability to
lawfully carry out activities pursuant to the license;

(e) has failed to maintain a sanitary
establishment;

(f) is not of good repute and moral
character;

(g) has a record of noncompliance with
the Cannabis Revenue and Freedom Act or rules promulgated
pursuant to that act;

(h) is not the owner of the business
proposed to be licensed, or that additional ownership interests
in the business proposed to be licensed have not been disclosed;

   (i) has not demonstrated the financial responsibility necessary for the business proposed to be licensed; or

   (j) is unable to understand provisions of the Cannabis Revenue and Freedom Act or other laws or rules relating to marijuana.

C. Notwithstanding Subparagraph (d) of Paragraph (2) of Subsection B of this section, in determining whether the department may refuse to issue a license to an applicant, the department shall not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent or other representative of the applicant for:

   (1) the manufacture of marijuana, if:

      (a) the date of the conviction is greater than five years before the date of the application; and

      (b) the person has not been convicted more than once for the manufacture or delivery of marijuana;

   (2) the delivery of marijuana to a person who is twenty-one years of age or older, if:

      (a) the date of the conviction is greater than five years before the date of the application; and

      (b) the person has not been convicted more than once for the manufacture or delivery of marijuana; or
(3) the possession of marijuana.

SECTION 26. [NEW MATERIAL] GROUNDS FOR REVOKING OR SUSPENDING A LICENSE.—The department may revoke or suspend a license if the department finds or reasonably believes:

A. that the licensee:

(1) has violated a provision of the Cannabis Revenue and Freedom Act or a rule promulgated pursuant to that act;

(2) has made a false representation or statement to the department to induce or prevent action by the department;

(3) has maintained an unsanitary establishment;

(4) is insolvent, incompetent or otherwise unable to manage the licensee's establishment;

(5) uses alcoholic beverages, habit-forming drugs, marijuana or controlled substances to excess;

(6) has misrepresented a marijuana item sold by the licensee to a customer or to the public; or

(7) after receiving a license, is convicted of a felony or of violating any state law relating to marijuana or convicted of a misdemeanor or violation of a municipal ordinance, if that violation is committed on the licensed premises; or

B. that there is any other reason that, in the
department's opinion and based on public convenience or necessity, warrants canceling or suspending a license.

SECTION 27. [NEW MATERIAL] TAXATION PROVISIONS--
ADMINISTRATION.--The taxation and revenue department shall administer the taxation provisions of the Cannabis Revenue and Freedom Act and shall prescribe forms and promulgate rules necessary to implement those provisions.

SECTION 28. [NEW MATERIAL] DEFINITION OF "SALE" AND "SOLD"--TAXATION PROVISIONS.--

A. As used in the taxation provisions of the Cannabis Revenue and Freedom Act, "sale" and "sold" mean a transfer, exchange or barter, in any manner or by any means, and includes:

(1) sales made by any person; and

(2) a gift by a person who is engaged in the business of selling marijuana for advertising, as a means of evading tax provisions of the Cannabis Revenue and Freedom Act or for any other purpose.

B. If a marijuana producer also holds one or more processor licenses, wholesale licenses or retail licenses, a sale of marijuana flowers, marijuana leaves or immature marijuana plants will be deemed to occur if and when the marijuana producer processes or takes any other action in connection with the marijuana flowers, marijuana leaves or immature marijuana plants for which a processor license,
wholesale license or retail license is required, regardless of whether the marijuana producer continues to own or possess the marijuana flowers, marijuana leaves or immature marijuana plants.

SECTION 29. [NEW MATERIAL] TAX ON MARIJUANA.--

A. A tax is imposed upon the privilege of engaging in business as a marijuana producer at the rate of:

(1) thirty-five dollars ($35.00) per ounce on all marijuana flowers;

(2) ten dollars ($10.00) per ounce on all marijuana leaves; and

(3) five dollars ($5.00) per immature marijuana plant.

B. The rates of tax imposed by this section upon marijuana flowers and marijuana leaves apply proportionately to quantities of less than one ounce.

C. The tax imposed by this section shall be measured by the quantities of marijuana flowers, marijuana leaves and immature marijuana plants produced and sold by a marijuana producer. The taxes specified in this section shall be levied and assessed to the marijuana producer at the time of the first sale of the marijuana flowers, marijuana leaves and immature marijuana plants by the marijuana producer.

D. Beginning July 1, 2019 and every odd-numbered year thereafter on July 1, the rates of tax provided in
Subsection A of this section shall be adjusted for any increase in the cost of living. The taxation and revenue department shall compute the rates for each biennium by adding to each rate in Subsection A of this section the product obtained by multiplying each rate by a factor that is equal to twenty-five hundredths multiplied by the percentage, if any, by which the monthly averaged United States city average consumer price index for the twelve consecutive months ending May 1 of the prior calendar year exceeds the monthly averaged United States city average consumer price index for the twelve consecutive months ending May 1 of the current year. For a year in which the rates are revised, the taxation and revenue department shall publish the revised rates by July 1.

E. The taxation and revenue department shall regularly review the rates of tax provided in Subsection A of this section and shall make recommendations to the legislature regarding appropriate adjustments to the rates that will:

(1) maximize net revenue;

(2) minimize the illegal marijuana industry;

and

(3) discourage the use of marijuana by persons who are younger than twenty-one years of age.

SECTION 30. [NEW MATERIAL] PAYMENT OF TAXES--REFUNDS--INTEREST OR PENALTY--LIMITATIONS--APPEALS.--

A. The tax imposed by the Cannabis Revenue and

Freedom Act shall be paid to the taxation and revenue department. The taxes covering the periods for which statements are required to be rendered pursuant to that act shall be paid before the time for filing the statements expires. If those taxes are not paid, a penalty of ten percent and interest at the rate of one percent per month or fraction of a month shall be added to the amount owed and shall be collected. The taxation and revenue department may refund a tax payment imposed upon or paid in error by a licensee.

B. The taxation and revenue department may waive interest or a penalty that is assessed to a marijuana producer who is subject to the tax imposed pursuant to the Cannabis Revenue and Freedom Act if that department, in its discretion, determines that the marijuana producer has made a good faith attempt to comply with the requirements of that act.

C. Except in the case of fraud, the taxation and revenue department shall not assess any interest or penalty on tax due pursuant to the Cannabis Revenue and Freedom Act following the expiration of thirty-six months from the date of filing of the statement required pursuant to Section 31 of the Cannabis Revenue and Freedom Act that reports the quantities of marijuana flowers, marijuana leaves and immature marijuana plants upon which the tax is due.

D. A marijuana producer may appeal a tax imposed pursuant to the Cannabis Revenue and Freedom Act in the manner
provided in the Tax Administration Act.

SECTION 31. [NEW MATERIAL] QUANTITIES SOLD--REQUIRED
STATEMENT--FAILURE TO FILE STATEMENT--FALSE STATEMENTS.--

A. On or before the twentieth day of each month, a
marijuana producer shall file with the taxation and revenue
department a statement of the quantities of marijuana flowers,
marijuana leaves and immature marijuana plants sold by the
marijuana producer during the preceding calendar month.

B. If a marijuana producer fails, neglects or
refuses to file a statement required pursuant to this section
or if a marijuana producer files a false statement, the
taxation and revenue department shall estimate the quantities
of marijuana flowers, marijuana leaves and immature marijuana
plants sold by the marijuana producer and assess privilege
taxes based on that estimate. The marijuana producer shall
have no right to challenge the taxation and revenue
department's estimate or the taxes assessed on that estimate
following the marijuana producer's failure to comply with this
section.

SECTION 32. [NEW MATERIAL] TAX LIEN.--The privilege tax
required to be paid pursuant to the Cannabis Revenue and
Freedom Act constitutes a lien upon, and has the effect of an
execution duly levied against, any and all property of a
marijuana producer that attaches at the time the marijuana
flowers, marijuana leaves and immature marijuana plants subject
to the tax are sold, and the lien remains in place until the
tax is paid. The lien created by this section is paramount to
all private liens or encumbrances.

SECTION 33. [NEW MATERIAL] RECORDS TO BE KEPT BY
MARIJUANA PRODUCERS.--

A. Every marijuana producer shall keep a complete
and accurate record of:

(1) all sales of marijuana flowers, marijuana
leaves and immature marijuana plants;

(2) the number of ounces of marijuana flowers
produced, the number of ounces of marijuana leaves produced,
the number of immature marijuana plants produced and the dates
of production for the marijuana flowers, marijuana leaves and
immature marijuana plants produced; and

(3) any other information required to be
recorded by the department.

B. The records required pursuant to Subsection A of
this section shall be in a form prescribed by the taxation and
revenue department.

SECTION 34. [NEW MATERIAL] INSPECTION AND MAINTENANCE OF
RECORDS.--

A. The taxation and revenue department may, at any
time:

(1) examine the books and records of a
marijuana producer; and
(2) may appoint auditors, investigators
and other employees that the taxation and revenue department
considers necessary to assist it in performing its duties
pursuant to the Cannabis Revenue and Freedom Act.

B. Every marijuana producer shall:

(1) maintain and keep for two years all
records, books and accounts required to be maintained and kept
pursuant to the Cannabis Revenue and Freedom Act; and

(2) provide copies of those records, books and
accounts to the taxation and revenue department upon request.

SECTION 35. [NEW MATERIAL] FAILURE TO PAY TAX OR MAINTAIN
RECORDS.--

A. A marijuana producer shall not:

(1) fail to pay the privilege tax required
pursuant to the Cannabis Revenue and Freedom Act when it is
due; or

(2) falsify a statement required to be made
pursuant to the Cannabis Revenue and Freedom Act. A violation
of this subsection shall constitute a petty misdemeanor.

B. No person shall:

(1) refuse to allow the taxation and revenue
department or its representatives to make an inspection of the
books and records as authorized by the Cannabis Revenue and
Freedom Act;

(2) fail to keep books of account as
prescribed by the taxation and revenue department or as
required by the Cannabis Revenue and Freedom Act;

(3) fail to keep those books for two years for
inspection by the taxation and revenue department; or

(4) alter, cancel or obliterate entries in
books of account for the purpose of falsifying a record that is
required to be made, maintained or kept pursuant to the
Cannabis Revenue and Freedom Act.

SECTION 36. [NEW MATERIAL] INTERSTATE AND FOREIGN
COMMERCE--APPLICABILITY.--The tax provisions of the Cannabis
Revenue and Freedom Act do not apply to commerce with foreign
nations or to commerce with the several states, except as
provided for by the United States constitution and the laws of
the United States.

SECTION 37. [NEW MATERIAL] EXCLUSIVE RIGHT TO TAX
MARIJUANA.--No county or city of this state shall impose a fee
or tax, including occupation taxes, privilege taxes and
inspection fees, in connection with the purchase, sale,
production, processing, transportation or delivery of marijuana
items.

SECTION 38. [NEW MATERIAL] CANNABIS ADMINISTRATION
FUND.--The "cannabis administration fund" is created as a
nonreverting fund in the state treasury. The fund consists of
appropriations, license fees, charges and fines that are
collected by the department pursuant to the Cannabis Revenue
and Freedom Act and that are deposited into the fund and money otherwise accruing to the fund. Money in the fund is appropriated to the department for the purpose of carrying out the department's duties pursuant to the Cannabis Revenue and Freedom Act. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the superintendent of regulation and licensing or the superintendent's authorized representative. Any balance that remains in the fund at the end of each fiscal year and that exceeds two hundred fifty thousand dollars ($250,000) shall be credited to the cannabis revenue fund.

SECTION 39. [NEW MATERIAL] CANNABIS REVENUE FUND.--

A. The "cannabis revenue fund" is created in the state treasury. The fund consists of appropriations, taxes and fines and other money collected by the taxation and revenue department pursuant to the Cannabis Revenue and Freedom Act and deposited in the fund and money otherwise accruing to the fund.

B. Money in the fund is appropriated to the taxation and revenue department for the purpose of carrying out its duties pursuant to the Cannabis Revenue and Freedom Act. At the end of each month, the taxation and revenue department shall certify the amount of money in the fund that is available for distribution and, after withholding an amount that the taxation and revenue department determines is necessary to carry out its duties pursuant to the Cannabis Revenue and
Freedom Act, shall, within thirty-five days of the month for which a distribution is made, distribute the money available for distribution as follows:

(1) forty percent to the general fund for distribution through the state equalization guarantee pursuant to the Public School Finance Act;

(2) twenty-five percent to the department of health to establish, operate and maintain alcohol and substance abuse prevention, early intervention and treatment and related mental health services;

(3) fifteen percent to the department of public safety for state police expenses;

(4) ten percent to the state's municipalities to assist local law enforcement in performing duties related to the Cannabis Revenue and Freedom Act, distributed as follows:

   (a) one-half to municipalities, based on the number of production and processor licenses issued during the calendar year preceding the date of the distribution, for licensed premises located within each municipality relevant to the total number of production and processor licenses issued in the state during that calendar year; and

   (b) one-half to municipalities, based on the number of retail licenses issued during the calendar year preceding the date of the distribution, for licensed premises located within each municipality relevant to the total number

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of retail licenses issued in the state during that calendar year; and

(5) ten percent to the state's counties to assist local law enforcement in performing duties related to the Cannabis Revenue and Freedom Act, distributed as follows:

(a) one-half to counties, based on the number of production and processor licenses issued during the calendar year preceding the date of the distribution, for licensed premises located within each county relevant to the total number of production and processor licenses issued in the state during that calendar year; and

(b) one-half to counties, based on the number of retail licenses issued during the calendar year preceding the date of the distribution, for licensed premises located within each county relevant to the total number of retail licenses issued in the state during that calendar year.

C. Money distributed pursuant to this section is in addition to and not in lieu of any other money available to the recipients of the distributions for the purposes provided in this section.

D. Money in the cannabis revenue fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of taxation and revenue or the secretary's authorized representative. Any balance remaining in the fund at the end of the budget year or any unobligated funds remaining at the end of the fiscal year shall be returned to the state's cannabis revenue fund and held for the next fiscal year.
of a fiscal year shall not revert to the general fund.

SECTION 40. [NEW MATERIAL] IMPORTING AND EXPORTING
MARIJUANA PROHIBITED.--

A. Marijuana items shall not be imported into this state or exported from this state by any licensee or licensee representative.

B. A violation of Subsection A of this section is a:

(1) fourth degree felony if the importation or exportation is for consideration; or

(2) misdemeanor if the importation or exportation is not for consideration.

SECTION 41. [NEW MATERIAL] MARIJUANA AS A PRIZE
PROHIBITED.--Marijuana items shall not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill or competition of any kind.

SECTION 42. [NEW MATERIAL] PROVIDING MARIJUANA TO AN INTOXICATED PERSON PROHIBITED--ALLOWING CONSUMPTION OF MARIJUANA BY PERSONS WHO ARE YOUNGER THAN TWENTY-ONE YEARS OF AGE PROHIBITED.--

A. A person shall not sell, give or otherwise make available a marijuana item to a person who is visibly intoxicated.

B. A person who exercises control over private real property shall not:
(1) knowingly allow a person who is younger than twenty-one years of age to consume marijuana items on the property; or

(2) allow a person who is younger than twenty-one years of age to remain on the property if the person who is younger than twenty-one years of age consumes marijuana items on the property.

C. Subsection B of this section:

(1) applies only to a person who is present and in control of the location at the time the consumption occurs; and

(2) does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides.

SECTION 43. [NEW MATERIAL] LICENSEE MISREPRESENTATIONS--MAINTENANCE OF DISORDERLY ESTABLISHMENT.--

A. A person shall not make false representations or statements to the department to induce or prevent action by the department.

B. A licensee shall not maintain a noisy, lewd, disorderly or unsanitary establishment or supply impure or otherwise deleterious marijuana items.

C. A licensee shall not misrepresent marijuana items to any person.
SECTION 44. [NEW MATERIAL] UNDERAGE PERSONS--PURCHASE--
ENTRY OF LICENSED PREMISES--PENALTIES.--

A. A person who is younger than twenty-one years of age shall not purchase or attempt to purchase marijuana items.

B. Except as authorized by rule or as necessitated in an emergency, a person who is younger than twenty-one years of age shall not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under the age of twenty-one years of age.

C. A person who violates Subsection A or B of this section is guilty of a misdemeanor.

D. In addition to and not in lieu of any other penalty established by law, a person who is younger than twenty-one years of age who violates Subsection A of this section through the person's misrepresentation of the person's age may be required to perform community service, and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court issues an order suspending driving privileges pursuant to this section, the court in its discretion and upon petition by the person may withdraw its order at any time.

E. If a person cited pursuant to this section fails to appear in court and if the person is at least thirteen years
of age but younger than twenty-one years of age at the time the person fails to appear, in addition to and not in lieu of any other penalty, the court shall issue an order to suspend the person's driving privileges.

F. The prohibitions in this section do not apply to a person who is younger than twenty-one years of age who is acting under the direction of the department or state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting the sale of marijuana items to persons who are younger than twenty-one years of age.

SECTION 45. [NEW MATERIAL] COMPLIANCE WITH STANDARDS.--

A. Marijuana items shall not be sold or offered for sale in this state unless the marijuana items comply with the minimum standards required pursuant to the Cannabis Revenue and Freedom Act, rules promulgated pursuant to that act or other state law.

B. The department may require a marijuana producer, marijuana processor or marijuana wholesaler to provide a laboratory analysis that demonstrates to the department's satisfaction that particular marijuana items comply with minimum standards.

C. Marijuana items offered for sale in this state shall not be altered or tampered with in any way by a person who is not licensed to take such action.

D. The department may prohibit the sale of any
marijuana items for a reasonable period of time while the
department determines whether the marijuana items comply with
minimum standards.

SECTION 46. [NEW MATERIAL] MISLEADING MARKS OR LABELS--
INJURIOUS OR ADULTERATED INGREDIENTS.--

A. A licensee shall not use or allow the use of a
mark or label on the container of a marijuana item that is kept
for sale if the container does not precisely and clearly
indicate the nature of its contents or if the mark or label
could deceive a person as to the nature, composition, quantity,
age or quality of the marijuana item.

B. The department may prohibit a licensee from
selling any brand of marijuana item that, in the department's
judgment, is deceptively labeled or branded as to the marijuana
item's content or contains injurious or adulterated
ingredients.

SECTION 47. [NEW MATERIAL] EMPLOYMENT--MINIMUM AGE
REQUIREMENT.--

A. A licensee shall not employ a person who is
younger than twenty-one years of age in any part of a licensed
premises.

B. During an inspection of a licensed premises, the
department may require proof that a person who is performing
work at the licensed premises is at least twenty-one years of
age. If the person does not provide acceptable proof of age
upon the department's request, the department may require the
person to immediately leave the licensed premises until the
department receives acceptable proof of the person's age. This
subsection does not apply to a person who is temporarily at the
licensed premises to make a service, maintenance or repair call
or for other purposes independent of operations of the licensed
premises.

C. If a person performing work at a licensed
premises does not provide proof of the person's age as
requested by the department pursuant to Subsection B of this
section, the department may request that the licensee provide
proof that the person is twenty-one years of age or older. The
licensee's failure to respond to a request made pursuant to
this subsection by providing acceptable proof of age as
requested by the department shall be prima facie evidence that
the licensee has allowed the person to perform work at the
licensed premises in violation of the minimum age requirement.

SECTION 48.  [NEW MATERIAL] MATURE MARIJUANA PLANTS.--
Except for a licensed marijuana producer and the producer's
licensee representatives, a licensee shall not possess a mature
marijuana plant. A licensee shall not sell a mature marijuana
plant.

SECTION 49.  [NEW MATERIAL] USE OF MARIJUANA IN A PUBLIC
PLACE PROHIBITED.--

A. No person shall use any marijuana items in a
public place.

B. A person who violates Subsection A of this section is guilty of a misdemeanor.

SECTION 50. [NEW MATERIAL] POSSESSION OF MARIJUANA IN A CORRECTIONAL FACILITY PROHIBITED.--

A. No person shall possess or use a marijuana item in an adult or youth correctional facility.

B. A person who violates Subsection A of this section is guilty of a misdemeanor.

SECTION 51. [NEW MATERIAL] HOMEGROWN MARIJUANA IN PUBLIC VIEW PROHIBITED.--

A. No person shall produce, process, keep or store homegrown marijuana or homemade marijuana products if the homegrown marijuana or homemade marijuana products can be readily seen by normal unaided vision from a public place.

B. A person who violates Subsection A of this section is guilty of a misdemeanor.

SECTION 52. [NEW MATERIAL] HOMEMADE MARIJUANA EXTRACTS PROHIBITED.--A person shall not produce, process, keep or store homemade marijuana extracts.

SECTION 53. [NEW MATERIAL] MARIJUANA LAWS SUPERSEDE AND REPEAL INCONSISTENT LOCAL LAWS AND ORDINANCES.--Notwithstanding the provisions of Section 55 of the Cannabis Revenue and Freedom Act, the provisions of that act are designed to operate uniformly throughout the state and shall be paramount and
superior to and shall replace and supersede all municipal charter enactments or local laws or ordinances that are inconsistent or in conflict with that act. Any conflicting local charters, laws and ordinances are repealed.

SECTION 54. [NEW MATERIAL] ESTABLISHMENTS THAT SERVE MARIJUANA--LOCAL GOVERNMENT AUTHORITY.--

A. Municipalities and counties may adopt reasonable time, place and manner regulations related to nuisance aspects of establishments that sell marijuana to consumers if the municipality or county makes specific findings that the establishment would cause adverse effects to occur.

B. The authority granted to municipalities and counties by this section is in addition to, and not in lieu of, the authority granted to a municipality or county pursuant to its charter and the statutes and the constitution of New Mexico.

SECTION 55. [NEW MATERIAL] LOCAL OPTION ELECTION--SALES NOT AFFECTED BY LOCAL OPTION.--

A. Any municipality with a population greater than five thousand according to the most recent federal decennial census, whether the county in which that municipality is situated has held an election provided for in this section, or any county in the state may prohibit the operation of premises licensed pursuant to the Cannabis Revenue and Freedom Act upon the following terms and conditions:
(1) at any time after the effective date of the Cannabis Revenue and Freedom Act, the registered qualified electors of the municipality or county may petition the governing body by filing one or more petitions in the appropriate office to hold an election for the purpose of determining whether the operation of premises licensed pursuant to the Cannabis Revenue and Freedom Act shall be prohibited in the municipality or county. If the aggregate of the signatures of such electors on all the petitions equals or exceeds five percent of the number of registered voters of the municipality or county, the governing body shall call an election within seventy-five days of the verification of the petition. The date of the filing of the petition shall be the date of the filing of the last petition that brings the number of signatures up to the required five percent; provided, however, that the governing body shall refuse to recognize the petition if more than three months have elapsed between the date of the first signature and the filing of the last petition necessary to bring the number of signatures on the petition up to five percent;

(2) the election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within the county or special municipal elections within the municipality, except as otherwise provided in this section;
(3) the votes at the election shall be counted, returned and canvassed as provided for in the case of general elections within the county or special municipal elections within the municipality;

(4) except as otherwise provided in this section, contests, recounts and rechecks shall be permitted as provided for in the case of candidates for county office in general elections or as provided for in the case of special municipal elections within the municipality. Applications for contests, recounts or rechecks may be filed by any person who voted in the election and service shall be made upon the county clerk or municipal clerk as the case may be;

(5) if a majority of all the votes cast at the election are cast in favor of the prohibition of the operation of premises licensed pursuant to the Cannabis Revenue and Freedom Act in the county or municipality, the chair of the governing body shall declare by order entered upon the records of the county or municipality that the county or municipality has prohibited the operation of premises licensed pursuant to the Cannabis Revenue and Freedom Act and shall notify the department of the election results;

(6) no election held pursuant to this section shall be held within forty-two days of any primary, general, municipal or school district election. If, within sixty days from the verification of any petition as provided in Paragraph...
(1) of this subsection, a primary, general, municipal or school
election is held, the governing body may call an election for a
day not less than sixty days after the primary, general,
municipal or school election;

(7) if an election is held pursuant to this
section in any county that contains within its limits a
municipality of more than five thousand persons according to
the most recent federal decennial census, it is not necessary
for the registered qualified electors in the municipality to
file a separate petition asking for a separate or different
vote on the question of whether to prohibit the operation of
premises licensed pursuant to the Cannabis Revenue and Freedom
Act by the municipality. The election in the county shall be
conducted so as to separate the votes in the municipality from
those in the remaining parts of the county. If a majority of
the voters in the county, including the voters in the
municipality, vote to prohibit the operation of premises
licensed pursuant to the Cannabis Revenue and Freedom Act, then
the county shall not allow the operation of those premises; but
if a majority of the votes in the municipality are in favor of
allowing the operation of premises licensed pursuant to the
Cannabis Revenue and Freedom Act, the municipality shall have
allowed the operation of those premises in the municipality.
Nothing contained in this subsection shall prevent any
municipality from having a separate election under the terms of
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this section; and

(8) any county or municipality that has voted
to prohibit the operation of premises licensed pursuant to the
Cannabis Revenue and Freedom Act may vote to discontinue the
prohibition and to allow the operation of those premises in
that county or municipality; the discontinuance shall become
effective on the ninetieth day after the local option election
is held as provided for in this paragraph.

B. The provisions of Subsection A of this section
shall not prevent a person who resides in a municipality or
county that has elected to prohibit the operation of premises
licensed pursuant to the Cannabis Revenue and Freedom Act from
having marijuana items that were purchased from licensed
marijuana retailers for the person's personal use.

SECTION 56. [NEW MATERIAL] DUTY OF OFFICERS--

ENFORCEMENT--INFORMATION TO DISTRICT ATTORNEY.--The state and
local law enforcement officers in the state shall enforce the
Cannabis Revenue and Freedom Act provisions that do not relate
to taxation and shall assist the department with detecting
violations of that act and with apprehending offenders. Any
state or local law enforcement officer that has notice or
knowledge of or reasonable belief regarding a violation of
those sections shall immediately notify the district attorney
and provide the district attorney with the names and addresses
of any witnesses to the violation and other information related
SECTION 57. [NEW MATERIAL] CONFISCATION OF MARIJUANA AND PROPERTY.--

A. Whenever a law enforcement officer arrests a person for a violation of the provisions of the Cannabis Revenue and Freedom Act that do not relate to taxation, the officer may confiscate all marijuana items and other property in the person's possession or on the premises that appear to be used in connection with a violation or in violation of that act. If the person who is arrested is convicted of violating the Cannabis Revenue and Freedom Act, and it is found that the marijuana items or other items confiscated by the officer were used in violation of state law:

(1) the marijuana items shall be forfeited and delivered by the court or a law enforcement officer to the appropriate state or local law enforcement agency; and

(2) subject to other applicable law, any other property that was confiscated shall be forfeited and delivered by the court or a law enforcement officer to the department.

B. The department may destroy or otherwise dispose of property that it receives pursuant to Subsection A of this section. All confiscated property, including lockers, chairs, tables, cash registers, music devices, gambling devices, furniture, furnishings, equipment and facilities for the storing, serving or using of marijuana items, shall be...

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forfeited to the state, and the clear proceeds shall be
deposited in the general fund for distribution through the
state equalization guarantee pursuant to the Public School
Finance Act.

SECTION 58. [NEW MATERIAL] CONVICTION OF LICENSEE--DUTY

TO NOTIFY THE DEPARTMENT.--All court officials, district
attorneys and municipal authorities in the state shall
immediately notify the department of the conviction of a person
who is licensed pursuant to the Cannabis Revenue and Freedom
Act of a violation of any provision of that act or of a state
or local law that relates in any way to marijuana. The
notification to the department shall include information about
any acts, practices or other conduct of the licensee that may
be subversive of the general welfare or contrary to the spirit
of the Cannabis Revenue and Freedom Act and shall make
recommendations that the department could take to remedy the
acts, practices or conduct of the licensee.

SECTION 59. [NEW MATERIAL] PROPERTY AND PLACES AS COMMON
NUISANCES.--

A. For the purpose of the Cannabis Revenue and
Freedom Act, a common nuisance is:

(1) any room, house, building, boat, structure
or other place where marijuana items are sold, manufactured,
bartered or given away in violation of state law;

(2) any room, house, building, boat, structure
or other place where persons are permitted to resort for the
purpose of using marijuana items in violation of state law;

(3) any place where marijuana items are kept
for sale, barter or gift in violation of state law; or

(4) all marijuana items or property subject to
confiscation pursuant to the Cannabis Revenue and Freedom Act
that are kept and used in a place described in this section.

B. A person who maintains or assists in maintaining
a common nuisance or who knowingly suffers or permits a common
nuisance to exist in a place of which the person is the owner,
manager or lessor shall be guilty of a violation of the
Cannabis Revenue and Freedom Act.

SECTION 60. [NEW MATERIAL] LIEN ON PLACE USED TO
UNLAWFULLY HANDLE MARIJUANA.--If it is proved that the owner of
a building or premises has knowingly allowed the building or
premises to be used or occupied for the manufacture, sale or
possession of marijuana items, contrary to the provisions of
the Cannabis Revenue and Freedom Act, that building or premises
is subject to a lien for and may be sold to pay all fines and
costs assessed against the building's or premises' occupants
for any violation of that act. The lien shall be enforced
immediately by civil action in any court having jurisdiction by
the district attorney of the county in which the building or
premises is located.

SECTION 61. [NEW MATERIAL] GOVERNOR'S AUTHORITY TO
SUSPEND LICENSE.--In case of invasion, disaster, insurrection, riot or imminent danger thereof the governor may, without notice, suspend any license that was issued pursuant to the Cannabis Revenue and Freedom Act and that is in the affected area for the duration of the invasion, disaster, insurrection, riot or imminent danger thereof.

SECTION 62. [NEW MATERIAL] PENALTIES.--

A. Except where other punishment is specifically provided for in the Cannabis Revenue and Freedom Act:

(1) a violation of any provision of the Cannabis Revenue and Freedom Act shall constitute a misdemeanor; and

(2) a violation of any rule promulgated pursuant to the Cannabis Revenue and Freedom Act shall constitute a petty misdemeanor.

B. Notwithstanding other provisions of law:

(1) a person who is twenty-one years of age or older and who manufactures homegrown marijuana at a household and the total number of homegrown marijuana plants at the household exceeds four but does not exceed eight is guilty of a misdemeanor; and

(2) it is unlawful for any person who is twenty-one years of age or older, except for a licensee or a licensee representative, to knowingly or intentionally possess:

(a) more than one ounce of usable
marijuana in a public place;

(b) more than eight ounces of usable
marijuana;

(c) more than sixteen ounces of
marijuana products in solid form;

(d) more than seventy-two ounces of
marijuana products in liquid form;

(e) more than one ounce of marijuana
extracts; or

(f) any marijuana extracts that were not
purchased from a licensed marijuana retailer.

C. A violation of Subparagraphs (a) through (e) of
Paragraph (2) of Subsection B of this section is a:

(1) fourth degree felony, if the amount
possessed is more than four times the amount specified;

(2) a misdemeanor, if the amount possessed is
more than two times, but not more than four times, the amount
specified; or

(3) a petty misdemeanor, if the amount
possessed is not more than two times the amount specified.

D. A violation of Subparagraph (f) of Paragraph (2)
of Subsection B of this section is:

(1) a fourth degree felony, if the amount
possessed is more than one-fourth ounce of marijuana extract;
or
(2) a misdemeanor, if the amount is not more than one-fourth ounce of marijuana extract.

SECTION 63. [NEW MATERIAL] SECTION 280E OF THE INTERNAL REVENUE CODE.--Section 280E of the Internal Revenue Code of 1986, as amended, does not apply for purposes of determining taxable income or loss pursuant to the Cannabis Revenue and Freedom Act.

SECTION 64. [NEW MATERIAL] USE OF MARIJUANA WHILE DRIVING--PENALTY.--

A. A person commits the offense of use of marijuana while driving if the person uses any marijuana while driving a motor vehicle upon a highway.

B. A person who commits use of marijuana while driving is guilty of a misdemeanor.

SECTION 65. [NEW MATERIAL] SEVERABILITY.--If any part or application of the Cannabis Revenue and Freedom Act is held invalid, unconstitutional or illegal, the remainder or its application to other situations or persons shall not be affected.

SECTION 66. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

"7-2-2. DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code,
as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part
of the estate's or trust's income defined as taxable income and
upon which the federal income tax is calculated in the Internal
Revenue Code for income tax purposes plus, for taxable years
beginning on or after January 1, 1991, the amount of the net
operating loss deduction allowed by Section 172(a) of the
Internal Revenue Code, as that section may be amended or
renumbered, and taken by the taxpayer for that year;

(2) means, for taxpayers other than estates or
trusts, that part of the taxpayer's income defined as adjusted
gross income plus, for taxable years beginning on or after
January 1, 1991, the amount of the net operating loss deduction
allowed by Section 172(a) of the Internal Revenue Code, as that
section may be amended or renumbered, and taken by the taxpayer
for that year;

(3) includes, for all taxpayers, any other
income of the taxpayer not included in adjusted gross income
but upon which a federal tax is calculated pursuant to the
Internal Revenue Code for income tax purposes, except amounts
for which a calculation of tax is made pursuant to Section 55
of the Internal Revenue Code, as that section may be amended or
renumbered; "base income" also includes interest received on a
state or local bond; and
(4) includes, for all taxpayers, an amount
deducted pursuant to Section 7-2-32 NMSA 1978 in a prior
taxable year if:

(a) such amount is transferred to
another qualified tuition program, as defined in Section 529 of
the Internal Revenue Code, not authorized in the Education
Trust Act; or

(b) a distribution or refund is made for
any reason other than: 1) to pay for qualified higher
education expenses, as defined pursuant to Section 529 of the
Internal Revenue Code; or 2) upon the beneficiary's death,
disability or receipt of a scholarship;

C. "compensation" means wages, salaries,
commissions and any other form of remuneration paid to
employees for personal services;

D. "department" means the taxation and revenue
department, the secretary or any employee of the department
exercising authority lawfully delegated to that employee by the
secretary;

E. "fiduciary" means a guardian, trustee, executor,
administrator, committee, conservator, receiver, individual or
corporation acting in any fiduciary capacity;

F. "filing status" means "married filing joint
returns", "married filing separate returns", "head of
household", "surviving spouse" and "single", as those terms are
generally defined for federal tax purposes;

G. "fiscal year" means any accounting period of

twelve months ending on the last day of any month other than

December;

H. "head of household" means "head of household" as
generally defined for federal income tax purposes;

I. "individual" means a natural person, an estate,
a trust or a fiduciary acting for a natural person, trust or

estate;

J. "Internal Revenue Code" means the United States

Internal Revenue Code of 1986, as amended;

K. "lump-sum amount" means, for the purpose of
determining liability for federal income tax, an amount that
was not included in adjusted gross income but upon which the
five-year-averaging or the ten-year-averaging method of tax
computation provided in Section 402 of the Internal Revenue
Code, as that section may be amended or renumbered, was

applied;

L. "modified gross income" means all income of the
taxpayer and, if any, the taxpayer's spouse and dependents,
undiminished by losses and from whatever source, including:

(1) compensation;

(2) net profit from business;

(3) gains from dealings in property;

(4) interest;
(5) net rents;
(6) royalties;
(7) dividends;
(8) alimony and separate maintenance payments;
(9) annuities;
(10) income from life insurance and endowment contracts;
(11) pensions;
(12) discharge of indebtedness;
(13) distributive share of partnership income;
(14) income in respect of a decedent;
(15) income from an interest in an estate or a trust;
(16) social security benefits;
(17) unemployment compensation benefits;
(18) workers' compensation benefits;
(19) public assistance and welfare benefits;
(20) cost-of-living allowances; and
(21) gifts;

M. "modified gross income" excludes:
   (1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;
   (2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of
compensation;

(3) payments pursuant to a federal, state or
local government program directly or indirectly to a third
party on behalf of the taxpayer when identified to a particular
use or invoice by the payer; [e=]

(4) payments for credits and rebates pursuant
to the Income Tax Act and made for a credit pursuant to Section
7-3-9 NMSA 1978; or

(5) for income tax years commencing on or
after January 1, 2019, the amount of any deductions or credits
that the taxpayer would have been allowed but for the
provisions of Section 280E of the Internal Revenue Code;

N. "net income" means, for estates and trusts, base
income adjusted to exclude amounts that the state is prohibited
from taxing because of the laws or constitution of this state
or the United States and means, for taxpayers other than
estates or trusts, base income adjusted to exclude:

(1) an amount equal to the standard deduction
allowed the taxpayer for the taxpayer's taxable year by Section
63 of the Internal Revenue Code, as that section may be amended
or renumbered;

(2) an amount equal to the itemized deductions
defined in Section 63 of the Internal Revenue Code, as that
section may be amended or renumbered, allowed the taxpayer for
the taxpayer's taxable year less the amount excluded pursuant
to Paragraph (1) of this subsection and less the amount of state and local income and sales taxes included in the taxpayer's itemized deductions;

(3) an amount equal to the product of the exemption amount allowed for the taxpayer's taxable year by Section 151 of the Internal Revenue Code, as that section may be amended or renumbered, multiplied by the number of personal exemptions allowed for federal income tax purposes;

(4) income from obligations of the United States of America less expenses incurred to earn that income;

(5) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

(6) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:

(a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and

(b) net operating loss carryover deductions to that year claimed and allowed;

(7) for taxable years beginning on or after January 1, 1991 and prior to January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed, provided that the amount of any
net operating loss carryover from a taxable year beginning on
or after January 1, 1991 and prior to January 1, 2013 may be
excluded only as follows:

   (a) in the case of a timely filed
return, in the taxable year immediately following the taxable
year for which the return is filed; or

   (b) in the case of amended returns or
original returns not timely filed, in the first taxable year
beginning after the date on which the return or amended return
establishing the net operating loss is filed; and

   (c) in either case, if the net operating
loss carryover exceeds the amount of net income exclusive of
the net operating loss carryover for the taxable year to which
the exclusion first applies, in the next four succeeding
taxable years in turn until the net operating loss carryover is
exhausted for any net operating loss carryover from a taxable
year prior to January 1, 2013; in no event shall a net
operating loss carryover from a taxable year beginning prior to
January 1, 2013 be excluded in any taxable year after the
fourth taxable year beginning after the taxable year to which
the exclusion first applies;

   (8) for taxable years beginning on or after
January 1, 2013, an amount equal to the sum of any net
operating loss carryover deductions to that year claimed and
allowed; provided that the amount of any net operating loss
carryover may be excluded only as follows:

   (a) in the case of a timely filed
return, in the taxable year immediately following the taxable
year for which the return is filed; or

   (b) in the case of amended returns or
original returns not timely filed, in the first taxable year
beginning after the date on which the return or amended return
establishing the net operating loss is filed; and

   (c) in either case, if the net operating
loss carryover exceeds the amount of net income exclusive of
the net operating loss carryover for the taxable year to which
the exclusion first applies, in the next nineteen succeeding
taxable years in turn until the net operating loss carryover is
exhausted for any net operating loss carryover from a taxable
year beginning on or after January 1, 2013; in no event shall a
net operating loss carryover from a taxable year beginning:

  1) prior to January 1, 2013 be excluded in any taxable year after
the fourth taxable year beginning after the taxable year to
which the exclusion first applies; and 2) on or after January
1, 2013 be excluded in any taxable year after the nineteenth
taxable year beginning after the taxable year to which the
exclusion first applies; and

   (9) for taxable years beginning on or after
January 1, 2011, an amount equal to the amount included in
adjusted gross income that represents a refund of state and
local income and sales taxes that were deducted for federal tax purposes in taxable years beginning on or after January 1, 2010;

O. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

P. "net operating loss carryover" means the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (6), (7) or (8) of Subsection N of this section, may be excluded from base income;

Q. "nonresident" means every individual not a resident of this state;

R. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

S. "resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one
hundred eighty-five days or more during the taxable year; but any individual, other than someone who was physically present in the state for one hundred eighty-five days or more during the taxable year, who, on or before the last day of the taxable year, changed the individual's place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state is not a resident for the purposes of the Income Tax Act for periods after that change of abode;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or any political subdivision of a foreign country;

V. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

W. "surviving spouse" means "surviving spouse" as generally defined for federal income tax purposes;

X. "taxable income" means net income less any lump-sum amount;
Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of the Income Tax Act, the period for which the return is made; and

Z. "taxpayer" means any individual subject to the tax imposed by the Income Tax Act."

SECTION 67. Section 24-15-9 NMSA 1978 (being Laws 1979, Chapter 279, Section 6) is amended to read:

"24-15-9. DUTIES OF PASSENGERS.--Every passenger [shall have] has the duty to [conduct himself carefully] behave in a safe manner and not to:

A. board or embark upon or disembark from a ski lift except at an area designated for [such] that purpose;

B. drop, throw or expel any object from a ski lift;

C. do any act [which shall] that will interfere with the running or operation of a ski lift;

D. use any ski lift unless the passenger has the ability to use it safely without any instruction on its use by the ski area operator or requests and receives instruction before boarding the ski lift;

E. willfully or negligently engage in any type of conduct [which] that contributes to or causes injury to any person;

F. embark on a ski lift without the authority of
the ski area operator;

G. use any ski lift without engaging [such] the
safety or restraining devices as may be provided; [or]

H. wear skis without properly securing ski
retention devices; or

I. use a ski lift while intoxicated or under the
influence of any controlled substance."

SECTION 68. Section 24-15-10 NMSA 1978 (being Laws 1979,
Chapter 279, Section 7, as amended) is amended to read:

"24-15-10. DUTIES OF [THE] SKIERS.--

A. It is recognized that skiing as a recreational
sport is inherently hazardous to skiers, and it is the duty of
each skier to [conduct himself carefully] behave in a safe
manner.

B. A person who takes part in the sport of skiing
accepts as a matter of law the dangers inherent in that sport
insofar as they are obvious and necessary. Each skier
expressly assumes the risk of and legal responsibility for
[any] injury to person or property [which] that results from
participation in the sport of skiing, in the skiing area,
including [any] an injury caused by the following: variations
in terrain; surface or subsurface snow or ice conditions; bare
spots; rocks, trees or other forms of forest growth or debris;
and ski lift towers and components thereof, pole lines and
snow-making equipment [which] that are plainly visible or are
plainly marked in accordance with the provisions of Section 24-15-7 NMSA 1978, except for any injuries to persons or property resulting from any breach of duty imposed upon ski area operators under the provisions of Sections 24-15-7 and 24-15-8 NMSA 1978. Therefore, each skier [shall have] has the sole individual responsibility for knowing the range of his the skier's own ability to negotiate any a ski slope or trail, and it [shall be] is the duty of each skier to ski within the limits of the skier's own ability, to maintain reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator and to refrain from acting in a manner which that may cause or contribute to the injury of anyone.

C. Responsibility for collisions by any a skier while actually skiing, with any a person or object, [shall be] is solely that of each individual involved in the collision, except [where] when an employee, agent or officer of the ski area operator is personally involved in a collision while in the course and scope of his his employment or [where] when a collision resulted from any a breach of duty imposed upon a ski area operator under the provisions of Sections 24-15-7 or 24-15-8 NMSA 1978. Each skier has the duty to stay clear of and avoid collisions with snow-maintenance equipment, all-terrain vehicles and snowmobiles marked in
compliance with the provisions of Subsections A and J of Section 24-15-7 NMSA 1978, all other vehicles, lift towers, signs and any other structures, amenities or equipment on the ski slopes and trails or in the skiing area.

D. No person shall:

(1) place [any] an object in the skiing area or on the uphill track of [any] a ski lift [which] that may cause a passenger or skier to fall;

(2) cross the track of [any] a T-bar lift, J-bar lift, platter lift or similar device or a fiber rope tow, except at a designated location;

(3) when injured while skiing or using a ski lift or, while skiing, when involved in a collision with [any] a skier or object in which an injury results, leave the ski area before giving [his] the person's name and current address to the ski area operator, or representative or employee of the ski area operator, and the location where the injury or collision occurred and the circumstances thereof; provided, however, in the event [a skier] the person fails to give the notice required by this paragraph, a court, in determining whether or not such failure constitutes a violation of the Ski Safety Act, may consider the reasonableness or feasibility of giving such notice; or

(4) use a ski lift, skiing area or ski slopes or trails while intoxicated or under the influence of [any] a .202766.1
controlled substance.

E. No skier shall fail to wear retention straps or other ski retention devices \[to help prevent runaway skis\].

F. \[Any\] A skier upon being injured shall indicate, to the ski patrol personnel offering first aid treatment or emergency removal to a first aid room, \[his\] the skier's acceptance or rejection of \[such\] the services as provided by the ski area operator. If \[such\] the service is not refused or if the skier is unable to indicate \[his\] the skier's acceptance or rejection of \[such\] the service, \[the acceptance of\] the service is presumed to have been accepted by the skier. \[Such\] The acceptance \[shall\] does not constitute a waiver of \[any\] action for negligent provision of the service by the ski patrol personnel."

SECTION 69. Section 29-19-4 NMSA 1978 (being Laws 2003, Chapter 255, Section 4, as amended) is amended to read:

"29-19-4. APPLICANT QUALIFICATIONS.--

A. The department shall issue a concealed handgun license to an applicant who:

1. is a citizen of the United States;
2. is a resident of New Mexico or is a member of the armed forces whose permanent duty station is located in New Mexico or is a dependent of such a member;
3. is twenty-one years of age or older;
4. is not a fugitive from justice;
(5) has not been convicted of a felony in New Mexico or any other state or pursuant to the laws of the United States or any other jurisdiction;

(6) is not currently under indictment for a felony criminal offense in New Mexico or any other state or pursuant to the laws of the United States or any other jurisdiction;

(7) is not otherwise prohibited by federal law or the law of any other jurisdiction from purchasing or possessing a firearm;

(8) has not been adjudicated mentally incompetent or committed to a mental institution;

(9) is not addicted to alcohol or controlled substances; and

(10) has satisfactorily completed a firearms training course approved by the department for the category and the largest caliber of handgun that the applicant wants to be licensed to carry as a concealed handgun.

B. The department shall deny a concealed handgun license to an applicant who has:

(1) received a conditional discharge, a diversion or a deferment or has been convicted of, pled guilty to or entered a plea of nolo contendere to a misdemeanor offense involving a crime of violence within ten years immediately preceding the application;
been convicted of a misdemeanor offense involving driving while under the influence of intoxicating liquor or drugs within five years immediately preceding the application for a concealed handgun license;

(3) been convicted of a misdemeanor offense involving the possession or abuse of a controlled substance, other than marijuana, within ten years immediately preceding the application; or

(4) been convicted of a misdemeanor offense involving assault, battery or battery against a household member.

C. Firearms training course instructors who are approved by the department shall not be required to complete a firearms training course pursuant to Paragraph (10) of Subsection A of this section."

SECTION 70. Section 30-6-1 NMSA 1978 (being Laws 1973, Chapter 360, Section 10, as amended) is amended to read:

"30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

A. As used in this section:

(1) "child" means a person who is less than eighteen years of age;

(2) "neglect" means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's
parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them; and

    (3) "negligently" refers to criminal negligence and means that a person knew or should have known of the danger involved and acted with a reckless disregard for the safety or health of the child.

B. Abandonment of a child consists of the parent, guardian or custodian of a child intentionally leaving or abandoning the child under circumstances whereby the child may or does suffer neglect. A person who commits abandonment of a child is guilty of a misdemeanor, unless the abandonment results in the child's death or great bodily harm, in which case the person is guilty of a second degree felony.

C. A parent, guardian or custodian who leaves an infant less than ninety days old in compliance with the Safe Haven for Infants Act shall not be prosecuted for abandonment of a child.

D. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be:

    (1) placed in a situation that may endanger the child's life or health;

    (2) tortured, cruelly confined or cruelly punished; or

    (3) exposed to the inclemency of the weather.
E. A person who commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm to the child, the person is guilty of a first degree felony.

F. A person who commits negligent abuse of a child that results in the death of the child is guilty of a first degree felony.

G. A person who commits intentional abuse of a child twelve to eighteen years of age that results in the death of the child is guilty of a first degree felony.

H. A person who commits intentional abuse of a child less than twelve years of age that results in the death of the child is guilty of a first degree felony resulting in the death of a child.

I. Except for evidence that relates to conduct pursuant to and in compliance with the Cannabis Revenue and Freedom Act, evidence that demonstrates that a child has been knowingly, intentionally or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

J. Evidence that demonstrates that a child has been
knowingly and intentionally exposed to the use of
methamphetamine shall be deemed prima facie evidence of abuse
of the child.

K. A person who leaves an infant less than ninety
days old at a hospital may be prosecuted for abuse of the
infant for actions of the person occurring before the infant
was left at the hospital."

SECTION 71. Section 30-31-2 NMSA 1978 (being Laws 1972,
Chapter 84, Section 2, as amended) is amended to read:

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

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

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

C. "board" means the board of pharmacy;

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

E. "controlled substance":

(1) means a drug or substance listed in
Schedules I through V of the Controlled Substances Act or rules
adopted thereto; and

(2) does not include industrial hemp or marijuana for purpose of or conduct pursuant to and in compliance with the Cannabis Revenue and Freedom Act;

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

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

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

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

J. "distribute" means to deliver other than by administering or dispensing a controlled substance or

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controlled substance analog;

K. "drug" or "substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories;

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

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

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

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

N. "marijuana":

(1) means all parts of the plant cannabis,
including any and all varieties, species and subspecies of the
genus Cannabis, whether growing or not, the seeds thereof and
every compound, manufacture, salt, derivative, mixture or
preparation of the plant or its seeds; [‡‡] and

(2) does not include:

(a) the mature stalks of the plant;
(b) hashish;
(c) tetrahydrocannabinols extracted or
isolated from marijuana;
(d) fiber produced from the stalks;
(e) oil or cake made from the seeds of
the plant;
(f) any other compound, manufacture,
salt, derivative, mixture or preparation of the mature stalks,
fiber, oil or cake; [‡‡]

(g) the sterilized seed of the plant
that is incapable of germination; or
(h) industrial hemp or industrial hemp
commodities or products as defined in the Cannabis Revenue and
Freedom Act;

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

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

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

(3) opium poppy and poppy straw, including all parts of the plant of the species Papaver somniferum L. except its seeds; or

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

P. "opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of...
3-methoxy-n-methylmorphinan and its salts, dextromethorphan. "Opiate" does include its racemic and levorotatory forms;

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

R. "practitioner" means a physician, certified advanced practice chiropractic physician, doctor of oriental medicine, dentist, physician assistant, certified nurse practitioner, clinical nurse specialist, certified nurse-midwife, prescribing psychologist, veterinarian, euthanasia technician, pharmacist, pharmacist clinician or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act;

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

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

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

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

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

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

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

(4) testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs;

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

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

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

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

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

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

(11) hypodermic syringes, needles and other
objects used, intended for use or designed for use in
parenterally injecting controlled substances or controlled
substance analogs into the human body;

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

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

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

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

(f) miniature cocaine spoons and cocaine
vials;

(g) chamber pipes;
(h) carburetor pipes;
(i) electric pipes;
(j) air-driven pipes;
(k) chilams;
(l) bongs; or
(m) ice pipes or chillers; and

(13) in determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

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

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

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

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

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

(f) descriptive materials accompanying the object that explain or depict its use;
(g) the manner in which the object is
displayed for sale; and

(h) expert testimony concerning its use;

W. "controlled substance analog" means a substance
other than a controlled substance that has a chemical structure
substantially similar to that of a controlled substance in
Schedule I, II, III, IV or V or that was specifically designed
to produce effects substantially similar to that of controlled
substances in Schedule I, II, III, IV or V. Examples of
chemical classes in which controlled substance analogs are
found include the following:

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

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

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

Y. "drug-free school zone" means a public school, parochial school or private school or property that is used for a public, parochial or private school purpose and the area within one thousand feet of the school property line, but it does not mean any post-secondary school; and

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

SECTION 72. Section 30-31-6 NMSA 1978 (being Laws 1972, Chapter 84, Section 6, as amended) is amended to read:

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

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

   (1) acetylmethadol;

   (2) allylprodine;

   (3) alphacetylmethadol;

   (4) alphameprodine;
(5) alphamethadol;
(6) benzethidine;
(7) betacetylmethadol;
(8) betameprodine;
(9) betamethadol;
(10) betaprodine;
(11) clonitazene;
(12) dextromoramide;
(13) dextrorphan;
(14) diampromide;
(15) diethylthiambutene;
(16) dimenoxadol;
(17) dimephtanol;
(18) dimethylthiambutene;
(19) dioxaphetyl butyrate;
(20) dipipanone;
(21) ethylmethylthiambutene;
(22) etonitazene;
(23) etoxeridine;
(24) furethidine;
(25) hydroxypethidine;
(26) ketobemidone;
(27) levomoramide;
(28) levophenacylmorphan;
(29) morpheridine;
(30) noracymethadol;
(31) norlevorphanol;
(32) normethadone;
(33) norpipanone;
(34) phenadoxone;
(35) phenampronide;
(36) phenomorphan;
(37) phenoperidine;
(38) piritramide;
(39) proheptazine;
(40) properidine;
(41) racemoramide; and
(42) trimeperidine;

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

(1) acetorphine;
(2) acetyldihydrocodeine;
(3) benzylmorphine;
(4) codeine methylbromide;
(5) codeine-N-oxide;
(6) cyprenorphine;
(7) desomorphine;
(8) dihydromorphine;
(9) etorphine;
(10) heroin;
(11) hydromorphinol;
(12) methyldesorphine;
(13) methyldihydromorphine;
(14) morphine methylbromide;
(15) morphine methylsulfonate;
(16) morphine-N-oxide;
(17) myrophine;
(18) nicocodeine;
(19) nicomorphine;
(20) normorphine;
(21) pholcodine; and
(22) thebacon;

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

(1) 3,4-methylenedioxy amphetamine;
(2) 5-methoxy-3,4-methylenedioxy amphetamine;
(3) 3,4,5-trimethoxy amphetamine;
(4) bufotenine;
(5) diethyltryptamine;
(6) dimethyltryptamine;
(7) 4-methyl-2,5-dimethoxy amphetamine;
(8) ibogaine;
(9) lysergic acid diethylamide;
(10) marijuana;
(11) mescaline;
(12) peyote, except as otherwise provided in
the Controlled Substances Act;
(13) N-ethyl-3-piperidyl benzilate;
(14) N-methyl-3-piperidyl benzilate;
(15) psilocybin;
(16) psilocyn;
(17) tetrahydrocannabinols;
(18) hashish;
(19) synthetic cannabinoids, including:
   (a) 1-[2-(4-(morpholinyl)ethyl)]
   -3-(1-naphthoyl)indole;
   (b) 1-butyl-3-(1-naphthoyl)indole;
   (c) 1-hexyl-3-(1-naphthoyl)indole;
   (d) 1-pentyl-3-(1-naphthoyl)indole;
   (e) 1-pentyl-3-(2-methoxyphenylacetyl)
   indole;
   (f) cannabicyclohexanol (CP 47, 497 and
   homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)
   .202766.1
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1. 3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,  
2. 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;  
   (g) 6aR,10aR)-9-(hydroxymethyl)  
4. -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,  
5. 10a-tetrahydrobenzo[c]chromen-1-ol;  
6. (h) dexanabinol, (6aS,10aS)  
7. -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)  
8. -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;  
9. (i) 1-pentyl-3-(4-chloro naphthoyl)  
10. indole;  
11. (j) (2-methyl-1-propyl-1H-indol-3-yl)  
12. -1-naphthalenyl-methanone; and  
13. (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy  
14. cyclohexyl)-phenol;  
15. (20) 3,4-methylenedioxy methcathinone;  
16. (21) 3,4-methylenedioxy pyrovalerone;  
17. (22) 4-methylmethcathinone;  
18. (23) 4-methoxymethcathinone;  
19. (24) 3-fluoromethcathinone; and  
20. (25) 4-fluoromethcathinone;  
21. D. the enumeration of peyote as a controlled  
22. substance does not apply to the use of peyote in bona fide  
23. religious ceremonies by a bona fide religious organization, and  
24. members of the organization so using peyote are exempt from  
25. registration. Any person who manufactures peyote for or
distributes peyote to the organization or its members shall
comply with the federal Comprehensive Drug Abuse Prevention and
Control Act of 1970 and all other requirements of law;

   E. the enumeration of marijuana,
tetrahydrocannabinols or chemical derivatives of
tetrahydrocannabinol as Schedule I controlled substances does
not apply to the use of marijuana, tetrahydrocannabinols or
chemical derivatives of tetrahydrocannabinol:

   (1) by certified patients pursuant to the
Controlled Substances Therapeutic Research Act or by qualified
patients pursuant to the provisions of the Lynn and Erin
Compassionate Use Act; [and] or

   (2) for the purpose of or with respect to
conduct pursuant to and in compliance with the Cannabis Revenue
and Freedom Act; and

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

SECTION 73. Section 30-31-12 NMSA 1978 (being Laws 1972,
Chapter 84, Section 12, as amended) is amended to read:

"30-31-12. REGISTRATION REQUIREMENTS.--

   A. Except for a person who is licensed pursuant to
the Cannabis Revenue and Freedom Act, and only with respect to
conduct that is pursuant to and in compliance with that act, a
person who manufactures, distributes or dispenses a controlled
substance or who proposes to engage in the manufacture, distribution or dispensing of a controlled substance shall obtain a registration issued by the board in accordance with its regulations.

B. Persons registered by the board to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense, prescribe or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of the Controlled Substances Act.

C. The following persons need not register and may lawfully possess controlled substances:

(1) an agent of a registered manufacturer, distributor or dispenser of a controlled substance if the agent is acting in the usual course of the agent's principal's business or employment;

(2) a common or contract carrier or warehouseman, or an employee whose possession of a controlled substance is in the usual course of the common or contract carrier or warehouseman's business; or

(3) an ultimate user.

D. The board may waive by regulation the requirement for registration of certain manufacturers, distributors or dispensers if it is consistent with the public health and safety.
E. The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's regulations."

SECTION 74. Section 30-31-20 NMSA 1978 (being Laws 1972, Chapter 84, Section 20, as amended) is amended to read:

"30-31-20. TRAFFICKING CONTROLLED SUBSTANCES--VIOLATION.--

A. As used in the Controlled Substances Act, "traffic" means the:

(1) manufacture of a controlled substance enumerated in Schedules I through V or a controlled substance analog as defined in Subsection W of Section 30-31-2 NMSA 1978;

(2) distribution, sale, barter or giving away of:

(a) a controlled substance enumerated in Schedule I or II that is a narcotic drug;

(b) a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug; or

(c) methamphetamine, its salts, isomers and salts of isomers; or

(3) possession with intent to distribute:

(a) a controlled substance enumerated in Schedule I or II that is a narcotic drug;

(b) a controlled substance analog of a
controlled substance enumerated in Schedule I or II that is a
narcotic drug; or

(c) methamphetamine, its salts, isomers
and salts of isomers.

B. Except as authorized by the Controlled
Substances Act or the Cannabis Revenue and Freedom Act, it is
unlawful for a person to intentionally traffic. A person who
violates this subsection is:

(1) for the first offense, guilty of a second
degree felony and shall be sentenced pursuant to the provisions
of Section 31-18-15 NMSA 1978; and

(2) for the second and subsequent offenses,
guilty of a first degree felony and shall be sentenced pursuant
to the provisions of Section 31-18-15 NMSA 1978.

C. A person who knowingly violates Subsection B of
this section within a drug-free school zone excluding private
property residentially zoned or used primarily as a residence
is guilty of a first degree felony and shall be sentenced
pursuant to the provisions of Section 31-18-15 NMSA 1978."

SECTION 75. Section 30-31-21 NMSA 1978 (being Laws 1972,
Chapter 84, Section 21, as amended) is amended to read:

"30-31-21. DISTRIBUTION TO A MINOR.--

A. Except as authorized by the Controlled
Substances Act and as provided in the Cannabis Revenue and
Freedom Act, no person who is eighteen years of age or older
shall intentionally distribute a controlled substance to a
person under the age of eighteen years. Any person who
violates this section with respect to:

[A–] (1) marijuana is:

[<1>] (a) for the first offense, guilty
of a third degree felony and shall be sentenced pursuant to the
provisions of Section 31-18-15 NMSA 1978; and

[<2>] (b) for the second and subsequent
offenses, guilty of a second degree felony and shall be
sentenced pursuant to the provisions of Section 31-18-15 NMSA
1978; and

[B+] (2) any other controlled substance
enumerated in [Schedules] Schedule I, II, III or IV or a
controlled substance analog of any controlled substance
enumerated in Schedule I, II, III or IV is:

[<1>] (a) for the first offense, guilty
of a second degree felony and shall be sentenced pursuant to
the provisions of Section 31-18-15 NMSA 1978; and

[<2>] (b) for the second and subsequent
offenses, guilty of a first degree felony and shall be
sentenced pursuant to the provisions of Section 31-18-15 NMSA
1978.

B. As provided in the Cannabis Revenue and Freedom
Act, a licensee or a licensee representative pursuant to that
act shall not sell or deliver marijuana or marijuana items to a
person who is younger than twenty-one years of age. A person who violates the provisions of this subsection is guilty of a fourth degree felony."

SECTION 76. Section 30-31-22 NMSA 1978 (being Laws 1972, Chapter 84, Section 22, as amended) is amended to read:

"30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--DISTRIBUTION PROHIBITED.--

A. Except as authorized by the Controlled Substances Act or as authorized by the Cannabis Revenue and Freedom Act, it is unlawful for a person to intentionally distribute or possess with intent to distribute a controlled substance or a controlled substance analog except a substance enumerated in Schedule I or II that is a narcotic drug, a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug or methamphetamine, its salts, isomers and salts of isomers. A person who violates this subsection with respect to:

1. marijuana or synthetic cannabinoids is:
   (a) for the first offense, guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;
   (b) for the second and subsequent offenses, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;
(c) for the first offense, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(d) for the second and subsequent offenses, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(2) any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a controlled substance enumerated in Schedule I, II, III or IV except a substance enumerated in Schedule I or II that is a narcotic drug, a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug or methamphetamine, its salts, isomers and salts of isomers, is:

(a) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(b) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(3) a controlled substance enumerated in
Schedule V or a controlled substance analog of a controlled substance enumerated in Schedule V is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than five hundred dollars ($500) or by imprisonment for a definite term not less than one hundred eighty days but less than one year, or both.

B. Subsection A of this section shall not apply to a person who is twenty-one years of age or older and who, in compliance with the Cannabis Revenue and Freedom Act, distributes marijuana items to a person who is twenty-one years of age or older or possesses marijuana items with the intent to distribute in compliance with that act.

[C.] C. It is unlawful for a person to distribute gamma hydroxybutyric acid or flunitrazepam to another person without that person's knowledge and with intent to commit a crime against that person, including criminal sexual penetration. For the purposes of this subsection, "without that person's knowledge" means the person is unaware that a substance with the ability to alter that person's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is being distributed to that person. Any person who violates this subsection is:

(1) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and
(2) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

[D-] D. Except as authorized by the Controlled Substances Act, it is unlawful for a person to intentionally create or deliver, or possess with intent to deliver, a counterfeit substance. A person who violates this subsection with respect to:

(1) a counterfeit substance enumerated in Schedule I, II, III or IV is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(2) a counterfeit substance enumerated in Schedule V is guilty of a petty misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or by imprisonment for a definite term not to exceed six months, or both.

[E.] E. A person who knowingly violates Subsection A or [G] D of this section while within a drug-free school zone with respect to:

(1) marijuana or synthetic cannabinoids is:

(a) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(b) for the second and subsequent offenses,
guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(c) for the first offense, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(d) for the second and subsequent offenses, if more than one hundred pounds is possessed with intent to distribute or distributed or both, guilty of a first degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(2) any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a controlled substance enumerated in Schedule I, II, III or IV except a substance enumerated in Schedule I or II that is a narcotic drug, a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug or methamphetamine, its salts, isomers and salts of isomers, is:

(a) for the first offense, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(b) for the second and subsequent offenses, guilty of a first degree felony and shall be sentenced pursuant
to the provisions of Section 31-18-15 NMSA 1978;

(3) a controlled substance enumerated in
Schedule V or a controlled substance analog of a controlled
substance enumerated in Schedule V is guilty of a fourth degree
felony and shall be sentenced pursuant to the provisions of
Section 31-18-15 NMSA 1978; and

(4) the intentional creation, delivery or
possession with the intent to deliver:

(a) a counterfeit substance enumerated in
Schedule I, II, III or IV is guilty of a third degree felony
and shall be sentenced pursuant to the provisions of Section
31-18-15 NMSA 1978; and

(b) a counterfeit substance enumerated in
Schedule V is guilty of a misdemeanor and shall be punished by
a fine of not less than one hundred dollars ($100) nor more
than five hundred dollars ($500) or by imprisonment for a
definite term not less than one hundred eighty days but less
than one year, or both.

[E-] F. Notwithstanding the provisions of Subsection
A of this section and the provisions of the Cannabis Revenue
and Freedom Act, distribution of a small amount of marijuana or
synthetic cannabinoids for no remuneration shall be treated as
provided in Paragraph (1) of Subsection B of Section 30-31-23
NMSA 1978."

SECTION 77. Section 30-31-23 NMSA 1978 (being Laws 1972,
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Chapter 84, Section 23, as amended) is amended to read:

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

A. It is unlawful for a person, other than a licensee or a licensee representative only with respect to conduct pursuant to and in compliance with the Cannabis Revenue and Freedom Act, to intentionally possess a controlled substance unless the substance was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of professional practice or except as otherwise authorized by the Controlled Substances Act or the Cannabis Revenue and Freedom Act. It is unlawful for a person intentionally to possess a controlled substance analog.

B. Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, a person who violates this section with respect to:

   (1) one ounce or less of marijuana or synthetic cannabinoids is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars ($50.00) or more than one hundred dollars ($100) and by imprisonment for not more than fifteen days, and, for the second and subsequent offenses, guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both;
(2) more than one ounce and less than eight ounces of marijuana or synthetic cannabinoids is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both; or

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

C. A minor who violates this section with respect to the substances listed in this subsection is guilty of a petty misdemeanor and, notwithstanding the provisions of Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a fine not to exceed one hundred dollars ($100) or 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 (20) through (25) 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 [the effective date of this act] March 31, 2011 [act] 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. Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, except 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 a misdemeanor and shall be punished by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both.

E. A person who violates this section with respect to phencyclidine as enumerated in Schedule III or a controlled substance analog of phencyclidine; methamphetamine, its salts, isomers or salts of isomers as enumerated in Schedule II or a controlled substance analog of methamphetamine, its salts, isomers or salts of isomers; flunitrazepam, its salts, isomers
or salts of isomers as enumerated in Schedule I or a controlled
substance analog of flunitrazepam, including naturally
occurring metabolites, its salts, isomers or salts of isomers;
gamma hydroxybutyric acid and any chemical compound that is
metabolically converted to gamma hydroxybutyric acid, its
salts, isomers or salts of isomers as enumerated in Schedule I
or a controlled substance analog of gamma hydroxybutyric acid,
its salts, isomers or salts of isomers; gamma butyrolactone and
any chemical compound that is metabolically converted to gamma
hydroxybutyric acid, its salts, isomers or salts of isomers as
enumerated in Schedule I or a controlled substance analog of
gamma butyrolactone, its salts, isomers or salts of isomers; 1-4
butane diol and any chemical compound that is metabolically
converted to gamma hydroxybutyric acid, its salts, isomers or
salts of isomers as enumerated in Schedule I or a controlled
substance analog of 1-4 butane diol, its salts, isomers or
salts of isomers; or 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

F. Except for a minor as defined in Subsection C of
this section, a person who violates Subsection A of this
section while within a posted drug-free school zone, excluding
private property residentially zoned or used primarily as a

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residence and excluding a person in or on a motor vehicle in
transit through the posted drug-free school zone, with respect
to:

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

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

(3) eight ounces or more of marijuana or
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."

SECTION 78. Section 30-31-24 NMSA 1978 (being Laws 1972, Chapter 84, Section 24, as amended) is amended to read:

"30-31-24. CONTROLLED SUBSTANCES--VIOLATIONS OF ADMINISTRATIVE PROVISIONS.--

A. Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, it is unlawful for any person:

(1) who is subject to Sections 30-31-11 through 30-31-19 NMSA 1978 to intentionally distribute or dispense a controlled substance in violation of Section 30-31-18 NMSA 1978;

(2) who is a registrant to intentionally manufacture a controlled substance not authorized by [his] the person's registration or to intentionally distribute or dispense a controlled substance not authorized by [his] the person's registration to another registrant or other authorized person;

(3) to intentionally refuse or fail to make,
keep or furnish [any] a record, notification, order form, statement, invoice or information required under the Controlled Substances Act; or

(4) to intentionally refuse an entry into [any] a premises for [any] an inspection authorized by the Controlled Substances Act.

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

SECTION 79. Section 30-31-25 NMSA 1978 (being Laws 1972, Chapter 84, Section 25, as amended) is amended to read:

"30-31-25. CONTROLLED SUBSTANCES--PROHIBITED ACTS.--

A. Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, it is unlawful for any person:

(1) who is a registrant to distribute a controlled substance classified in [Schedules] Schedule I or II, except pursuant to an order form as required by Section 30-31-17 NMSA 1978;

(2) to intentionally use in the course of the manufacture or distribution of a controlled substance a registration number [which] that is fictitious, revoked, suspended or issued to another person;

(3) to intentionally acquire or obtain or attempt to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or...
subterfuge;

    (4) to intentionally furnish false or fraudulent
material information in, or omit any material information from,
any application, report or other document required to be kept
or filed under the Controlled Substances Act, or any record
required to be kept by that act; or

    (5) to intentionally make, distribute or possess
any punch, die, plate, stone or other thing designed to print,
imprint or reproduce the trademark, trade name or other
identifying mark, imprint or device of another or any likeness
of any of the foregoing, upon any drug or container or labeling
thereof so as to render the drug a counterfeit substance.

    B. Any person who violates this section is guilty of
a fourth degree felony and shall be sentenced pursuant to the
provisions of Section 31-18-15 NMSA 1978."

SECTION 80. Section 30-31-25.1 NMSA 1978 (being Laws
1981, Chapter 31, Section 2, as amended) is amended to read:

"30-31-25.1. POSSESSION, DELIVERY OR MANUFACTURE OF DRUG
PARAPHERNALIA PROHIBITED--EXCEPTIONS.--

    A. It is unlawful for a person to use or possess with
intent to use drug paraphernalia to plant, propagate,
cultivate, grow, harvest, manufacture, compound, convert,
produce, process, prepare, test, analyze, pack, repack, store,
contain, conceal, inject, ingest, inhale or otherwise introduce
into the human body a controlled substance in violation of the
Controlled Substances Act. The provisions of this subsection do not apply to a person who is in possession of hypodermic syringes or needles at the time [he] the person is directly and immediately engaged in a harm reduction program, as provided in the Harm Reduction Act.

B. It is unlawful for a person to deliver, possess with intent to deliver or manufacture with the intent to deliver drug paraphernalia with knowledge, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to:

(1) department of health employees or their designees while they are directly and immediately engaged in activities related to the harm reduction program authorized by the Harm Reduction Act; or

(2) the sale or distribution of hypodermic syringes and needles by pharmacists licensed pursuant to the Pharmacy Act.

C. A person who violates this section with respect to Subsection A of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than .202766.1
fifty dollars ($50.00) nor more than one hundred dollars ($100)
or by imprisonment for a definite term less than one year, or
both. A person who violates this section with respect to
Subsection B of this section is guilty of a misdemeanor.

D. A person eighteen years of age or over who
violates the provisions of Subsection B of this section by
delivering drug paraphernalia to a person under eighteen years
of age and who is at least three years [his] the person's
junior is guilty of a fourth degree felony and shall be
sentenced pursuant to the provisions of Section 31-18-15 NMSA
1978.

E. For the purposes of this section, "marijuana
paraphernalia" means all equipment, products and materials of
any kind that are marketed for use or designed for use in
planting, propagating, cultivating, growing, harvesting,
manufacturing, compounding, converting, producing, processing,
preparing, testing, analyzing, packaging, repackaging, storing,
containing, concealing, injecting, ingesting, inhaling or
otherwise introducing into the human body marijuana in
violation of state law.

F. The provisions of this section do not apply to a
person who possesses, delivers, manufactures or sells marijuana
paraphernalia to a person who is twenty-one years of age or
older."

SECTION 81. Section 30-31-26 NMSA 1978 (being Laws 1972,
Chapter 84, Section 26) is amended to read:

"30-31-26. PENALTIES UNDER OTHER LAWS.--Notwithstanding the provisions of the Cannabis Revenue and Freedom Act:

A. any penalty imposed for violation of the Controlled Substances Act is in addition to any civil or administrative penalty or sanction otherwise provided by law; and

B. a municipality may, by ordinance, prohibit distribution or possession of a controlled substance enumerated in Schedules I, II, III or IV but penalty provisions shall be the same as those provided for a similar crime in the Controlled Substances Act."

SECTION 82. Section 30-31-32 NMSA 1978 (being Laws 1972, Chapter 84, Section 31) is amended to read:

"30-31-32. ADMINISTRATIVE INSPECTIONS.--Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, the board may make administrative inspections of controlled premises in accordance with the following provisions:

A. for purposes of this section, "controlled premises" means:

(1) places where persons registered or exempted from registration requirements under the Controlled Substances Act are required to keep records; and

(2) places, including factories, warehouses, establishments and conveyances, in which persons registered or..."
exempted from registration requirements under the Controlled
Substances Act are permitted to hold, manufacture, compound,
process, sell, deliver or otherwise dispose of any controlled
substance;

B. when authorized by an administrative inspection
warrant issued pursuant to Section [30] 30-31-31 NMSA 1978, an
officer or employee designated by the board, upon presenting
the warrant and appropriate credentials to the owner, operator
or agent in charge, may enter the controlled premises for the
purpose of conducting an administrative inspection;

C. when authorized by an administrative inspection
warrant, an officer or employee designated by the board may:

(1) inspect and copy records required by the
Controlled Substances Act to be kept;

(2) inspect, within reasonable limits and in a
reasonable manner, controlled premises and all pertinent
equipment, finished and unfinished material, containers and
labeling found therein, and, except as provided in Subsection E
of this section, all other things bearing on violations of the
Controlled Substances Act, including records, files, papers,
processes, controls and facilities; and

(3) inventory any stock of any controlled
substance and obtain samples;

D. this section does not prevent entries and
administrative inspections, including seizures of property,
without a warrant:

(1) if the owner, operator or agent in charge of
the controlled premises consents;

(2) in situations presenting substantial
imminent danger to health or safety; or

(3) in all other situations in which a warrant
is not constitutionally required; and

E. an inspection authorized by this section shall not
extend to financial data, sales data other than shipment data
or pricing data unless the owner, operator or agent in charge
of the controlled premises consents in writing."

SECTION 83. Section 30-31-34 NMSA 1978 (being Laws 1972,
Chapter 84, Section 33, as amended) is amended to read:

"30-31-34. FORFEITURES--PROPERTY SUBJECT.--
Notwithstanding the provisions of the Cannabis Revenue and
Freedom Act, the following are subject to forfeiture pursuant
to the provisions of the Forfeiture Act:

A. all raw materials, products and equipment of any
kind, including firearms that are used or intended for use in
manufacturing, compounding, processing, delivering, importing
or exporting any controlled substance or controlled substance
analog in violation of the Controlled Substances Act;

B. all property that is used or intended for use as a
container for property described in Subsection A of this
section;
C. all conveyances, including aircraft, vehicles or vessels that are used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale of property described in Subsection A of this section;

D. all books, records and research products and materials, including formulas, microfilm, tapes and data that are used or intended for use in violation of the Controlled Substances Act;

E. narcotics paraphernalia or money that is a fruit or instrumentality of the crime;

F. notwithstanding Subsection C of this section and the provisions of the Forfeiture Act:

(1) a conveyance used by a person as a common carrier in the transaction of business as a common carrier shall not be subject to forfeiture pursuant to this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of the Controlled Substances Act;

(2) a conveyance shall not be subject to forfeiture pursuant to this section by reason of an act or omission established for the owner to have been committed or omitted without the owner's knowledge or consent;

(3) a conveyance is not subject to forfeiture for a violation of law the penalty for which is a misdemeanor; and

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(4) a forfeiture of a conveyance encumbered by a bona fide security interest shall be subject to the interest of a secured party if the secured party neither had knowledge of nor consented to the act or omission; and

G. all drug paraphernalia as defined by Subsection V of Section 30-31-2 NMSA 1978."

SECTION 84. Section 30-31-36 NMSA 1978 (being Laws 1972, Chapter 84, Section 35, as amended) is amended to read:

"30-31-36. SUMMARY FORFEITURE.--

A. Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, controlled substances listed in Schedule I or controlled substance analogs of substances listed in Schedule I that are possessed, transferred, sold or offered for sale in violation of the Controlled Substances Act are contraband and shall be seized and summarily forfeited to the state.

B. Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, controlled substances listed in Schedule I or controlled substance analogs of substances listed in Schedule I that are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

C. Notwithstanding the provisions of the Cannabis Revenue and Freedom Act, species of plants from which controlled substances in Schedules I and II or controlled
substance analogs of substances listed in Schedules I and II may be derived, [which] that have been planted or cultivated in violation of the Controlled Substances Act or of which the owners or cultivators are unknown or [which] that are wild growths, may be seized and summarily forfeited to the state."

SECTION 85. Section 30-31B-2 NMSA 1978 (being Laws 1989, Chapter 177, Section 2, as amended) is amended to read:

"30-31B-2. DEFINITIONS.--As used in the Drug Precursor Act:

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

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

C. "board" means the board of pharmacy;

D. "bureau" means the bureau of narcotics and dangerous drugs of the United States department of justice or its successor agency;

E. "controlled substance":

(1) means a drug or substance listed in Schedules I through V of the Controlled Substances Act or regulations adopted thereto; and

(2) does not include industrial hemp or
marijuana for purpose of or conduct pursuant to and in 
compliance with the Cannabis Revenue and Freedom Act;

   F. "controlled substance analog" means a substance 
other than a controlled substance that has a chemical structure 
substantially similar to that of a controlled substance in 
Schedule I, II, III, IV or V or that was specifically designed 
to produce effects substantially similar to that of controlled 
substances in Schedule I, II, III, IV or V. Examples of 
chemical classes in which controlled substance analogs are 
found include, but are not limited to, the following:

   (1) phenethylamines;

   (2) N-substituted piperidines;

   (3) morphinans;

   (4) ecgonines;

   (5) quinazolinones;

   (6) substituted indoles; and

   (7) arylcycloalkylamines.

   Specifically excluded from the definition of "controlled 
substance analog" are those substances that are generally 
recognized as safe and effective within the meaning of the 
Federal Food, Drug and Cosmetic Act or have been manufactured, 
distributed or possessed in conformance with the provisions of 
an approved new drug application or an exemption for 
investigational use within the meaning of Section 505 of the 
Federal Food, Drug and Cosmetic Act;
G. "deliver" means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is an agency relationship;

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

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

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

K. "drug" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary or any respective supplement to these publications. "Drug" does not include devices or their components, parts or accessories;

L. "drug precursor" means a substance, material, compound, mixture or preparation listed in Section 30-31B-3 NMSA 1978 or regulations adopted thereto or any of their salts or isomers. "Drug precursor" specifically excludes those
substances, materials, compounds, mixtures or preparations that
are prepared for dispensing pursuant to a prescription or over-
the-counter distribution as a substance that is generally
recognized as safe and effective within the meaning of the
Federal Food, Drug and Cosmetic Act or have been manufactured,
distributed or possessed in conformance with the provisions of
an approved new drug application or an exemption for
investigational use within the meaning of Section 505 of the
Federal Food, Drug and Cosmetic Act, unless the board makes the
findings required pursuant to Subsection B of Section 30-31B-4
NMSA 1978;

M. "immediate precursor" means a substance that is a
compound commonly used or produced primarily as an immediate
chemical intermediary used in the manufacture of a controlled
substance, the control of which is necessary to prevent,
curtail or limit the manufacture of controlled substances;

N. "license" means a license issued by the board to
manufacture, possess, transfer or transport a drug precursor;

O. "manufacture" means the production, preparation,
compounding, conversion or processing of a drug precursor by
extraction from substances of natural origin, independently by
means of chemical synthesis or by a combination of extraction
and chemical synthesis and includes any packaging or
repackaging of the substance or labeling or relabeling of its
container, except that this term does not include the
preparation or compounding of a controlled substance by a practitioner:

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

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

P. "person" includes an individual, sole proprietorship, partnership, corporation, association, the state or a political subdivision of the state or other legal entity;

Q. "possession" means to actively or constructively exercise dominion over;

R. "practitioner" means a physician, certified advanced practice chiropractic physician, dentist, veterinarian or other person licensed to prescribe and administer drugs that are subject to the Controlled Substances Act;

S. "prescription" means an order given individually for the person for whom is prescribed a controlled substance, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber and in accordance with the Controlled Substances Act or regulations adopted thereto; and

T. "transfer" means the sale, possession with intent
SECTION 86. Section 47-8-3 NMSA 1978 (being Laws 1975, Chapter 38, Section 3, as amended) is amended to read:

"47-8-3. DEFINITIONS.--As used in the Uniform Owner-Resident Relations Act:

A. "abandonment" means absence of the resident from the dwelling, without notice to the owner, in excess of seven continuous days; providing such absence occurs only after rent for the dwelling unit is delinquent;

B. "action" includes recoupment, counterclaim, set-off, suit in equity and any other proceeding in which rights are determined, including an action for possession;

C. "amenity" means a facility appurtenance or area supplied by the owner and the absence of which would not materially affect the health and safety of the resident or the habitability of the dwelling unit;

D. "codes" includes building codes, housing codes, health and safety codes, sanitation codes and any law, ordinance or governmental regulation concerning fitness for habitation or the construction, maintenance, operation, occupancy or use of a dwelling unit;

E. "deposit" means an amount of currency or instrument delivered to the owner by the resident as a pledge to abide by terms and conditions of the rental agreement;

F. "dwelling unit" means a structure, mobile home or
the part of a structure, including a hotel or motel, that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household and includes a parcel of land leased by its owner for use as a site for the parking of a mobile home;

G. "eviction" means any action initiated by the owner to regain possession of a dwelling unit and use of the premises [under] pursuant to the terms of the Uniform Owner-Resident Relations Act;

H. "fair rental value" is that value that is comparable to the value established in the market place;

I. "good faith" means honesty in fact in the conduct of the transaction concerned as evidenced by all surrounding circumstances;

J. "normal wear and tear" means deterioration that occurs based upon the use for which the rental unit is intended, without negligence, carelessness, accident, abuse or intentional damage of the premises, equipment or chattels of the owner by the residents or by any other person in the dwelling unit or on the premises with the resident's consent; however, uncleanliness does not constitute normal wear and tear;

K. "organization" includes a corporation, government, governmental subdivision or agency thereof, business trust, estate, trust, partnership or association, two or more persons
having a joint or common interest or any other legal or commercial entity;

L. "owner" means one or more persons, jointly or severally, in whom is vested:

   (1) all or part of the legal title to property, but shall not include the limited partner in an association regulated pursuant to the Uniform Revised Limited Partnership Act; or

   (2) all or part of the beneficial ownership and a right to present use and enjoyment of the premises and agents thereof and includes a mortgagee in possession and the lessors, but shall not include a person or persons, jointly or severally, who as owner leases the entire premises to a lessee of vacant land for apartment use;

M. "person" includes an individual, corporation, entity or organization;

N. "premises" means facilities, facilities and appurtenances, areas and other facilities held out for use of the resident or whose use is promised to the resident coincidental with occupancy of a dwelling unit;

O. "rent" means payments in currency or in-kind pursuant to terms and conditions of the rental agreement for use of a dwelling unit or premises, to be made to the owner by the resident, but does not include deposits;

P. "rental agreement" means all agreements between an
owner and resident and valid rules and regulations adopted
under Section 47-8-23 NMSA 1978 embodying the terms and
conditions concerning the use and occupancy of a dwelling unit
or premises;

Q. "resident" means a person entitled [under]
pursuant to a rental agreement to occupy a dwelling unit in
peaceful possession to the exclusion of others and includes the
owner of a mobile home renting premises, other than a lot or
parcel in a mobile home park, for use as a site for the
location of the mobile home;

R. "roomer" means a person occupying a dwelling unit
that lacks a major bathroom or kitchen facility in a structure
where one or more major facilities are used in common by
occupants of the dwelling units. As referred to in this
subsection, "major facility", in the case of a bathroom, means
toilet and either a bath or shower and, in the case of a
kitchen, means refrigerator, stove or sink;

S. "single family residence" means a structure
maintained and used as a single dwelling unit. Notwithstanding
that a dwelling unit shares one or more walls with another
dwelling unit, it is a single family residence if it has direct
access to a street or thoroughfare and shares neither heating
facilities, hot water equipment nor any other essential
facility or service with any other dwelling unit;

T. "substantial violation" means a violation of the
rental agreement or rules and regulations by the resident or occurring with the resident's consent that occurs in the dwelling unit, on the premises or within three hundred feet of the premises and that excludes conduct that complies with the provisions of the Cannabis Revenue and Freedom Act, but includes the following conduct, which shall be the sole grounds for a substantial violation:

(1) possession, use, sale, distribution or manufacture of a controlled substance, excluding misdemeanor possession and use;
(2) unlawful use of a deadly weapon;
(3) unlawful action causing serious physical harm to another person;
(4) sexual assault or sexual molestation of another person;
(5) entry into the dwelling unit or vehicle of another person without that person's permission and with intent to commit theft or assault;
(6) theft or attempted theft of the property of another person by use or threatened use of force; or
(7) intentional or reckless damage to property in excess of one thousand dollars ($1,000);

U. "term" is the period of occupancy specified in the rental agreement; and

V. "transient occupancy" means occupancy of a...
dwelling unit for which rent is paid on less than a weekly basis or where the resident has not manifested an intent to make the dwelling unit a residence or household."

SECTION 87. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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