SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 577

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT
RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;
CREATING THE CANNABIS CONTROL COMMISSION AND PROVIDING DUTIES;
REVISING SECTIONS OF LAW RELATED TO CANNABIS; ESTABLISHING
DUTIES FOR THE DEPARTMENT OF ENVIRONMENT; AMENDING THE LYNN AND
ERIN COMPASSIONATE USE ACT; CREATING THE CANNABIS REGULATION
FUND, THE COMMUNITY GRANTS REINVESTMENT FUND, THE COMMUNITY
GRANTS REINVESTMENT PROGRAM, THE CANNABIS HEALTH AND SAFETY
FUND, THE CANNABIS RESEARCH FUND AND THE ROAD SAFETY FUND;
REVISING THE LOCAL DWI GRANT PROGRAM; ENACTING THE CANNABIS TAX
ACT; PROVIDING AND REVISING PENALTIES; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 40 of this act may be cited as the "Cannabis Regulation
SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Cannabis Regulation Act:

A. "adult-use cannabis" means cannabis that is authorized for sale pursuant to the Cannabis Regulation Act, but does not include medical cannabis;

B. "board" means the board of regents of New Mexico state university;

C. "cannabis":

(1) means all parts of the plant Cannabis sativa Linnaeus, whether growing or not, containing more than three-tenths percent tetrahydrocannabinol; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

(b) the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product;
D. "cannabis courier" means a person licensed by the commission only to transport usable cannabis and cannabis products directly to consumers;

E. "cannabis establishment" means:

   (1) a cannabis testing laboratory;
   (2) a cannabis producer;
   (3) a cannabis manufacturing facility; or
   (4) a dispensary;

F. "cannabis extract":

   (1) means a product obtained by separating resins from cannabis by solvent extraction using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol or carbon dioxide; and
   (2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

G. "cannabis flowers" means only the flowers of a cannabis plant;

H. "cannabis items" means cannabis, cannabis products and cannabis extracts;

I. "cannabis leaves" means only the leaves of a cannabis plant;

J. "cannabis manufacturer" means a person that is licensed to:

   (1) manufacture and package cannabis items;
(2) have cannabis items tested by a cannabis testing laboratory; and
(3) buy, sell, consign or transport cannabis items;

K. "cannabis producer" means a person that is licensed to:
   (1) cultivate or prepare cannabis in a raw form for consumption;
   (2) have cannabis items tested by a cannabis testing laboratory; and
   (3) sell, consign or transport cannabis items;

L. "cannabis product":
   (1) means a product that contains cannabis or cannabis extracts, including edible or topical products that may also contain other ingredients; and
   (2) does not include the weight of any other ingredient combined with cannabis or cannabis extracts to prepare topical or oral administrations, food, drink or another product;

M. "cannabis testing laboratory" means a facility that is licensed by the department of environment to collect, transport and test cannabis items to analyze the strength or purity of the items;

N. "commercial cannabis activity":
   (1) means the cultivation, production,
possession, manufacture, storage, testing, labeling, transportation, couriering, sale or consignment of cannabis and cannabis items; and

(2) does not include activities related only to the medical cannabis program;

O. "commission" means the cannabis control commission;

P. "consumer" means a person who purchases, acquires, owns, possesses or uses a cannabis item for a purpose other than resale;

Q. "controlling person":

(1) means an officer, board member or other natural person who has a financial or voting interest of ten percent or greater in a cannabis establishment; and

(2) does not include a bank or licensed lending institution;

R. "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis;

S. "director" means the executive director of the cannabis control commission;

T. "dispensary" means an establishment licensed to sell medical cannabis for off-site consumption;

U. "dual licensed dispensary" means an establishment licensed to sell both medical and adult-use
cannabis for off-site consumption;

V. "financial consideration" means the value that is given or received, directly or indirectly, through sales, barter, trade, fees, charges, dues, contributions or donations;

W. "licensed premises" means a location that is licensed pursuant to the Cannabis Regulation Act and includes:

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

(2) all areas outside of a building specifically licensed for the production and manufacturing of cannabis items; and

(3) with respect to a location specifically licensed for the production of cannabis 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;

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

Y. "local jurisdiction" means a municipality or a county;

Z. "lounge" means a facility licensed by the
commission to sell cannabis items only for on-site consumption;

   AA. "manufacture":
       (1) means to compound, blend, extract, infuse, package or otherwise prepare a cannabis item; and
       (2) does not include cultivating the cannabis contained in a cannabis item;

   BB. "medical cannabis" means cannabis items used by a qualified patient in accordance with the Lynn and Erin Compassionate Use Act;

   CC. "medical cannabis collective" means a group of not more than five qualified patients, as defined in the Lynn and Erin Compassionate Use Act, licensed by the board through the New Mexico department of agriculture to cultivate and sell certain medical cannabis pursuant to rule;

   DD. "medical cannabis program" means the regulated system allowing for the beneficial use of medical cannabis as established in the Lynn and Erin Compassionate Use Act;

   EE. "medical cannabis registry" means the system by which the department of health, pursuant to the Lynn and Erin Compassionate Use Act, receives applications for registry identification cards; approves and denies applications; issues and renews registry identification cards; and maintains files related to applicants for and recipients of registry identification cards;

   FF. "medical professional" means a person licensed
pursuant to the Medical Practice Act or the Osteopathic
Medicine Act;

GG. "person" means an individual or a firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver or any other legal or commercial entity;

HH. "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;

II. "qualified patient" means a New Mexico resident who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card as part of the medical cannabis program;

JJ. "safety-sensitive position" means a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate and direct threat of injury or death to that person or to another;

KK. "state store" means a commission-operated facility at which cannabis items are stored or offered for retail sale to the public;
LL. "usable cannabis" means dried cannabis flowers and dried cannabis leaves and any mixture or preparation of those flowers or leaves; and

MM. "volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

SECTION 3. [NEW MATERIAL] CANNABIS CONTROL COMMISSION CREATED--DUTIES--RULEMAKING.--

A. There is created the "cannabis control commission". The commission is a governmental entity for purposes of the Tort Claims Act. The commission shall consist of:

(1) the secretary of environment or a member of the secretary's staff designated by the secretary in an advisory role;

(2) the secretary of health or a member of the secretary's staff designated by the secretary in an advisory role;

(3) the director of the New Mexico department of agriculture or a member of the director's staff designated by the director in an advisory role; and

(4) five public members appointed by the governor with the consent of the senate, including:

(a) one member who is engaged in the
active commercial cultivation of non-cannabis crops;

(b) one member who is currently or has previously served as a certified law enforcement officer; and

(c) one member who is a currently or formerly licensed medical professional.

B. Public members shall reside in New Mexico and shall not have a financial interest in any entity engaged in the commercial production, manufacture or sale of cannabis products, and no more than three public members may be from the same political party.

C. Public members shall serve staggered four-year terms; except that of the initial public members appointed to the commission, the governor shall select two members whose initial terms are two years and three members whose initial terms are four years.

D. Public members of the commission shall be reimbursed as provided in the Per Diem and Mileage Act; except that during the period beginning July 1, 2019 and ending June 30, 2023, public members shall be paid five hundred dollars ($500) per day for every day or portion of a day that the public member attends a commission meeting. The public member shall receive no other compensation, perquisite or allowance.

E. Except as provided in the Lynn and Erin Compassionate Use Act, the commission shall have exclusive authority to regulate and administer the testing, manufacture,
packaging and transportation of cannabis items in the state.

F. The commission shall employ such personnel and hire such consultants as are required to carry out its duties pursuant to the Cannabis Regulation Act; provided that the commission shall not employ or hire a person who has a direct or indirect financial interest in a cannabis establishment or cannabis cultivation.

G. Not later than March 1, 2020, the commission shall promulgate or propose rules necessary to carry out the commission's duties as provided in the Cannabis Regulation Act, and those rules shall include:

   (1) procedures for the issuance, renewal, suspension and revocation of a license issued by the commission, the department of environment and the department of health;

   (2) qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment;

   (3) security requirements for a cannabis establishment;

   (4) requirements related to:

       (a) inspection and monitoring of a cannabis establishment;

       (b) a cannabis establishment's recordkeeping and tracking of cannabis items;
(c) prevention of the unauthorized sale
or diversion of cannabis items in commercial cannabis activity;

(d) labeling of cannabis items; and

(e) language for labels of cannabis
items related to potential adverse effects;

(5) a provision regarding whether a licensee
that is a cannabis producer may produce any other products;

(6) rules on a licensee's advertisement and
marketing of cannabis products and on how a licensee may
display cannabis products for sale;

(7) procedures that promote and encourage full
participation in the cannabis industry governed by the Cannabis
Regulation Act by representatives of communities that have been
disproportionately harmed by the enforcement of cannabis
prohibitions in law and policy, including harms from
disproportionate rates of related interactions with law
enforcement officers, arrests, incarceration and collateral
consequences;

(8) rules developed in consultation with the
department of environment to establish:

(a) health and safety standards
applicable to the cultivation of cannabis and the manufacture
of cannabis items;

(b) standards for quality control,
inspection and testing of cannabis items;
(c) standards for food and product safety applicable to cannabis items; and

(d) which additives and ingredients are approved for and prohibited from inclusion in cannabis items; and

(9) rules developed in consultation with the department of environment and proposed for adoption by the board, on behalf of the New Mexico department of agriculture, to establish:

(a) standards for the use of pesticides in the manufacture of cannabis, including the maximum allowances for pesticides and other foreign material such as hair, insects or other similar adulterants, in harvested cannabis;

(b) environmental protections that apply to all licensees;

(c) protocols to ensure licensees' compliance with state laws governing environmental impacts, natural resource protection, water quality, water supply, hazardous materials, pesticide use and wastewater discharge; and

(d) occupational health and safety standards for persons working in the cannabis industry.

H. Not later than June 1, 2020, the commission shall offer cannabis items for retail sale to the public. The
commission may purchase materials, goods and services and may
lease, purchase and equip, in the name of the state, stores,
warehouses and other assets as necessary for, incidental to or
related to the operation of the cannabis retail operations.

I. Except as provided in Subsection J of this
section and Section 10 of the Cannabis Regulation Act, the
commission may in its discretion operate state stores at any
location within the state and, subject to the Personnel Act and
within the limits of available appropriations and funds, may
employ persons to sell cannabis items in the stores. The
salaries of the persons shall not be governed by the amount of
sales. A person employed to sell cannabis items under the
provisions of the Cannabis Regulation Act shall not sell
cannabis items except as may be legally obtained under the
provisions of the Cannabis Regulation Act.

J. The commission shall not locate a state store
within three hundred feet from the perimeter of school grounds
on which instruction is provided at any level from kindergarten
through twelfth grade, a playground, a child care center, a
youth center, a public park or a library that was in existence
at the time the commission established the state store at that
location.

K. The commission may, in its discretion, open for
business at reasonable hours on any day, including Sunday or
legal holidays except for Easter, Thanksgiving and Christmas
day. The commission may employ part-time employees, subject to
the Personnel Act, to staff state stores open on Sundays or
legal holidays.

L. The commission shall accept cannabis items on
consignment for resale from manufacturers or producers licensed
pursuant to Section 6 of the Cannabis Regulation Act.

SECTION 4. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES--
PUBLIC HEALTH AND SAFETY ADVISORY COMMITTEE.--

A. Not later than January 1, 2020, the department
of health shall:

(1) establish a medical cannabis subsidy
program by which the department of health shall make
distributions of a portion of cannabis excise tax revenue to
provide medical cannabis to sick and indigent persons who are
residents of New Mexico and who have been diagnosed by a
practitioner as having a debilitating medical condition and
have received written certification and a registry
identification card issued pursuant to the Lynn and Erin
Compassionate Use Act; and

(2) promulgate rules to govern the medical
cannabis subsidy program.

B. The department of health shall monitor emerging
scientific and medical information relevant to the health
effects associated with cannabis use and shall monitor changes
in cannabis use patterns for children and adults within the
state, broken down by county, race and ethnicity.

C. Not later than September 1, 2019, the secretary of health shall appoint a "public health and safety advisory committee" composed of professionals with expertise related to cannabis through work, training or research in public health, epidemiology, medicine, medical toxicology, poison control, road safety, occupational safety, environmental safety and emergency medicine.

D. Beginning December 1, 2020, the public health and safety advisory committee shall provide to the legislature and the department of health shall publish on its website an annual report on the health effects of legalizing cannabis for adult use. The report shall include the following elements relating to cannabis use:

   (1) child access;
   (2) road safety and driving while impaired;
   (3) workplace safety;
   (4) percentage of emergency room visits and outcomes;
   (5) educational needs for children and adults;
   (6) consumer and product safety; and
   (7) percentage of poison control center calls.

E. Public members of the committee are entitled to per diem and mileage as provided for state employees in the Per Diem and Mileage Act.
SECTION 5. [NEW MATERIAL] DEPARTMENT OF PUBLIC SAFETY--
REPORTING REQUIREMENTS.--

A. Within sixty days following the end of each fiscal year, every police and sheriff's department shall report on a form approved by the department of public safety:

(1) the total number of arrests and citations for cannabis-related violations broken down by:

(a) category and penalty level; and

(b) race, ethnicity, age and gender; and

(2) the number of motor vehicle accidents in which the driver of one of the vehicles tested positive for cannabis.

B. Each law enforcement agency shall submit its annual report to the department of public safety. A law enforcement agency that does not issue a citation or make an arrest for a cannabis law violation shall report that fact in its annual report.

C. The department of public safety shall compile the reports submitted and shall issue by November 1 of each year an annual report of all cannabis law violations in the state. The report shall aggregate the data for the state and shall disaggregate the data by agency, race, ethnicity, age and gender. The department of public safety shall make all annual reports submitted for previous fiscal years available on the department's website.
SECTION 6. [NEW MATERIAL] LICENSING--LIMITATIONS.--

A. The department of environment shall regulate and license cannabis manufacturers and cannabis testing laboratories pursuant to rules promulgated by the commission.

B. The department of environment shall begin issuing licenses:

(1) for cannabis manufacturers currently manufacturing medical cannabis products, no sooner than July 1, 2020; provided that:

   (a) the department shall condition renewal of a license for cannabis manufacturers currently manufacturing medical cannabis products upon a requirement that the manufacturer sell a minimum amount of medical cannabis products as a percentage of total cannabis products sold. The department shall determine the minimum percentage by rule; provided that the minimum percentage shall be not less than twenty percent and not more than forty percent of total cannabis products sold from the preceding twelve months' operation of the manufacturer; and

   (b) all medical cannabis products shall be sold at a grade and quality determined by regulation to be suitable for medical consumption and cannabis testing laboratories to licensed dispensers as defined in Section 26-2B-3 NMSA; and

(2) for cannabis manufacturing to other
persons, no sooner than July 1, 2021.

C. The New Mexico department of agriculture shall regulate and license cannabis producers pursuant to rules promulgated by the board. The New Mexico department of agriculture shall begin issuing licenses for cannabis producers currently producing and maintaining a crop of no less than four hundred fifty cannabis plants exclusively for medical use by licensed medical patients, as defined in the Lynn and Erin Compassionate Use Act, no sooner than July 1, 2020 and shall begin issuing licenses for cannabis producers to other persons no sooner than July 1, 2021.

D. The commission shall regulate and license on-site consumption of cannabis items in a lounge in conjunction with a cannabis producer or manufacturer license. The commission shall begin issuing licenses for lounges to licensed dispensers as defined in Section 26-2B-3 NMSA 1978 no sooner than July 1, 2020 and shall begin issuing licenses for lounges to other persons no sooner than July 1, 2021.

E. The commission may issue a dual medical and adult-use cannabis sale license to a person that holds both a valid adult-use cannabis manufacturer or producer license and a valid medical cannabis manufacturer or producer license; provided that the person shall sell a minimum quantity of medical product as provided in Subsection B of this section and shall meet quality standards promulgated by the commission; and
provided further that a dual licensed dispensary shall not be located within twenty-five miles of a state store located within the same county. Every license issued pursuant to this subsection shall expire on July 1, 2025.

F. The department of health shall regulate and license the dispensing of medical cannabis items as provided in the Lynn and Erin Compassionate Use Act and pursuant to rules promulgated by the commission.

G. The board, through the New Mexico department of agriculture, shall regulate and license cannabis producers.

H. The board, through the New Mexico department of agriculture, shall regulate and license collective medical cannabis cultivation. On December 31, 2019, the board, on behalf of and through the New Mexico department of agriculture, shall issue rules and shall begin issuing licenses to authorize collective medical cannabis cultivation. The rules shall include procedures that:

1. allow not more than five qualified patients, as defined in the Lynn and Erin Compassionate Use Act, to cultivate cannabis together at a designated licensed location or pursuant to an agreement with a cannabis producer at the licensed location of that cannabis producer;

2. provide that the licensed location shall not contain more than four mature female cannabis plants and a combined total of twelve seedlings and male plants multiplied...
by the number of qualified patients who are members of the
medical cannabis collective; provided that if the medical
cannabis collective's plants are grown at a location operated
by a cannabis producer, the total number of plants at the
location, including the medical cannabis collective's plants,
shall not exceed the total number of plants authorized for that
location; and

(3) provide that members of a medical cannabis
collective shall destroy cannabis produced in excess of the
combined total adequate supply of the members, as defined in
the Lynn and Erin Compassionate Use Act; provided that if the
medical cannabis collective's plants are grown at a cannabis
producer's licensed location, the medical cannabis collective
may enter into an agreement with the cannabis producer to sell
cannabis produced in excess of the combined total adequate
supply of the members to the cannabis producer; and provided
further that if the medical cannabis collective enters into an
agreement with a licensed medical cannabis manufacturer, the
medical cannabis collective may sell excess cannabis only to
that manufacturer.

I. The commission may propose rules to the board
for adoption regarding the regulating and licensing of cannabis
producers as provided for in the Cannabis Regulation Act.

J. A license is valid for twelve months from the
date it is issued and may be renewed annually or as provided
for in the rules promulgated by the commission.

    K. A constituent agency may deny an application for
an initial license or renewal if:

    (1) the applicant has violated any provision
of the Lynn and Erin Compassionate Use Act or the Cannabis
Regulation Act or a rule promulgated pursuant to those acts;

    (2) the applicant's application does not
include all information required;

    (3) issuance of the license would lead to
monopolization of the cannabis or medical cannabis industry in
the state or would unreasonably restrain competition in those
industries;

    (4) the applicant or a controlling person in
the applicant's entity has been convicted of an offense that is
substantially related to the qualifications, functions or
duties of the applicant entity's business; provided that if the
constituent agency determines that the controlling person and
the applicant entity are otherwise qualified for a license and
issuing a license to the applicant entity would not compromise
public safety, the constituent agency shall conduct a thorough
review of the conviction, including the nature of the offense,
surrounding circumstances and any evidence of the controlling
person's rehabilitation following the conviction, and based on
that review, determine whether the applicant entity should be
issued a license; or
(5) the applicant or a controlling person in the applicant's entity has been penalized for a violation of the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act in the three years immediately preceding the date on which the application was filed.

L. For the purposes of Subsection K of this section:

(1) the following are considered substantially related to the qualifications, functions or duties of a business seeking a license:

(a) a felony conviction involving fraud, deceit or embezzlement;

(b) a felony conviction for hiring, employing or otherwise using a person younger than eighteen years of age to: 1) prepare for sale, transport or carry a controlled substance; or 2) sell, give away or offer to sell a controlled substance to any person; and

(c) any other offense as determined by the commission by rule, except as provided in Paragraph (2) of this subsection; and

(2) a conviction for which the related sentence, including any term of probation or parole, is completed for the possession, use, manufacture, distribution or dispensing or the possession with the intent to manufacture, distribute or dispense a controlled substance is not considered
substantially related to the qualifications, functions or duties of a person seeking a license and shall not be a ground on which an application is denied unless the offense involved the distribution of alcohol or a controlled substance to a minor.

M. A constituent agency shall deny an application if an applicant, a controlling person in an applicant's entity or the premises for which a license is sought does not qualify for licensure under the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

N. The commission shall regulate and license cannabis couriers. The commission shall begin issuing licenses for cannabis couriers no sooner than December 31, 2019.

O. For purposes of this section, "constituent agency" means the commission, the department of environment or the department of health.

P. Any person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on the effective date of the enactment of the Cannabis Regulation Act shall be issued a license under the provisions of the Cannabis Regulation Act allowing the licensee to continue to conduct medical cannabis activity only. The licensee shall continue to operate under rules promulgated for the medical cannabis program until the commission and the department of environment promulgate rules regulating medical cannabis
SECTION 7. [NEW MATERIAL] LICENSING FEES.--

A. The commission shall establish application and licensing fees applicable to licenses for commercial cannabis activity and activity related to medical cannabis. The fees shall be reasonably calculated to cover the cost of administering and enforcing the programs established in the Cannabis Regulation Act; provided that:

   (1) the fee shall be scaled to reflect the size of a business seeking or renewing a license; and

   (2) for a license or renewal of a license that authorizes only medical cannabis activity, the fee shall not exceed one-half of the fee charged for a license or renewal of a license for a similarly sized business that authorizes both commercial and medical cannabis activities.

B. The commission, the department of environment and the department of health shall deposit all fees collected pursuant to the Cannabis Regulation Act in the cannabis regulation fund.

C. The board, on behalf of the New Mexico department of agriculture, shall establish application and licensing fees applicable to licenses for cannabis cultivation. The fees shall be reasonably calculated to cover the cost of administering and enforcing the programs established pursuant to the Cannabis Regulation Act.
SECTION 8. [NEW MATERIAL] DISCIPLINARY PROCEEDINGS--
APPLICATION OF UNIFORM LICENSING ACT.--In accordance with the
procedures contained in the Uniform Licensing Act, the
commission, the department of environment or the department of
health may revoke or suspend any permanent or temporary license
held or applied for under the Cannabis Regulation Act upon
findings that the licensee or applicant:

A. engaged in fraud or deceit in procuring or
attempting to procure a license;

B. has been convicted of a felony; provided that a
certified copy of the record of conviction shall be conclusive
evidence of such conviction;

C. is guilty of any violation of the Controlled
Substances Act; or

D. has violated any provision of the Cannabis
Regulation Act or rules promulgated by the commission or the
board, on behalf of the New Mexico department of agriculture.

SECTION 9. [NEW MATERIAL] LOCAL CONTROL.--

A. A local jurisdiction may:

(1) adopt reasonable time, place and manner
rules that do not conflict with the Cannabis Regulation Act;

(2) prohibit, in accordance with the Cannabis
Regulation Act, the operation of a state store or a dual
licensed dispensary; and

(3) limit the location of a cannabis
establishment or state store as determined by the local jurisdiction, but which distance shall be three hundred feet or more from the perimeter of school grounds on which instruction is provided at any level from kindergarten through twelfth grade, a playground, a child care center, a youth center, a public park or a library that was in existence at the time the cannabis establishment was licensed.

B. A local jurisdiction shall not:

   (1) prevent transportation of cannabis products on public roads by a licensee that transports cannabis products in compliance with the Cannabis Regulation Act;

   (2) prohibit the personal production of cannabis or cannabis products made without the use of volatile solvents for personal use provided for in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act; or

   (3) prohibit the operation of a medical-cannabis-only retail business.

SECTION 10. [NEW MATERIAL] LOCAL OPTION--EFFECT OF LOCAL OPTION.--

A. A municipality or a county in the state may prohibit by ordinance or resolution the operation of a state store within six months following the effective date of the Cannabis Regulation Act.

B. A municipality or a county in the state that has by ordinance or resolution prohibited the operation of a state
store may at any time by ordinance or resolution allow the
operation of a state store.

C. A municipality or a county in the state may by
ordinance or resolution limit the sale of adult-use cannabis
for off-site consumption to sale in a state store.

D. A municipality or a county in the state that has
by ordinance or resolution allowed the operation of a state
store pursuant to Subsection B of this section shall not later
prohibit the operation of a state store by ordinance or
resolution.

SECTION 11. [NEW MATERIAL] LICENSEE PROTECTIONS.--

A. Conduct by a licensee or a licensee
representative that is allowed pursuant to a license and
conduct by a person who allows property to be used by a
licensee or a licensee representative for conduct allowed
pursuant to a license is lawful, not a violation of state or
local law and is not a basis for seizure or forfeiture of any
property or assets under state or local law.

B. The state or a local government shall not impose
a criminal, civil or administrative penalty on a licensee or a
licensee representative or on a person who allows property to
be used by a licensee or a licensee representative pursuant to
a license, solely for conduct allowed pursuant to a license.

SECTION 12. [NEW MATERIAL] TRANSPORT VIA COURIER.--

A. Only a cannabis retailer, cannabis microbusiness
or cannabis courier may courier cannabis products.

B. A consumer who requests courier service shall maintain a physical or electronic copy of the courier request for the duration of time that the consumer possesses the cannabis product that was purchased and received by courier and shall make the copy available upon request by the commission or a law enforcement officer.

SECTION 13. [NEW MATERIAL] PROTECTION OF UNDERAGE PERSON--TRAFFICKING--PENALTIES.--

A. A licensee shall not employ a person younger than twenty-one years of age.

B. Nothing in this section shall be construed or interpreted to prevent:

   (1) the commission from enforcing its rules against a licensee;

   (2) a state agency from enforcing a law or rule that does not conflict with the Cannabis Regulation Act or rules promulgated pursuant to that act; or

   (3) a local jurisdiction from enforcing a local ordinance that does not conflict with the Cannabis Regulation Act or rules promulgated pursuant to that act.

C. A person who is eighteen years of age or older shall not intentionally traffic cannabis. A person who violates this subsection, if the amount is:

   (1) one-half ounce of cannabis or four grams

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of cannabis extracts or less, shall be subject to a civil penalty of fifty dollars ($50.00);

(2) more than one-half ounce of cannabis or four grams of cannabis extracts but no more than one pound of cannabis or one hundred twenty-eight grams of cannabis extracts, is guilty of a petty misdemeanor and shall be sentenced to a fine in an amount not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000); and

(3) more than one pound of cannabis or one hundred twenty-eight grams of cannabis extracts, is guilty of a fourth degree felony and shall be sentenced to a basic sentence of imprisonment of twelve months and to the payment of a fine in an amount not less than twenty-five thousand dollars ($25,000) and not more than seventy-five thousand dollars ($75,000).

D. For the purposes of this section, "traffic" means the:

(1) distribution, sale, barter or giving away of cannabis; or

(2) possession with intent to distribute, sell, barter or give away cannabis.

SECTION 14. [NEW MATERIAL] DISTRIBUTION AND TRANSPORT.-- The Cannabis Regulation Act shall not be construed to authorize a licensee to transport or distribute, or cause to be...
transported or distributed, cannabis items outside the state, unless authorized by federal law.

SECTION 15. [NEW MATERIAL] PACKAGING AND LABELING.--

A. Before sale to the public or consignment to the commission, cannabis items shall be labeled and placed in a resealable, child-resistant package.

B. Packages and labels for cannabis items shall not be designed to be appealing to a child.

C. Labels shall include:

(1) total tetrahydrocannabinol concentration for the package;

(2) for a package containing only cannabis flower, the net weight of cannabis in the package;

(3) identification of the licensee or licensees that produced or manufactured the cannabis item, the date on which the cannabis was harvested, the type of cannabis item and the date on which the cannabis item was manufactured and packaged;

(4) a list of pharmacologically active ingredients;

(5) for cannabis products, a list of all ingredients and a disclosure of nutritional information for the product or cannabis extract, disclosed in the same manner required under federal law for nutritional labeling for food for human consumption;
(6) a warning, if nuts or other known allergens are used in the item or in its manufacture; and
(7) a warning of possible adverse effects of consumption and the New Mexico poison and drug information center phone number.

SECTION 16. [NEW MATERIAL] CANNABIS PRODUCTS--DEPARTMENT OF ENVIRONMENT.--

A. Cannabis products shall:
(1) not be designed to appeal to children or in such a way that the products could be easily confused with commercially sold candy or foods that do not contain cannabis;
(2) be produced and sold or consigned to the commission with a standardized dosage of cannabinoids not to exceed ten milligrams tetrahydrocannabinol per serving;
(3) be delineated or scored into standardized serving sizes, if the cannabis product contains more than one serving and is an edible cannabis product in solid form;
(4) contain a uniform disbursement of cannabinoids throughout the product;
(5) be manufactured and sold or consigned to the commission under health and sanitation standards established by the commission, with the assistance of the department of environment, for the preparation, storage, handling and sale of food products; and
(6) be sold or consigned to the commission.
with sufficient information to enable the informed consumption of the product, including information on the potential effects of the product and directions on how to consume the cannabis product.

B. Cannabis or cannabis extracts included in a cannabis product that is manufactured in compliance with applicable law are not considered to be an adulterant under state law.

SECTION 17. [NEW MATERIAL] CANNABIS MANUFACTURERS AND TESTING LABORATORIES--DEPARTMENT OF ENVIRONMENT--RULEMAKING.--

A. The commission, with the assistance of the department of environment, shall promulgate rules to govern the licensing of a cannabis manufacturer and a cannabis testing laboratory. The commission shall issue licenses as follows:

(1) "cannabis manufacturing level 1" for a site that manufactures cannabis extracts using nonvolatile solvents or no solvents;

(2) "cannabis manufacturing level 2" for a site that manufactures cannabis extracts using volatile solvents; and

(3) "cannabis testing laboratory" for a licensee that tests cannabis products. An owner or person with an ownership interest in a laboratory license shall not own or have ownership interest in a non-laboratory facility licensed pursuant to the Cannabis Regulation Act.
B. Except as otherwise provided by law, a cannabis product shall not be sold by a licensee unless a representative sample of the cannabis product has been tested by a cannabis testing laboratory to determine:

(1) whether the chemical profile of the sample conforms to the labeled content of compounds, including:

(a) tetrahydrocannabinol;
(b) tetrahydrocannabinolic acid;
(c) cannabidiol;
(d) cannabidiolic acid;
(e) terpenes;
(f) cannabigerol; and
(g) cannabigerol; and

(2) that the presence of the following contaminants does not exceed harmful levels:

(a) residual solvents or chemicals, including explosive gases such as butane, propane and hydrogen, and poisons, toxins or carcinogens such as methanol, methylene chloride, acetone, benzene, toluene and trichloroethylene;
(b) foreign material, including hair, insects or other similar adulterants; and
(c) microbiological impurity, including total aerobic microbial count; total yeast mold count; pseudomonas aeruginosa; aspergillus species; staphylococcus aureus; aflatoxin B1, B2, G1 or G2; or ochratoxin A.
C. Residual levels of volatile organic compounds shall not exceed harmful levels.

D. The testing required by this section shall be performed in a manner consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods to ensure conformity, competence and impartiality to test cannabis products.

E. Any pre-sale inspection, testing transfer or transportation of cannabis products pursuant to this section shall conform to a chain of custody protocol and any other requirements imposed by the commission in accordance with the Cannabis Regulation Act.

SECTION 18. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--DEPARTMENT OF ENVIRONMENT.--

A. A cannabis testing laboratory's testing of cannabis products shall comply with the requirements set forth in applicable law and rules.

B. The commission shall develop rules and procedures to:

   (1) ensure that testing of cannabis products occurs prior to distribution to cannabis retailers or cannabis microbusinesses;

   (2) specify how often licensees shall test cannabis products;

   (3) specify which entities bear the cost of
testing cannabis and medical cannabis; and

(4) require destruction of a harvested batch
of cannabis or of cannabis products if the testing samples from
the batch or items indicate noncompliance with applicable
health and safety standards promulgated by the commission,
unless remedial measures can bring the cannabis or cannabis
products into compliance with the standards.

C. Not later than January 1, 2020, the department
of environment shall identify and designate to the commission
acceptable and accredited standards, where necessary to be used
by laboratories.

SECTION 19. [NEW MATERIAL] ADVERTISING AND MARKETING
RESTRICTIONS.--

A. The commission shall promulgate rules that
explicitly:

(1) prohibit the advertisement and marketing
of cannabis products:

(a) on a billboard, radio, television or
other broadcast media;

(b) that is false, deceptive or
misleading, including making unproven health benefit claims;

(c) that depicts consumption by children
or other persons younger than twenty-one years of age;

(d) that is designed using cartoon
characters or to mimic any other product brand;

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(e) within three hundred feet of a school, church or daycare center;

(f) that is in public transit vehicles or stations;

(g) that is in the form of an unsolicited internet pop-up; or

(h) that is on publicly owned or operated property; and

(2) require:

(a) all advertisements and marketing to accurately and legibly identify the licensee responsible for its content; and

(b) print and digital communications advertisements to be placed only where the audience is reasonably expected to be twenty-one years of age or older, as determined by reliable, current audience composition data.

B. Upon a determination by the New Mexico attorney general that the use of cannabis, other than as provided for in the Lynn and Erin Compassionate Use Act, is lawful in the state under federal law, Subparagraph (a) of Paragraph (1) of Subsection A of this section shall cease to be in effect.

SECTION 20. [NEW MATERIAL] CONTRACTS.--A contract related to operation of a license is enforceable, and a contract entered into by a licensee or a licensee representative for conduct allowed pursuant to a license or entered into by a
person who allows property to be used by a licensee or a
licensee representative for conduct allowed pursuant to a
license, shall not be deemed unenforceable on the basis that
the conduct allowed pursuant to the license is prohibited by
federal law.

SECTION 21. [NEW MATERIAL] PROVISION OF PROFESSIONAL
SERVICES.--An accountant, insurance agent, real estate agent,
security guard or other person engaged in a profession subject
to state licensure shall not be subject to disciplinary action
by a professional association, a state professional board or a
state licensing entity because the professional provides
professional services or assistance to prospective or licensed
cannabis establishments or another person in connection with
activity that the professional reasonably believes complies
with the Cannabis Regulation Act and rules promulgated pursuant
to that act. The provisions of this section shall not apply to
an attorney licensed to practice law in this state.

SECTION 22. [NEW MATERIAL] PROTECTIONS FOR THE USE OF
CANNABIS.--A person or a licensee shall not be subject to
arrest, prosecution, penalty, civil liability or disciplinary
action by a business or professional licensing entity and shall
not be denied any right or privilege solely for conduct allowed
pursuant to the Cannabis Regulation Act. Except by court
order, state and local law enforcement agencies shall not
cooperate with or provide assistance to the United States
government, or any federal agency thereof, in enforcing the
federal Controlled Substances Act solely for conduct that
complies with the Cannabis Regulation Act or the Lynn and Erin
Compassionate Use Act. The New Mexico supreme court and any
disciplinary or character and fitness committees established by
that court are considered business or professional licensing
entities for the purposes of this section.

SECTION 23. [NEW MATERIAL] PROTECTIONS FROM
DISCRIMINATION FOR THE USE OF CANNABIS OR MEDICAL CANNABIS.--
A. A school shall not refuse to enroll or otherwise
penalize a person for conduct allowed pursuant to the Cannabis
Regulation Act or the Lynn and Erin Compassionate Use Act,
unless failing to do so would cause the school to lose a
monetary or licensing-related benefit under federal law or
regulation.

B. A person may prohibit or restrict any of the
actions or conduct otherwise allowed under Section 25 of the
Cannabis Regulation Act on that person's privately owned
property.

C. A person shall not be denied custody of or
visitation or parenting time with a child for conduct allowed
under Section 25 of the Cannabis Regulation Act or under the
Lynn and Erin Compassionate Use Act, unless the court
determines that the person's behavior is contrary to the best
interests of the child.
SECTION 24. [NEW MATERIAL] EMPLOYMENT PROTECTIONS.--

A. It shall be unlawful to take an adverse employment action against an employee who is not acting in a safety-sensitive position based on conduct allowed under the Lynn and Erin Compassionate Use Act.

B. Nothing in this section shall:

(1) restrict an employer's ability to prohibit or take adverse employment action against an employee for the possession or use of intoxicating substances at work during work hours;

(2) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding; or

(3) prevent or infringe upon the rights of an employer to adopt and implement a written zero-tolerance policy regarding the use of cannabis. A zero-tolerance policy may permit the discipline or termination of an employee on the basis of a positive drug test that indicates any amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite.

C. As used in this section, "adverse employment action" means refusing to hire or employ a person; barring or discharging a person from employment; requiring a person to retire from employment; or discriminating against an employee.
in compensation or in terms, conditions or privileges of employment.

D. Every workplace shall post signs warning of the potential impairment effects of cannabis, any discipline or penalty an employee may receive for using cannabis while at work or for coming to work impaired and a statement that possession or use of cannabis is prohibited pursuant to federal law.

SECTION 25. [NEW MATERIAL] PERSONAL USE OF CANNABIS.--

A. Notwithstanding any other provision of law, the following conduct is lawful for a person who is twenty-one years of age or older and shall not constitute grounds for detention, search or arrest of a person and cannabis items that relate to the conduct are not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act; provided that the person has proof that the cannabis items were purchased from a state store or a licensed dispensary or are authorized pursuant to the medical cannabis program:

(1) possessing, using, being under the influence of, displaying, purchasing, obtaining or transporting not more than one ounce of cannabis or eight grams of cannabis extracts;

(2) transferring, without financial consideration, to a person who is twenty-one years of age or
older not more than one ounce of cannabis or eight grams of cannabis extracts;

(3) possessing not more than one ounce of cannabis and eight grams of cannabis extracts outside the person's private residence;

(4) transporting cannabis as described in Paragraph (2) of this subsection when the person is moving the person's residence to another location or for purposes of testing or manufacturing;

(5) smoking, ingesting or otherwise consuming cannabis or cannabis items;

(6) possessing, using, displaying, purchasing, obtaining, manufacturing, transporting or giving away to a person twenty-one years of age or older cannabis paraphernalia; and

(7) assisting another person who is twenty-one years of age or older in, or allowing property to be used in, any of the acts described in Paragraphs (1) through (6) of this subsection.

B. Paragraphs (6) and (7) of Subsection A of this section are intended to meet the requirements of 21 U.S.C. Section 863(f) by authorizing, under state law, any person in compliance with this section to manufacture, possess or distribute cannabis paraphernalia.

SECTION 26. [NEW MATERIAL] LIMITS ON PERSONAL
CONSUMPTION--PENALTIES.--

A. Nothing in Section 25 of the Cannabis Regulation Act shall be construed to restrict the ability of an individual or private entity to prohibit conduct otherwise allowed in Section 25 of the Cannabis Regulation Act on the individual's or private entity's privately owned property.

B. No person shall smoke cannabis or consume cannabis items in a public place.

C. A person who violates Subsection B of this section shall be subject to a civil penalty of fifty dollars ($50.00).

D. Whoever is guilty of a second or subsequent violation of Subsection B of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

SECTION 27. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--PENALTIES.--

A. Except as allowed in the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act or Chapter 76, Article 24 NMSA 1978, it is unlawful for a person without a license to intentionally distribute cannabis items.

B. A person under eighteen years of age who violates Subsection A of this section shall:

   (1) for a first violation, be subject to:

       (a) a fine of one hundred dollars
(b) attendance at a four-hour drug education program;

(c) four hours of community service; and

(d) restorative justice mediation;

(2) for a second violation, be subject to:

(a) a fine of two hundred fifty dollars ($250);

(b) attendance at a four-hour drug education program;

(c) four hours of community service; and

(d) restorative justice mediation; and

(3) for a third or subsequent violation, be subject to:

(a) a fine of one thousand dollars ($1,000);

(b) attendance at a four-hour drug education program;

(c) not less than one hundred hours of community service; and

(d) restorative justice mediation.

C. A person eighteen years of age or older who violates Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.
D. A person eighteen years of age or older who violates Subsection A of this section and conducts unlicensed cannabis sales is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

SECTION 28. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED AREA--PENALTY.--Except as allowed in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, a person shall not possess or intentionally distribute any amount of a cannabis item within three hundred feet of the perimeter of school grounds on which instruction is provided at any level from kindergarten through twelfth grade, a playground, a child care center, a youth center, a public park or a library unless the person is a qualified patient or is in or upon or traveling to or from the grounds of a private residence, as an invitee or resident. A person who violates this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

SECTION 29. [NEW MATERIAL] UNLAWFUL POSSESSION OF CANNABIS--PENALTIES.--Except as allowed in the Lynn and Erin Compassionate Use Act:

A. a person eighteen years of age or older and younger than twenty-one years of age shall not possess cannabis items. A person who violates this subsection shall be subject to:

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(1) a fine of seventy-five dollars ($75.00); 
(2) attendance at a four-hour drug education program; 
(3) four hours of community service; and 
(4) restorative justice mediation; 

B. a person younger than eighteen years of age shall not possess cannabis items. A person who violates this subsection shall be subject to: 
(1) a fine of fifty dollars ($50.00); 
(2) attendance at a four-hour drug education program; 
(3) four hours of community service; and 
(4) restorative justice mediation; and 

C. or as allowed in the Cannabis Regulation Act, a person twenty-one years of age or older shall not possess cannabis containing more than three-tenths percent tetrahydrocannabinol except pursuant to a certificate of purchase issued by a state store or dual-licensed dispensary. A person who violates this subsection, if the amount is: 
(1) one ounce of cannabis or eight grams of cannabis extracts or less, shall be subject to a civil penalty of five hundred dollars ($500); 
(2) more than one ounce of cannabis or eight grams of cannabis extracts but not more than one pound of cannabis or one hundred twenty-eight grams of cannabis.
extracts, is guilty of a petty misdemeanor and shall be
sentenced to a fine in an amount not less than one thousand
dollars ($1,000) and not more than five thousand dollars
($5,000); or

(3) more than one pound of cannabis or one
hundred twenty-eight grams of cannabis extracts, is guilty of a
fourth degree felony and shall be sentenced to twelve months
imprisonment and subject to a fine of not less than twenty-five
thousand dollars ($25,000) and not more than seventy-five
thousand dollars ($75,000).

SECTION 30. [NEW MATERIAL] UNLICENSED PRODUCTION OF
CANNABIS--PENALTIES.--Except as allowed in the Cannabis
Regulation Act or the Lynn and Erin Compassionate Use Act:

A. a person younger than twenty-one years of age
shall not produce cannabis. A person who violates this
subsection shall be subject to:

(1) a fine of fifty dollars ($50.00); or

(2) attendance at a four-hour drug education
program or four hours of community service;

B. a person eighteen years of age or older and
younger than twenty-one years of age shall not produce
cannabis. A person who violates this subsection shall be
subject to a civil penalty of fifty dollars ($50.00); and

C. a person twenty-one years of age or older shall
not possess any cannabis plant. In addition to any criminal
penalty, a person who violates this subsection shall be subject
to a civil penalty of two hundred fifty dollars ($250).

SECTION 31. [NEW MATERIAL] UNLICENSED MANUFACTURING OF
CANNABIS EXTRACTS--PENALTY.--Except as permitted by the Lynn
and Erin Compassionate Use Act, it is unlawful for any person
to use volatile solvents to manufacture cannabis extracts
without a license issued pursuant to the Cannabis Regulation
Act or the Lynn and Erin Compassionate Use Act. A person who
violates this section shall be subject to a civil penalty of
four hundred fifty dollars ($450).

SECTION 32. [NEW MATERIAL] DESTRUCTION OF ARREST AND
CONVICTION RECORDS--PROCEDURE--RETROACTIVE.--

A. Records held by a court, an agency of the state
or a local jurisdiction that relate to a person's arrest or
conviction for possession of one ounce or less of cannabis in
violation of Section 30-31-23 NMSA 1978 shall not be kept
beyond two years from the date of the person's conviction or
from the date of the person's arrest if there was no
conviction. If the person was a juvenile at the time of the
arrest or conviction, the records shall be retained until the
offender is eighteen years of age and shall then be destroyed.
The records shall also be removed from any statewide criminal
databases.

B. If a person whose records would be subject to
destruction pursuant to Subsection A of this section is
incarcerated for an offense listed in that subsection at the
time the person's records would be destroyed, the two-year
record retention period shall begin upon the person's release
from incarceration.

C. Records held by a court, an agency of the state
or a local jurisdiction that relate to a person's arrest for
trafficking cannabis in violation of Section 30-31-20 NMSA
1978, distribution of cannabis, possession with intent to
distribute cannabis in violation of Section 30-31-22 NMSA 1978
or possession of more than one ounce of cannabis in violation
of Section 30-31-23 NMSA 1978 shall not be kept beyond two
years from the date of the person's arrest if there was no
conviction. If the person was a juvenile at the time of the
arrest, the records shall be retained until the offender is
eighteen years of age and shall then be destroyed. The records
shall also be removed from any statewide criminal databases.

D. For the purpose of this section, "records"
includes records of arrests resulting in a criminal proceeding
and records relating to other offenses charged in the
accusatory pleading, whether the defendant was acquitted,
convicted or the charges were dismissed.

SECTION 33. [NEW MATERIAL] RECALL OR DISMISSAL OF
SENTENCES--INCARCERATED PERSONS.--

A. Within thirty days following the effective date
of the Cannabis Regulation Act, a corrections facility, a
county jail or a juvenile corrections facility in which a person is currently incarcerated for possession of one ounce or less of marijuana in violation of Section 30-31-23 NMSA 1978 or possession of drug paraphernalia, or that would have resulted in a lesser offense if that act had been in effect at the time of the offense, shall notify the court that the convicted person's case should be reopened to consider possible recall or dismissal of the person's sentence.

B. A court shall reopen a case pursuant to Subsection A of this section and recall the person's sentence or dismiss the person's sentence because it is legally invalid, unless the court determines that doing so would pose an unreasonable risk of danger to public safety.

C. A person who is resentenced pursuant to this section shall be given credit against the person's new sentence for time already served.

D. A person who is resentenced pursuant to this section shall not be sentenced to a term longer than the person's original sentence and shall not have any charges reinstated that were originally dismissed pursuant to a negotiated plea agreement.

E. A person who has completed the person's sentence for a conviction, whether by trial or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense if the Cannabis Regulation Act had .214675.3
been in effect at the time of the offense may notify the court in writing to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as an infraction. The court shall redesignate the conviction as an infraction or dismiss and seal the conviction as legally invalid because of the enactment of the Cannabis Regulation Act unless the court makes a finding that the conviction is not legally invalid or was not redesignated as an infraction pursuant to that act.

F. The court clerk shall notify the department of public safety that a case has been dismissed. Upon notice, the department of public safety shall erase the arrest record pertaining to the offense; provided that, if the arrest included multiple charges, only the related charge shall be erased.

G. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to a person who was convicted of or incarcerated for an offense.

H. The provisions of this section shall apply equally to juvenile delinquency adjudications and convictions of a juvenile person if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense as provided in the Cannabis Regulation Act.

I. No fee or cost of any kind shall be imposed against a person whose sentence is reviewed pursuant to this
SECTION 34. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person may commence a legal action for a writ of mandamus to compel the commission to perform its duties pursuant to the Cannabis Regulation Act.

SECTION 35. [NEW MATERIAL] CANNABIS REGULATION FUND.--

A. The "cannabis regulation fund" is created in the state treasury. The fund consists of appropriations, gifts, grants, donations and fees collected pursuant to the Cannabis Regulation Act. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the general fund.

B. The commission shall administer the fund, and money in the fund is appropriated to the commission to support the commission in its duties established in the Cannabis Regulation Act. Money from the fund shall not be used for capital expenditures.

C. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the director or the director's authorized representative.

SECTION 36. [NEW MATERIAL] COMMUNITY GRANTS REINVESTMENT FUND--COMMUNITY GRANTS REINVESTMENT PROGRAM.--

A. The "community grants reinvestment fund" is created in the state treasury. The fund consists of
appropriations, other money deposited in the fund and money otherwise accruing to the fund. The department of health shall administer the fund, and money in the fund is subject to appropriation to the department of health for the community grants reinvestment program as described in this section. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of health or the secretary's authorized representative.

B. The secretary of health shall establish the "community grants reinvestment program". The community grants reinvestment program shall provide grants to qualified community-based nonprofit organizations and governmental entities for the purpose of reinvesting in communities disproportionately affected by past federal and state drug policies by supporting job placement, mental health treatment, substance use disorder treatment, navigation of government programs, legal services to address barriers faced by formerly incarcerated persons and linkages to medical care and women's health services. The program may also include provision of grants for:

(1) prevention, early intervention and outreach services; risk surveys; and education for youth,
families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts and others working to recognize and reduce risks related to substance use and the early signs of problematic use and of substance use disorders;

(2) schools to develop and support evidence-based drug educational programs, based on principles of harm reduction, that are designed to prevent and reduce substance use and improve school retention and performance by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation and professional care. Schools with higher-than-average dropout rates shall be prioritized for grants for this purpose;

(3) programs for outreach, education and treatment, based on principles of harm reduction, for homeless youth and out-of-school youth with substance use disorders;

(4) access and linkage to care provided by county behavioral health programs for youth and their families and caregivers who have a substance use disorder or who are at risk for developing a substance use disorder;

(5) youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, based on principles of harm reduction and
evidence-based and that provide a continuum of care that includes screening and assessment for substance use disorder as well as mental health care, early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication, psychotherapy and other related services;

(6) to the extent permitted by law and where indicated, interventions that use a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together, including support for the development of family-based interventions that address substance use disorders and related problems within the context of families of all types and their children;

(7) programs to assist individuals, as well as families and friends of young people who use drugs, to reduce the stigma associated with substance use, including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns and community recovery networks;
(8) workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise, provide ongoing education and coaching that increase substance use treatment providers' core competencies and train providers on promising and evidenced-based practices;

(9) construction of community-based youth treatment facilities;

(10) contracts with county behavioral health programs for the provision of services described in this subsection; and

(11) programs that provide equity resources, including start-up funding, incubation, technical assistance, training and educational opportunities, for people who want to become part of the cannabis industry in New Mexico.

C. A qualified community-based nonprofit organization or governmental entity may apply for a grant from the community grants reinvestment fund. Applications shall be reviewed by the department of health.

SECTION 37. [NEW MATERIAL] CANNABIS HEALTH AND SAFETY FUND.--

A. The "cannabis health and safety fund" is created in the state treasury. The fund consists of appropriations, other money deposited in the fund and money otherwise accruing to the fund. The department of health shall administer the
fund, and money in the fund is subject to appropriation to the
department of health for the community grants reinvestment
program as provided in Subsection B of Section 36 of the
Cannabis Regulation Act. Any unexpended or unencumbered
balance remaining at the end of any fiscal year shall not
revert to the general fund. Money in the fund shall be
disbursed on warrants signed by the secretary of finance and
administration pursuant to vouchers signed by the secretary of
health or the secretary's authorized representative.

B. The cannabis health and safety fund is created
for the purpose of:

(1) supporting qualified patients
participating in the medical cannabis program in accordance
with the Lynn and Erin Compassionate Use Act who also
participate in the medical cannabis subsidy program; and

(2) developing and executing a comprehensive
and sustained public education campaign, based on principles of
harm reduction, that:

(a) promotes road safety and discourages
driving while impaired;

(b) promotes abstinence for persons
under twenty-one years of age; and

(c) encourages responsible use by
adults.

SECTION 38. [NEW MATERIAL] CANNABIS RESEARCH FUND.--
A. The "cannabis research fund" is created in the state treasury. The fund consists of money transferred from the cannabis excise tax, appropriations, income from investment of the fund and money otherwise accruing to the fund. Money in the fund is appropriated to the board of regents of the university of New Mexico for the university of New Mexico health sciences center for the purpose of research related to medical and recreational cannabis use and substance use disorder treatment. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the chancellor for health sciences of the university of New Mexico or the chancellor's authorized representative.

B. The chancellor shall:

(1) oversee and keep a record of any research and how the research relates to the use, effects or efficacy of medical and recreational cannabis; impacts on public health, health costs associated with cannabis use and whether cannabis use is associated with an increase or decrease in the use of alcohol or other drugs; the impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs; public safety issues related to cannabis use; the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions on the prevention of underage access to and use of cannabis products; cannabis use
rates, maladaptive use rates for adults and youth and diagnosis
rates of cannabis-related substance use disorders; 
environmental issues related to cannabis production and the
criminal prohibition of cannabis production; and supervised
injectable opioid treatment by medical practitioners under
strict controls in a clinical setting to select heroin-
dependent persons;

(2) oversee distribution documentation to each
person conducting research that identifies the person
congducting the research and states that the person is
congducting research pursuant to the Lynn and Erin Compassionate
Use Act and the Cannabis Regulation Act;

(3) ensure that research conducted pursuant to
the Lynn and Erin Compassionate Use Act and the Cannabis
Regulation Act is conducted in accordance with institutional
and federal requirements relating to the protection of human
subjects and is approved by an institutional review board; and

(4) prepare and submit:

(a) an annual report to the legislative
finance committee that describes expenditures from the cannabis
research fund and research conducted pursuant to the Lynn and
Erin Compassionate Use Act and the Cannabis Regulation Act
during the fiscal year preceding the submission of the report; and

(b) by November 1, 2020, and every three
years thereafter, a report to the legislative health and human services committee that describes the research conducted and any findings, reports or publications that resulted from the research.

SECTION 39. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege solely because the person produced, possessed, distributed, dispensed or purchased cannabis from a person licensed pursuant to the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act if the person produced, possessed, distributed, dispensed or purchased the cannabis solely for the purpose of research conducted pursuant to the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act.

SECTION 40. [NEW MATERIAL] ROAD SAFETY FUND.--

A. The "road safety fund" is created in the state treasury. The fund consists of money transferred from the cannabis excise tax, appropriations, other money deposited in the fund and money otherwise accruing to the fund. The department of public safety shall administer the fund, and money in the fund is subject to appropriation to the department of public safety for the purposes described in this section. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund. Money in
the fund shall be disbursed on warrants signed by the secretary
of finance and administration pursuant to vouchers signed by
the secretary of public safety or the secretary's authorized
representative.

B. Money in the fund is appropriated to the
department of public safety for:

(1) research to determine whether a driver is
operating a vehicle while impaired, including impairment by the
use of cannabis items;

(2) implementing best practices in law
enforcement agencies regarding impairment by the use of
cannabis items; and

(3) drug recognition expert field
certification training for law enforcement officers and for
purchasing roadside impairment tests that are validated for
testing cannabis impairment.

SECTION 41. [NEW MATERIAL] SHORT TITLE.--Sections 41
through 47 of this act may be cited as the "Cannabis Tax Act".

SECTION 42. [NEW MATERIAL] DEFINITIONS.--As used in the
Cannabis Tax Act:

A. "cannabis":

(1) means all parts of the plant Cannabis
sativa Linnaeus, whether growing or not; the seeds of the
plant; the resin extracted from any part of the plant; and
every compound, manufacture, salt, derivative, mixture or
preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant;
fiber produced from the stalks; oil or cake made from the seeds
of the plant; any other compound, manufacture, salt,
derivative, mixture or preparation of the mature stalks, fiber,
oil or cake; or the sterilized seed of the plant that is
incapable of germination; or

(b) the weight of any other ingredient
combined with cannabis to prepare topical or oral
administrations, food, drink or another product;

B. "cannabis extract":

(1) means a product obtained by separating
resins from cannabis by solvent extraction using solvents other
than vegetable glycerin, such as butane, hexane, isopropyl
alcohol, ethanol or carbon dioxide; and

(2) does not include the weight of any other
ingredient combined with cannabis extract to prepare topical or
oral administrations, food, drink or another product;

C. "cannabis items" means cannabis, cannabis
products and cannabis extracts;

D. "cannabis product":

(1) means a product that contains cannabis or
cannabis extracts, including edible or topical products that
may also contain other ingredients; and
(2) does not include the weight of any other ingredient combined with cannabis or cannabis extracts to prepare topical or oral administrations, food, drink or another product; and

E. "department" means the taxation and revenue department.

SECTION 43. [NEW MATERIAL] CANNABIS EXCISE TAX.--

A. An excise tax is imposed on the sale of cannabis items in this state on which the tax imposed by this section has not been paid. The tax imposed by this section may be referred to as the "cannabis excise tax". If the price paid does not represent the value of the cannabis item, the tax rate shall be applied to the reasonable value of the cannabis item at the time the item was purchased.

B. The rate of the cannabis excise tax is four percent and is applied to the price paid for the cannabis item.

SECTION 44. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

A. There is imposed excise tax at a rate of four percent on the sale of cannabis items in the municipality on which the tax imposed by this section has not been paid. The tax imposed pursuant to this section may be referred to as the "municipal cannabis tax".

B. The governing body of the municipality may dedicate the revenue for any municipal purpose.

SECTION 45. [NEW MATERIAL] COUNTY CANNABIS TAX.--
A. There is imposed in a county that does not prohibit the sale of cannabis items an excise tax at a rate of four percent on the sale of cannabis items on which the tax imposed by this section has not been paid. The tax imposed pursuant to this section may be referred to as the "county cannabis tax".

B. The governing body of the county may dedicate the revenue for any county purpose.

SECTION 46. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes imposed pursuant to the Cannabis Tax Act are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs.

SECTION 47. [NEW MATERIAL] INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall administer and enforce the collection of the cannabis excise tax, municipal cannabis tax and county cannabis tax pursuant to the Tax Administration Act.

SECTION 48. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--CANNABIS EXCISE TAX.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the cannabis health and safety fund in an amount equal to six percent of the net receipts attributable to the cannabis excise tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made to the cannabis research fund in an amount equal to two percent of the net receipts attributable to the cannabis excise tax.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local DWI grant fund in an amount equal to six percent of the net receipts attributable to the cannabis excise tax; provided that the revenue is used for the purposes described in Paragraphs (3) through (5) of Subsection A of Section 11-6A-3 NMSA 1978.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the community grants reinvestment fund in an amount equal to twenty percent of the net receipts attributable to the cannabis excise tax.

E. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the road safety fund in an amount equal to two percent of the net receipts attributable to the cannabis excise tax.

SECTION 49. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] TRANSFER--REVENUES FROM MUNICIPAL CANNABIS TAX AND COUNTY CANNABIS TAX.--

A. A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality for which the department is collecting a municipal cannabis tax imposed by that municipality in an amount, subject to any increase or decrease
made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net receipts attributable to the municipal cannabis tax.

B. A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each county for which the department is collecting a county cannabis tax imposed by that county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net receipts attributable to the county cannabis tax."

SECTION 50. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

(1) Income Tax Act;
(2) Withholding Tax Act;
(3) Venture Capital Investment Act;
(4) Gross Receipts and Compensating Tax Act and any state gross receipts tax;
(5) Liquor Excise Tax Act;
(6) Local Liquor Excise Tax Act;
(7) any municipal local option gross receipts tax;
(8) any county local option gross receipts tax;
(9) Special Fuels Supplier Tax Act;
(10) Gasoline Tax Act;
(11) petroleum products loading fee, which fee
shall be considered a tax for the purpose of the Tax
Administration Act;
(12) Alternative Fuel Tax Act;
(13) Cigarette Tax Act;
(14) Estate Tax Act;
(15) Railroad Car Company Tax Act;
(16) Investment Credit Act, rural job tax
credit, Laboratory Partnership with Small Business Tax Credit
Act, Technology Jobs and Research and Development Tax Credit
Act, Film Production Tax Credit Act, Affordable Housing Tax
Credit Act and high-wage jobs tax credit;
(17) Corporate Income and Franchise Tax Act;
(18) Uniform Division of Income for Tax
Purposes Act;
(19) Multistate Tax Compact;
(20) Tobacco Products Tax Act; [and]
(21) the telecommunications relay service
surcharge imposed by Section 63-9F-11 NMSA 1978, which
surcharge shall be considered a tax for the purposes of the Tax
Administration Act; and
(22) the Cannabis Tax Act;
B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;
(2) Severance Tax Act;
(3) any severance surtax;
(4) Oil and Gas Severance Tax Act;
(5) Oil and Gas Conservation Tax Act;
(6) Oil and Gas Emergency School Tax Act;
(7) Oil and Gas Ad Valorem Production Tax Act;
(8) Natural Gas Processors Tax Act;
(9) Oil and Gas Production Equipment Ad Valorem Tax Act;
(10) Copper Production Ad Valorem Tax Act;
(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;
(12) Enhanced Oil Recovery Act;
(13) Natural Gas and Crude Oil Production Incentive Act; and
(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or
may hereafter be amended:

(1) Weight Distance Tax Act;

(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(3) Uniform Unclaimed Property Act (1995);

(4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;

(6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

(7) the gaming tax imposed pursuant to the Gaming Control Act; and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

SECTION 51. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended by Laws 2015, Chapter 89, Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
to read:

"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
MUNICIPALITIES OR COUNTIES.--

A. The provisions of this section apply to:

(1) any distribution to a municipality
pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

(2) any transfer to a municipality with
respect to any local option gross receipts tax or municipal
cannabis tax imposed by that municipality;

(3) any transfer to a county with respect to
any local option gross receipts tax or county cannabis tax
imposed by that county;

(4) any distribution to a county pursuant to
Section 7-1-6.16 or 7-1-6.47 NMSA 1978;

(5) any distribution to a municipality or a
county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

(6) any transfer to a county with respect to
any tax imposed in accordance with the Local Liquor Excise Tax
Act;

(7) any distribution to a county from the
county government road fund pursuant to Section 7-1-6.26 NMSA
1978;

(8) any distribution to a municipality of
gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

(9) any distribution to a municipality of

compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

B. Before making a distribution or transfer specified in Subsection A of this section to a municipality or county for the month, amounts comprising the net receipts shall be segregated into two mutually exclusive categories. One category shall be for amounts relating to the current month, and the other category shall be for amounts relating to prior periods. The total of each category for a municipality or county shall be reported each month to that municipality or county. If the total of the amounts relating to prior periods is less than zero and its absolute value exceeds the greater of one hundred dollars ($100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, then the following procedures shall be carried out:

(1) all negative amounts relating to any period prior to the three calendar years preceding the year of the current month, net of any positive amounts in that same time period for the same taxpayers to which the negative amounts pertain, shall be excluded from the total relating to prior periods. Except as provided in Paragraph (2) of this subsection, the net receipts to be distributed or transferred to the municipality or county shall be adjusted to equal the amount for the current month plus the revised total for prior periods; and

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(2) if the revised total for prior periods
determined pursuant to Paragraph (1) of this subsection is
negative and its absolute value exceeds the greater of one
hundred dollars ($100) or an amount equal to twenty percent of
the average distribution or transfer amount for that
municipality or county, the revised total for prior periods
shall be excluded from the distribution or transfers and the
net receipts to be distributed or transferred to the
municipality or county shall be equal to the amount for the
current month.

C. The department shall recover from a municipality
or county the amount excluded by Paragraph (2) of Subsection B
of this section. This amount may be referred to as the
"recoverable amount".

D. Prior to or concurrently with the distribution
or transfer to the municipality or county of the adjusted net
receipts, the department shall notify the municipality or
county whose distribution or transfer has been adjusted
pursuant to Paragraph (2) of Subsection B of this section:

(1) that the department has made such an
adjustment, that the department has determined that a specified
amount is recoverable from the municipality or county and that
the department intends to recover that amount from future
distributions or transfers to the municipality or county;

(2) that the municipality or county has ninety
days from the date notice is made to enter into a mutually
agreeable repayment agreement with the department;

(3) that if the municipality or county takes
no action within the ninety-day period, the department will
recover the amount from the next six distributions or transfers
following the expiration of the ninety days; and

(4) that the municipality or county may
inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application
for a claim for refund that gave rise to the recoverable
amount, exclusive of any amended returns that may be attached
to the application.

E. No earlier than ninety days from the date notice
pursuant to Subsection D of this section is given, the
department shall begin recovering the recoverable amount from a
municipality or county as follows:

(1) the department may collect the recoverable
amount by:

(a) decreasing distributions or
transfers to the municipality or county in accordance with a
repayment agreement entered into with the municipality or
county; or

(b) except as provided in Paragraphs (2)
and (3) of this subsection, if the municipality or county fails
to act within the ninety days, decreasing the amount of the
next six distributions or transfers to the municipality or
county following expiration of the ninety-day period in
increments as nearly equal as practicable and sufficient to
recover the amount;

(2) if, pursuant to Subsection B of this
section, the secretary determines that the recoverable amount
is more than fifty percent of the average distribution or
transfer of net receipts for that municipality or county, the
secretary:

(a) shall recover only up to fifty
percent of the average distribution or transfer of net receipts
for that municipality or county; and

(b) may, in the secretary's discretion,
waive recovery of any portion of the recoverable amount,
subject to approval by the state board of finance; and

(3) if, after application of a refund claim,
audit adjustment, correction of a mistake by the department or
other adjustment of a prior period, but prior to any recovery
of the department pursuant to this section, the total net
receipts of a municipality or county for the twelve-month
period beginning with the current month are reduced or are
projected to be reduced to less than fifty percent of the
average distribution or transfer of net receipts, the secretary
may waive recovery of any portion of the recoverable amount,
subject to approval by the state board of finance.

F. No later than ninety days from the date notice
pursuant to Subsection D of this section is given, the
department shall provide the municipality or county adequate
opportunity to review an application for a claim for refund
that gave rise to the recoverable amount, exclusive of any
amended returns that may be attached to the application,
pursuant to Section 7-1-8.9 NMSA 1978.

G. On or before September 1 of each year beginning
in 2016, the secretary shall report to the state board of
finance and the legislative finance committee the total
recoverable amount waived pursuant to Subparagraph (b) of
Paragraph (2) and Paragraph (3) of Subsection E of this section
for each municipality and county in the prior fiscal year.

H. The secretary is authorized to decrease a
distribution or transfer to a municipality or county upon being
directed to do so by the secretary of finance and
administration pursuant to the State Aid Intercept Act or to
redirect a distribution or transfer to the New Mexico finance
authority pursuant to an ordinance or a resolution passed by
the county or municipality and a written agreement of the
municipality or county and the New Mexico finance authority.
Upon direction to decrease a distribution or transfer or notice
to redirect a distribution or transfer to a municipality or
county, the secretary shall decrease or redirect the next
designated distribution or transfer, and succeeding
distributions or transfers as necessary, by the amount of the
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state distributions intercept authorized by the secretary of
finance and administration pursuant to the State Aid Intercept
Act or by the amount of the state distribution intercept
authorized pursuant to an ordinance or a resolution passed by
the county or municipality and a written agreement with the New
Mexico finance authority. The secretary shall transfer the
state distributions intercept amount to the municipal or county
treasurer or other person designated by the secretary of
finance and administration or to the New Mexico finance
authority pursuant to written agreement to pay the debt service
to avoid default on qualified local revenue bonds or meet other
local revenue bond, loan or other debt obligations of the
municipality or county to the New Mexico finance authority. A
decrease to or redirection of a distribution or transfer
pursuant to this subsection that arose:

(1) prior to an adjustment of a distribution
or transfer of net receipts creating a recoverable amount owed
to the department takes precedence over any collection of any
recoverable amount pursuant to Paragraph (2) of Subsection B of
this section, which may be made only from the net amount of the
distribution or transfer remaining after application of the
decrease or redirection pursuant to this subsection; and

(2) after an adjustment of a distribution or
transfer of net receipts creating a recoverable amount owed to
the department shall be subordinate to any collection of any
recoverable amount pursuant to Paragraph (2) of Subsection B of this section.

I. Upon the direction of the secretary of finance and administration pursuant to Section 9-6-5.2 NMSA 1978, the secretary shall temporarily withhold the balance of a distribution to a municipality or county, net of any decrease or redirected amount pursuant to Subsection H of this section and any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, that has failed to submit an audit report required by the Audit Act or a financial report required by Subsection F of Section 6-6-2 NMSA 1978. The amount to be withheld, the source of the withheld distribution and the number of months that the distribution is to be withheld shall be as directed by the secretary of finance and administration. A distribution withheld pursuant to this subsection shall remain in the tax administration suspense fund until distributed to the municipality or county and shall not be distributed to the general fund. An amount withheld pursuant to this subsection shall be distributed to the municipality or county upon direction of the secretary of finance and administration.

J. As used in this section:

(1) "amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month,
correction of amounts processed in the current month that
relate to the current month or that otherwise relate to
obligations due for the current month;

(2) "amounts relating to prior periods" means
any amounts processed during the current month that adjust
amounts processed in a period or periods prior to the current
month regardless of whether the adjustment is a correction of a
department error or due to the filing of amended returns,
payment of department-issued assessments, filing or approval of
claims for refund, audit adjustments or other cause;

(3) "average distribution or transfer amount"
means the following amounts; provided that a distribution or
transfer that is negative shall not be used in calculating the
amounts:

(a) the annual average of the total
amount distributed or transferred to a municipality or county
in each of the three twelve-month periods preceding the current
month;

(b) if a distribution or transfer to a
municipality or county has been made for less than three years,
the total amount distributed or transferred in the year
preceding the current month; or

(c) if a municipality or county has not
received distributions or transfers of net receipts for twelve
or more months, the monthly average of net receipts distributed

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or transferred to the municipality or county preceding the current month multiplied by twelve;

(4) "current month" means the month for which the distribution or transfer is being prepared; and

(5) "repayment agreement" means an agreement between the department and a municipality or county under which the municipality or county agrees to allow the department to recover an amount determined pursuant to Paragraph (2) of Subsection B of this section by decreasing distributions or transfers to the municipality or county for one or more months beginning with the distribution or transfer to be made with respect to a designated month. No interest shall be charged."

SECTION 52. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--MEDICAL CANNABIS.--

A. Receipts from the sale of prescription drugs [and], oxygen [and], oxygen services provided by a licensed medicare durable medical equipment provider and medical cannabis that is purchased in accordance with the Lynn and Erin Compassionate Use Act may be deducted from gross receipts and governmental gross receipts.

B. For the purposes of this section, "prescription
drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

SECTION 53. Section 11-6A-3 NMSA 1978 (being Laws 1993, Chapter 65, Section 3, as amended) is amended to read:

"11-6A-3. LOCAL DWI GRANT PROGRAM--FUND.--

A. The division shall establish a local DWI grant program to make grants to municipalities or counties for:

(1) new, innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;

(2) programs, services or activities to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;

(3) research to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis products;

(4) implementing best practices in law
enforcement agencies regarding impairment by the use of cannabis products; and

(5) funding drug recognition expert field certification training for law enforcement officers and for purchasing roadside impairment tests that are validated for testing cannabis impairment.

B. Grants shall be awarded by the council pursuant to the advice and recommendations of the division.

C. The "local DWI grant fund" is created in the state treasury and shall be administered by the division. Two million five hundred thousand dollars ($2,500,000) of liquor excise tax revenues distributed to the fund and all other money in the fund, other than money appropriated for distribution pursuant to Subsections D and E of this section and money appropriated for DWI program distributions, are appropriated to the division to make grants to municipalities and counties upon council approval in accordance with the program established under the Local DWI Grant Program Act and to evaluate DWI grantees and the local DWI grant program. Money in the fund may be used for drug courts. An amount equal to the liquor excise tax revenues distributed annually to the fund, less five million six hundred thousand dollars ($5,600,000), is appropriated to the division to make DWI program distributions to counties upon council approval of programs in accordance with the provisions of the Local DWI Grant Program Act. No
more than six hundred thousand dollars ($600,000) of liquor
excise tax revenues distributed to the fund in any fiscal year
shall be expended for administration of the grant program.
Balances in the fund at the end of any fiscal year shall not
revert to the general fund.

D. Two million eight hundred thousand dollars
($2,800,000) of the liquor excise tax revenues distributed to
the local DWI grant fund is appropriated to the division for
distribution to the following counties in the following amounts
for funding of alcohol detoxification and treatment facilities:

   (1) one million seven hundred thousand dollars
   ($1,700,000) to class A counties with a population of over
   three hundred thousand persons according to the 1990 federal
decennial census;

   (2) three hundred thousand dollars ($300,000)
each to counties reclassified in 2002 as class A counties with
a population of more than ninety thousand but less than one
hundred thousand persons according to the 1990 federal
decennial census;

   (3) two hundred thousand dollars ($200,000) to
class B counties with a population of more than thirty thousand
but less than forty thousand persons according to the 1990
federal decennial census;

   (4) one hundred fifty thousand dollars
($150,000) to class B counties with a population of more than
sixty-two thousand but less than sixty-five thousand persons
according to the 1990 federal decennial census; and

(5) one hundred fifty thousand dollars
($150,000) to class B counties with a population of more than
thirteen thousand but less than fifteen thousand persons
according to the 1990 federal decennial census.

E. Three hundred thousand dollars ($300,000) of the
liquor excise tax revenues distributed to the local DWI grant
fund is appropriated to the division for the interlock device
fund.

F. In awarding DWI grants to local communities, the
council:

(1) may fund new or existing innovative or
model programs, services or activities designed to prevent or
reduce the incidence of DWI, alcoholism or alcohol abuse;

(2) may fund existing community-based
programs, services or facilities for prevention, screening and
treatment of alcoholism and alcohol abuse;

(3) may fund new or existing innovative or
model programs, services or activities of any kind designed to
prevent or reduce the incidence of domestic abuse related to
DWI, alcoholism or alcohol abuse;

(4) may fund existing community-based
programs, services or facilities for prevention and treatment
of domestic abuse related to DWI, alcoholism or alcohol abuse;
(5) shall give consideration to a broad range of approaches to prevention, education, screening, treatment or alternative sentencing, including programs that combine incarceration, treatment and aftercare, to address the problem of DWI, alcoholism or alcohol abuse; and

(6) shall make grants only to counties or municipalities in counties that have established a DWI planning council and adopted a county DWI plan or are parties to a multicounty DWI plan that has been approved by the council and approved pursuant to Chapter 43, Article 3 NMSA 1978 and only for programs, services or activities consistent with that plan. A DWI plan shall also comply with local DWI grant program rules and guidelines.

G. The council shall use the criteria in Subsection F of this section to approve DWI programs, services or activities for funding through the county DWI program distribution. Sixty-five percent of the DWI grants awarded to local communities shall be used for alcohol-related treatment and detoxification programs."

SECTION 54. Section 26-2B-3 NMSA 1978 (being Laws 2007, Chapter 210, Section 3) is amended to read:

"26-2B-3. DEFINITIONS.--As used in the Lynn and Erin Compassionate Use Act:

A. "adequate supply" means an amount of cannabis, in any form approved by the department, possessed by a
qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived solely from an intrastate source;

B. "debilitating medical condition" means:
   (1) cancer;
   (2) glaucoma;
   (3) multiple sclerosis;
   (4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;
   (5) epilepsy;
   (6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;
   (7) admitted into hospice care in accordance with rules promulgated by the department; or
   (8) any other medical condition, medical treatment or disease as approved by the department;

C. "department" means the department of health;

D. "licensed [producer] dispenser" means any person or association of persons within New Mexico that the department determines to be qualified to [produce] possess, distribute and dispense cannabis pursuant to the Lynn and Erin Compassionate .214675.3
Use Act and that is licensed by the department;

E. "practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act;

F. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who has been designated by the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

G. "qualified patient" means a resident of New Mexico who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card issued pursuant to the Lynn and Erin Compassionate Use Act; and

H. "written certification" means a statement in a patient's medical records or a statement signed by a patient's practitioner that, in the practitioner's professional opinion, the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient. A written certification is not valid for more than one year from the date of issuance."

SECTION 55. Section 26-2B-4 NMSA 1978 (being Laws 2007, Chapter 210, Section 4) is amended to read:
"26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR
THE MEDICAL USE OF CANNABIS.--

   A. A qualified patient shall not be subject to
arrest, prosecution or penalty in any manner for the possession
of or the medical use of cannabis if the quantity of cannabis
does not exceed an adequate supply or the qualified patient is
authorized to possess the cannabis pursuant to the Cannabis
Regulation Act.

   B. A qualified patient's primary caregiver shall
not be subject to arrest, prosecution or penalty in any manner
for the possession of cannabis for medical use by the qualified
patient if the quantity of cannabis does not exceed an adequate
supply.

   C. Subsection A of this section shall not apply to
a qualified patient under the age of eighteen years, unless:

      (1) the qualified patient's practitioner has
explained the potential risks and benefits of the medical use
of cannabis to the qualified patient and to a parent, guardian
or person having legal custody of the qualified patient; and

      (2) a parent, guardian or person having legal
custody consents in writing to:

         (a) allow the qualified patient's
medical use of cannabis;

         (b) serve as the qualified patient's
primary caregiver; and
(c) control the dosage and the frequency of the medical use of cannabis by the qualified patient.

D. A qualified patient or a primary caregiver shall be granted the full legal protections provided in this section if the patient or caregiver is in possession of a registry identification card. If the qualified patient or primary caregiver is not in possession of a registry identification card, the patient or caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated.

E. A practitioner shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

F. A licensed [producer] dispenser shall not be subject to arrest, prosecution or penalty, in any manner, for the [production] possession, distribution or dispensing of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

G. Any property interest that is possessed, owned or used in connection with the medical use of cannabis, or acts incidental to such use, shall not be harmed, neglected, injured or destroyed while in the possession of state or local law enforcement officials. Any such property interest shall not be forfeited under any state or local law providing for the
forfeiture of property except as provided in the Forfeiture Act. Cannabis, paraphernalia or other property seized from a qualified patient or primary caregiver in connection with the claimed medical use of cannabis shall be returned immediately upon the determination by a court or prosecutor that the qualified patient or primary caregiver is entitled to the protections of the provisions of the Lynn and Erin Compassionate Use Act, as may be evidenced by a failure to actively investigate the case, a decision not to prosecute, the dismissal of charges or acquittal.

H. A person shall not be subject to arrest or prosecution for a cannabis-related offense for simply being in the presence of the medical use of cannabis as permitted under the provisions of the Lynn and Erin Compassionate Use Act."

SECTION 56. Section 26-2B-5 NMSA 1978 (being Laws 2007, Chapter 210, Section 5) is amended to read:

"26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

A. Participation in a medical use of cannabis program by a qualified patient or primary caregiver does not relieve the qualified patient or primary caregiver from:

(1) criminal prosecution or civil penalties for activities not authorized in the Lynn and Erin Compassionate Use Act;

(2) liability for damages or criminal
prosecution arising out of the operation of a vehicle while
under the influence of cannabis; or

(3) criminal prosecution or civil penalty for
possession or use of cannabis:

(a) in a school bus or public vehicle;
(b) on school grounds or property;
(c) in the workplace of the qualified
patient's or primary caregiver's employment; or
(d) at a public park, recreation center,
youth center or other public place.

B. A person who makes a fraudulent representation
to a law enforcement officer about the person's participation
in a medical use of cannabis program to avoid arrest or
prosecution for a cannabis-related offense is guilty of a petty
misdemeanor and shall be sentenced in accordance with the
provisions of Section 31-19-1 NMSA 1978.

C. If a licensed [producer] dispenser sells,
distributes, dispenses or transfers cannabis to a person not
approved by the department pursuant to the Lynn and Erin
Compassionate Use Act or obtains or transports cannabis outside
New Mexico in violation of federal law, the licensed [producer]
dispenser shall be subject to arrest, prosecution and civil or
criminal penalties pursuant to state law."

SECTION 57. Section 26-2B-7 NMSA 1978 (being Laws 2007,
Chapter 210, Section 7) is amended to read:
"26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT RULES--DUTIES.--

A. No later than October 1, 2007, and after consultation with the advisory board, the department shall promulgate rules in accordance with the State Rules Act to implement the purpose of the Lynn and Erin Compassionate Use Act. The rules shall:

(1) govern the manner in which the department will consider applications for registry identification cards and for the renewal of identification cards for qualified patients and primary caregivers;

(2) define the amount of cannabis that is necessary to constitute an adequate supply, including amounts for topical treatments;

(3) identify criteria and set forth procedures for including additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis. Procedures shall include a petition process and shall allow for public comment and public hearings before the advisory board;

(4) set forth additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis as recommended by the advisory board;

(5) identify requirements for the licensure of
[producers and cannabis production facilities] qualified patients to produce medical cannabis for the qualified patient's personal use and set forth procedures to obtain licenses; provided that the department shall not impose a fee for or in connection with a license issued pursuant to this paragraph;

(6) develop a distribution system for medical cannabis that provides for

[(a) cannabis production facilities
within New Mexico housed on secured grounds and operated by licensed producers; and

(b)] distribution of medical cannabis to qualified patients or their primary caregivers to take place at locations that are designated by the department and that are not within three hundred feet of any school, church or daycare center;

(7) determine additional duties and responsibilities of the advisory board; and

(8) be revised and updated as necessary.

B. The department shall issue registry identification cards to a patient and to the primary caregiver for that patient, if any, who submit the following, in accordance with the department's rules:

(1) a written certification;

(2) the name, address and date of birth of the
patient;

(3) the name, address and telephone number of
the patient's practitioner; and

(4) the name, address and date of birth of the
patient's primary caregiver, if any.

C. The department shall verify the information
contained in an application submitted pursuant to Subsection B
of this section and shall approve or deny an application within
thirty days of receipt. The department may deny an application
only if the applicant did not provide the information required
pursuant to Subsection B of this section or if the department
determines that the information provided is false. A person
whose application has been denied shall not reapply for six
months from the date of the denial unless otherwise authorized
by the department.

D. The department shall issue a registry
identification card within five days of approving an
application, and a card shall expire one year after the date of
issuance. A registry identification card shall contain:

(1) the name, address and date of birth of the
qualified patient and primary caregiver, if any;

(2) the date of issuance and expiration date
of the registry identification card; and

(3) other information that the department may
require by rule.
E. A person who possesses a registry identification card shall notify the department of any change in the person's name, address, qualified patient's practitioner, qualified patient's primary caregiver or change in status of the qualified patient's debilitating medical condition within ten days of the change.

F. Possession of or application for a registry identification card shall not constitute probable cause or give rise to reasonable suspicion for a governmental agency to search the person or property of the person possessing or applying for the card.

G. The department shall maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card. Individual names on the list shall be confidential and not subject to disclosure, except:

(1) to authorized employees or agents of the department as necessary to perform the duties of the department pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

(2) to authorized employees of state or local law enforcement agencies, but only for the purpose of verifying that a person is lawfully in possession of a registry identification card; or

(3) as provided in the federal Health .214675.3
Insurance Portability and Accountability Act of 1996."

SECTION 58. 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" means a drug or substance listed in Schedules I through V of the Controlled Substances Act or rules adopted thereto;

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 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]
"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" 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. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds]
of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination; or the plant Cannabis sativa L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis;

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

[R.] P. "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.] Q. "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.] R. "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.] S. "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

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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.R.T. "controlled substance analog":

(1) 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)] (a) phenethylamines;

[(2)] (b) N-substituted piperidines;

[(3)] (c) morphinans;

[(4)] (d) ecgonines;

[(5)] (e) quinazolinones;
[\text{(f)}] substituted indoles; and
\[\text{(g)}\] arylcycloalkylamines;

[Specifically excluded from the definition of "controlled substance analog" are those] and

(2) does not include 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;

\[\text{U.}\] "human consumption" includes application,
injection, inhalation, ingestion or any other manner of
introduction;

\[\text{V.}\] "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

\[\text{W.}\] "valid practitioner-patient relationship"
means a professional relationship, as defined by the
practitioner's licensing board, between the practitioner and
the patient."

\textbf{SECTION 59.} Section 30-31-6 NMSA 1978 (being Laws 1972,
Chapter 84, Section 6, as amended by Laws 2017, Chapter 139,
Section 2, by Laws 2017, Chapter 140, Section 3 and by Laws 2018, Chapter 41, Section 1) 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) dextorphan;
   (14) diampromide;
   (15) diethylnitiambutene;
   (16) dimenoxadol;
(17) dimepheptanol;
(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) phenampromide;
(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;]
1. [(16)] (15) psilocyn;
2. [(17)–tetrahydrocannabinols;
3. (18) hashish;
4. (19)–synthetic cannabinoids, including:
5. (a) 1-[(2-(4-(morpholinyl)ethyl]-
6. 3-(1-naphthoyl)indole;
7. (b) 1-butyl-3-(1-naphthoyl)indole;
8. (c) 1-hexyl-3-(1-naphthoyl)indole;
9. (d) 1-pentyl-3-(1-naphthoyl)indole;
10. (e) 1-pentyl-3-(2-methoxyphenylacetyl)
11. indole;
12. (f) cannabicyclohexanol (CP 47, 497 and
13. homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)
14. -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,
15. 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
16. (g) 6aR,10aR)-9-(hydroxymethyl)
17. -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,
18. 10a-tetrahydrobenzo[c]chromen-1-ol;
19. (h) dexamabinol, (6aS,10aS)
20. -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)
21. -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
22. (i) 1-pentyl-3-(4-chloro naphthoyl)
23. indole;
24. (j) (2-methyl-1-propyl-1H-indol-3-yl)
25. -1-naphthalenyl-methanone; and

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(k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy cyclohexyl)-phenol;

[(20)] (17) 3,4-methylenedioxymethcathinone;
[(21)] (18) 3,4-methylenedioxypyrovalerone;
[(22)] (19) 4-methylmethcathinone;
[(23)] (20) 4-methoxymethcathinone;
[(24)] (21) 3-fluoromethcathinone; and
[(25)] (22) 4-fluoromethcathinone;

D. the enumeration of peyote as a controlled substance does not apply to the use of peyote in bona fide religious ceremonies by a bona fide religious organization, and members of the organization so using peyote are exempt from 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; and

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

(1) industrial hemp, pursuant to rules promulgated by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture;

(2) cultivation of industrial hemp by
qualified entities pursuant to rules adopted by the New Mexico department of agriculture;

(3) the use of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol 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; or

(4) the use, dispensing, possession, prescribing, storage or transport of a prescription drug that the United States food and drug administration has approved and that contains marijuana, a tetrahydrocannabinol derivative or a chemical derivative of tetrahydrocannabinol; and

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

SECTION 60. Section 30-31-7 NMSA 1978 (being Laws 1972, Chapter 84, Section 7, as amended) is amended to read:

"30-31-7. SCHEDULE II.--

A. The following controlled substances are included in Schedule II:

(1) any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical
synthesis, or by combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;
(b) any salt, compound, isomer, derivative or preparation thereof that is chemically equivalent or identical with any of the substances referred to in Subparagraph (a) of this paragraph, but not including the isoquinoline alkaloids of opium;
(c) opium poppy and poppy straw; and
(d) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, derivative or preparation thereof that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions that do not contain cocaine or ecgonine;

[(e) marijuana, but only for the use 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
(f) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol, but only for the use 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.

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Marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol shall be considered Schedule II controlled substances only for the purposes enumerated in the Controlled Substances Therapeutic Research Act or the Lynn and Erin Compassionate Use Act;

(2) any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) alphaprodine;
(b) anileridine;
(c) bezitramide;
(d) dihydrocodeine;
(e) diphenoxylate;
(f) fentanyl;
(g) hydromorphone;
(h) isomethadone;
(i) levomethorphan;
(j) levorphanol;
(k) meperidine;
(l) metazocine;
(m) methadone;
(n) methadone--intermediate,
4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(o) moramide--intermediate,
2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
   (p) oxycodone;
   (q) pethidine;
   (r) pethidine--intermediate--A,
4-cyano-1-methyl-4-phenylpiperidine;
   (s) pethidine--intermediate--B,
ethyl-4-phenyl-piperidine-4-carboxylate;
   (t) pethidine--intermediate--C,
1-methyl-4-phenylpiperidine-4-carboxylic acid;
   (u) phenazocine;
   (v) piminodine;
   (w) racemethorphan; and
   (x) racemorphan;
(3) unless listed in another schedule, any
material, compound, mixture or preparation that contains any
quantity of the following substances having a potential for
abuse associated with a stimulant effect on the central nervous
system:
   (a) amphetamine, its salts, optical
isomers and salts of its optical isomers;
   (b) phenmetrazine and its salts;
   (c) methamphetamine, its salts, isomers
and salts of isomers; and
   (d) methylphenidate; and
(4) controlled substances added to Schedule II
by rule adopted by the board pursuant to Section 30-31-3 NMSA 1978.

B. Where methadone is prescribed, administered or dispensed by a practitioner of a drug abuse rehabilitation program while acting in the course of the practitioner's professional practice, or otherwise lawfully obtained or possessed by a person, such person shall not possess such methadone beyond the date stamped or typed on the label of the container of the methadone, nor shall any person possess methadone except in the container in which it was originally administered or dispensed to such person, and such container shall include a label showing the name of the prescribing physician or practitioner, the identity of methadone, the name of the ultimate user, the date when the methadone is to be administered to or used or consumed by the named ultimate user shown on the label and a warning on the label of the methadone container that the ultimate user must use, consume or administer to the ultimate user the methadone in such container. Any person who violates this subsection is guilty of a felony and shall be punished by imprisonment for not less than one year nor more than five years, or by a fine of up to five thousand dollars ($5,000), or both."

SECTION 61. 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.--Except as authorized
by the Controlled Substances 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. marijuana 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; and

B. any other] a 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."

SECTION 62. 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, 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. 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.

C. 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] or

(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.

D. A person who knowingly violates Subsection A or C 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 .214675.3
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. Notwithstanding the provisions of Subsection A of this section, 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 63. Section 30-31-23 NMSA 1978 (being Laws 1972, Chapter 84, Section 23, as amended) is amended to read:

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

A. It is unlawful for a person intentionally to 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. It is unlawful for a person intentionally to possess a controlled substance analog.

B. 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

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)] (17) through [(25)] (22) of Subsection C of Section 30-31-6 NMSA 1978; or

(3) a substance added to Schedule I by a rule of the board adopted on or after [the effective date of this 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. 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).
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,
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

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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
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.

G. For the purposes of this section, "minor" means a person who is younger than eighteen years of age."

SECTION 64. Section 30-31-28 NMSA 1978 (being Laws 1972, Chapter 84, Section 28) is amended to read:

"30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST OFFENSE.--

A. If [any] a person, who has not previously been convicted of violating the laws of [any] a state or [any] laws
of the United States relating to narcotic drugs, [marijuana] hallucinogenic or depressant or stimulant substances, is found guilty of a violation of Section [23] 30-31-23 NMSA 1978, after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place [him] the person on probation upon reasonable conditions and for a period, not to exceed one year, as the court may prescribe.

B. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge [him] the person from probation before the expiration of the maximum period prescribed from the person's probation.

C. If during the period of [his] probation the person does not violate [any of] the conditions of the probation, then upon expiration of the period the court shall discharge such person and dismiss the proceedings against [him] the person. Discharge and dismissal under this section shall be without court adjudication of guilt, but a nonpublic record shall be retained by the attorney general solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, the person qualifies under this section. A discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities.
imposed by law upon conviction of a crime, including the
penalties prescribed under this section for second or
subsequent convictions or for any other purpose. Discharge and
dismissal under this section may occur only once with respect
to [any] a person.

D. Upon the dismissal of a person and discharge of
the proceedings against [him] the person under this section, a
person, if [he was] not over eighteen years of age at the time
of the offense, may apply to the court for an order to expunge
from all official records all recordation relating to [his] the
arrest, indictment or information, trial, finding or plea of
guilty, and dismissal and discharge pursuant to this section
except nonpublic records filed with the attorney general. If
the court determines, after hearing, that the person was
dismissed and the proceedings against [him] the person
discharged and that [he] the person was not over eighteen years
of age at the time of the offense, it shall enter the order.
The effect of the order shall be to restore the person, in the
contemplation of the law, to the status [he] the person
occupied before the arrest or indictment or information. No
person in whose behalf an order has been entered shall be held
thereafter under any provision of any law to be guilty of
perjury or otherwise giving a false statement by reason of
[his] the person's failures to recite or acknowledge such
arrest, or indictment or information or trial in response to

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any inquiry made of him the person for any purpose."

SECTION 65. 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.--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; and

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

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 66. [NEW MATERIAL] COOPERATION OF AGENCIES.--All state agencies shall cooperate with the cannabis control commission in carrying out the provisions of the Cannabis Regulation Act.

SECTION 67. TEMPORARY PROVISION--TRANSFER.--On the
effective date of this act, any unexpended or unencumbered
balance in the medical cannabis fund is transferred to the
cannabis regulation fund.

SECTION 68. REPEAL.--Sections 9-7-17.1 and 30-31-25.1
NMSA 1978 (being Laws 2012, Chapter 42, Section 1 and Laws
1981, Chapter 31, Section 2, as amended) are repealed.

SECTION 69. TEMPORARY PROVISION--REGULATORY AUTHORITY.--
A. No sooner than July 1, 2020, the governor shall
certify to the New Mexico legislative council and to the New
Mexico compilation commission that:

(1) the New Mexico department of agriculture
is prepared to issue licenses and regulate cannabis production;
and

(2) the department of environment is prepared
to issue licenses and regulate cannabis manufacturing.

B. The department of health shall continue to
regulate and issue licenses for cannabis production and
cannabis manufacturing until the governor issues the
certification pursuant to Subsection A of this section.

SECTION 70. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2019.

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