AN ACT
RELATING TO HEALTH; AMENDING THE HARM REDUCTION ACT TO EXPAND SUPPLIES OR DEVICES PROVIDED TO HARM REDUCTION PROGRAM PARTICIPANTS; PROVIDING THAT POSSESSION OF CERTAIN SUPPLIES OR DEVICES IS NOT A VIOLATION OF THE CONTROLLED SUBSTANCES ACT; ADJUSTING THE DEPARTMENT OF HEALTH AND ADVISORY COMMITTEE DUTIES PERTAINING TO THE HARM REDUCTION PROGRAM; ADJUSTING ADVISORY COMMITTEE MEMBERSHIP; REPEALING SECTIONS 24-2C-2 AND 24-2C-6 NMSA 1978 (BEING LAWS 1997, CHAPTER 256, SECTIONS 2 AND 6).

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

SECTION 1. Section 24-2C-3 NMSA 1978 (being Laws 1997, Chapter 256, Section 3) is amended to read:

"24-2C-3. DEFINITIONS.--As used in the Harm Reduction Act:

A. "department" means the department of health;

and

B. "participant" means a person who receives supplies or devices or services provided by the harm reduction program."

SECTION 2. Section 24-2C-4 NMSA 1978 (being Laws 1997, Chapter 256, Section 4) is amended to read:

"24-2C-4. HARM REDUCTION PROGRAM CREATED--DEPARTMENT RESPONSIBILITIES.--"
A. The department shall:

(1) establish and administer a program that shall be known as the "harm reduction program" to reduce overdose mortality and other negative health outcomes associated with drug use;

(2) pursuant to rules established by the department, qualify persons as harm reduction program participants, issue a document that identifies the bearer of the document as a participant and provide the bearer of the document with access to supplies, devices or services provided by the program;

(3) compile data to assist in planning and evaluating efforts to combat overdose mortality and other negative health outcomes associated with drug use; and

(4) make an annual report, including legislative recommendations, to the legislative health and human services committee by October 1 each year.

B. The department shall appoint an advisory committee to include representation from:

(1) the office of the attorney general;

(2) the New Mexico state police division of the department of public safety;

(3) the infectious disease prevention and control bureau of the department;

(4) the director of the epidemiology and
response division of the department or the director's
designee;

(5) a medical officer of the public health
division of the department; and

(6) other persons or representatives as
chosen by the secretary of health to ensure a thorough and
unbiased evaluation of the program established under the Harm
Reduction Act.

C. The advisory committee shall:

(1) develop policies and procedures for
evaluation of the harm reduction program;

(2) develop criteria for data collection and
program evaluation; and

(3) meet as necessary to monitor and analyze
data and produce a report on the harm reduction program's
impact on overdose mortality and other negative health
outcomes associated with drug use.

D. The department may contract with private
providers to operate the harm reduction program.

E. The department shall promulgate rules as
necessary for the administration of the Harm Reduction Act,
including developing criteria for the types of supplies or
devices provided pursuant to the harm reduction program and
standards for distribution of those supplies or devices
through that program. The criteria and standards shall be
developed to provide supplies and devices in order to reduce:

(1) cases of negative health outcomes associated with drug use, such as overdoses or the spread of infectious disease; and

(2) harm by promoting reduced use of non-sterile items and improving participant engagement in harm reduction services and prevention education."

 SECTION 3. Section 24-2C-5 NMSA 1978 (being Laws 1997, Chapter 256, Section 5) is amended to read:

"24-2C-5. PROGRAM.--The harm reduction program shall provide participants with:

A. sterile hypodermic syringes and needles in exchange for used hypodermic syringes, needles or other objects used to inject controlled substances or controlled substance analogs into the human body;

B. other objects used to prepare or consume controlled substances or controlled substance analogs;

C. supplies or devices used for testing controlled substances or controlled substance analogs for potentially dangerous adulterants;

D. supplies or devices approved by the department for distribution in accordance with rules established pursuant to Subsection E of Section 24-2C-4 NMSA 1978;

E. education on the prevention of:

(1) the transmission of the human
immunodeficiency virus and hepatitis B and C; and

(2) drug overdose mortality and other negative health outcomes; and

F. referral to substance abuse treatment services."

SECTION 4. Section 30-31-25.1 NMSA 1978 (being Laws 1981, Chapter 31, Section 2, as amended) is amended to read:

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

A. It is unlawful for a person to use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to a person who is in possession of:

(1) hypodermic syringes or needles for the purpose of participation in or administration of the Harm Reduction Act;

(2) supplies or devices obtained pursuant to the Harm Reduction Act in accordance with rules established by the department of health for the harm reduction program; or
(3) supplies or devices used for the testing
of controlled substances or controlled substance analogs for
dangerous adulterants.

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

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

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

C. A person who violates the provisions of
Subsection A of this section shall be issued a penalty
assessment pursuant to Section 31-19A-1 NMSA 1978 and is
subject to a fine of fifty dollars ($50.00). A person who
violates the provisions of Subsection B of this section is
guilty of a misdemeanor.

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

SECTION 5. REPEAL.--Sections 24-2C-2 and 24-2C-6 NMSA
1978 (being Laws 1997, Chapter 256, Sections 2 and 6) are
repealed.