

1 BILL

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

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5  
6 DISCUSSION DRAFT

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9  
10 AN ACT

11 RELATING TO FORFEITURES; PROVIDING FOR FORFEITURE OF REAL  
12 PROPERTY USED IN THE COMMISSION OF A FELONY OFFENSE IN  
13 VIOLATION OF THE CONTROLLED SUBSTANCES ACT.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 30-31-34 NMSA 1978 (being Laws 1972,  
17 Chapter 84, Section 33, as amended) is amended to read:

18 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
19 are subject to forfeiture:

20 A. all controlled substances and all controlled  
21 substance analogs [~~which~~] that have been manufactured,  
22 distributed, dispensed or acquired in violation of the  
23 Controlled Substances Act;

24 B. all raw materials, products and equipment of any  
25 kind, including firearms [~~which~~] that are used or intended for

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1 use in manufacturing, compounding, processing, delivering,  
2 importing or exporting any controlled substance or controlled  
3 substance analog in violation of the Controlled Substances Act;

4 C. all property ~~[which]~~ that is used or intended  
5 for use as a container for property described in Subsection A  
6 or B of this section;

7 D. all conveyances, including aircraft, vehicles or  
8 vessels ~~[which]~~ that are used or intended for use to transport  
9 or in any manner to facilitate the transportation for the  
10 purpose of sale of property described in Subsection A or B of  
11 this section;

12 E. all books, records and research products and  
13 materials, including formulas, microfilm, tapes and data  
14 ~~[which]~~ that are used or intended for use in violation of the  
15 Controlled Substances Act;

16 F. all real property, including any right, title  
17 and interest in any lot or tract of land, and any appurtenances  
18 or improvements, that is used or intended to be used, in any  
19 manner or part, to commit or to facilitate the commission of a  
20 felony offense in violation of the Controlled Substances Act;

21 ~~[F.]~~ G. narcotics paraphernalia or money ~~[which]~~  
22 that is a fruit or instrumentality of the crime;

23 ~~[G.]~~ H. notwithstanding the provisions of  
24 Subsection D or F of this section:

25 (1) no conveyance used by ~~[any]~~ a person as a

1 common carrier in the transaction of business as a common  
2 carrier is subject to forfeiture under this section unless it  
3 appears that the owner or other person in charge of the  
4 conveyance is a consenting party or privy to a violation of the  
5 Controlled Substances Act;

6 (2) no conveyance or real property is subject  
7 to forfeiture under this section by reason of [~~any~~] an act or  
8 omission established for the owner to have been committed or  
9 omitted without [~~his~~] the owner's knowledge or consent;

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

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

18 [~~H.~~] I. all drug paraphernalia as defined by  
19 Subsection [~~W~~] V of Section 30-31-2 NMSA 1978."

20 SECTION 2. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2013.