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HOUSE BILL 355

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Henry "Kiki" Saavedra

AN ACT

**RELATING TO CRIMINAL LAW; PROVIDING FOR THE CONTROL OF
METHAMPHETAMINE.**

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

**Section 1. Section 30-31-20 NMSA 1978 (being Laws 1972,
Chapter 84, Section 20, as amended) is amended to read:**

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

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

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

(2) distribution, sale, barter or giving away

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1 of:

2 (a) any controlled substance enumerated
3 in Schedule I or II that is a narcotic drug; [øø]

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

7 (c) a methamphetamine, its salts,
8 isomers or salts of isomers; or

9 (3) possession with intent to distribute:

10 (a) any controlled substance enumerated
11 in Schedule I or II that is a narcotic drug; [øø]

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

15 (c) a methamphetamine, its salts,
16 isomers or salts of isomers.

17 B. Except as authorized by the Controlled
18 Substances Act, it is unlawful for any person to intentionally
19 traffic. Any person who violates this subsection is:

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

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

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1 C. Any person who knowingly violates Subsection B
2 of this section within a drug-free school zone, excluding
3 private property residentially zoned or used primarily as a
4 residence, is guilty of a first degree felony and shall be
5 sentenced pursuant to the provisions of Section 31-18-15 NMSA
6 1978. "

7 Section 2. Section 30-31-22 NMSA 1978 (being Laws 1972,
8 Chapter 84, Section 22, as amended) is amended to read:

9 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--
10 DISTRIBUTION PROHIBITED. --

11 A. Except as authorized by the Controlled
12 Substances Act, it is unlawful for any person to intentionally
13 distribute or possess with intent to distribute a controlled
14 substance or a controlled substance analog except a substance
15 enumerated in Schedule I or II that is a narcotic drug, ~~[or]~~ a
16 controlled substance analog of a controlled substance
17 enumerated in Schedule I or II that is a narcotic drug or a
18 methamphetamine, its salts, isomers or salts of isomers. Any
19 person who violates this subsection with respect to:

20 (1) marijuana is:

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

24 (b) for the second and subsequent
25 offenses, guilty of a third degree felony and shall be

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1 sentenced pursuant to the provisions of Section 31-18-15 NMSA
2 1978;

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

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

13 (2) any other controlled substance enumerated
14 in Schedule I, II, III or IV or a controlled substance analog
15 of a controlled substance enumerated in Schedule I, II, III or
16 IV except a substance enumerated in Schedule I or II that is a
17 narcotic drug, ~~[or]~~ a controlled substance analog of a
18 controlled substance enumerated in Schedule I or II that is a
19 narcotic drug or a methamphetamine, its salts, isomers or
20 salts of isomers, is:

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

24 (b) for the second and subsequent offenses,
25 guilty of a second degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978; and

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

9 B. Except as authorized by the Controlled Substances
10 Act, it is unlawful for any person to intentionally create or
11 deliver, or possess with intent to deliver, a counterfeit
12 substance. Any person who violates this subsection with
13 respect to:

14 (1) a counterfeit substance enumerated in
15 Schedule I, II, III or IV is guilty of a fourth degree felony
16 and shall be sentenced pursuant to the provisions of Section
17 31-18-15 NMSA 1978; and

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

23 C. Any person who knowingly violates Subsection A or
24 B of this section while within a drug-free school zone,
25 excluding private property residentially zoned or used

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1 primarily as a residence, with respect to:

2 (1) marijuana is:

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

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

9 (c) for the first offense, if more than one
10 hundred pounds is possessed with intent to distribute or
11 distributed or both, guilty of a second degree felony and
12 shall be sentenced pursuant to the provisions of Section
13 31-18-15 NMSA 1978; and

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

19 (2) any other controlled substance enumerated
20 in Schedule I, II, III or IV or a controlled substance analog
21 of a controlled substance enumerated in Schedule I, II, III or
22 IV except a substance enumerated in Schedule I or II that is a
23 narcotic drug, ~~[or]~~ a controlled substance analog of a
24 controlled substance ~~[enumerated]~~ enumerated in Schedule I or
25 II that is a narcotic drug or a methamphetamine, its salts,

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1 isomers or salts of isomers, is:

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

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

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

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

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

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

25 D. Notwithstanding the provisions of Subsection A of

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1 this section, distribution of a small amount of marijuana for
2 no remuneration shall be treated as provided in Paragraph
3 [~~(3)~~] (1) of Subsection B of Section 30-31-23 NMSA 1978. "

4 Section 3. EFFECTIVE DATE. -- The effective date of the
5 provisions of this act is July 1, 2001.

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