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HOUSE BILL 216

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING THE CRIMINAL
OFFENSE OF TRAFFICKING CONTROLLED SUBSTANCES TO INCLUDE
METHAMPHETAMINES OR ANALOGS OF METHAMPHETAMINES.

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;

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underscored material = new
[bracketed material] = delete

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

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

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

8 (c) a methamphetamine or an analog of a
9 methamphetamine; or

10 (3) possession with intent to distribute of:

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

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

16 (c) a methamphetamine or an analog of a
17 methamphetamine.

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

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

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

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

2 C. Any person who knowingly violates Subsection B
3 of this section within a drug-free school zone, excluding
4 private property residentially zoned or used primarily as a
5 residence, is guilty of a first degree felony and shall be
6 sentenced pursuant to the provisions of Section 31-18-15 NMSA
7 1978. "

8 Section 2. EFFECTIVE DATE. --The effective date of the
9 provisions of this act is July 1, 1999.

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 216

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING THE CRIMINAL
OFFENSE OF TRAFFICKING CONTROLLED SUBSTANCES TO INCLUDE A
METHAMPHETAMINE, ITS SALTS, ISOMERS AND SALTS OF ISOMERS.

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;

underscored material = new
[bracketed material] = delete

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

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

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

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

(3) possession with intent to distribute of:

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

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

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

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

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

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

C. Any person who knowingly violates Subsection B
of this section within a drug-free school zone, excluding

1 private property residentially zoned or used primarily as a
2 residence, is guilty of a first degree felony and shall be
3 sentenced pursuant to the provisions of Section 31-18-15 NMSA
4 1978. "

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

7 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--
8 DISTRIBUTION PROHIBITED. --

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

18 (1) marijuana is:

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

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

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

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

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

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

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

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

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

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

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

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

1 (1) marijuana is:

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

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

9 (c) for the first offense, if more than
10 one 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
15 offenses, if more than one hundred pounds is possessed with
16 intent to distribute or distributed or both, guilty of a first
17 degree felony and shall be sentenced pursuant to the
18 provisions of 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,

1 isomers and 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
6 offenses, guilty of a first degree felony and shall be
7 sentenced pursuant to the provisions of Section 31-18-15 NMSA
8 1978;

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

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

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

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

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HJC/HB 216

**FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999**

February 10, 1999

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 216

**has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that**

**HOUSE JUDICIARY COMMITTEE SUBSTITUTE
FOR HOUSE BILL 216**

DO PASS.

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Luna, Rios

Absent: None

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