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HOUSE BILL 11

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2016**

INTRODUCED BY

Bill McCamley and Javier Martinez

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REVENUE AND FREEDOM ACT; ENACTING THE CANNABIS TAX ACT; PROVIDING DUTIES AND POWERS OF THE REGULATION AND LICENSING DEPARTMENT, THE TAXATION AND REVENUE DEPARTMENT, THE NEW MEXICO DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF HEALTH; REVISING THE LYNN AND ERIN COMPASSIONATE USE ACT AND OTHER SECTIONS OF LAW RELATED TO MARIJUANA; CREATING THE SUBSTANCE ABUSE PREVENTION FUND AND THE STATE POLICE SUPPORT FUND; PROVIDING PENALTIES; MAKING APPROPRIATIONS.

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

**SECTION 1.** [NEW MATERIAL] SHORT TITLE.--Sections 1 through 45 of this act may be cited as the "Cannabis Revenue and Freedom Act".

**SECTION 2.** [NEW MATERIAL] PURPOSE.--The purpose of the .204493.4

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1 Cannabis Revenue and Freedom Act is:

2 A. to eliminate problems caused by the prohibition  
3 and uncontrolled manufacture, possession and delivery of  
4 marijuana within New Mexico;

5 B. to protect the peace, health, safety and welfare  
6 of the people of this state by prioritizing the state's limited  
7 law enforcement resources in the most effective, consistent and  
8 rational way;

9 C. to allow a person who is licensed by this state  
10 to legally manufacture and sell marijuana to a person who is  
11 twenty-one years of age or older, subject to the provisions of  
12 that act;

13 D. to provide for the New Mexico department of  
14 agriculture to issue industrial hemp licenses and agricultural  
15 hemp seed production permits;

16 E. to establish a comprehensive regulatory  
17 framework relating to marijuana; and

18 F. together with existing provisions of law, to  
19 prevent:

20 (1) the distribution of marijuana to a person  
21 who is younger than twenty-one years of age;

22 (2) revenue from the sale of marijuana from  
23 going to criminal enterprises, gangs and cartels;

24 (3) the diversion of marijuana from this state  
25 to other states;

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1 (4) legal marijuana activity from being used  
2 as a cover or pretext for the trafficking of illegal drugs or  
3 for other illegal activity;

4 (5) violence and the use of firearms in the  
5 cultivation and distribution of marijuana;

6 (6) impaired driving and the exacerbation of  
7 other adverse public health consequences that are associated  
8 with the use of marijuana;

9 (7) the growing of marijuana on public land  
10 and the attendant public safety and environmental dangers posed  
11 by marijuana production on public land; and

12 (8) the possession and use of marijuana on  
13 federal property.

14 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
15 Cannabis Revenue and Freedom Act:

16 A. "agricultural hemp seed" means seed of the plant  
17 of the genus Cannabis that is intended for sale or is sold to  
18 or purchased by a licensed grower for planting;

19 B. "consumer" means a person who purchases,  
20 acquires, owns, holds or uses marijuana items for a purpose  
21 other than resale;

22 C. "crop" means a contiguous field of industrial  
23 hemp grown pursuant to a single license;

24 D. "department" means the regulation and licensing  
25 department;

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1           E. "financial consideration" means the value that  
2 is given or received, directly or indirectly, through sales,  
3 barter, trade, fees, charges, dues, contributions or donations,  
4 but does not mean the value in homegrown marijuana or homemade  
5 marijuana products that are grown or made by another person;

6           F. "grower" means a person that produces industrial  
7 hemp;

8           G. "handler" means a person that receives  
9 industrial hemp for processing into commodities, products or  
10 agricultural hemp seeds;

11           H. "homegrown" or "homemade" means grown or made by  
12 a person who is twenty-one years old or older for noncommercial  
13 purposes;

14           I. "household" means a housing unit and includes  
15 any place in or around the housing unit at which an occupant of  
16 the housing unit produces, processes, keeps or stores homegrown  
17 marijuana or homemade marijuana products;

18           J. "housing unit" means a house, an apartment, a  
19 mobile home, a group of rooms or a single room that is occupied  
20 as separate living quarters in which an occupant lives and eats  
21 separately from any other persons in the building who do not  
22 occupy the same housing unit, and which unit includes direct  
23 access from the outside of the building or through a common  
24 hall;

25           K. "immature marijuana plant" means a marijuana

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1 plant with no observable flowers or buds;

2 L. "industrial hemp":

3 (1) means:

4 (a) all non-seed parts and varieties of  
5 the plant of the genus Cannabis, whether growing or not, that  
6 contain a crop-wide average tetrahydrocannabinol concentration  
7 that does not exceed three-tenths percent on a dry weight  
8 basis; and

9 (b) any Cannabis sativa seed that is  
10 part of a growing crop, is retained by a grower for future  
11 planting or is for processing into or use as agricultural hemp  
12 seed; and

13 (2) does not mean industrial hemp commodities  
14 or products;

15 M. "license" means a license issued pursuant to the  
16 Cannabis Revenue and Freedom Act;

17 N. "licensed premises" means a location that is  
18 licensed pursuant to the Cannabis Revenue and Freedom Act and  
19 includes:

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

24 (2) all areas outside of a building that the  
25 department has specifically licensed for the production,

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1 processing, wholesale sale or retail sale of marijuana items;  
2 and

3 (3) with respect to a location that the  
4 department has specifically licensed for the production of  
5 marijuana outside of a building, the entire unit of land that  
6 is created by subdivision or partition of land that the  
7 licensee owns, leases or has a right to occupy;

8 O. "licensee" means a person who holds a license;

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

13 Q. "marijuana" means all parts of the plant  
14 cannabis, including any and all varieties, species and  
15 subspecies of the genus Cannabis, whether growing or not, but  
16 does not mean marijuana extracts, industrial hemp or industrial  
17 hemp commodities or products;

18 R. "marijuana consumption area" means an area  
19 within a marijuana retailer's licensed premises where marijuana  
20 items may be consumed;

21 S. "marijuana extract" means a product obtained by  
22 separating resins from marijuana by solvent extraction, using  
23 solvents other than vegetable glycerin, such as butane, hexane,  
24 isopropyl alcohol, ethanol or carbon dioxide;

25 T. "marijuana flowers" means only the flowers of

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1 the marijuana plant;

2 U. "marijuana items" means marijuana, marijuana  
3 products and marijuana extracts;

4 V. "marijuana leaves" means only the leaves of the  
5 marijuana plant;

6 W. "marijuana processor" means a person who  
7 processes marijuana items in this state;

8 X. "marijuana producer" means a person who produces  
9 marijuana in this state;

10 Y. "marijuana products" means products that contain  
11 marijuana or marijuana extracts and that are intended for human  
12 consumption, but does not mean marijuana by itself or a  
13 marijuana extract by itself;

14 Z. "marijuana retailer" means a person who sells  
15 marijuana items to a consumer in this state;

16 AA. "marijuana wholesaler" means a person who  
17 purchases marijuana items in this state for resale in this  
18 state to a person other than a consumer;

19 BB. "mature marijuana plant" means a marijuana  
20 plant that is not an immature marijuana plant;

21 CC. "noncommercial" means not dependent or  
22 conditioned upon the provision or receipt of financial  
23 consideration;

24 DD. "person" means an individual, corporation,  
25 business trust, estate, trust, partnership, limited liability

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1 company, association, joint venture or any legal or commercial  
2 entity;

3 EE. "personal production license" means "personal  
4 production license" as that phrase is defined in the Lynn and  
5 Erin Compassionate Use Act;

6 FF. "processes":

7 (1) means:

8 (a) the processing, compounding or  
9 conversion of marijuana into marijuana products or marijuana  
10 extracts;

11 (b) the processing, compounding or  
12 conversion of marijuana, either directly or indirectly, by  
13 extraction from substances of natural origin or independently  
14 by means of chemical synthesis or by a combination of  
15 extraction and chemical synthesis;

16 (c) the packaging or repackaging of  
17 marijuana items; and

18 (d) the labeling or relabeling of a  
19 package or container of marijuana items; and

20 (2) does not mean:

21 (a) the drying of marijuana by a  
22 marijuana producer, if the marijuana producer is not otherwise  
23 processing marijuana; or

24 (b) the packaging and labeling of  
25 marijuana by a marijuana producer in preparation for delivery

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1 to a marijuana processor;

2 GG. "produces" means the manufacture, planting,  
3 cultivation, growing or harvesting of marijuana, but does not  
4 include:

5 (1) the drying of marijuana by a marijuana  
6 processor, if the marijuana processor is not otherwise  
7 producing marijuana; or

8 (2) the cultivation and growing of an immature  
9 marijuana plant by a marijuana processor, marijuana wholesaler  
10 or marijuana retailer if the marijuana processor, marijuana  
11 wholesaler or marijuana retailer purchased or otherwise  
12 received the plant from a licensed marijuana producer;

13 HH. "public place" means a place to which the  
14 general public has access and includes hallways, lobbies and  
15 other parts of apartment houses and hotels that do not  
16 constitute rooms or apartments designed for actual residence;  
17 highways; streets; schools; places of amusement; parks;  
18 playgrounds; and places used in connection with public  
19 passenger transportation;

20 II. "qualified patient" means "qualified patient"  
21 as that phrase is defined in the Lynn and Erin Compassionate  
22 Use Act; and

23 JJ. "usable marijuana" means dried marijuana  
24 flowers and dried marijuana leaves and any mixture or  
25 preparation of those flowers or leaves.

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1           SECTION 4.   ~~[NEW MATERIAL]~~ LIMITATIONS--EXEMPTIONS--

2   PERMISSIBLE CONDUCT.--The Cannabis Revenue and Freedom Act  
3   shall not:

4           A.   be construed to:

5                   (1)   amend or affect in any way a state or  
6   federal law pertaining to employment matters;

7                   (2)   amend or affect in any way a state or  
8   federal law pertaining to landlord-tenant matters;

9                   (3)   prohibit a recipient of or an applicant  
10   for a federal grant from prohibiting the manufacture,  
11   possession, delivery or use of marijuana items to the extent  
12   necessary to satisfy the federal grant's requirements;

13                   (4)   prohibit a party or a person applying to  
14   be a party to a federal contract from prohibiting the  
15   manufacture, possession, delivery or use of marijuana items to  
16   the extent necessary to comply with the contract terms and  
17   conditions or to satisfy the federal contract's requirements;

18                   (5)   require a person to violate a federal law;

19                   (6)   exempt a person from a federal law or  
20   obstruct the enforcement of a federal law;

21                   (7)   amend or affect in any way the Lynn and  
22   Erin Compassionate Use Act; or

23                   (8)   amend or affect the duties or powers of  
24   the department of health pursuant to the Lynn and Erin  
25   Compassionate Use Act; or

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B. apply to:

(1) the production, processing, keeping or storing of homegrown marijuana at a household by one or more persons who are twenty-one years of age or older, if the total of homegrown marijuana at the household does not exceed four marijuana plants and eight ounces of usable marijuana at any given time;

(2) the making, processing, keeping or storing of homemade marijuana products at a household by one or more persons who are twenty-one years of age or older, if the total of homemade marijuana products at the household does not exceed at any given time:

- (a) sixteen ounces in solid form; or
- (b) seventy-two ounces in liquid form;

(3) the delivery for noncommercial purposes by a person who is twenty-one years of age or older to another person who is twenty-one years of age or older of not more than one ounce of homegrown marijuana at any given time;

(4) the delivery for noncommercial purposes by a person who is twenty-one years of age or older to another person who is twenty-one years of age or older of:

- (a) not more than sixteen ounces, at any given time, of homemade marijuana products in solid form; or
- (b) not more than seventy-two ounces, at any given time, of homemade marijuana products in liquid form;

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1 or

2 (5) a person, with respect to that person's  
3 conduct, that is within the scope of and in compliance with the  
4 Lynn and Erin Compassionate Use Act.

5 SECTION 5. [NEW MATERIAL] DEPARTMENT--DUTIES--POWERS.--

6 A. The department shall:

7 (1) regulate the production, processing, sale,  
8 purchase, transportation and delivery of marijuana items in  
9 accordance with the provisions of the Cannabis Revenue and  
10 Freedom Act;

11 (2) issue, refuse, suspend or cancel licenses  
12 for the production, processing or sale of marijuana items;

13 (3) as necessary, assist with the  
14 investigation and prosecution of violations of state law  
15 related to marijuana items;

16 (4) in consultation with the New Mexico  
17 department of agriculture and the department of health, adopt  
18 rules and prescribe forms necessary to implement the provisions  
19 of the Cannabis Revenue and Freedom Act;

20 (5) prohibit all advertisement of marijuana  
21 items by licensed marijuana producers, marijuana processors,  
22 marijuana wholesalers or marijuana retailers;

23 (6) require documentation of the source of  
24 production for all marijuana items;

25 (7) require all marijuana items to be labeled

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1 with the items' tetrahydrocannabinol concentration;

2 (8) regulate the use of marijuana items for  
3 scientific, pharmaceutical, manufacturing, mechanical,  
4 industrial and other purposes;

5 (9) until June 30, 2019, restrict the number  
6 of marijuana plants that a marijuana producer may possess at  
7 any given time to:

8 (a) one thousand between July 1, 2017  
9 and June 30, 2018; and

10 (b) two thousand between July, 1, 2018  
11 and June 30, 2019;

12 (10) provide that a person who is a qualified  
13 patient and who holds a personal production license issued in  
14 accordance with the Lynn and Erin Compassionate Use Act may  
15 sell those mature marijuana plants that the person possesses in  
16 accordance with the person's personal production license to a  
17 marijuana producer, and that the marijuana producer may then  
18 sell those plants in accordance with applicable law and rules;  
19 and

20 (11) on or before January 1, 2018:

21 (a) examine available research and  
22 conduct or commission any additional research necessary to  
23 investigate the influence of marijuana items on a person's  
24 ability to drive a vehicle and on the concentration of delta-9  
25 tetrahydrocannabinol in a person's blood, taking into account

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1 all relevant factors; and

2 (b) present the results of the  
3 department's examination to the appropriate legislative interim  
4 committees and make recommendations to the legislature  
5 regarding any appropriate amendments to the Motor Vehicle Code.

6 B. Except as provided in the Cannabis Revenue and  
7 Freedom Act, the department shall not purchase, own, sell or  
8 possess any marijuana items

9 C. The department may:

10 (1) allow the transfer of a license issued by  
11 the department; and

12 (2) for the purpose of preventing the resale  
13 of marijuana items, limit the quantity of marijuana items  
14 purchased at any one time by a consumer.

15 D. Money collected by the department for license  
16 fees is appropriated to the department for administrative  
17 purposes.

18 SECTION 6. [NEW MATERIAL] NEW MEXICO DEPARTMENT OF  
19 AGRICULTURE--DUTIES--POWERS.--

20 A. The New Mexico department of agriculture shall:

21 (1) cooperate with the department and the  
22 department of health to the extent necessary for each  
23 department to carry out powers and duties pursuant to the  
24 Cannabis Revenue and Freedom Act;

25 (2) regulate industrial hemp production and

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1 possession and regulate commerce in industrial hemp commodities  
2 and products in this state;

3 (3) issue, refuse, suspend or cancel  
4 industrial hemp licenses and agricultural hemp seed production  
5 permits;

6 (4) make information that identifies sellers  
7 of agricultural hemp seed available to growers; and

8 (5) promulgate rules necessary to carry out  
9 duties pursuant to that act.

10 B. The New Mexico department of agriculture may:

11 (1) establish labeling, quality and  
12 other necessary standards applicable to agricultural hemp seed;

13 (2) with at least three days' notice and  
14 during normal business hours, inspect or audit records required  
15 to be kept by growers and handlers for the purpose of ensuring  
16 compliance with:

17 (a) provisions of the Cannabis Revenue  
18 and Freedom Act and rules promulgated by the New Mexico  
19 department of agriculture pursuant to that act;

20 (b) industrial hemp license or  
21 agricultural hemp seed production permit requirements; or

22 (c) orders by the New Mexico department  
23 of agriculture regarding growers' or handlers' operations or  
24 activities;

25 (3) inspect any crop during the crop growth

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1 phase and take a representative composite sample for field  
2 analysis;

3 (4) detain, seize or embargo a crop if the  
4 crop contains an average tetrahydrocannabinol concentration  
5 exceeding three-tenths percent on a dry weight basis;

6 (5) charge growers and handlers reasonable  
7 fees;

8 (6) refuse, suspend or cancel an industrial  
9 hemp license or an agricultural hemp seed production permit for  
10 a violation of the Cannabis Revenue and Freedom Act;

11 (7) impose a civil penalty for a violation  
12 of:

13 (a) a license or permit requirement,  
14 term or condition;

15 (b) New Mexico department of agriculture  
16 rules relating to growing or handling industrial hemp; or

17 (c) orders by the New Mexico department  
18 of agriculture regarding growers' or handlers' operations or  
19 activities; and

20 (8) refuse, suspend or cancel an industrial  
21 hemp license or an agricultural hemp seed production permit for  
22 violation of any New Mexico department of agriculture rule  
23 relating to agricultural operations or activities.

24 C. The New Mexico department of agriculture shall  
25 not impose a civil penalty pursuant to the Cannabis Revenue and

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1 Freedom Act that exceeds two thousand five hundred dollars  
2 (\$2,500). The provisions of the Administrative Procedures Act  
3 shall apply when the New Mexico department of agriculture  
4 imposes a penalty pursuant to the Cannabis Revenue and Freedom  
5 Act.

6 D. Money collected by the New Mexico department of  
7 agriculture for industrial hemp license fees and agricultural  
8 hemp seed production permit fees is appropriated to the New  
9 Mexico department of agriculture for administrative purposes.

10 SECTION 7. [NEW MATERIAL] DEPARTMENT OF HEALTH--  
11 DUTIES.--The department of health shall cooperate with the  
12 department and the New Mexico department of agriculture to the  
13 extent necessary for each department to carry out powers and  
14 duties pursuant to the Cannabis Revenue and Freedom Act.

15 SECTION 8. [NEW MATERIAL] NO LIABILITY FOR OFFICIAL  
16 ACTS.--Except as otherwise provided by law, the department, the  
17 New Mexico department of agriculture and the department of  
18 health shall not be sued for performing or failing to perform  
19 duties pursuant to the Cannabis Revenue and Freedom Act.

20 SECTION 9. [NEW MATERIAL] DUTIES OF DEPARTMENTS--FEDERAL  
21 LAW--CONTRACT ENFORCEABILITY.--

22 A. The department, the taxation and revenue  
23 department, the New Mexico department of agriculture and the  
24 department of health shall not refuse to perform any duty  
25 provided in the Cannabis Revenue and Freedom Act on the basis

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1 that manufacturing, distributing, dispensing, possessing or  
2 using marijuana is prohibited by federal law.

3 B. The department and the New Mexico department of  
4 agriculture shall not refuse, suspend or cancel a license or an  
5 agricultural hemp seed production permit on the basis that  
6 manufacturing, distributing, dispensing, possessing or using  
7 marijuana is prohibited by federal law.

8 C. A contract shall not be deemed unenforceable on  
9 the basis that manufacturing, distributing, dispensing,  
10 possessing or using marijuana is prohibited by federal law.

11 SECTION 10. [NEW MATERIAL] INDUSTRIAL HEMP LICENSE--  
12 AGRICULTURAL HEMP SEED PRODUCTION PERMIT.--

13 A. Industrial hemp production and possession and  
14 commerce in industrial hemp commodities and products are  
15 authorized in New Mexico. Industrial hemp and agricultural  
16 hemp seed are agricultural products that are subject to  
17 regulation by the New Mexico department of agriculture.

18 B. All growers and handlers shall hold an  
19 industrial hemp license issued by the New Mexico department of  
20 agriculture. A grower or handler who is engaged in the  
21 production of agricultural hemp seed shall also hold an  
22 agricultural hemp seed production permit issued by the New  
23 Mexico department of agriculture.

24 C. A person who seeks an industrial hemp license or  
25 an agricultural hemp seed production permit shall submit an

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1 application to the New Mexico department of agriculture that  
2 includes:

- 3 (1) the applicant's name and address;
- 4 (2) the name and address of the applicant's  
5 industrial hemp operation;
- 6 (3) the latitude and longitude and legal  
7 description for the property to be used for industrial hemp  
8 production;
- 9 (4) if the application is submitted by a  
10 grower, information sufficient to establish that the  
11 applicant's crop will be at least two and one-half acres in  
12 size; and
- 13 (5) any other information required by New  
14 Mexico department of agriculture rules.

15 D. An industrial hemp license or agricultural hemp  
16 seed production permit is valid for three years once issued and  
17 may be renewed as provided by New Mexico department of  
18 agriculture rules. The license or permit is a personal  
19 privilege that is not transferable.

20 E. An agricultural hemp seed production permit  
21 allows a grower or handler to produce and handle agricultural  
22 hemp seed for sale to licensed industrial hemp growers and  
23 handlers. An agricultural hemp seed seller shall ensure that  
24 the seller's seed complies with standards established by the  
25 New Mexico department of agriculture.

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1           F. Subject to New Mexico department of agriculture  
2 rules, a grower may, without an agricultural hemp seed  
3 production permit, retain seed from each crop to ensure a  
4 sufficient seed supply for the grower's use in the following  
5 year. Seed retained by a grower shall not be sold or  
6 transferred and shall not be required to meet New Mexico  
7 department of agriculture standards relating to agricultural  
8 hemp seed.

9           G. The Administrative Procedures Act shall apply to  
10 the refusal, suspension or cancellation of an industrial hemp  
11 license or an agricultural hemp seed production permit.

12           H. The New Mexico department of agriculture shall  
13 not refuse, suspend or cancel an industrial hemp license or an  
14 agricultural hemp seed production permit on the basis that  
15 industrial hemp production or possession or commerce in  
16 industrial hemp commodities or products is prohibited by  
17 federal law.

18           **SECTION 11. [NEW MATERIAL] DEPARTMENT REGULATION--**  
19 **LICENSES REQUIRED.--**The department shall regulate the:

20           A. production of marijuana. A marijuana producer  
21 shall hold a production license issued by the department for  
22 the licensed premises at which the marijuana is produced;

23           B. processing of marijuana items. A marijuana  
24 processor shall possess a processor license issued by the  
25 department for the licensed premises at which marijuana items

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1 are processed;

2 C. wholesale sale of marijuana items. A marijuana  
3 wholesaler shall possess a wholesale license issued by the  
4 department for the licensed premises at which marijuana items  
5 are received, kept, stored or delivered;

6 D. retail sale of marijuana items. A marijuana  
7 retailer shall possess a retail license issued by the  
8 department for the licensed premises on which marijuana items  
9 are sold; and

10 E. retail sale of marijuana items for consumption  
11 on a marijuana retailer's licensed premises. A marijuana  
12 retailer that sells and allows the consumption of marijuana  
13 items in a marijuana consumption area on the retailer's  
14 licensed premises shall possess an on-site consumption  
15 endorsement to the retailer's retail license.

16 SECTION 12. [NEW MATERIAL] DEPARTMENT LICENSING

17 DUTIES.--The department shall:

18 A. beginning July 1, 2017, accept applications for  
19 licenses to produce, process and sell marijuana items within  
20 the state from producers already licensed pursuant to the Lynn  
21 and Erin Compassionate Use Act;

22 B. beginning July 1, 2019, accept applications for  
23 licenses to produce, process and sell marijuana items within  
24 the state;

25 C. issue licenses pursuant to the Cannabis Revenue

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1 and Freedom Act, subject to the provisions of that act and  
2 rules promulgated pursuant to that act;

3 D. not unreasonably delay the processing of  
4 applications or the issuance of licenses; and

5 E. not approve a licensed premises that does not  
6 have defined boundaries or a licensed premises that is mobile;  
7 provided that the department may require that a licensed  
8 premises be enclosed by a wall, fence or other structure as a  
9 condition of issuing or renewing a license.

10 SECTION 13. [NEW MATERIAL] LICENSE APPLICATION--TERMS--  
11 FEES.--

12 A. An application for a new or renewed license  
13 issued by the department shall be submitted to the department  
14 upon a department-prescribed application form. The application  
15 shall include the applicant's name and address, the location of  
16 the place of business that is to be operated pursuant to the  
17 license and any other information required by the department.

18 B. A license shall not be issued or renewed unless  
19 the applicant has complied with the provisions of the Cannabis  
20 Revenue and Freedom Act and rules promulgated pursuant to that  
21 act.

22 C. All licenses issued or renewed by the department  
23 shall be issued or renewed for a period of one year, except  
24 that a license that is issued to an applicant for the first  
25 time may be issued for less than one year. The fee for a

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1 license that is issued for less than one year shall be the  
2 annual license fee provided in this section.

3 D. The department may deny an application that is  
4 not submitted on the form prescribed by the department. If a  
5 application is denied pursuant to this subsection, the  
6 department shall provide the applicant an opportunity to be  
7 heard. A hearing held pursuant to this subsection is not  
8 subject to the Administrative Procedures Act.

9 E. Notwithstanding the provisions of Subsections B  
10 and C of this section, the department's cancellation of or  
11 denial of an application for a license is subject to the  
12 Administrative Procedures Act.

13 F. The department shall assess a nonrefundable fee  
14 not greater than five hundred dollars (\$500) for processing an  
15 application for a new or renewal license.

16 G. For a new or renewal processor license,  
17 wholesale license or retail license, the department shall  
18 charge an annual license fee of not more than two thousand  
19 dollars (\$2,000).

20 H. For a new or renewal production license, the  
21 department shall charge an annual license fee of:

22 (1) fifteen thousand dollars (\$15,000), if the  
23 producer will possess up to one hundred fifty marijuana plants;  
24 and

25 (2) an additional five thousand dollars

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1 (\$5,000) for each additional fifty marijuana plants the  
2 producer will possess; provided, however, that the maximum fee  
3 charged for a new or renewal production license shall not  
4 exceed forty-five thousand dollars (\$45,000).

5 I. The annual license fees provided for in this  
6 section are nonrefundable and shall be paid by an applicant  
7 upon the issuance of a license.

8 SECTION 14. [NEW MATERIAL] GROUNDS FOR DENYING A LICENSE  
9 APPLICATION.--

10 A. The department shall not issue a license to an  
11 applicant who is younger than twenty-one years of age.

12 B. The department may deny an application for a  
13 license if the department reasonably believes:

14 (1) that there are sufficient licensed  
15 premises in the locality set out in the application or that  
16 issuing a license in the locality set out in the application is  
17 not demanded by public interest or convenience. In determining  
18 whether there is a sufficient number of licensed premises in a  
19 locality, the department shall consider seasonal fluctuations  
20 in the locality's population and the needs of the locality  
21 during the peak seasons; or

22 (2) that the applicant:  
23 (a) uses alcoholic beverages, habit-  
24 forming drugs, marijuana items or controlled substances to  
25 excess;

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1 (b) has made false statements to the  
2 department;

3 (c) is incompetent or otherwise unable  
4 to carry on the management of the business proposed to be  
5 licensed;

6 (d) notwithstanding the provisions of  
7 Subsection C of this section, has been convicted of violating a  
8 federal law or the law of any state or any local government if  
9 the conviction is substantially related to the applicant's  
10 fitness and ability to lawfully carry out activities pursuant  
11 to the license;

12 (e) has failed to maintain a sanitary  
13 establishment;

14 (f) is not of good repute and moral  
15 character;

16 (g) has a record of noncompliance with  
17 the Cannabis Revenue and Freedom Act or rules promulgated  
18 pursuant to that act;

19 (h) is not the owner of the business  
20 proposed to be licensed or that additional ownership interests  
21 in the business proposed to be licensed have not been  
22 disclosed;

23 (i) has not demonstrated the financial  
24 responsibility necessary for the business proposed to be  
25 licensed; or

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1 (j) is unable to understand provisions  
2 of the Cannabis Revenue and Freedom Act or other laws or rules  
3 relating to marijuana and marijuana items.

4 C. In determining whether the department may deny  
5 an application for a license, the department shall not consider  
6 the prior conviction of the applicant or any owner, director,  
7 officer, manager, employee, agent or other representative of  
8 the applicant for:

9 (1) the manufacture of marijuana, if:

10 (a) the date of the conviction is more  
11 than five years before the date of the application; and

12 (b) the person has not been convicted  
13 more than once for the manufacture or delivery of marijuana;

14 (2) the delivery of marijuana to a person who  
15 was twenty-one years of age or older at the time of the  
16 delivery, if:

17 (a) the date of the conviction is more  
18 than five years before the date of the application; and

19 (b) the person has not been convicted  
20 more than once for the manufacture or delivery of marijuana; or

21 (3) the possession of marijuana.

22 SECTION 15. [NEW MATERIAL] GROUNDS FOR SUSPENDING OR  
23 CANCELING A LICENSE.--The department may suspend or cancel a  
24 license if the department finds or reasonably believes:

25 A. that the licensee:

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1 (1) has violated a provision of the Cannabis  
2 Revenue and Freedom Act or a rule promulgated pursuant to that  
3 act;

4 (2) has made a false representation or  
5 statement to the department to induce or prevent action by the  
6 department;

7 (3) has maintained an unsanitary  
8 establishment;

9 (4) is insolvent, incompetent or otherwise  
10 unable to manage the licensee's establishment;

11 (5) uses alcoholic beverages, habit-forming  
12 drugs, marijuana items or controlled substances to excess;

13 (6) has misrepresented a marijuana item sold  
14 by the licensee to a customer or to the public; or

15 (7) after receiving a license, is convicted of  
16 a felony or of violating any state law relating to marijuana or  
17 marijuana items or is convicted of a misdemeanor or violation  
18 of a municipal ordinance, if that violation is committed on the  
19 licensed premises; or

20 B. that there is any other reason that, in the  
21 department's opinion and based on public convenience or  
22 necessity, warrants canceling or suspending a license.

23 SECTION 16. [NEW MATERIAL] LIMITATION ON CIVIL AND  
24 CRIMINAL LIABILITY--LICENSEES AND REPRESENTATIVES.--A licensed  
25 marijuana producer, marijuana processor, marijuana wholesaler

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1 or marijuana retailer or a licensee representative of one of  
2 those licensees may produce, possess and deliver marijuana  
3 items subject to the provisions of the Cannabis Revenue and  
4 Freedom Act, and such production, possession or delivery of  
5 marijuana items shall not constitute a criminal or civil  
6 offense pursuant to New Mexico law.

7 SECTION 17. [NEW MATERIAL] CHARACTERISTICS OF A LICENSE--  
8 MULTIPLE LICENSES.--

9 A. A license issued by the department shall:

- 10 (1) be a purely personal privilege;  
11 (2) be valid only for the period stated on the  
12 license;  
13 (3) be transferred from the licensed premises  
14 for which the license was issued to another location only as  
15 provided for in the Cannabis Revenue and Freedom Act, rules  
16 promulgated pursuant to that act and any relevant municipal  
17 ordinance or local regulation;  
18 (4) be void upon the licensee's death, except  
19 as provided in Subsection B of this section;  
20 (5) not constitute property;  
21 (6) not be alienable;  
22 (7) not be subject to attachment or execution;  
23 and  
24 (8) not descend by the laws of testate or  
25 intestate devolution.

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1           B. The department may provide for procedures and  
2 conditions under which:

3                   (1) marijuana items left by a deceased,  
4 insolvent or bankrupt person or licensee, or marijuana items  
5 that are subject to a security interest, may be foreclosed,  
6 sold under execution or otherwise disposed of;

7                   (2) the business of a deceased, insolvent or  
8 bankrupt licensee may be operated for a reasonable period  
9 following the death, insolvency or bankruptcy; and

10                   (3) a business licensed by the department  
11 pursuant to the Cannabis Revenue and Freedom Act that is  
12 subject to a security interest may be continued in business by  
13 a secured party for a reasonable period after a debtor's  
14 default on the indebtedness.

15           C. A person may hold more than one production  
16 licence, processor license, wholesale license or retail  
17 licence.

18           **SECTION 18. [NEW MATERIAL] AGE RESTRICTION FOR SALE OR**  
19 **DELIVERY OF MARIJUANA ITEMS--PURCHASER IDENTIFICATION--**  
20 **DEFENSE.--**

21                   A. A licensed marijuana producer, marijuana  
22 processor, marijuana wholesaler or marijuana retailer or a  
23 licensee representative of one of those licensees shall not  
24 sell or deliver marijuana items to a person who is younger than  
25 twenty-one years of age. If there is a reasonable doubt that a

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1 person is twenty-one years of age or older, before selling or  
2 delivering marijuana items to the person, a licensee or  
3 licensee representative shall require the person to produce one  
4 of the following forms of identification to verify the person's  
5 age:

6 (1) the person's passport;

7 (2) the person's motor vehicle operator's  
8 license that includes a photograph of the person, whether  
9 issued in this state or in another state;

10 (3) an identification card issued by the motor  
11 vehicle division of the taxation and revenue department;

12 (4) a United States military identification  
13 card; or

14 (5) any other identification card that was  
15 issued by a state or an Indian nation, tribe or pueblo that  
16 includes the person's:

17 (a) photograph;

18 (b) name;

19 (c) date of birth; and

20 (d) physical description.

21 B. A person shall not produce a form of  
22 identification as required by the Cannabis Revenue and Freedom  
23 Act that falsely indicates the person's age.

24 C. In an administrative or criminal prosecution of  
25 a licensee or licensee representative for the sale or delivery

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1 of marijuana items to a person younger than twenty-one years of  
2 age as prohibited in this section, the licensee or licensee  
3 representative shall not be found to have committed the  
4 relevant violation or crime unless it is demonstrated in the  
5 administrative or criminal proceeding that a reasonable person  
6 would have determined that the form of identification shown to  
7 the licensee or licensee representative and that is offered as  
8 evidence in the prosecution was altered or did not accurately  
9 describe the person to whom the licensee or licensee  
10 representative sold or delivered marijuana items.

11 SECTION 19. [NEW MATERIAL] DELIVERY OF MARIJUANA

12 ITEMS.--A marijuana producer, marijuana processor or marijuana  
13 wholesaler may deliver marijuana items only to or on a licensed  
14 premises. The sale of marijuana items pursuant to a retail  
15 license shall be restricted to sales made on the licensed  
16 premises described in the license; provided that deliveries may  
17 be made by the marijuana retailer to consumers pursuant to bona  
18 fide orders received on the licensed premises prior to  
19 delivery.

20 SECTION 20. [NEW MATERIAL] INSPECTION OF LICENSEE BOOKS  
21 AND LICENSED PREMISES.--

22 A. The department may:

23 (1) after seventy-two hours' notice to the  
24 owner or the owner's agent, inspect a licensee's books; and

25 (2) at any time, inspect the licensed premises

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1 of a licensee to determine whether the licensee is in  
2 compliance with the provisions of the Cannabis Revenue and  
3 Freedom Act and rules promulgated pursuant to that act.

4 B. The department shall not require a licensee's  
5 books to be maintained on the licensed premises.

6 SECTION 21. [NEW MATERIAL] IMPORTING AND EXPORTING  
7 MARIJUANA ITEMS PROHIBITED--PENALTIES.--

8 A. Marijuana items shall not be imported into this  
9 state or exported from this state by any licensee or licensee  
10 representative.

11 B. A violation of Subsection A of this section is  
12 a:

13 (1) fourth degree felony if the importation or  
14 exportation is for financial consideration; or

15 (2) misdemeanor if the importation or  
16 exportation is not for financial consideration.

17 SECTION 22. [NEW MATERIAL] MARIJUANA ITEMS AS A PRIZE  
18 PROHIBITED.--Marijuana items shall not be given as a prize,  
19 premium or consideration for a lottery, contest, game of chance  
20 or skill or competition of any kind.

21 SECTION 23. [NEW MATERIAL] PROVIDING MARIJUANA ITEMS TO  
22 AN INTOXICATED PERSON PROHIBITED--ALLOWING CONSUMPTION OF  
23 MARIJUANA ITEMS BY PERSONS WHO ARE YOUNGER THAN TWENTY-ONE  
24 YEARS OF AGE PROHIBITED.--

25 A. A person shall not sell, give or otherwise make

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1 available a marijuana item to a person who is visibly  
2 intoxicated.

3 B. A person who exercises control over private real  
4 property shall not:

5 (1) knowingly allow a person who is younger  
6 than twenty-one years of age to consume marijuana items on the  
7 property; or

8 (2) allow a person who is younger than twenty-  
9 one years of age and who consumes marijuana items on the  
10 property to remain on that property.

11 C. Subsection B of this section:

12 (1) applies only to a person who is present  
13 and in control of the location at the time the consumption  
14 occurs; and

15 (2) does not apply to the owner of rental  
16 property, or the agent of an owner of rental property, unless  
17 the consumption occurs in the individual unit in which the  
18 owner or agent resides.

19 SECTION 24. [NEW MATERIAL] LICENSEE MISREPRESENTATIONS--  
20 MAINTENANCE OF DISORDERLY ESTABLISHMENT.--

21 A. A person shall not make false representations or  
22 statements to the department to induce or prevent action by the  
23 department.

24 B. A licensee shall not maintain a noisy, lewd,  
25 disorderly or unsanitary establishment or supply impure or

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1 otherwise deleterious marijuana items.

2 C. A licensee shall not misrepresent marijuana  
3 items to any person.

4 SECTION 25. [NEW MATERIAL] UNDERAGE PERSONS--RESTRICTIONS  
5 ON PURCHASE OF MARIJUANA ITEMS AND PRESENCE ON LICENSED  
6 PREMISES--PENALTIES.--

7 A. A person who is younger than twenty-one years of  
8 age shall not purchase or attempt to purchase marijuana items.

9 B. Except as authorized by rule or as necessitated  
10 in an emergency, a person who is younger than twenty-one years  
11 of age shall not enter or attempt to enter any portion of a  
12 licensed premises that is posted or otherwise identified as  
13 being prohibited to the use of persons under the age of twenty-  
14 one years of age.

15 C. A person who violates Subsection A or B of this  
16 section is guilty of a misdemeanor.

17 D. In addition to any other penalty established by  
18 law, the court, with respect to a person who violates  
19 Subsection A of this section through the person's  
20 misrepresentation of the person's age:

21 (1) may order the person to perform community  
22 service; and

23 (2) shall order that the person's driving  
24 privileges and right to apply for driving privileges be  
25 suspended for a period not to exceed one year.

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1           E. If a court issues an order suspending driving  
2 privileges pursuant to Subsection D of this section, the court  
3 in its discretion and upon petition by the person may withdraw  
4 its order at any time.

5           F. If a person cited for a violation of Subsection  
6 A or B of this section fails to appear in court and if the  
7 person is at least thirteen years of age but younger than  
8 twenty-one years of age at the time the person fails to appear,  
9 in addition to any other penalty, the court shall issue an  
10 order to suspend the person's driving privileges.

11           G. The prohibitions in this section do not apply to  
12 a person who is younger than twenty-one years of age who is  
13 acting under the direction of the department or state or local  
14 law enforcement agencies for the purpose of investigating  
15 possible violations of laws prohibiting the sale of marijuana  
16 items to persons who are younger than twenty-one years of age.

17           SECTION 26. [NEW MATERIAL] COMPLIANCE WITH STANDARDS FOR  
18 MARIJUANA ITEMS.--

19           A. Marijuana items shall not be sold or offered for  
20 sale unless the marijuana items comply with the minimum  
21 standards established in the Cannabis Revenue and Freedom Act,  
22 rules promulgated pursuant to that act or other state law.

23           B. The department may require a marijuana producer,  
24 marijuana processor or marijuana wholesaler to provide a  
25 laboratory analysis that demonstrates to the department's

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1 satisfaction that particular marijuana items comply with  
2 minimum standards.

3 C. Marijuana items offered for sale shall not be  
4 altered in any way by a person who is not licensed to alter the  
5 items.

6 D. The department may prohibit the sale of  
7 marijuana items for a reasonable period of time while the  
8 department determines whether the marijuana items comply with  
9 established minimum standards.

10 SECTION 27. [NEW MATERIAL] MISLEADING MARKS OR LABELS--  
11 INJURIOUS OR ADULTERATED INGREDIENTS.--

12 A. A licensee shall not use or allow the use of a  
13 mark or label on the container of a marijuana item that is kept  
14 for sale if the container does not precisely and clearly  
15 indicate the nature of its contents or if the mark or label  
16 could deceive a person as to the nature, composition, quantity,  
17 age or quality of the marijuana item.

18 B. The department may prohibit a licensee from  
19 selling any brand of marijuana item that, in the department's  
20 judgment, is deceptively labeled or branded as to the marijuana  
21 item's content or contains injurious or adulterated  
22 ingredients.

23 SECTION 28. [NEW MATERIAL] EMPLOYMENT--MINIMUM AGE  
24 REQUIREMENT.--

25 A. A licensee shall not employ a person who is

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1 younger than twenty-one years of age in any part of a licensed  
2 premises.

3 B. During an inspection of a licensed premises, the  
4 department may require proof that a person who is performing  
5 work at the licensed premises is at least twenty-one years of  
6 age. If the person does not provide acceptable proof of age  
7 upon request, the department may require the person to  
8 immediately leave the licensed premises until the department  
9 receives acceptable proof of the person's age. This subsection  
10 does not apply to a person who is temporarily at the licensed  
11 premises to make a service, maintenance or repair call or for  
12 other purposes independent of operations of the licensed  
13 premises.

14 C. If a person performing work at a licensed  
15 premises does not provide proof of the person's age as  
16 requested by the department pursuant to Subsection B of this  
17 section, the department may request that the licensee provide  
18 proof that the person is twenty-one years of age or older. The  
19 licensee's failure to provide acceptable proof of age as  
20 requested shall be prima facie evidence that the licensee has  
21 allowed the person to perform work at the licensed premises in  
22 violation of the minimum age requirement.

23 SECTION 29. [NEW MATERIAL] MATURE MARIJUANA PLANTS.--Only  
24 a licensed marijuana producer and the producer's licensee  
25 representatives may possess or sell a mature marijuana plant.

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1           SECTION 30.   ~~[NEW MATERIAL]~~ RESTRICTION ON THE USE OF  
2 MARIJUANA ITEMS IN A PUBLIC PLACE--MARIJUANA RETAILER ON-SITE  
3 CONSUMPTION LICENSE ENDORSEMENT.--

4           A. A person shall not use a marijuana item in a  
5 public place except as provided in this section.

6           B. Pursuant to rules promulgated by the department,  
7 a marijuana retailer may apply for an on-site consumption  
8 endorsement to the retailer's marijuana retailer license to  
9 allow the sale of marijuana items for on-site consumption and  
10 the consumption of the marijuana items in a marijuana  
11 consumption area.

12           C. A person may purchase and consume marijuana  
13 items in a marijuana consumption area on the licensed premises  
14 of a marijuana retailer who has been issued an on-site  
15 consumption endorsement.

16           D. A person who violates Subsection A of this  
17 section is guilty of a misdemeanor.

18           SECTION 31.   ~~[NEW MATERIAL]~~ MARIJUANA ITEMS IN A  
19 CORRECTIONAL FACILITY PROHIBITED.--

20           A. A person shall not knowingly and voluntarily  
21 carry, transport or deposit a marijuana item in an institution  
22 for the confinement of adult prisoners or in a juvenile  
23 detention facility.

24           B. A person who violates Subsection A of this  
25 section is guilty of a fourth degree felony.

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1           SECTION 32.   ~~[NEW MATERIAL]~~ HOMEGROWN MARIJUANA IN PUBLIC  
2 VIEW PROHIBITED.--

3           A.   A person shall not produce, process, keep or  
4 store homegrown marijuana or homemade marijuana products if the  
5 homegrown marijuana or homemade marijuana products can be  
6 readily seen by normal unaided vision from a public place.

7           B.   A person who violates Subsection A of this  
8 section is guilty of a misdemeanor.

9           SECTION 33.   ~~[NEW MATERIAL]~~ HOMEMADE MARIJUANA EXTRACTS  
10 PROHIBITED.--A person shall not produce, process, keep or store  
11 homemade marijuana extracts.

12           SECTION 34.   ~~[NEW MATERIAL]~~ INCONSISTENT LOCAL LAWS AND  
13 ORDINANCES SUPERSEDED AND REPEALED.--Notwithstanding the  
14 provisions of Sections 35 and 36 of the Cannabis Revenue and  
15 Freedom Act, the provisions of that act shall operate uniformly  
16 throughout the state and shall be superior to and shall  
17 supersede all local laws or ordinances that are inconsistent or  
18 in conflict with that act. Any conflicting local laws or  
19 ordinances are repealed.

20           SECTION 35.   ~~[NEW MATERIAL]~~ LOCAL GOVERNMENT AUTHORITY TO  
21 REGULATE MARIJUANA RETAILERS.--

22           A.   Municipalities and counties may adopt reasonable  
23 time, place and manner regulations related to nuisance aspects  
24 of a licensed marijuana retailer's business if the municipality  
25 or county makes specific findings that the business would cause

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1 adverse effects to occur.

2 B. The authority granted to municipalities and  
3 counties by this section is in addition to the authority  
4 granted to a municipality or county pursuant to its charter,  
5 state laws and the constitution of New Mexico.

6 SECTION 36. [NEW MATERIAL] LOCAL OPTION ELECTION--SALES  
7 NOT AFFECTED BY LOCAL OPTION.--

8 A. A municipality with a population greater than  
9 five thousand according to the most recent federal decennial  
10 census, whether or not the county in which that municipality is  
11 situated has held an election provided for in this section, or  
12 a county in the state may prohibit the operation of a licensed  
13 marijuana processor, marijuana producer, marijuana wholesaler  
14 or marijuana retailer upon the following terms and conditions:

15 (1) at any time after the effective date of  
16 the Cannabis Revenue and Freedom Act, the registered qualified  
17 electors of the municipality or county may petition the  
18 governing body by filing one or more petitions in the  
19 appropriate office to hold an election for the purpose of  
20 determining whether to prohibit the operations of a licensed  
21 marijuana processor, marijuana producer, marijuana wholesaler  
22 or marijuana retailer in the municipality or county. If the  
23 aggregate of the signatures of such electors on all the  
24 petitions equals or exceeds five percent of the number of  
25 registered voters of the municipality or county, the governing

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1 body shall call an election within seventy-five days of the  
2 verification of the petition. The date of the filing of the  
3 petition shall be the date of the filing of the last petition  
4 that brings the number of signatures up to the required five  
5 percent; provided, however, that the governing body shall  
6 refuse to recognize the petition if more than three months have  
7 elapsed between the date of the first signature and the filing  
8 of the last petition necessary to bring the number of  
9 signatures on the petition up to five percent;

10 (2) the election shall be called, conducted,  
11 counted and canvassed substantially in the manner provided by  
12 law for general elections within the county or special  
13 municipal elections within the municipality, except as  
14 otherwise provided in this section;

15 (3) the votes at the election shall be  
16 counted, returned and canvassed as provided for in the case of  
17 general elections within the county or special municipal  
18 elections within the municipality;

19 (4) except as otherwise provided in this  
20 section, contests, recounts and rechecks shall be permitted as  
21 provided for in the case of candidates for county office in  
22 general elections or as provided for in the case of special  
23 municipal elections within the municipality. Applications for  
24 contests, recounts or rechecks may be filed by any person who  
25 voted in the election and service shall be made upon the county

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1 clerk or municipal clerk as the case may be;

2 (5) if the majority of all of the votes cast  
3 at the election are cast in favor of the prohibition of the  
4 operations of a licensed marijuana processor, marijuana  
5 producer, marijuana retailer or marijuana wholesaler in the  
6 county or municipality, the chair of the governing body shall  
7 declare by order entered upon the records of the county or  
8 municipality that the county or municipality has approved the  
9 prohibition and shall notify the department of the election  
10 results;

11 (6) no election held pursuant to this section  
12 shall be held within forty-two days of any primary, general,  
13 municipal or school district election. If, within sixty days  
14 from the verification of any petition as provided in Paragraph  
15 (1) of this subsection, a primary, general, municipal or school  
16 election is held, the governing body may call an election for a  
17 day not less than sixty days after the primary, general,  
18 municipal or school election;

19 (7) if an election is held pursuant to this  
20 section in a county that contains within its limits a  
21 municipality of more than five thousand persons according to  
22 the most recent federal decennial census, it is not necessary  
23 for the registered qualified electors in the municipality to  
24 file a separate petition asking for a separate or different  
25 vote on the question of whether to prohibit the operations of a

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1 licensed marijuana processor, marijuana producer, marijuana  
2 retailer or marijuana wholesaler. The election in the county  
3 shall be conducted so as to separate the votes in the  
4 municipality from those in the remaining parts of the county.  
5 If the majority of the voters in the county, including the  
6 voters in the municipality, vote to prohibit the operations of  
7 a licensed marijuana processor, marijuana producer, marijuana  
8 retailer or marijuana wholesaler, the county shall not allow  
9 the prohibited operations; but if the majority of the votes in  
10 the municipality are in favor of allowing the operations of a  
11 licensed marijuana processor, marijuana producer, marijuana  
12 retailer or marijuana wholesaler, the municipality shall have  
13 allowed the approved operations in the municipality. Nothing  
14 contained in this paragraph shall prevent any municipality from  
15 having a separate election under the terms of this section; and

16  
17 (8) any county or municipality that has voted  
18 to prohibit the operations of a licensed marijuana processor,  
19 marijuana producer, marijuana retailer or marijuana wholesaler  
20 may vote to discontinue the prohibition and to allow the  
21 previously prohibited operations in that county or  
22 municipality; the discontinuance shall become effective on the  
23 ninetieth day after the local option election is held as  
24 provided for in this paragraph.

25 B. The provisions of Subsection A of this section

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1 shall not prevent a person who resides in a municipality or  
2 county that has elected to prohibit the operations of a  
3 licensed marijuana processor, marijuana producer, marijuana  
4 retailer or marijuana wholesaler from possessing marijuana  
5 items that were purchased from licensed marijuana retailers for  
6 the person's personal use.

7 SECTION 37. [NEW MATERIAL] ENFORCEMENT--DUTY OF LAW  
8 ENFORCEMENT OFFICERS.--The state and local law enforcement  
9 officers in the state shall enforce the Cannabis Revenue and  
10 Freedom Act and shall assist the department with identifying  
11 violations of that act and with apprehending offenders. Any  
12 state or local law enforcement officer that has notice or  
13 knowledge of or reasonable belief regarding a violation of that  
14 act shall immediately notify the district attorney and provide  
15 the district attorney with the names and addresses of any  
16 witnesses to the violation and other information related to the  
17 violation.

18 SECTION 38. [NEW MATERIAL] CONFISCATION OF MARIJUANA  
19 ITEMS AND PROPERTY.--Notwithstanding the provisions of the  
20 Forfeiture Act, whenever a law enforcement officer arrests a  
21 person for a violation of the provisions of the Cannabis  
22 Revenue and Freedom Act that do not relate to industrial hemp  
23 or agricultural hemp seed, the officer may confiscate all  
24 marijuana items and other property in the person's possession  
25 or on the premises that appear to be used in connection with

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1 the violation or in violation of the Cannabis Revenue and  
2 Freedom Act. If the arrested person is convicted of a  
3 violation, and it is found that the marijuana items or other  
4 property confiscated by the officer was used in violation of  
5 state law, the marijuana items or other property shall be  
6 forfeited and may be disposed of in accordance with the  
7 provisions of the Forfeiture Act and any other applicable laws.

8 SECTION 39. [NEW MATERIAL] CONVICTION OF LICENSEE--DUTY  
9 TO NOTIFY THE DEPARTMENT.--All court officials, district  
10 attorneys and municipal authorities in the state shall  
11 immediately notify the department of the conviction of a person  
12 who is licensed pursuant to the Cannabis Revenue and Freedom  
13 Act of a violation of any provision of that act or of a state  
14 or local law that relates in any way to marijuana items. The  
15 notification to the department shall include information about  
16 any acts, practices or other conduct of the licensee that may  
17 be subversive of the general welfare or contrary to the spirit  
18 of the Cannabis Revenue and Freedom Act and shall make  
19 recommendations that the department could take to remedy the  
20 acts, practices or conduct of the licensee.

21 SECTION 40. [NEW MATERIAL] PROPERTY AND PLACES AS COMMON  
22 NUISANCES.--

23 A. For the purpose of the Cannabis Revenue and  
24 Freedom Act, a common nuisance is:

25 (1) a room, house, building, boat, structure

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1 or other place where marijuana items are sold, manufactured,  
2 bartered or given away in violation of state law;

3 (2) a room, house, building, boat, structure  
4 or other place where persons are permitted to resort for the  
5 purpose of using marijuana items in violation of state law;

6 (3) a place where marijuana items are kept for  
7 sale, barter or gift in violation of state law; or

8 (4) all marijuana items or property subject to  
9 confiscation pursuant to the Cannabis Revenue and Freedom Act  
10 that are kept and used in a place described in this section.

11 B. A person who maintains or assists in maintaining  
12 a common nuisance or who knowingly allows a common nuisance to  
13 exist in a place of which the person is the owner, manager or  
14 lessor is guilty of a violation of the Cannabis Revenue and  
15 Freedom Act.

16 SECTION 41. [NEW MATERIAL] LIEN ON PLACE USED TO  
17 UNLAWFULLY HANDLE MARIJUANA ITEMS.--Upon a showing that the  
18 owner of a building or premises has knowingly allowed the  
19 building or premises to be used or occupied for the  
20 manufacture, sale or possession of marijuana items in violation  
21 of the provisions of the Cannabis Revenue and Freedom Act, that  
22 building or premises is subject to a lien for and may be sold  
23 to pay all fines and costs assessed against the building's or  
24 premises' occupants for violations of that act. The district  
25 attorney of the county in which the building or premises is

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1 located shall enforce the lien immediately by civil action.

2 SECTION 42. [NEW MATERIAL] GOVERNOR'S AUTHORITY TO  
3 SUSPEND LICENSE.--In case of invasion, disaster, insurrection  
4 or riot or imminent danger thereof, the governor may, without  
5 notice, suspend any license that was issued pursuant to the  
6 Cannabis Revenue and Freedom Act and that is in the affected  
7 area for the duration of the invasion, disaster, insurrection  
8 or riot or imminent danger thereof.

9 SECTION 43. [NEW MATERIAL] PENALTIES.--

10 A. Except as otherwise specifically provided in the  
11 Cannabis Revenue and Freedom Act:

12 (1) a violation of a provision of that act  
13 shall constitute a misdemeanor; and

14 (2) a violation of a rule promulgated pursuant  
15 to that act shall constitute a petty misdemeanor.

16 B. Notwithstanding other provisions of law, a  
17 person who is twenty-one years of age or older and who  
18 manufactures homegrown marijuana at a household and the total  
19 number of homegrown marijuana plants at the household exceeds  
20 four but does not exceed eight is guilty of a misdemeanor.

21 C. Notwithstanding other provisions of law, it is  
22 unlawful for any person who is twenty-one years of age or  
23 older, except for a licensee or a licensee representative, to  
24 knowingly or intentionally possess:

25 (1) more than one ounce of usable marijuana in

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1 a public place;

2 (2) more than eight ounces of usable  
3 marijuana;

4 (3) more than sixteen ounces of marijuana  
5 products in solid form;

6 (4) more than seventy-two ounces of marijuana  
7 products in liquid form;

8 (5) more than one ounce of marijuana extracts;  
9 or

10 (6) any marijuana extracts that were not  
11 purchased from a licensed marijuana retailer.

12 D. A violation of Paragraphs (1) through (5) of  
13 Subsection C of this section is a:

14 (1) fourth degree felony if the amount  
15 possessed is more than four times the amount specified;

16 (2) a misdemeanor if the amount possessed is  
17 more than two times, but not more than four times, the amount  
18 specified; or

19 (3) a petty misdemeanor if the amount  
20 possessed is not more than two times the amount specified.

21 E. A violation of Paragraph (6) of Subsection C of  
22 this section is:

23 (1) a fourth degree felony if the amount  
24 possessed is more than one-fourth ounce of marijuana extract;

25 or

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1 (2) a misdemeanor if the amount is not more  
2 than one-fourth ounce of marijuana extract.

3 SECTION 44. [NEW MATERIAL] USE OF MARIJUANA WHILE  
4 DRIVING--PENALTY.--

5 A. A person commits the offense of use of marijuana  
6 while driving if the person uses any marijuana item while  
7 driving a motor vehicle upon a highway.

8 B. A person who commits use of marijuana while  
9 driving is guilty of a misdemeanor.

10 SECTION 45. [NEW MATERIAL] SEVERABILITY.--If any part or  
11 application of the Cannabis Revenue and Freedom Act is held  
12 invalid, unconstitutional or illegal, the remainder or its  
13 application to other situations or persons shall not be  
14 affected.

15 SECTION 46. [NEW MATERIAL] SUBSTANCE ABUSE PREVENTION  
16 FUND.--The "substance abuse prevention fund" is created in the  
17 state treasury. The fund consists of appropriations, other  
18 money deposited in the fund and money otherwise accruing to the  
19 fund. The department of health shall administer the fund, and  
20 money in the fund is appropriated to the department of health  
21 to establish, operate and maintain alcohol and substance abuse  
22 prevention, early intervention and treatment and related mental  
23 health services. Money in the fund shall be disbursed on  
24 warrants signed by the secretary of finance and administration  
25 pursuant to vouchers signed by the secretary of health or the

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1 secretary's designee. Any balance remaining in the fund at the  
2 end of a fiscal year shall not revert to the general fund.

3 SECTION 47. [NEW MATERIAL] STATE POLICE SUPPORT FUND.--

4 The "state police support fund" is created in the state  
5 treasury. The fund consists of appropriations, other money  
6 deposited in the fund and money otherwise accruing to the fund.  
7 The department of public safety shall administer the fund, and  
8 money in the fund is appropriated to the New Mexico state  
9 police division of the department of public safety for  
10 operations. Money in the fund shall be disbursed on warrants  
11 signed by the secretary of finance and administration pursuant  
12 to vouchers signed by the secretary of public safety or the  
13 secretary's designee. Any balance remaining in the fund at the  
14 end of a fiscal year shall not revert to the general fund.

15 SECTION 48. [NEW MATERIAL] SHORT TITLE.--Sections 48  
16 through 54 of this act may be cited as the "Cannabis Tax Act".

17 SECTION 49. [NEW MATERIAL] DEFINITIONS.--As used in the  
18 Cannabis Tax Act:

19 A. "county area" means that portion of a county  
20 located outside the boundaries of any municipality, except that  
21 for H class counties, "county area" means the entire county;

22 B. "department" means the taxation and revenue  
23 department;

24 C. "governing body" means:  
25 (1) in the case of a municipality, the city

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1 council or city commission of a city, the board of trustees of  
2 a town or village or the board of county commissioners of H  
3 class counties; or

4 (2) in the case of a county, the county  
5 commission of a county or the county council of an H class  
6 county.

7 D. "marijuana items" means "marijuana items" as  
8 that term is defined in the Cannabis Revenue and Freedom Act;  
9 and

10 E. "marijuana retailer" means "marijuana retailer"  
11 as that term is defined in the Cannabis Revenue and Freedom  
12 Act.

13 SECTION 50. [NEW MATERIAL] IMPOSITION AND RATE OF  
14 CANNABIS TAX.--

15 A. There is imposed an excise tax on a marijuana  
16 retailer that sells marijuana items in this state on which the  
17 tax imposed by this section has not been paid. If the price  
18 paid does not represent the value of the marijuana item, the  
19 tax rate shall be applied to the reasonable value of the  
20 marijuana item at the time the item was purchased. The excise  
21 tax imposed by this section may be referred to as the "cannabis  
22 tax".

23 B. The rate of the cannabis tax is fifteen percent  
24 and is applied to the price paid for the marijuana item.

25 SECTION 51. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

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1           A. A majority of the members of the governing body  
2 of a municipality may enact an ordinance imposing an excise tax  
3 on a marijuana retailer that sells marijuana items in the  
4 municipality on which the tax imposed by this section has not  
5 been paid. The tax imposed pursuant to this section may be  
6 referred to as the "municipal cannabis tax".

7           B. The rate of the municipal cannabis tax is five  
8 percent and is applied to the price paid for the marijuana  
9 item. If the price paid does not represent the value of the  
10 marijuana item, the tax rate shall be applied to the reasonable  
11 value of the marijuana item at the time that the item was  
12 purchased.

13           C. The governing body of a municipality, at the  
14 time of enacting any ordinance imposing a municipal cannabis  
15 tax, may dedicate the revenue for municipal general purposes.

16           D. Any ordinance enacted under the provisions of  
17 Subsection A of this section shall include an effective date of  
18 either July 1 or January 1.

19           E. An ordinance imposing the municipal cannabis tax  
20 shall not go into effect until after an election is held and  
21 the majority of the voters of the municipality voting in the  
22 election vote in favor of imposing the tax. The governing body  
23 shall adopt a resolution calling for an election within  
24 seventy-five days of the date the ordinance is adopted on the  
25 question of imposing the tax. The question shall be submitted

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1 to the voters of the municipality as a separate question at a  
2 regular municipal election or at a special election called for  
3 that purpose by the governing body. A special municipal  
4 election shall be called, conducted and canvassed as provided  
5 in the Municipal Election Code. If the majority of the voters  
6 voting on the question approves the ordinance imposing the  
7 municipal cannabis tax, the ordinance shall become effective in  
8 accordance with the provisions of the Cannabis Tax Act. If the  
9 question of imposing the municipal cannabis tax fails, the  
10 governing body shall not again propose the imposition of the  
11 tax for a period of one year from the date of the election.

12 SECTION 52. [NEW MATERIAL] COUNTY CANNABIS TAX.--

13 A. The majority of the members of the governing  
14 body of a county may enact an ordinance imposing an excise tax  
15 on a marijuana retailer that sells marijuana items in the  
16 county area on which the tax imposed by this section has not  
17 been paid. The tax imposed pursuant to this section may be  
18 referred to as the "county cannabis tax".

19 B. The rate of the county cannabis tax is five  
20 percent and is applied to the price paid for the marijuana  
21 item. If the price paid does not represent the value of the  
22 marijuana item, the tax rate shall be applied to the reasonable  
23 value of the marijuana item at the time that the item was  
24 purchased.

25 C. The governing body of a county, at the time of

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1 enacting any ordinance imposing a county cannabis tax, may  
2 dedicate the revenue for county general purposes.

3 D. Any ordinance enacted under the provisions of  
4 Subsection A of this section shall include an effective date of  
5 either July 1 or January 1.

6 E. An ordinance imposing the county cannabis tax  
7 shall not go into effect until after an election is held and  
8 the majority of the qualified electors of the county area  
9 voting in the election vote in favor of imposing the tax. The  
10 governing body shall adopt a resolution calling for an election  
11 within seventy-five days of the date that the ordinance is  
12 adopted on the question of imposing the tax. The question may  
13 be submitted to the qualified electors and voted upon as a  
14 separate question at any special election called for that  
15 purpose by the governing body. The election on the question  
16 shall be called, held, conducted and canvassed in substantially  
17 the same manner as provided by law for general elections. If  
18 the question of imposing a county cannabis tax fails, the  
19 governing body shall not again propose a county cannabis tax  
20 for a period of one year after the election.

21 SECTION 53. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes  
22 imposed pursuant to the Cannabis Tax Act are to be paid on or  
23 before the twenty-fifth day of the month following the month in  
24 which the taxable event occurs.

25 SECTION 54. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The

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1 department may deduct an amount not to exceed three percent of  
2 the proceeds of the municipal cannabis tax and county cannabis  
3 tax as a charge for the administrative costs of collection,  
4 which amount shall be retained by the department for use in  
5 administration of those taxes.

6 SECTION 55. A new section of the Tax Administration Act  
7 is enacted to read:

8 "[NEW MATERIAL] DISTRIBUTION--PUBLIC SCHOOL FUND FOR STATE  
9 EQUALIZATION GUARANTEE DISTRIBUTION--SUBSTANCE ABUSE PREVENTION  
10 FUND--STATE POLICE SUPPORT FUND--CANNABIS TAX.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA  
12 1978 shall be made to the public school fund to augment the  
13 appropriations for the state equalization guarantee  
14 distribution in an amount equal to forty percent of the net  
15 receipts attributable to the cannabis tax.

16 B. A distribution pursuant to Section 7-1-6.1 NMSA  
17 1978 shall be made to the substance abuse prevention fund in an  
18 amount equal to twenty-five percent of the net receipts  
19 attributable to the cannabis tax.

20 C. A distribution pursuant to Section 7-1-6.1 NMSA  
21 1978 shall be made to the state police support fund in an  
22 amount equal to fifteen percent of the net receipts  
23 attributable to the cannabis tax."

24 SECTION 56. A new section of the Tax Administration Act  
25 is enacted to read:

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

3           A. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
4 shall be made to each municipality for which the department is  
5 collecting a municipal cannabis tax imposed by that  
6 municipality in an amount, subject to any increase or decrease  
7 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net  
8 receipts attributable to the municipal cannabis tax, less any  
9 deduction for administrative costs determined and made by the  
10 department pursuant to the Cannabis Tax Act.

11           B. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
12 shall be made to each county for which the department is  
13 collecting a county cannabis tax imposed by that county in an  
14 amount, subject to any increase or decrease made pursuant to  
15 Section 7-1-6.15 NMSA 1978, equal to the net receipts  
16 attributable to the county cannabis tax, less any deduction for  
17 administrative costs determined and made by the department  
18 pursuant to the Cannabis Tax Act."

19           SECTION 57. Section 7-1-2 NMSA 1978 (being Laws 1965,  
20 Chapter 248, Section 2, as amended) is amended to read:

21           "7-1-2. APPLICABILITY.--The Tax Administration Act  
22 applies to and governs:

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

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- 1 (1) Income Tax Act;
- 2 (2) Withholding Tax Act;
- 3 (3) Venture Capital Investment Act;
- 4 (4) Gross Receipts and Compensating Tax Act
- 5 and any state gross receipts tax;
- 6 (5) Liquor Excise Tax Act;
- 7 (6) Local Liquor Excise Tax Act;
- 8 (7) any municipal local option gross receipts
- 9 tax;
- 10 (8) any county local option gross receipts
- 11 tax;
- 12 (9) Special Fuels Supplier Tax Act;
- 13 (10) Gasoline Tax Act;
- 14 (11) petroleum products loading fee, which fee
- 15 shall be considered a tax for the purpose of the Tax
- 16 Administration Act;
- 17 (12) Alternative Fuel Tax Act;
- 18 (13) Cigarette Tax Act;
- 19 (14) Estate Tax Act;
- 20 (15) Railroad Car Company Tax Act;
- 21 (16) Investment Credit Act, rural job tax
- 22 credit, Laboratory Partnership with Small Business Tax Credit
- 23 Act, Technology Jobs and Research and Development Tax Credit
- 24 Act, Film Production Tax Credit Act, Affordable Housing Tax
- 25 Credit Act and high-wage jobs tax credit;

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- 1 (17) Corporate Income and Franchise Tax Act;  
2 (18) Uniform Division of Income for Tax  
3 Purposes Act;  
4 (19) Multistate Tax Compact;  
5 (20) Tobacco Products Tax Act; ~~and~~  
6 (21) the telecommunications relay service  
7 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
8 surcharge shall be considered a tax for the purposes of the Tax  
9 Administration Act; and  
10 (22) the Cannabis Tax Act;  
11 B. the administration and enforcement of the  
12 following taxes, surtaxes, advanced payments or tax acts as  
13 they now exist or may hereafter be amended:  
14 (1) Resources Excise Tax Act;  
15 (2) Severance Tax Act;  
16 (3) any severance surtax;  
17 (4) Oil and Gas Severance Tax Act;  
18 (5) Oil and Gas Conservation Tax Act;  
19 (6) Oil and Gas Emergency School Tax Act;  
20 (7) Oil and Gas Ad Valorem Production Tax Act;  
21 (8) Natural Gas Processors Tax Act;  
22 (9) Oil and Gas Production Equipment Ad  
23 Valorem Tax Act;  
24 (10) Copper Production Ad Valorem Tax Act;  
25 (11) any advance payment required to be made

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1 by any act specified in this subsection, which advance payment  
2 shall be considered a tax for the purposes of the Tax  
3 Administration Act;

4 (12) Enhanced Oil Recovery Act;

5 (13) Natural Gas and Crude Oil Production  
6 Incentive Act; and

7 (14) intergovernmental production tax credit  
8 and intergovernmental production equipment tax credit;

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

12 (1) Weight Distance Tax Act;

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

16 (3) Uniform Unclaimed Property Act (1995);

17 (4) 911 emergency surcharge and the network  
18 and database surcharge, which surcharges shall be considered  
19 taxes for purposes of the Tax Administration Act;

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

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

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

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

8 SECTION 58. Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
9 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,  
10 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended  
11 to read:

12 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
13 MUNICIPALITIES OR COUNTIES.--

14 A. The provisions of this section apply to:

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

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

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

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

25 (5) any distribution to a municipality or a

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1 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

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

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

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

10 (9) any distribution to a municipality of  
11 compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

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

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

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

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

25 D. Prior to or concurrently with the distribution

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1 or transfer to the municipality or county of the adjusted net  
2 receipts, the department shall notify the municipality or  
3 county whose distribution or transfer has been adjusted  
4 pursuant to Paragraph (2) of Subsection B of this section:

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

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

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

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

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

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

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

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

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

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

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

25 (3) if, after application of a refund claim,

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1 audit adjustment, correction of a mistake by the department or  
2 other adjustment of a prior period, but prior to any recovery  
3 of the department pursuant to this section, the total net  
4 receipts of a municipality or county for the twelve-month  
5 period beginning with the current month are reduced or are  
6 projected to be reduced to less than fifty percent of the  
7 average distribution or transfer of net receipts, the secretary  
8 may waive recovery of any portion of the recoverable amount,  
9 subject to approval by the state board of finance.

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

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

23 H. The secretary is authorized to decrease a  
24 distribution or transfer to a municipality or county upon being  
25 directed to do so by the secretary of finance and

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1 administration pursuant to the State Aid Intercept Act or to  
2 redirect a distribution or transfer to the New Mexico finance  
3 authority pursuant to an ordinance or a resolution passed by  
4 the county or municipality and a written agreement of the  
5 municipality or county and the New Mexico finance authority.  
6 Upon direction to decrease a distribution or transfer or notice  
7 to redirect a distribution or transfer to a municipality or  
8 county, the secretary shall decrease or redirect the next  
9 designated distribution or transfer, and succeeding  
10 distributions or transfers as necessary, by the amount of the  
11 state distributions intercept authorized by the secretary of  
12 finance and administration pursuant to the State Aid Intercept  
13 Act or by the amount of the state distribution intercept  
14 authorized pursuant to an ordinance or a resolution passed by  
15 the county or municipality and a written agreement with the New  
16 Mexico finance authority. The secretary shall transfer the  
17 state distributions intercept amount to the municipal or county  
18 treasurer or other person designated by the secretary of  
19 finance and administration or to the New Mexico finance  
20 authority pursuant to written agreement to pay the debt service  
21 to avoid default on qualified local revenue bonds or meet other  
22 local revenue bond, loan or other debt obligations of the  
23 municipality or county to the New Mexico finance authority. A  
24 decrease to or redirection of a distribution or transfer  
25 pursuant to this subsection that arose:

.204493.4

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

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

13 I. Upon the direction of the secretary of finance  
14 and administration pursuant to Section 9-6-5.2 NMSA 1978, the  
15 secretary shall temporarily withhold the balance of a  
16 distribution to a municipality or county, net of any decrease  
17 or redirected amount pursuant to Subsection H of this section  
18 and any recoverable amount pursuant to Paragraph (2) of  
19 Subsection B of this section, that has failed to submit an  
20 audit report required by the Audit Act or a financial report  
21 required by Subsection F of Section 6-6-2 NMSA 1978. The  
22 amount to be withheld, the source of the withheld distribution  
23 and the number of months that the distribution is to be  
24 withheld shall be as directed by the secretary of finance and  
25 administration. A distribution withheld pursuant to this

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1 subsection shall remain in the tax administration suspense fund  
2 until distributed to the municipality or county and shall not  
3 be distributed to the general fund. An amount withheld  
4 pursuant to this subsection shall be distributed to the  
5 municipality or county upon direction of the secretary of  
6 finance and administration.

7 J. As used in this section:

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

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

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

25 (a) the annual average of the total

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1 amount distributed or transferred to a municipality or county  
2 in each of the three twelve-month periods preceding the current  
3 month;

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

8 (c) if a municipality or county has not  
9 received distributions or transfers of net receipts for twelve  
10 or more months, the monthly average of net receipts distributed  
11 or transferred to the municipality or county preceding the  
12 current month multiplied by twelve;

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

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

23 SECTION 59. Section 26-2B-1 NMSA 1978 (being Laws 2007,  
24 Chapter 210, Section 1) is amended to read:

25 "26-2B-1. SHORT TITLE.--~~[Sections 1 through 7 of this~~

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1 ~~act]~~ Chapter 26, Article 2B NMSA 1978 may be cited as the "Lynn  
2 and Erin Compassionate Use Act" in honor of Lynn Pierson and  
3 Erin Armstrong."

4 **SECTION 60.** Section 26-2B-3 NMSA 1978 (being Laws 2007,  
5 Chapter 210, Section 3) is amended to read:

6 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin  
7 Compassionate Use Act:

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

16 B. "debilitating medical condition" means:  
17 (1) cancer;  
18 (2) glaucoma;  
19 (3) multiple sclerosis;  
20 (4) damage to the nervous tissue of the spinal  
21 cord, with objective neurological indication of intractable  
22 spasticity;  
23 (5) epilepsy;  
24 (6) positive status for human immunodeficiency  
25 virus or acquired immune deficiency syndrome;

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1 (7) admitted into hospice care in accordance  
2 with rules promulgated by the department; or

3 (8) any other medical condition, medical  
4 treatment or disease as approved by the department;

5 C. "department" means the department of health;

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

11 E. "mature cannabis plant" means a harvestable  
12 female cannabis plant that is flowering;

13 F. "personal production license" means a license  
14 issued to a qualified patient that allows the qualified patient  
15 to produce medical cannabis for that qualified patient's  
16 personal use in accordance with department rules;

17 [~~E-~~] G. "practitioner" means a person licensed in  
18 New Mexico to prescribe and administer drugs that are subject  
19 to the Controlled Substances Act;

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

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1           [~~G-~~] I. "qualified patient" means a resident of New  
2 Mexico who has been diagnosed by a practitioner as having a  
3 debilitating medical condition and has received written  
4 certification and a registry identification card issued  
5 pursuant to the Lynn and Erin Compassionate Use Act; and

6           [~~H-~~] J. "written certification" means a statement  
7 in a patient's medical records or a statement signed by a  
8 patient's practitioner that, in the practitioner's professional  
9 opinion, the patient has a debilitating medical condition and  
10 the practitioner believes that the potential health benefits of  
11 the medical use of cannabis would likely outweigh the health  
12 risks for the patient. A written certification is not valid  
13 for more than one year from the date of issuance."

14           **SECTION 61.** Section 26-2B-7 NMSA 1978 (being Laws 2007,  
15 Chapter 210, Section 7) is amended to read:

16           "26-2B-7. [~~REGISTRY IDENTIFICATION CARDS~~] DEPARTMENT  
17 RULES--DUTIES--REGISTRY IDENTIFICATION CARDS.--

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

23                   (1) govern the manner in which the department  
24 will consider applications for registry identification cards  
25 and for the renewal of identification cards for qualified

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1 patients and primary caregivers;

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

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

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

15 (5) identify requirements for the licensure of  
16 producers and cannabis production facilities and set forth  
17 procedures to obtain licenses;

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

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

23 (b) distribution of medical cannabis to  
24 qualified patients or their primary caregivers to take place at  
25 locations that are designated by the department and that are

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1 not within three hundred feet of any school, church or daycare  
2 center;

3 (7) provide that, for a new or renewal  
4 producer license, the department shall charge an annual license  
5 fee of:

6 (a) fifteen thousand dollars (\$15,000),  
7 if the producer will possess up to one hundred fifty mature  
8 cannabis plants; and

9 (b) an additional five thousand dollars  
10 (\$5,000) for each additional fifty mature cannabis plants the  
11 producer will possess; provided, however, that the maximum fee  
12 charged for a new or renewal producer license shall not exceed  
13 forty-five thousand dollars (\$45,000);

14 (8) until June 30, 2019, restrict the number  
15 of mature cannabis plants a licensed producer may possess at  
16 any given time to:

17 (a) one thousand between July 1, 2017  
18 and June 30, 2018; and

19 (b) two thousand between July 1, 2018  
20 and June 30, 2019;

21 (9) provide that a person who is a qualified  
22 patient and who holds a personal production license may sell  
23 those mature cannabis plants that the person possesses in  
24 accordance with the person's personal production license to a  
25 licensed producer and that the licensed producer may sell those

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1 plants in accordance with applicable law and rules;

2 [~~(7)~~] (10) determine additional duties and  
3 responsibilities of the advisory board; and

4 [~~(8)~~] (11) be revised and updated as  
5 necessary.

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

10 (1) a written certification;

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

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

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

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

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1 by the department.

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

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

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

10 (3) other information that the department may  
11 require by rule.

12 E. A person who possesses a registry identification  
13 card shall notify the department of any change in the person's  
14 name, address, qualified patient's practitioner, qualified  
15 patient's primary caregiver or change in status of the  
16 qualified patient's debilitating medical condition within ten  
17 days of the change.

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

23 G. The department shall maintain a confidential  
24 file containing the names and addresses of the persons who have  
25 either applied for or received a registry identification card.

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1 Individual names on the list shall be confidential and not  
2 subject to disclosure, except:

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

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

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

13 SECTION 62. Section 29-19-4 NMSA 1978 (being Laws 2003,  
14 Chapter 255, Section 4, as amended) is amended to read:

15 "29-19-4. APPLICANT QUALIFICATIONS.--

16 A. The department shall issue a concealed handgun  
17 license to an applicant who:

18 (1) is a citizen of the United States;

19 (2) is a resident of New Mexico or is a member  
20 of the armed forces whose permanent duty station is located in  
21 New Mexico or is a dependent of such a member;

22 (3) is twenty-one years of age or older;

23 (4) is not a fugitive from justice;

24 (5) has not been convicted of a felony in New  
25 Mexico or any other state or pursuant to the laws of the United

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1 States or any other jurisdiction;

2 (6) is not currently under indictment for a  
3 felony criminal offense in New Mexico or any other state or  
4 pursuant to the laws of the United States or any other  
5 jurisdiction;

6 (7) is not otherwise prohibited by federal law  
7 or the law of any other jurisdiction from purchasing or  
8 possessing a firearm;

9 (8) has not been adjudicated mentally  
10 incompetent or committed to a mental institution;

11 (9) is not addicted to alcohol or controlled  
12 substances; and

13 (10) has satisfactorily completed a firearms  
14 training course approved by the department for the category and  
15 the largest caliber of handgun that the applicant wants to be  
16 licensed to carry as a concealed handgun.

17 B. The department shall deny a concealed handgun  
18 license to an applicant who has:

19 (1) received a conditional discharge, a  
20 diversion or a deferment or has been convicted of, pled guilty  
21 to or entered a plea of nolo contendere to a misdemeanor  
22 offense involving a crime of violence within ten years  
23 immediately preceding the application;

24 (2) been convicted of a misdemeanor offense  
25 involving driving while under the influence of intoxicating

.204493.4

1 liquor or drugs within five years immediately preceding the  
2 application for a concealed handgun license;

3 (3) been convicted of a misdemeanor offense  
4 involving the possession or abuse of a controlled substance,  
5 other than marijuana, within ten years immediately preceding  
6 the application; or

7 (4) been convicted of a misdemeanor offense  
8 involving assault, battery or battery against a household  
9 member.

10 C. Firearms training course instructors who are  
11 approved by the department shall not be required to complete a  
12 firearms training course pursuant to Paragraph (10) of  
13 Subsection A of this section."

14 SECTION 63. Section 30-6-1 NMSA 1978 (being Laws 1973,  
15 Chapter 360, Section 10, as amended) is amended to read:

16 "30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

17 A. As used in this section:

18 (1) "child" means a person who is less than  
19 eighteen years of age;

20 (2) "neglect" means that a child is without  
21 proper parental care and control of subsistence, education,  
22 medical or other care or control necessary for the child's  
23 well-being because of the faults or habits of the child's  
24 parents, guardian or custodian or their neglect or refusal,  
25 when able to do so, to provide them; and

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1                   (3) "negligently" refers to criminal  
2 negligence and means that a person knew or should have known of  
3 the danger involved and acted with a reckless disregard for the  
4 safety or health of the child.

5                   B. Abandonment of a child consists of the parent,  
6 guardian or custodian of a child intentionally leaving or  
7 abandoning the child under circumstances whereby the child may  
8 or does suffer neglect. A person who commits abandonment of a  
9 child is guilty of a misdemeanor, unless the abandonment  
10 results in the child's death or great bodily harm, in which  
11 case the person is guilty of a second degree felony.

12                   C. A parent, guardian or custodian who leaves an  
13 infant less than ninety days old in compliance with the Safe  
14 Haven for Infants Act shall not be prosecuted for abandonment  
15 of a child.

16                   D. Abuse of a child consists of a person knowingly,  
17 intentionally or negligently, and without justifiable cause,  
18 causing or permitting a child to be:

19                           (1) placed in a situation that may endanger  
20 the child's life or health;

21                           (2) tortured, cruelly confined or cruelly  
22 punished; or

23                           (3) exposed to the inclemency of the weather.

24                   E. A person who commits abuse of a child that does  
25 not result in the child's death or great bodily harm is, for a

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1 first offense, guilty of a third degree felony and for second  
2 and subsequent offenses is guilty of a second degree felony.  
3 If the abuse results in great bodily harm to the child, the  
4 person is guilty of a first degree felony.

5 F. A person who commits negligent abuse of a child  
6 that results in the death of the child is guilty of a first  
7 degree felony.

8 G. A person who commits intentional abuse of a  
9 child twelve to eighteen years of age that results in the death  
10 of the child is guilty of a first degree felony.

11 H. A person who commits intentional abuse of a  
12 child less than twelve years of age that results in the death  
13 of the child is guilty of a first degree felony resulting in  
14 the death of a child.

15 I. Except for evidence that relates to conduct  
16 pursuant to and in compliance with the Cannabis Revenue and  
17 Freedom Act, evidence that demonstrates that a child has been  
18 knowingly, intentionally or negligently allowed to enter or  
19 remain in a motor vehicle, building or any other premises that  
20 contains chemicals and equipment used or intended for use in  
21 the manufacture of a controlled substance shall be deemed prima  
22 facie evidence of abuse of the child.

23 J. Evidence that demonstrates that a child has been  
24 knowingly and intentionally exposed to the use of  
25 methamphetamine shall be deemed prima facie evidence of abuse

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1 of the child.

2 K. A person who leaves an infant less than ninety  
3 days old at a hospital may be prosecuted for abuse of the  
4 infant for actions of the person occurring before the infant  
5 was left at the hospital."

6 SECTION 64. Section 30-31-2 NMSA 1978 (being Laws 1972,  
7 Chapter 84, Section 2, as amended) is amended to read:

8 "30-31-2. DEFINITIONS.--As used in the Controlled  
9 Substances Act:

10 A. "administer" means the direct application of a  
11 controlled substance by any means to the body of a patient or  
12 research subject by a practitioner or the practitioner's agent;

13 B. "agent" includes an authorized person who acts  
14 on behalf of a manufacturer, distributor or dispenser. It does  
15 not include a common or contract carrier, public  
16 warehouseperson or employee of the carrier or warehouseperson;

17 C. "board" means the board of pharmacy;

18 D. "bureau" means the narcotic and dangerous drug  
19 section of the criminal division of the United States  
20 department of justice, or its successor agency;

21 E. "controlled substance":

22 (1) means a drug or substance listed in  
23 Schedules I through V of the Controlled Substances Act or rules  
24 adopted thereto; and

25 (2) does not include industrial hemp or

underscored material = new  
[bracketed material] = delete

1 marijuana for the purpose of or conduct pursuant to and in  
2 compliance with the Cannabis Revenue and Freedom Act;

3 F. "counterfeit substance" means a controlled  
4 substance that bears the unauthorized trademark, trade name,  
5 imprint, number, device or other identifying mark or likeness  
6 of a manufacturer, distributor or dispenser other than the  
7 person who in fact manufactured, distributed or dispensed the  
8 controlled substance;

9 G. "deliver" means the actual, constructive or  
10 attempted transfer from one person to another of a controlled  
11 substance or controlled substance analog, whether or not there  
12 is an agency relationship;

13 H. "dispense" means to deliver a controlled  
14 substance to an ultimate user or research subject pursuant to  
15 the lawful order of a practitioner, including the  
16 administering, prescribing, packaging, labeling or compounding  
17 necessary to prepare the controlled substance for that  
18 delivery;

19 I. "dispenser" means a practitioner who dispenses  
20 and includes hospitals, pharmacies and clinics where controlled  
21 substances are dispensed;

22 J. "distribute" means to deliver other than by  
23 administering or dispensing a controlled substance or  
24 controlled substance analog;

25 K. "drug" or "substance" means substances

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1 recognized as drugs in the official United States  
2 pharmacopoeia, official homeopathic pharmacopoeia of the United  
3 States or official national formulary or any respective  
4 supplement to those publications. It does not include devices  
5 or their components, parts or accessories;

6 L. "hashish" means the resin extracted from any  
7 part of marijuana, whether growing or not, and every compound,  
8 manufacture, salt, derivative, mixture or preparation of such  
9 resins;

10 M. "manufacture" means the production, preparation,  
11 compounding, conversion or processing of a controlled substance  
12 or controlled substance analog by extraction from substances of  
13 natural origin or independently by means of chemical synthesis  
14 or by a combination of extraction and chemical synthesis and  
15 includes any packaging or repackaging of the substance or  
16 labeling or relabeling of its container, except that this term  
17 does not include the preparation or compounding of a controlled  
18 substance:

19 (1) by a practitioner as an incident to  
20 administering or dispensing a controlled substance in the  
21 course of the practitioner's professional practice; or

22 (2) by a practitioner, or by the  
23 practitioner's agent under the practitioner's supervision, for  
24 the purpose of or as an incident to research, teaching or  
25 chemical analysis and not for sale;

underscored material = new  
[bracketed material] = delete

1 N. "marijuana":

2 (1) means all parts of the plant cannabis,  
3 including any and all varieties, species and subspecies of the  
4 genus Cannabis, whether growing or not, the seeds thereof and  
5 every compound, manufacture, salt, derivative, mixture or  
6 preparation of the plant or its seeds; [~~It~~] and

7 (2) does not include:

8 (a) the mature stalks of the plant;

9 (b) hashish;

10 (c) tetrahydrocannabinols extracted or  
11 isolated from marijuana;

12 (d) fiber produced from the stalks;

13 (e) oil or cake made from the seeds of  
14 the plant;

15 (f) any other compound, manufacture,  
16 salt, derivative, mixture or preparation of the mature stalks,  
17 fiber, oil or cake; [~~or~~]

18 (g) the sterilized seed of the plant  
19 that is incapable of germination; or

20 (h) industrial hemp or industrial hemp  
21 commodities or products as defined in the Cannabis Revenue and  
22 Freedom Act;

23 O. "narcotic drug" means any of the following,  
24 whether produced directly or indirectly by extraction from  
25 substances of vegetable origin or independently by means of

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1 chemical synthesis or by a combination of extraction and  
2 chemical synthesis:

3 (1) opium and opiate and any salt, compound,  
4 derivative or preparation of opium or opiate;

5 (2) any salt, compound, isomer, derivative or  
6 preparation that is a chemical equivalent of any of the  
7 substances referred to in Paragraph (1) of this subsection,  
8 except the isoquinoline alkaloids of opium;

9 (3) opium poppy and poppy straw, including all  
10 parts of the plant of the species *Papaver somniferum* L. except  
11 its seeds; or

12 (4) coca leaves and any salt, compound,  
13 derivative or preparation of coca leaves, any salt, compound,  
14 isomer, derivative or preparation that is a chemical equivalent  
15 of any of these substances except decocainized coca leaves or  
16 extractions of coca leaves that do not contain cocaine or  
17 ecgonine;

18 P. "opiate" means any substance having an  
19 addiction-forming or addiction-sustaining liability similar to  
20 morphine or being capable of conversion into a drug having  
21 addiction-forming or addiction-sustaining liability. "Opiate"  
22 does not include, unless specifically designated as controlled  
23 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of  
24 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.  
25 "Opiate" does include its racemic and levorotatory forms;

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1           Q. "person" means an individual, partnership,  
2 corporation, association, institution, political subdivision,  
3 government agency or other legal entity;

4           R. "practitioner" means a physician, certified  
5 advanced practice chiropractic physician, doctor of oriental  
6 medicine, dentist, physician assistant, certified nurse  
7 practitioner, clinical nurse specialist, certified nurse-  
8 midwife, prescribing psychologist, veterinarian, euthanasia  
9 technician, pharmacist, pharmacist clinician or other person  
10 licensed or certified to prescribe and administer drugs that  
11 are subject to the Controlled Substances Act;

12           S. "prescription" means an order given individually  
13 for the person for whom is prescribed a controlled substance,  
14 either directly from a licensed practitioner or the  
15 practitioner's agent to the pharmacist, including by means of  
16 electronic transmission, or indirectly by means of a written  
17 order signed by the prescriber, bearing the name and address of  
18 the prescriber, the prescriber's license classification, the  
19 name and address of the patient, the name and quantity of the  
20 drug prescribed, directions for use and the date of issue and  
21 in accordance with the Controlled Substances Act or rules  
22 adopted thereto;

23           T. "scientific investigator" means a person  
24 registered to conduct research with controlled substances in  
25 the course of the person's professional practice or research

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1 and includes analytical laboratories;

2 U. "ultimate user" means a person who lawfully  
3 possesses a controlled substance for the person's own use or  
4 for the use of a member of the person's household or for  
5 administering to an animal under the care, custody and control  
6 of the person or by a member of the person's household;

7 V. "drug paraphernalia" means all equipment,  
8 products and materials of any kind that are used, intended for  
9 use or designed for use in planting, propagating, cultivating,  
10 growing, harvesting, manufacturing, compounding, converting,  
11 producing, processing, preparing, testing, analyzing,  
12 packaging, repackaging, storing, containing, concealing,  
13 injecting, ingesting, inhaling or otherwise introducing into  
14 the human body a controlled substance or controlled substance  
15 analog in violation of the Controlled Substances Act. It  
16 includes:

17 (1) kits used, intended for use or designed  
18 for use in planting, propagating, cultivating, growing or  
19 harvesting any species of plant that is a controlled substance  
20 or controlled substance analog or from which a controlled  
21 substance can be derived;

22 (2) kits used, intended for use or designed  
23 for use in manufacturing, compounding, converting, producing,  
24 processing or preparing controlled substances or controlled  
25 substance analogs;

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1                   (3) isomerization devices used, intended for  
2 use or designed for use in increasing the potency of any  
3 species of plant that is a controlled substance;

4                   (4) testing equipment used, intended for use  
5 or designed for use in identifying or in analyzing the  
6 strength, effectiveness or purity of controlled substances or  
7 controlled substance analogs;

8                   (5) scales or balances used, intended for use  
9 or designed for use in weighing or measuring controlled  
10 substances or controlled substance analogs;

11                   (6) diluents and adulterants, such as quinine  
12 hydrochloride, mannitol, mannite dextrose and lactose, used,  
13 intended for use or designed for use in cutting controlled  
14 substances or controlled substance analogs;

15                   (7) separation gins and sifters used, intended  
16 for use or designed for use in removing twigs and seeds from,  
17 or in otherwise cleaning and refining, marijuana;

18                   (8) blenders, bowls, containers, spoons and  
19 mixing devices used, intended for use or designed for use in  
20 compounding controlled substances or controlled substance  
21 analogs;

22                   (9) capsules, balloons, envelopes and other  
23 containers used, intended for use or designed for use in  
24 packaging small quantities of controlled substances or  
25 controlled substance analogs;

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1 (10) containers and other objects used,  
2 intended for use or designed for use in storing or concealing  
3 controlled substances or controlled substance analogs;

4 (11) hypodermic syringes, needles and other  
5 objects used, intended for use or designed for use in  
6 parenterally injecting controlled substances or controlled  
7 substance analogs into the human body;

8 (12) objects used, intended for use or  
9 designed for use in ingesting, inhaling or otherwise  
10 introducing marijuana, cocaine, hashish or hashish oil into the  
11 human body, such as:

12 (a) metal, wooden, acrylic, glass,  
13 stone, plastic or ceramic pipes, with or without screens,  
14 permanent screens, hashish heads or punctured metal bowls;

15 (b) water pipes;

16 (c) carburetion tubes and devices;

17 (d) smoking and carburetion masks;

18 (e) roach clips, meaning objects used to  
19 hold burning material, such as a marijuana cigarette, that has  
20 become too small to hold in the hand;

21 (f) miniature cocaine spoons and cocaine  
22 vials;

23 (g) chamber pipes;

24 (h) carburetor pipes;

25 (i) electric pipes;

.204493.4

- 1 (j) air-driven pipes;  
2 (k) chilams;  
3 (l) bonges; or  
4 (m) ice pipes or chillers; and  
5 (13) in determining whether an object is drug  
6 paraphernalia, a court or other authority should consider, in  
7 addition to all other logically relevant factors, the  
8 following:  
9 (a) statements by the owner or by anyone  
10 in control of the object concerning its use;  
11 (b) the proximity of the object, in time  
12 and space, to a direct violation of the Controlled Substances  
13 Act or any other law relating to controlled substances or  
14 controlled substance analogs;  
15 (c) the proximity of the object to  
16 controlled substances or controlled substance analogs;  
17 (d) the existence of any residue of a  
18 controlled substance or controlled substance analog on the  
19 object;  
20 (e) instructions, written or oral,  
21 provided with the object concerning its use;  
22 (f) descriptive materials accompanying  
23 the object that explain or depict its use;  
24 (g) the manner in which the object is  
25 displayed for sale; and

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1 (h) expert testimony concerning its use;

2 W. "controlled substance analog" means a substance  
3 other than a controlled substance that has a chemical structure  
4 substantially similar to that of a controlled substance in  
5 Schedule I, II, III, IV or V or that was specifically designed  
6 to produce effects substantially similar to that of controlled  
7 substances in Schedule I, II, III, IV or V. Examples of  
8 chemical classes in which controlled substance analogs are  
9 found include the following:

- 10 (1) phenethylamines;
- 11 (2) N-substituted piperidines;
- 12 (3) morphinans;
- 13 (4) ecgonines;
- 14 (5) quinazolinones;
- 15 (6) substituted indoles; and
- 16 (7) arylcycloalkylamines.

17 Specifically excluded from the definition of "controlled  
18 substance analog" are those substances that are generally  
19 recognized as safe and effective within the meaning of the  
20 Federal Food, Drug, and Cosmetic Act or have been manufactured,  
21 distributed or possessed in conformance with the provisions of  
22 an approved new drug application or an exemption for  
23 investigational use within the meaning of Section 505 of the  
24 Federal Food, Drug, and Cosmetic Act;

25 X. "human consumption" includes application,

.204493.4

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1 injection, inhalation, ingestion or any other manner of  
2 introduction;

3 Y. "drug-free school zone" means a public school,  
4 parochial school or private school or property that is used for  
5 a public, parochial or private school purpose and the area  
6 within one thousand feet of the school property line, but it  
7 does not mean any post-secondary school; and

8 Z. "valid practitioner-patient relationship" means  
9 a professional relationship, as defined by the practitioner's  
10 licensing board, between the practitioner and the patient."

11 SECTION 65. Section 30-31-6 NMSA 1978 (being Laws 1972,  
12 Chapter 84, Section 6, as amended) is amended to read:

13 "30-31-6. SCHEDULE I.--The following controlled  
14 substances are included in Schedule I:

15 A. any of the following opiates, including their  
16 isomers, esters, ethers, salts, and salts of isomers, esters  
17 and ethers, unless specifically exempted, whenever the  
18 existence of these isomers, esters, ethers and salts is  
19 possible within the specific chemical designation:

- 20 (1) acetylmethadol;
- 21 (2) allylprodine;
- 22 (3) alphacetylmethadol;
- 23 (4) alphameprodine;
- 24 (5) alphamethadol;
- 25 (6) benzethidine;

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- 1 (7) betacetylmethadol;
- 2 (8) betameprodine;
- 3 (9) betamethadol;
- 4 (10) betaprodine;
- 5 (11) clonitazene;
- 6 (12) dextromoramide;
- 7 (13) dextrorphan;
- 8 (14) diampromide;
- 9 (15) diethylthiambutene;
- 10 (16) dimenoxadol;
- 11 (17) dimepheptanol;
- 12 (18) dimethylthiambutene;
- 13 (19) dioxaphetyl butyrate;
- 14 (20) dipipanone;
- 15 (21) ethylmethylthiambutene;
- 16 (22) etonitazene;
- 17 (23) etoxeridine;
- 18 (24) furethidine;
- 19 (25) hydroxypethidine;
- 20 (26) ketobemidone;
- 21 (27) levomoramide;
- 22 (28) levophenacymorphan;
- 23 (29) morpheridine;
- 24 (30) noracymethadol;
- 25 (31) norlevorphanol;

- 1 (32) normethadone;
- 2 (33) norpipanone;
- 3 (34) phenadoxone;
- 4 (35) phenampromide;
- 5 (36) phenomorphan;
- 6 (37) phenoperidine;
- 7 (38) piritramide;
- 8 (39) proheptazine;
- 9 (40) properidine;
- 10 (41) racemoramide; and
- 11 (42) trimeperidine;

12 B. any of the following opium derivatives, their  
13 salts, isomers and salts of isomers, unless specifically  
14 exempted, whenever the existence of these salts, isomers and  
15 salts of isomers is possible within the specific chemical  
16 designation:

- 17 (1) acetorphine;
- 18 (2) acetyldihydrocodeine;
- 19 (3) benzylmorphine;
- 20 (4) codeine methylbromide;
- 21 (5) codeine-N-oxide;
- 22 (6) cyprenorphine;
- 23 (7) desomorphine;
- 24 (8) dihydromorphine;
- 25 (9) etorphine;

- 1 (10) heroin;
- 2 (11) hydromorphenol;
- 3 (12) methyl-desorphine;
- 4 (13) methyl-dihydromorphine;
- 5 (14) morphine methylbromide;
- 6 (15) morphine methylsulfonate;
- 7 (16) morphine-N-oxide;
- 8 (17) myrophine;
- 9 (18) nicocodeine;
- 10 (19) nicomorphine;
- 11 (20) normorphine;
- 12 (21) pholcodine; and
- 13 (22) thebacon;

14 C. any material, compound, mixture or preparation  
15 that contains any quantity of the following hallucinogenic  
16 substances, their salts, isomers and salts of isomers, unless  
17 specifically exempted, whenever the existence of these salts,  
18 isomers and salts of isomers is possible within the specific  
19 chemical designation:

- 20 (1) 3,4-methylenedioxy amphetamine;
- 21 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 22 (3) 3,4,5-trimethoxy amphetamine;
- 23 (4) bufotenine;
- 24 (5) diethyltryptamine;
- 25 (6) dimethyltryptamine;

- 1 (7) 4-methyl-2,5-dimethoxy amphetamine;  
2 (8) ibogaine;  
3 (9) lysergic acid diethylamide;  
4 (10) marijuana;  
5 (11) mescaline;  
6 (12) peyote, except as otherwise provided in  
7 the Controlled Substances Act;  
8 (13) N-ethyl-3-piperidyl benzilate;  
9 (14) N-methyl-3-piperidyl benzilate;  
10 (15) psilocybin;  
11 (16) psilocyn;  
12 (17) tetrahydrocannabinols;  
13 (18) hashish;  
14 (19) synthetic cannabinoids, including:  
15 (a) 1-[2-(4-(morpholinyl)ethyl)  
16 -3-(1-naphthoyl)indole;  
17 (b) 1-butyl-3-(1-naphthoyl)indole;  
18 (c) 1-hexyl-3-(1-naphthoyl)indole;  
19 (d) 1-pentyl-3-(1-naphthoyl)indole;  
20 (e) 1-pentyl-3-(2-methoxyphenylacetyl)  
21 indole;  
22 (f) cannabicyclohexanol (CP 47, 497 and  
23 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)  
24 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,  
25 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

.204493.4

- 1 (g) 6aR,10aR)-9-(hydroxymethyl)  
2 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,  
3 10a-tetrahydrobenzo[c]chromen-1-ol);  
4 (h) dexanabinol, (6aS,10aS)  
5 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)  
6 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;  
7 (i) 1-pentyl-3-(4-chloro naphthoyl)  
8 indole;  
9 (j) (2-methyl-1-propyl-1H-indol-3-yl)  
10 -1-naphthalenyl-methanone; and  
11 (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy  
12 cyclohexyl)-phenol;  
13 (20) 3,4-methylenedioxy methcathinone;  
14 (21) 3,4-methylenedioxy pyrovalerone;  
15 (22) 4-methylmethcathinone;  
16 (23) 4-methoxymethcathinone;  
17 (24) 3-fluoromethcathinone; and  
18 (25) 4-fluoromethcathinone;

19 D. the enumeration of peyote as a controlled  
20 substance does not apply to the use of peyote in bona fide  
21 religious ceremonies by a bona fide religious organization, and  
22 members of the organization so using peyote are exempt from  
23 registration. Any person who manufactures peyote for or  
24 distributes peyote to the organization or its members shall  
25 comply with the federal Comprehensive Drug Abuse Prevention and

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1 Control Act of 1970 and all other requirements of law;

2 E. the enumeration of marijuana,  
3 tetrahydrocannabinols or chemical derivatives of  
4 tetrahydrocannabinol as Schedule I controlled substances does  
5 not apply to the use of marijuana, tetrahydrocannabinols or  
6 chemical derivatives of tetrahydrocannabinol:

7 (1) by certified patients pursuant to the  
8 Controlled Substances Therapeutic Research Act or by qualified  
9 patients pursuant to the provisions of the Lynn and Erin  
10 Compassionate Use Act; ~~and~~ or

11 (2) for the purpose of or with respect to  
12 conduct in compliance with the Cannabis Revenue and Freedom  
13 Act; and

14 F. controlled substances added to Schedule I by  
15 rule adopted by the board pursuant to Section 30-31-3 NMSA  
16 1978."

17 SECTION 66. Section 30-31-12 NMSA 1978 (being Laws 1972,  
18 Chapter 84, Section 12, as amended) is amended to read:

19 "30-31-12. REGISTRATION REQUIREMENTS.--

20 A. Except for a person who is licensed pursuant to  
21 the Cannabis Revenue and Freedom Act, and only with respect to  
22 conduct that is pursuant to and in compliance with that act, a  
23 person who manufactures, distributes or dispenses a controlled  
24 substance or who proposes to engage in the manufacture,  
25 distribution or dispensing of a controlled substance shall

.204493.4

1 obtain a registration issued by the board in accordance with  
2 its regulations.

3 B. Persons registered by the board to manufacture,  
4 distribute, dispense or conduct research with controlled  
5 substances may possess, manufacture, distribute, dispense,  
6 prescribe or conduct research with those substances to the  
7 extent authorized by their registration and in conformity with  
8 the other provisions of the Controlled Substances Act.

9 C. The following persons need not register and may  
10 lawfully possess controlled substances:

11 (1) an agent of a registered manufacturer,  
12 distributor or dispenser of a controlled substance if the agent  
13 is acting in the usual course of the agent's principal's  
14 business or employment;

15 (2) a common or contract carrier or  
16 warehouseman, or an employee whose possession of a controlled  
17 substance is in the usual course of the common or contract  
18 carrier or warehouseman's business; or

19 (3) an ultimate user.

20 D. The board may waive by regulation the  
21 requirement for registration of certain manufacturers,  
22 distributors or dispensers if it is consistent with the public  
23 health and safety.

24 E. The board may inspect the establishment of a  
25 registrant or applicant for registration in accordance with the

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1 board's regulations."

2 SECTION 67. Section 30-31-20 NMSA 1978 (being Laws 1972,  
3 Chapter 84, Section 20, as amended) is amended to read:

4 "30-31-20. TRAFFICKING CONTROLLED SUBSTANCES--  
5 VIOLATION.--

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

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

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

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

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

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

20 (3) possession with intent to distribute:

21 (a) a controlled substance enumerated in  
22 Schedule I or II that is a narcotic drug;

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

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1 (c) methamphetamine, its salts, isomers  
2 and salts of isomers.

3 B. Except as authorized by the Controlled  
4 Substances Act or the Cannabis Revenue and Freedom Act, it is  
5 unlawful for a person to intentionally traffic. A person who  
6 violates this subsection is:

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

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

13 C. A person who knowingly violates Subsection B of  
14 this section within a drug-free school zone excluding private  
15 property residentially zoned or used primarily as a residence  
16 is guilty of a first degree felony and shall be sentenced  
17 pursuant to the provisions of Section 31-18-15 NMSA 1978."

18 SECTION 68. Section 30-31-21 NMSA 1978 (being Laws 1972,  
19 Chapter 84, Section 21, as amended) is amended to read:

20 "30-31-21. DISTRIBUTION TO A MINOR.--

21 A. Except as authorized by the Controlled  
22 Substances Act and as provided in the Cannabis Revenue and  
23 Freedom Act, no person who is eighteen years of age or older  
24 shall intentionally distribute a controlled substance to a  
25 person under the age of eighteen years. Any person who

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1 violates this section with respect to:

2 [~~A.~~] (1) marijuana is:

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

6 [~~(2)~~] (b) for the second and subsequent  
7 offenses, guilty of a second degree felony and shall be  
8 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
9 1978; and

10 [~~B.~~] (2) any other controlled substance  
11 enumerated in [~~Schedules~~] Schedule I, II, III or IV or a  
12 controlled substance analog of any controlled substance  
13 enumerated in Schedule I, II, III or IV is:

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

17 [~~(2)~~] (b) for the second and subsequent  
18 offenses, guilty of a first degree felony and shall be  
19 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
20 1978.

21 B. As provided in the Cannabis Revenue and Freedom  
22 Act, a licensed marijuana processor, marijuana producer,  
23 marijuana retailer or marijuana wholesaler or a licensee  
24 representative of those licensees shall not sell or deliver  
25 marijuana items to a person who is younger than twenty-one

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1 years of age. A person who violates the provisions of this  
2 subsection is guilty of a fourth degree felony."

3 SECTION 69. Section 30-31-22 NMSA 1978 (being Laws 1972,  
4 Chapter 84, Section 22, as amended) is amended to read:

5 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
6 DISTRIBUTION PROHIBITED.--

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

17 (1) marijuana or synthetic cannabinoids is:

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

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

25 (c) for the first offense, if more than

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1 one hundred pounds is possessed with intent to distribute or  
2 distributed or both, guilty of a third degree felony and shall  
3 be sentenced pursuant to the provisions of Section 31-18-15  
4 NMSA 1978; and

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

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

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

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

24 (3) a controlled substance enumerated in  
25 Schedule V or a controlled substance analog of a controlled

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

6 B. Subsection A of this section shall not apply to a  
7 person who is twenty-one years of age or older and who, in  
8 compliance with the Cannabis Revenue and Freedom Act,  
9 distributes marijuana items to a person who is twenty-one years  
10 of age or older or possesses marijuana items with the intent to  
11 distribute in compliance with that act.

12 [~~B.~~] C. It is unlawful for a person to distribute  
13 gamma hydroxybutyric acid or flunitrazepam to another person  
14 without that person's knowledge and with intent to commit a  
15 crime against that person, including criminal sexual  
16 penetration. For the purposes of this subsection, "without  
17 that person's knowledge" means the person is unaware that a  
18 substance with the ability to alter that person's ability to  
19 appraise conduct or to decline participation in or communicate  
20 unwillingness to participate in conduct is being distributed to  
21 that person. Any person who violates this subsection is:

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

25 (2) for the second and subsequent offenses,

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1 guilty of a second degree felony and shall be sentenced  
2 pursuant to the provisions of Section 31-18-15 NMSA 1978.

3 ~~[G-]~~ D. Except as authorized by the Controlled  
4 Substances Act, it is unlawful for a person to intentionally  
5 create or deliver, or possess with intent to deliver, a  
6 counterfeit substance. A person who violates this subsection  
7 with respect to:

8 (1) a counterfeit substance enumerated in  
9 Schedule I, II, III or IV is guilty of a fourth degree felony  
10 and shall be sentenced pursuant to the provisions of Section  
11 31-18-15 NMSA 1978; and

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

17 ~~[D-]~~ E. A person who knowingly violates Subsection A  
18 or ~~[G]~~ D of this section while within a drug-free school zone  
19 with respect to:

20 (1) marijuana or synthetic cannabinoids is:

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

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;

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

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

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

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

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

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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 fourth degree  
4 felony and shall be sentenced pursuant to the provisions of  
5 Section 31-18-15 NMSA 1978; and

6 (4) the intentional creation, delivery or  
7 possession with the intent to deliver:

8 (a) a counterfeit substance enumerated in  
9 Schedule I, II, III or IV is guilty of a third degree felony  
10 and shall be sentenced pursuant to the provisions of Section  
11 31-18-15 NMSA 1978; and

12 (b) a counterfeit substance enumerated in  
13 Schedule V is guilty of a misdemeanor and shall be punished by  
14 a fine of not less than one hundred dollars (\$100) nor more  
15 than five hundred dollars (\$500) or by imprisonment for a  
16 definite term not less than one hundred eighty days but less  
17 than one year, or both.

18 [~~E.~~] F. Notwithstanding the provisions of Subsection  
19 A of this section and the provisions of the Cannabis Revenue  
20 and Freedom Act, distribution of a small amount of marijuana or  
21 synthetic cannabinoids for no remuneration shall be treated as  
22 provided in Paragraph (1) of Subsection B of Section 30-31-23  
23 NMSA 1978."

24 **SECTION 70.** Section 30-31-23 NMSA 1978 (being Laws 1972,  
25 Chapter 84, Section 23, as amended) is amended to read:

.204493.4

1 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION

2 PROHIBITED.--

3 A. It is unlawful for a person, other than a licensee  
4 or a licensee representative as defined in the Cannabis Revenue  
5 and Freedom Act and only with respect to conduct pursuant to  
6 and in compliance with that act, to intentionally [tø] possess  
7 a controlled substance unless the substance was obtained  
8 pursuant to a valid prescription or order of a practitioner  
9 while acting in the course of professional practice or except  
10 as otherwise authorized by the Controlled Substances Act or the  
11 Cannabis Revenue and Freedom Act. It is unlawful for a person  
12 intentionally to possess a controlled substance analog.

13 B. Notwithstanding the provisions of the Cannabis  
14 Revenue and Freedom Act, a person who violates this section  
15 with respect to:

16 (1) one ounce or less of marijuana or synthetic  
17 cannabinoids is, for the first offense, guilty of a petty  
18 misdemeanor and shall be punished by a fine of not less than  
19 fifty dollars (\$50.00) or more than one hundred dollars (\$100)  
20 and by imprisonment for not more than fifteen days, and, for  
21 the second and subsequent offenses, guilty of a misdemeanor and  
22 shall be punished by a fine of not less than one hundred  
23 dollars (\$100) or more than one thousand dollars (\$1,000) or by  
24 imprisonment for a definite term less than one year, or both;

25 (2) more than one ounce and less than eight

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1 ounces of marijuana or synthetic cannabinoids is guilty of a  
2 misdemeanor and shall be punished by a fine of not less than  
3 one hundred dollars (\$100) or more than one thousand dollars  
4 (\$1,000) or by imprisonment for a definite term less than one  
5 year, or both; or

6 (3) eight ounces or more of marijuana or  
7 synthetic cannabinoids is guilty of a fourth degree felony and  
8 shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978.

10 C. A minor who violates this section with respect to  
11 the substances listed in this subsection is guilty of a petty  
12 misdemeanor and, notwithstanding the provisions of Sections  
13 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a fine not  
14 to exceed one hundred dollars (\$100) or forty-eight hours of  
15 community service. For the third or subsequent violation by a  
16 minor of this section with respect to those substances, the  
17 provisions of Section 32A-2-19 NMSA 1978 shall govern  
18 punishment of the minor. As used in this subsection, "minor"  
19 means a person who is less than eighteen years of age. The  
20 provisions of this subsection apply to the following  
21 substances:

22 (1) synthetic cannabinoids;  
23 (2) any of the substances listed in Paragraphs  
24 (20) through (25) of Subsection C of Section 30-31-6 NMSA 1978;  
25 or

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1                   (3) a substance added to Schedule I by a rule of  
2 the board adopted on or after [~~the effective date of this~~  
3 March 31, 2011 ~~act~~] if the board determines that the  
4 pharmacological effect of the substance, the risk to the public  
5 health by abuse of the substance and the potential of the  
6 substance to produce psychic or physiological dependence  
7 liability is similar to the substances described in Paragraph  
8 (1) or (2) of this subsection.

9                   D. Notwithstanding the provisions of the Cannabis  
10 Revenue and Freedom Act, except for those substances listed in  
11 Subsection E of this section, a person who violates this  
12 section with respect to any amount of any controlled substance  
13 enumerated in Schedule I, II, III or IV or a controlled  
14 substance analog of a substance enumerated in Schedule I, II,  
15 III or IV is guilty of a misdemeanor and shall be punished by a  
16 fine of not less than five hundred dollars (\$500) or more than  
17 one thousand dollars (\$1,000) or by imprisonment for a definite  
18 term less than one year, or both.

19                   E. A person who violates this section with respect to  
20 phencyclidine as enumerated in Schedule III or a controlled  
21 substance analog of phencyclidine; methamphetamine, its salts,  
22 isomers or salts of isomers as enumerated in Schedule II or a  
23 controlled substance analog of methamphetamine, its salts,  
24 isomers or salts of isomers; flunitrazepam, its salts, isomers  
25 or salts of isomers as enumerated in Schedule I or a controlled

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1 substance analog of flunitrazepam, including naturally  
2 occurring metabolites, its salts, isomers or salts of isomers;  
3 gamma hydroxybutyric acid and any chemical compound that is  
4 metabolically converted to gamma hydroxybutyric acid, its  
5 salts, isomers or salts of isomers as enumerated in Schedule I  
6 or a controlled substance analog of gamma hydroxybutyric acid,  
7 its salts, isomers or salts of isomers; gamma butyrolactone and  
8 any chemical compound that is metabolically converted to gamma  
9 hydroxybutyric acid, its salts, isomers or salts of isomers as  
10 enumerated in Schedule I or a controlled substance analog of  
11 gamma butyrolactone, its salts, isomers or salts of isomers; 1-  
12 4 butane diol and any chemical compound that is metabolically  
13 converted to gamma hydroxybutyric acid, its salts, isomers or  
14 salts of isomers as enumerated in Schedule I or a controlled  
15 substance analog of 1-4 butane diol, its salts, isomers or  
16 salts of isomers; or a narcotic drug enumerated in Schedule I  
17 or II or a controlled substance analog of a narcotic drug  
18 enumerated in Schedule I or II is guilty of a fourth degree  
19 felony and shall be sentenced pursuant to the provisions of  
20 Section 31-18-15 NMSA 1978.

21 F. Except for a minor as defined in Subsection C of  
22 this section, a person who violates Subsection A of this  
23 section while within a posted drug-free school zone, excluding  
24 private property residentially zoned or used primarily as a  
25 residence and excluding a person in or on a motor vehicle in

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1 transit through the posted drug-free school zone, with respect  
2 to:

3 (1) one ounce or less of marijuana or synthetic  
4 cannabinoids is, for the first offense, guilty of a misdemeanor  
5 and shall be punished by a fine of not less than one hundred  
6 dollars (\$100) or more than one thousand dollars (\$1,000) or by  
7 imprisonment for a definite term less than one year, or both,  
8 and for the second or subsequent offense, is guilty of a fourth  
9 degree felony and shall be sentenced pursuant to the provisions  
10 of Section 31-18-15 NMSA 1978;

11 (2) more than one ounce and less than eight  
12 ounces of marijuana or synthetic cannabinoids is guilty of a  
13 fourth degree felony and shall be sentenced pursuant to the  
14 provisions of Section 31-18-15 NMSA 1978;

15 (3) eight ounces or more of marijuana or  
16 synthetic cannabinoids is guilty of a third degree felony and  
17 shall be sentenced pursuant to the provisions of Section  
18 31-18-15 NMSA 1978;

19 (4) any amount of any other controlled substance  
20 enumerated in Schedule I, II, III or IV or a controlled  
21 substance analog of a substance enumerated in Schedule I, II,  
22 III or IV, except phencyclidine as enumerated in Schedule III,  
23 a narcotic drug enumerated in Schedule I or II or a controlled  
24 substance analog of a narcotic drug enumerated in Schedule I or  
25 II, is guilty of a fourth degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978; and  
2 (5) phencyclidine as enumerated in Schedule III,  
3 a narcotic drug enumerated in Schedule I or II, a controlled  
4 substance analog of phencyclidine or a controlled substance  
5 analog of a narcotic drug enumerated in Schedule I or II is  
6 guilty of a third degree felony and shall be sentenced pursuant  
7 to the provisions of Section 31-18-15 NMSA 1978."

8 SECTION 71. Section 30-31-24 NMSA 1978 (being Laws 1972,  
9 Chapter 84, Section 24, as amended) is amended to read:

10 "30-31-24. CONTROLLED SUBSTANCES--VIOLATIONS OF  
11 ADMINISTRATIVE PROVISIONS.--

12 A. Notwithstanding the provisions of the Cannabis  
13 Revenue and Freedom Act, it is unlawful for [~~any~~] a person:

14 (1) who is subject to Sections 30-31-11 through  
15 30-31-19 NMSA 1978 to intentionally distribute or dispense a  
16 controlled substance in violation of Section 30-31-18 NMSA  
17 1978;

18 (2) who is a registrant to intentionally  
19 manufacture a controlled substance not authorized by [~~his~~] the  
20 person's registration or to intentionally distribute or  
21 dispense a controlled substance not authorized by [~~his~~] the  
22 person's registration to another registrant or other authorized  
23 person;

24 (3) to intentionally refuse or fail to make,  
25 keep or furnish [~~any~~] a record, notification, order form,

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1 statement, invoice or information required under the Controlled  
2 Substances Act; or

3 (4) to intentionally refuse an entry into [~~any~~]  
4 a premises for [~~any~~] an inspection authorized by the Controlled  
5 Substances Act.

6 B. [~~Any~~] A person who violates this section is guilty  
7 of a fourth degree felony and shall be sentenced pursuant to  
8 the provisions of Section 31-18-15 NMSA 1978."

9 SECTION 72. Section 30-31-25 NMSA 1978 (being Laws 1972,  
10 Chapter 84, Section 25, as amended) is amended to read:

11 "30-31-25. CONTROLLED SUBSTANCES--PROHIBITED ACTS.--

12 A. Notwithstanding the provisions of the Cannabis  
13 Revenue and Freedom Act, it is unlawful for any person:

14 (1) who is a registrant to distribute a  
15 controlled substance classified in [~~Schedules~~] Schedule I or  
16 II, except pursuant to an order form as required by Section  
17 30-31-17 NMSA 1978;

18 (2) to intentionally use in the course of the  
19 manufacture or distribution of a controlled substance a  
20 registration number [~~which~~] that is fictitious, revoked,  
21 suspended or issued to another person;

22 (3) to intentionally acquire or obtain or  
23 attempt to acquire or obtain possession of a controlled  
24 substance by misrepresentation, fraud, forgery, deception or  
25 subterfuge;

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1 (4) to intentionally furnish false or fraudulent  
2 material information in, or omit any material information from,  
3 any application, report or other document required to be kept  
4 or filed under the Controlled Substances Act, or any record  
5 required to be kept by that act; or

6 (5) to intentionally make, distribute or possess  
7 any punch, die, plate, stone or other thing designed to print,  
8 imprint or reproduce the trademark, trade name or other  
9 identifying mark, imprint or device of another or any likeness  
10 of any of the foregoing, upon any drug or container or labeling  
11 thereof so as to render the drug a counterfeit substance.

12 B. Any person who violates this section is guilty of  
13 a fourth degree felony and shall be sentenced pursuant to the  
14 provisions of Section 31-18-15 NMSA 1978."

15 SECTION 73. Section 30-31-25.1 NMSA 1978 (being Laws  
16 1981, Chapter 31, Section 2, as amended) is amended to read:

17 "30-31-25.1. POSSESSION, DELIVERY OR MANUFACTURE OF DRUG  
18 PARAPHERNALIA PROHIBITED--EXCEPTIONS.--

19 A. It is unlawful for a person to use or possess with  
20 intent to use drug paraphernalia to plant, propagate,  
21 cultivate, grow, harvest, manufacture, compound, convert,  
22 produce, process, prepare, test, analyze, pack, repack, store,  
23 contain, conceal, inject, ingest, inhale or otherwise introduce  
24 into the human body a controlled substance in violation of the  
25 Controlled Substances Act. The provisions of this subsection

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1 do not apply to a person who is in possession of hypodermic  
2 syringes or needles at the time ~~[he]~~ the person is directly and  
3 immediately engaged in a harm reduction program, as provided in  
4 the Harm Reduction Act.

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

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

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

22 C. A person who violates this section with respect to  
23 Subsection A of this section is guilty of a misdemeanor and  
24 upon conviction shall be punished by a fine of not less than  
25 fifty dollars (\$50.00) nor more than one hundred dollars (\$100)

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1 or by imprisonment for a definite term less than one year, or  
2 both. A person who violates this section with respect to  
3 Subsection B of this section is guilty of a misdemeanor.

4 D. A person eighteen years of age or over who  
5 violates the provisions of Subsection B of this section by  
6 delivering drug paraphernalia to a person under eighteen years  
7 of age and who is at least three years ~~[his]~~ the person's  
8 junior is guilty of a fourth degree felony and shall be  
9 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
10 1978.

11 E. For the purposes of this section, "marijuana  
12 paraphernalia" means all equipment, products and materials of  
13 any kind that are marketed for use or designed for use in  
14 planting, propagating, cultivating, growing, harvesting,  
15 manufacturing, compounding, converting, producing, processing,  
16 preparing, testing, analyzing, packaging, repackaging, storing,  
17 containing, concealing, injecting, ingesting, inhaling or  
18 otherwise introducing into the human body marijuana in  
19 violation of state law.

20 F. The provisions of this section do not apply to a  
21 person who possesses, delivers, manufactures or sells marijuana  
22 paraphernalia to a person who is twenty-one years of age or  
23 older."

24 SECTION 74. Section 30-31-26 NMSA 1978 (being Laws 1972,  
25 Chapter 84, Section 26) is amended to read:

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1 "30-31-26. PENALTIES UNDER OTHER LAWS.--Notwithstanding  
2 the provisions of the Cannabis Revenue and Freedom Act:

3 A. any penalty imposed for violation of the  
4 Controlled Substances Act is in addition to any civil or  
5 administrative penalty or sanction otherwise provided by law;  
6 and

7 B. a municipality may, by ordinance, prohibit  
8 distribution or possession of a controlled substance enumerated  
9 in Schedules I, II, III or IV but penalty provisions shall be  
10 the same as those provided for a similar crime in the  
11 Controlled Substances Act."

12 SECTION 75. Section 30-31-32 NMSA 1978 (being Laws 1972,  
13 Chapter 84, Section 31) is amended to read:

14 "30-31-32. ADMINISTRATIVE INSPECTIONS.--Notwithstanding  
15 the provisions of the Cannabis Revenue and Freedom Act, the  
16 board may make administrative inspections of controlled  
17 premises in accordance with the following provisions:

18 A. for purposes of this section, "controlled  
19 premises" means:

20 (1) places where persons registered or exempted  
21 from registration requirements under the Controlled Substances  
22 Act are required to keep records; and

23 (2) places, including factories, warehouses,  
24 establishments and conveyances, in which persons registered or  
25 exempted from registration requirements under the Controlled

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1 Substances Act are permitted to hold, manufacture, compound,  
2 process, sell, deliver or otherwise dispose of any controlled  
3 substance;

4 B. when authorized by an administrative inspection  
5 warrant issued pursuant to Section [30] 30-31-31 NMSA 1978, an  
6 officer or employee designated by the board, upon presenting  
7 the warrant and appropriate credentials to the owner, operator  
8 or agent in charge, may enter the controlled premises for the  
9 purpose of conducting an administrative inspection;

10 C. when authorized by an administrative inspection  
11 warrant, an officer or employee designated by the board may:

12 (1) inspect and copy records required by the  
13 Controlled Substances Act to be kept;

14 (2) inspect, within reasonable limits and in a  
15 reasonable manner, controlled premises and all pertinent  
16 equipment, finished and unfinished material, containers and  
17 labeling found therein, and, except as provided in Subsection E  
18 of this section, all other things bearing on violations of the  
19 Controlled Substances Act, including records, files, papers,  
20 processes, controls and facilities; and

21 (3) inventory any stock of any controlled  
22 substance and obtain samples;

23 D. this section does not prevent entries and  
24 administrative inspections, including seizures of property,  
25 without a warrant:

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1 (1) if the owner, operator or agent in charge of  
2 the controlled premises consents;

3 (2) in situations presenting substantial  
4 imminent danger to health or safety; or

5 (3) in all other situations in which a warrant  
6 is not constitutionally required; and

7 E. an inspection authorized by this section shall not  
8 extend to financial data, sales data other than shipment data  
9 or pricing data unless the owner, operator or agent in charge  
10 of the controlled premises consents in writing."

11 SECTION 76. Section 30-31-34 NMSA 1978 (being Laws 1972,  
12 Chapter 84, Section 33, as amended) is amended to read:

13 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--

14 Notwithstanding the provisions of the Cannabis Revenue and  
15 Freedom Act, the following are subject to forfeiture pursuant  
16 to the provisions of the Forfeiture Act:

17 A. all raw materials, products and equipment of any  
18 kind, including firearms that are used or intended for use in  
19 manufacturing, compounding, processing, delivering, importing  
20 or exporting any controlled substance or controlled substance  
21 analog in violation of the Controlled Substances Act;

22 B. all property that is used or intended for use as a  
23 container for property described in Subsection A of this  
24 section;

25 C. all conveyances, including aircraft, vehicles or

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1 vessels that are used or intended for use to transport or in  
2 any manner to facilitate the transportation for the purpose of  
3 sale of property described in Subsection A of this section;

4 D. all books, records and research products and  
5 materials, including formulas, microfilm, tapes and data that  
6 are used or intended for use in violation of the Controlled  
7 Substances Act;

8 E. narcotics paraphernalia or money that is a fruit  
9 or instrumentality of the crime;

10 F. notwithstanding Subsection C of this section and  
11 the provisions of the Forfeiture Act:

12 (1) a conveyance used by a person as a common  
13 carrier in the transaction of business as a common carrier  
14 shall not be subject to forfeiture pursuant to this section  
15 unless it appears that the owner or other person in charge of  
16 the conveyance is a consenting party or privy to a violation of  
17 the Controlled Substances Act;

18 (2) a conveyance shall not be subject to  
19 forfeiture pursuant to this section by reason of an act or  
20 omission established for the owner to have been committed or  
21 omitted without the owner's knowledge or consent;

22 (3) a conveyance is not subject to forfeiture  
23 for a violation of law the penalty for which is a misdemeanor;  
24 and

25 (4) a forfeiture of a conveyance encumbered by a

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1 bona fide security interest shall be subject to the interest of  
2 a secured party if the secured party neither had knowledge of  
3 nor consented to the act or omission; and

4 G. all drug paraphernalia as defined by Subsection V  
5 of Section 30-31-2 NMSA 1978."

6 SECTION 77. Section 30-31-36 NMSA 1978 (being Laws 1972,  
7 Chapter 84, Section 35, as amended) is amended to read:

8 "30-31-36. SUMMARY FORFEITURE.--Notwithstanding the  
9 provisions of the Cannabis Revenue and Freedom Act:

10 A. controlled substances listed in Schedule I or  
11 controlled substance analogs of substances listed in Schedule I  
12 that are possessed, transferred, sold or offered for sale in  
13 violation of the Controlled Substances Act are contraband and  
14 shall be seized and summarily forfeited to the state;

15 B. controlled substances listed in Schedule I or  
16 controlled substance analogs of substances listed in Schedule I  
17 [~~which~~] that are seized or come into the possession of the  
18 state, the owners of which are unknown, are contraband and  
19 shall be summarily forfeited to the state; and

20 C. species of plants from which controlled substances  
21 in Schedules I and II or controlled substance analogs of  
22 substances listed in Schedules I and II may be derived [~~which~~]  
23 that have been planted or cultivated in violation of the  
24 Controlled Substances Act or of which the owners or cultivators  
25 are unknown or [~~which~~] that are wild growths may be seized and

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1 summarily forfeited to the state."

2 SECTION 78. Section 30-31B-2 NMSA 1978 (being Laws 1989,  
3 Chapter 177, Section 2, as amended) is amended to read:

4 "30-31B-2. DEFINITIONS.--As used in the Drug Precursor  
5 Act:

6 A. "administer" means the direct application of a  
7 controlled substance by any means to the body of a patient or  
8 research subject by a practitioner or the practitioner's agent;

9 B. "agent" includes an authorized person who acts on  
10 behalf of a manufacturer, distributor or dispenser. "Agent"  
11 does not include a common or contract carrier, public  
12 warehouseperson or employee of the carrier or warehouseperson;

13 C. "board" means the board of pharmacy;

14 D. "bureau" means the bureau of narcotics and  
15 dangerous drugs of the United States department of justice or  
16 its successor agency;

17 E. "controlled substance":

18 (1) means a drug or substance listed in  
19 Schedules I through V of the Controlled Substances Act or  
20 regulations adopted thereto; and

21 (2) does not include industrial hemp or  
22 marijuana for the purpose of or conduct in compliance with the  
23 Cannabis Revenue and Freedom Act;

24 F. "controlled substance analog" means a substance  
25 other than a controlled substance that has a chemical structure

1 substantially similar to that of a controlled substance in  
2 Schedule I, II, III, IV or V or that was specifically designed  
3 to produce effects substantially similar to that of controlled  
4 substances in Schedule I, II, III, IV or V. Examples of  
5 chemical classes in which controlled substance analogs are  
6 found include, but are not limited to, the following:

- 7 (1) phenethylamines;
- 8 (2) N-substituted piperidines;
- 9 (3) morphinans;
- 10 (4) ecgonines;
- 11 (5) quinazolinones;
- 12 (6) substituted indoles; and
- 13 (7) arylcycloalkylamines.

14 Specifically excluded from the definition of "controlled  
15 substance analog" are those substances that are generally  
16 recognized as safe and effective within the meaning of the  
17 Federal Food, Drug, and Cosmetic Act or have been manufactured,  
18 distributed or possessed in conformance with the provisions of  
19 an approved new drug application or an exemption for  
20 investigational use within the meaning of Section 505 of the  
21 Federal Food, Drug, and Cosmetic Act;

22 G. "deliver" means the actual, constructive or  
23 attempted transfer from one person to another of a controlled  
24 substance or controlled substance analog, whether or not there  
25 is an agency relationship;

underscoring material = new  
~~[bracketed material]~~ = delete

1           H. "dispense" means to deliver a controlled substance  
2 to an ultimate user or research subject pursuant to the lawful  
3 order of a practitioner, including the administering,  
4 prescribing, packaging, labeling or compounding necessary to  
5 prepare the controlled substance for that delivery;

6           I. "dispenser" means a practitioner who dispenses and  
7 includes hospitals, pharmacies and clinics where controlled  
8 substances are dispensed;

9           J. "distribute" means to deliver other than by  
10 administering or dispensing a controlled substance or  
11 controlled substance analog;

12           K. "drug" means substances recognized as drugs in the  
13 official United States pharmacopoeia, official homeopathic  
14 pharmacopoeia of the United States, official national formulary  
15 or any respective supplement to these publications. "Drug"  
16 does not include devices or their components, parts or  
17 accessories;

18           L. "drug precursor" means a substance, material,  
19 compound, mixture or preparation listed in Section 30-31B-3  
20 NMSA 1978 or regulations adopted thereto or any of their salts  
21 or isomers. "Drug precursor" specifically excludes those  
22 substances, materials, compounds, mixtures or preparations that  
23 are prepared for dispensing pursuant to a prescription or over-  
24 the-counter distribution as a substance that is generally  
25 recognized as safe and effective within the meaning of the

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1 Federal Food, Drug, and Cosmetic Act or have been manufactured,  
2 distributed or possessed in conformance with the provisions of  
3 an approved new drug application or an exemption for  
4 investigational use within the meaning of Section 505 of the  
5 Federal Food, Drug, and Cosmetic Act, unless the board makes  
6 the findings required pursuant to Subsection B of Section  
7 30-31B-4 NMSA 1978;

8 M. "immediate precursor" means a substance that is a  
9 compound commonly used or produced primarily as an immediate  
10 chemical intermediary used in the manufacture of a controlled  
11 substance, the control of which is necessary to prevent,  
12 curtail or limit the manufacture of controlled substances;

13 N. "license" means a license issued by the board to  
14 manufacture, possess, transfer or transport a drug precursor;

15 O. "manufacture" means the production, preparation,  
16 compounding, conversion or processing of a drug precursor by  
17 extraction from substances of natural origin, independently by  
18 means of chemical synthesis or by a combination of extraction  
19 and chemical synthesis and includes any packaging or  
20 repackaging of the substance or labeling or relabeling of its  
21 container, except that this term does not include the  
22 preparation or compounding of a controlled substance by a  
23 practitioner:

24 (1) as an incident to the practitioner's  
25 administering or dispensing of a controlled substance in the

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1 course of professional practice; or

2 (2) by the practitioner's agent under the  
3 practitioner's supervision for the purpose of or as an incident  
4 to research, teaching or chemical analysis and not for sale;

5 P. "person" includes an individual, sole  
6 proprietorship, partnership, corporation, association, the  
7 state or a political subdivision of the state or other legal  
8 entity;

9 Q. "possession" means to actively or constructively  
10 exercise dominion over;

11 R. "practitioner" means a physician, certified  
12 advanced practice chiropractic physician, dentist, veterinarian  
13 or other person licensed to prescribe and administer drugs that  
14 are subject to the Controlled Substances Act;

15 S. "prescription" means an order given individually  
16 for the person for whom is prescribed a controlled substance,  
17 either directly from the prescriber to the pharmacist or  
18 indirectly by means of a written order signed by the prescriber  
19 and in accordance with the Controlled Substances Act or  
20 regulations adopted thereto; and

21 T. "transfer" means the sale, possession with intent  
22 to sell, barter or giving away of a drug precursor."

23 **SECTION 79.** Section 47-8-3 NMSA 1978 (being Laws 1975,  
24 Chapter 38, Section 3, as amended) is amended to read:

25 "47-8-3. DEFINITIONS.--As used in the Uniform Owner-

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underscoring material = new  
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1 Resident Relations Act:

2 A. "abandonment" means absence of the resident from  
3 the dwelling, without notice to the owner, in excess of seven  
4 continuous days; providing such absence occurs only after rent  
5 for the dwelling unit is delinquent;

6 B. "action" includes recoupment, counterclaim, set-  
7 off, suit in equity and any other proceeding in which rights  
8 are determined, including an action for possession;

9 C. "amenity" means a facility appurtenance or area  
10 supplied by the owner and the absence of which would not  
11 materially affect the health and safety of the resident or the  
12 habitability of the dwelling unit;

13 D. "codes" includes building codes, housing codes,  
14 health and safety codes, sanitation codes and any law,  
15 ordinance or governmental regulation concerning fitness for  
16 habitation or the construction, maintenance, operation,  
17 occupancy or use of a dwelling unit;

18 E. "deposit" means an amount of currency or  
19 instrument delivered to the owner by the resident as a pledge  
20 to abide by terms and conditions of the rental agreement;

21 F. "dwelling unit" means a structure, mobile home or  
22 the part of a structure, including a hotel or motel, that is  
23 used as a home, residence or sleeping place by one person who  
24 maintains a household or by two or more persons who maintain a  
25 common household and includes a parcel of land leased by its

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1 owner for use as a site for the parking of a mobile home;

2 G. "eviction" means any action initiated by the owner  
3 to regain possession of a dwelling unit and use of the premises  
4 [~~under~~] pursuant to the terms of the Uniform Owner-Resident  
5 Relations Act;

6 H. "fair rental value" is that value that is  
7 comparable to the value established in the [~~market place~~]  
8 marketplace;

9 I. "good faith" means honesty in fact in the conduct  
10 of the transaction concerned as evidenced by all surrounding  
11 circumstances;

12 J. "normal wear and tear" means deterioration that  
13 occurs based upon the use for which the rental unit is  
14 intended, without negligence, carelessness, accident, abuse or  
15 intentional damage of the premises, equipment or chattels of  
16 the owner by the residents or by any other person in the  
17 dwelling unit or on the premises with the resident's consent;  
18 however, uncleanliness does not constitute normal wear and  
19 tear;

20 K. "organization" includes a corporation, government,  
21 governmental subdivision or agency thereof, business trust,  
22 estate, trust, partnership or association, two or more persons  
23 having a joint or common interest or any other legal or  
24 commercial entity;

25 L. "owner" means one or more persons, jointly or

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1 severally, in whom is vested:

2 (1) all or part of the legal title to property,  
3 but shall not include the limited partner in an association  
4 regulated ~~[under]~~ pursuant to the Uniform Revised Limited  
5 Partnership Act; or

6 (2) all or part of the beneficial ownership and  
7 a right to present use and enjoyment of the premises and agents  
8 thereof and includes a mortgagee in possession and the lessors,  
9 but shall not include a person or persons, jointly or  
10 severally, who as owner leases the entire premises to a lessee  
11 of vacant land for apartment use;

12 M. "person" includes an individual, corporation,  
13 entity or organization;

14 N. "premises" means facilities, facilities and  
15 appurtenances, areas and other facilities held out for use of  
16 the resident or whose use is promised to the resident  
17 coincidental with occupancy of a dwelling unit;

18 O. "rent" means payments in currency or in-kind  
19 ~~[under]~~ pursuant to terms and conditions of the rental  
20 agreement for use of a dwelling unit or premises, to be made to  
21 the owner by the resident, but does not include deposits;

22 P. "rental agreement" means all agreements between an  
23 owner and resident and valid rules and regulations adopted  
24 ~~[under]~~ pursuant to Section 47-8-23 NMSA 1978 embodying the  
25 terms and conditions concerning the use and occupancy of a

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1 dwelling unit or premises;

2 Q. "resident" means a person entitled [~~under~~]  
3 pursuant to a rental agreement to occupy a dwelling unit in  
4 peaceful possession to the exclusion of others and includes the  
5 owner of a mobile home renting premises, other than a lot or  
6 parcel in a mobile home park, for use as a site for the  
7 location of the mobile home;

8 R. "roomer" means a person occupying a dwelling unit  
9 that lacks a major bathroom or kitchen facility in a structure  
10 where one or more major facilities are used in common by  
11 occupants of the dwelling units. As referred to in this  
12 subsection, "major facility", in the case of a bathroom, means  
13 toilet and either a bath or shower and, in the case of a  
14 kitchen, means refrigerator, stove or sink;

15 S. "single family residence" means a structure  
16 maintained and used as a single dwelling unit. Notwithstanding  
17 that a dwelling unit shares one or more walls with another  
18 dwelling unit, it is a single family residence if it has direct  
19 access to a street or thoroughfare and shares neither heating  
20 facilities, hot water equipment nor any other essential  
21 facility or service with any other dwelling unit;

22 T. "substantial violation" means a violation of the  
23 rental agreement or rules and regulations by the resident or  
24 occurring with the resident's consent that occurs in the  
25 dwelling unit, on the premises or within three hundred feet of

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1 the premises and that excludes conduct that complies with the  
2 provisions of the Cannabis Revenue and Freedom Act, but  
3 includes the following conduct, which shall be the sole grounds  
4 for a substantial violation:

5 (1) possession, use, sale, distribution or  
6 manufacture of a controlled substance, excluding misdemeanor  
7 possession and use;

8 (2) unlawful use of a deadly weapon;

9 (3) unlawful action causing serious physical  
10 harm to another person;

11 (4) sexual assault or sexual molestation of  
12 another person;

13 (5) entry into the dwelling unit or vehicle of  
14 another person without that person's permission and with intent  
15 to commit theft or assault;

16 (6) theft or attempted theft of the property of  
17 another person by use or threatened use of force; or

18 (7) intentional or reckless damage to property  
19 in excess of one thousand dollars (\$1,000);

20 U. "term" is the period of occupancy specified in the  
21 rental agreement; and

22 V. "transient occupancy" means occupancy of a  
23 dwelling unit for which rent is paid on less than a weekly  
24 basis or where the resident has not manifested an intent to  
25 make the dwelling unit a residence or household."

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SECTION 80. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.