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HOUSE BILL 75

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

INTRODUCED BY

Bill McCamley

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REVENUE AND FREEDOM 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 SECTIONS OF LAW RELATED TO MARIJUANA; PROVIDING PENALTIES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1 through 65 of this act may be cited as the "Cannabis Revenue and Freedom Act".

SECTION 2. ~~[NEW MATERIAL]~~ PURPOSE.--The purpose of the Cannabis Revenue and Freedom Act is:

- A. to eliminate problems caused by the prohibition

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1 and uncontrolled manufacture, delivery and possession of
2 marijuana within New Mexico;

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

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

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

14 E. to establish a comprehensive regulatory
15 framework relating to marijuana; and

16 F. together with existing provisions of law, to
17 prevent:

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

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

22 (3) the diversion of marijuana from this state
23 to other states;

24 (4) legal marijuana activity from being used
25 as a cover or pretext for the trafficking of illegal drugs or

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1 for other illegal activity;

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

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

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

10 (8) the possession and use of marijuana on
11 federal property.

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

14 A. "agricultural hemp seed" means seed of the plant
15 of the genus Cannabis that meets any labeling, quality and
16 other standards established by the director of the New Mexico
17 department of agriculture and that is intended for sale or is
18 sold to or purchased by licensed growers 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 value that is
2 given or received directly or indirectly through sales, barter,
3 trade, fees, charges, dues, contributions or donations, but
4 does not mean value in homegrown marijuana or homemade
5 marijuana products that are grown or made by another person;

6 F. "grower" means a person, joint venture or
7 cooperative that produces industrial hemp;

8 G. "handler" means a person, joint venture or
9 cooperative that receives industrial hemp for processing into
10 commodities, products or 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 at the
22 location, including offices, kitchens, restrooms and
23 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 issued pursuant to the Cannabis Revenue and Freedom Act;

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

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

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

23 S. "marijuana flowers" means the flowers of the
24 marijuana plant, but does not mean any part of the plant other
25 than the flowers;

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1 T. "marijuana items" means marijuana, marijuana
2 products and marijuana extracts;

3 U. "marijuana leaves" means the leaves of the
4 marijuana plant, but does not mean any part of the plant other
5 than the leaves;

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

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

10 X. "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 Y. "marijuana retailer" means a person who sells
15 marijuana items to a consumer in this state;

16 Z. "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 AA. "mature marijuana plant" means a marijuana
20 plant that is not an immature marijuana plant;

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

24 CC. "person" means a natural person or another
25 legal entity;

1 DD. "processes":

2 (1) means:

3 (a) the processing, compounding or
4 conversion of marijuana into marijuana products or marijuana
5 extracts;

6 (b) the processing, compounding or
7 conservation of marijuana, either directly or indirectly, by
8 extraction from substances of natural origin, or independently
9 by means of chemical synthesis or by a combination of
10 extraction and chemical synthesis;

11 (c) the packaging or repackaging of
12 marijuana items; and

13 (d) the labeling or relabeling of a
14 package or container of marijuana items; and

15 (2) does not mean:

16 (a) the drying of marijuana by a
17 marijuana producer, if the marijuana producer is not otherwise
18 processing marijuana; or

19 (b) the packaging and labeling of
20 marijuana by a marijuana producer in preparation for delivery
21 to a marijuana processor;

22 EE. "produces" means the manufacture, planting,
23 cultivation, growing or harvesting of marijuana, but does not
24 include:

25 (1) the drying of marijuana by a marijuana

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1 processor, if the marijuana processor is not otherwise
2 producing marijuana; or

3 (2) the cultivation and growing of an immature
4 marijuana plant by a marijuana processor, marijuana wholesaler
5 or marijuana retailer if the marijuana processor, marijuana
6 wholesaler or marijuana retailer purchased or otherwise
7 received the plant from a licensed marijuana producer;

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

15 GG. "usable marijuana" means dried marijuana
16 flowers and dried marijuana leaves and any mixture or
17 preparation of those flowers or leaves.

18 SECTION 4. [NEW MATERIAL] LIMITATIONS--EXEMPTIONS--
19 PERMISSIBLE CONDUCT.--

20 A. The Cannabis Revenue and Freedom Act shall not
21 be construed to:

22 (1) amend or affect in any way any state or
23 federal law pertaining to employment matters;

24 (2) amend or affect in any way any state or
25 federal law pertaining to landlord-tenant matters;

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1 (3) prohibit a recipient of a federal grant or
2 an applicant for a federal grant from prohibiting the
3 manufacture, delivery, possession or use of marijuana to the
4 extent necessary to satisfy federal requirements for the grant;

5 (4) prohibit a party to a federal contract or
6 a person applying to be a party to a federal contract from
7 prohibiting the manufacture, delivery, possession or use of
8 marijuana to the extent necessary to comply with the terms and
9 conditions of the contract or to satisfy federal requirements
10 for the contract;

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

12 (6) exempt a person from a federal law or
13 obstruct the enforcement of a federal law; or

14 (7) amend or affect in any way the Lynn and
15 Erin Compassionate Use Act.

16 B. The Cannabis Revenue and Freedom Act shall not
17 apply to the:

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

24 (2) making, processing, keeping or storing of
25 homemade marijuana products at a household by one or more

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1 persons who are twenty-one years of age or older, if the total
2 of homemade marijuana products at the household does not exceed
3 sixteen ounces in solid form at any given time;

4 (3) making, processing, keeping or storing of
5 homemade marijuana products at a household by one or more
6 persons who are twenty-one years of age or older, if the total
7 of homemade marijuana products at the household does not exceed
8 seventy-two ounces in liquid form at any given time;

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

13 (5) delivery of not more than sixteen ounces
14 of homemade marijuana products in solid form at any given time
15 by a person who is twenty-one years of age or older to another
16 person who is twenty-one years of age or older for
17 noncommercial purposes; or

18 (6) the delivery of not more than seventy-two
19 ounces of homemade marijuana products in liquid form at any
20 given time by a person who is twenty-one years of age or older
21 to another person who is twenty-one years of age or older for
22 noncommercial purposes.

23 C. The Cannabis Revenue and Freedom Act shall not:

24 (1) apply to a person, to the extent that a
25 person acts within the scope of and in compliance with the Lynn

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1 and Erin Compassionate Use Act; or

2 (2) amend or affect the function, duties and
3 powers of the department of health pursuant to the Lynn and
4 Erin Compassionate Use Act.

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

6 A. Except as provided in the Lynn and Erin
7 Compassionate Use Act, the department's jurisdiction,
8 supervision, powers and duties pursuant to the Cannabis Revenue
9 and Freedom Act extend to any person who buys, sells, produces,
10 processes, transports or delivers any marijuana items within
11 this state. The department may sue and be sued as provided by
12 law.

13 B. The department shall:

14 (1) regulate the purchase, sale, production,
15 processing, transportation and delivery of marijuana items in
16 accordance with the provisions of the Cannabis Revenue and
17 Freedom Act;

18 (2) grant, refuse, suspend or cancel licenses
19 for the sale, production or processing of marijuana items and
20 other licenses related to marijuana items;

21 (3) investigate and assist with the
22 prosecution of violations of state law related to marijuana
23 items;

24 (4) in consultation with the New Mexico
25 department of agriculture, the department of health and the

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1 taxation and revenue department, adopt rules and prescribe
2 forms necessary to implement the provisions of the Cannabis
3 Revenue and Freedom Act;

4 (5) promulgate rules that:

5 (a) prohibit the advertisement, in or by
6 any medium, of marijuana items by producers, processors,
7 wholesalers or retailers of marijuana items;

8 (b) require documentation of the source
9 of production for all marijuana items; and

10 (c) require all marijuana items to be
11 labeled with the items' tetrahydrocannabinol concentration;

12 (6) regulate the use of marijuana items for
13 scientific, pharmaceutical, manufacturing, mechanical,
14 industrial and other purposes; and

15 (7) on or before January 1, 2017:

16 (a) examine available research and
17 conduct or commission any additional necessary research to
18 investigate the influence of marijuana on a person's ability to
19 drive a vehicle and on the concentration of delta-9
20 tetrahydrocannabinol in a person's blood, taking into account
21 all relevant factors; and

22 (b) present the results of the
23 department's examination to the appropriate legislative interim
24 committees and make recommendations to the legislature
25 regarding any appropriate amendments to the Motor Vehicle Code.

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1 C. The department may:

2 (1) allow the transfer of a license issued by
3 the department pursuant to the Cannabis Revenue and Freedom
4 Act; and

5 (2) for the purpose of preventing the resale
6 of marijuana items, limit the quantity of marijuana items
7 purchased at any one time by a consumer.

8 D. The department shall not purchase, own, sell or
9 possess any marijuana items.

10 SECTION 6. [NEW MATERIAL] TAXATION AND REVENUE

11 DEPARTMENT--DUTIES.--The taxation and revenue department shall:

12 A. assist and cooperate with the department, the
13 New Mexico department of agriculture and the department of
14 health to the extent necessary for each department to carry out
15 powers and duties pursuant to the Cannabis Revenue and Freedom
16 Act;

17 B. promulgate rules to implement the taxation
18 provisions of the Cannabis Revenue and Freedom Act, including
19 rules that provide for the taxation and revenue department to
20 issue devices to record the payment of taxes and duties
21 pursuant to that act; and

22 C. collect the taxes and duties imposed pursuant to
23 that act.

24 SECTION 7. [NEW MATERIAL] NEW MEXICO DEPARTMENT OF

25 AGRICULTURE--DUTIES.--

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- 1 A. The New Mexico department of agriculture shall:
- 2 (1) assist and cooperate with the department,
- 3 the department of health and the taxation and revenue
- 4 department to the extent necessary for each department to carry
- 5 out powers and duties pursuant to the Cannabis Revenue and
- 6 Freedom Act;
- 7 (2) regulate industrial hemp production and
- 8 possession and regulate commerce in industrial hemp commodities
- 9 and products in this state;
- 10 (3) promulgate rules necessary to carry out
- 11 duties pursuant to that act;
- 12 (4) issue industrial hemp licenses and
- 13 agricultural hemp seed production permits; and
- 14 (5) make information that identifies sellers
- 15 of agricultural hemp seed available to growers.

16 B. The New Mexico department of agriculture shall

17 not impose a civil penalty pursuant to the Cannabis Revenue and

18 Freedom Act that exceeds two thousand five hundred dollars

19 (\$2,500). The provisions of the Administrative Procedures Act

20 shall apply when the New Mexico department of agriculture

21 imposes a penalty pursuant to the Cannabis Revenue and Freedom

22 Act.

23 C. The New Mexico department of agriculture may:

24 (1) with at least three days' notice and

25 during normal business hours, inspect or audit records required

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1 to be kept by growers and handlers for the purpose of ensuring
2 compliance with:

3 (a) provisions of the Cannabis Revenue
4 and Freedom Act;

5 (b) rules promulgated by the New Mexico
6 department of agriculture;

7 (c) industrial hemp license or
8 agricultural hemp seed production permit requirements; or

9 (d) orders by the New Mexico department
10 of agriculture regarding growers' or handlers' operations or
11 activities;

12 (2) inspect any crop during the crop growth
13 phase and take a representative composite sample for field
14 analysis;

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

18 (4) charge growers and handlers reasonable
19 fees;

20 (5) revoke or refuse to issue or renew an
21 industrial hemp license or an agricultural hemp seed production
22 permit for a violation of the Cannabis Revenue and Freedom Act;

23 (6) impose a civil penalty for a violation
24 of:

25 (a) a license or permit requirement,

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1 term or condition;

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

4 (c) orders by the New Mexico department
5 of agriculture regarding growers' or handlers' operations or
6 activities; and

7 (7) revoke or refuse to issue or renew an
8 industrial hemp license or an agricultural hemp seed production
9 permit for violation of any New Mexico department of
10 agriculture rule relating to agricultural operations or
11 activities other than those that relate to industrial hemp
12 growing or handling.

13 SECTION 8. [NEW MATERIAL] DEPARTMENT OF HEALTH--
14 DUTIES.--The department of health shall assist and cooperate
15 with the department, the New Mexico department of agriculture
16 and the taxation and revenue department to the extent necessary
17 for each department to carry out powers and duties pursuant to
18 the Cannabis Revenue and Freedom Act.

19 SECTION 9. [NEW MATERIAL] NO LIABILITY FOR OFFICIAL
20 ACTS.--Except as provided by law, the department, the taxation
21 and revenue department, the department of health and the New
22 Mexico department of agriculture shall not be sued for
23 performing or failing to perform duties pursuant to the
24 Cannabis Revenue and Freedom Act.

25 SECTION 10. [NEW MATERIAL] FEDERAL LAW--DUTIES--

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1 CONTRACTS.--

2 A. The department, the taxation and revenue
3 department, the department of health and the New Mexico
4 department of agriculture shall not refuse to perform any duty
5 required pursuant to the Cannabis Revenue and Freedom Act on
6 the basis that manufacturing, distributing, dispensing,
7 possessing or using marijuana is prohibited by federal law.

8 B. The department and the New Mexico department of
9 agriculture shall not revoke or refuse to issue or renew a
10 license or permit provided for in the Cannabis Revenue and
11 Freedom Act on the basis that manufacturing, distributing,
12 dispensing, possessing or using marijuana is prohibited by
13 federal law.

14 C. No contract shall be unenforceable on the basis
15 that manufacturing, distributing, dispensing, possessing or
16 using marijuana is prohibited by federal law.

17 SECTION 11. [NEW MATERIAL] INDUSTRIAL HEMP LICENSE--
18 AGRICULTURAL HEMP SEED PRODUCTION PERMIT.--

19 A. Industrial hemp production and possession and
20 commerce in industrial hemp commodities and products are
21 authorized in New Mexico. Industrial hemp and agricultural
22 hemp seed are deemed to be an agricultural product that is
23 subject to regulation by the New Mexico department of
24 agriculture.

25 B. All growers and handlers shall obtain an

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1 industrial hemp license issued by the New Mexico department of
2 agriculture. A grower or handler who is engaged in the
3 production of agricultural hemp seed shall also obtain an
4 agricultural hemp seed production permit issued by the New
5 Mexico department of agriculture.

6 C. A person who seeks a license or permit pursuant
7 to this section shall submit an application to the New Mexico
8 department of agriculture that includes:

9 (1) the applicant's name and address;

10 (2) the name and address of the applicant's
11 industrial hemp operation;

12 (3) the latitude and longitude and legal
13 description for the property being used for industrial hemp
14 production;

15 (4) if the industrial hemp license or the
16 agricultural hemp seed production permit application is
17 submitted by a grower, information sufficient to establish that
18 the applicant's crop will be at least two and one-half acres in
19 size; and

20 (5) any other information required to be
21 included pursuant to department of agriculture rules.

22 D. An industrial hemp license or agricultural hemp
23 seed production permit is valid for three years and may be
24 renewed as provided by New Mexico department of agriculture
25 rule. The license or permit is a personal privilege that is

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1 not transferable.

2 E. An agricultural hemp seed production permit
3 allows a grower or handler to produce and handle agricultural
4 hemp seed for sale to licensed industrial hemp growers and
5 handlers. An agricultural hemp seed seller shall ensure that
6 the seller's seed complies with standards established by the
7 New Mexico department of agriculture.

8 F. Subject to New Mexico department of agriculture
9 rules, a grower may retain seed from each crop to ensure a
10 sufficient seed supply for the grower's use in the following
11 year. A grower shall not be required to hold an agricultural
12 hemp seed production permit to retain seed for future planting.
13 Seed retained by a grower shall not be sold or transferred and
14 shall not be required to meet New Mexico department of
15 agriculture standards relating to agricultural hemp seed.

16 G. The Administrative Procedures Act shall apply to
17 the revocation of or refusal to issue or renew an industrial
18 hemp license or an agricultural hemp seed production permit.

19 H. The New Mexico department of agriculture shall
20 not revoke or refuse to issue or renew an industrial hemp
21 license or an agricultural hemp seed production permit on the
22 basis that industrial hemp production or possession or commerce
23 in industrial hemp commodities or products is prohibited by
24 federal law.

25 SECTION 12. [NEW MATERIAL] LICENSEES--LICENSEE

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1 REPRESENTATIVES.--A licensee or a licensee representative may
2 produce, deliver and possess marijuana items subject to the
3 provisions of the Cannabis Revenue and Freedom Act. The
4 production, delivery and possession of marijuana items by a
5 licensee or a licensee representative in compliance with that
6 act shall not constitute a criminal or civil offense pursuant
7 to New Mexico law.

8 SECTION 13. [NEW MATERIAL] PURCHASER QUALIFICATIONS AND
9 IDENTIFICATION--DEFENSE.--

10 A. A licensee or licensee representative shall not
11 sell or deliver marijuana items to a person who is younger than
12 twenty-one years of age.

13 B. If there is a reasonable doubt that a person is
14 twenty-one years of age or older, before selling or serving
15 marijuana items to the person, all licensees and licensee
16 representatives shall require the person to produce one of the
17 following forms of identification:

- 18 (1) the person's passport;
- 19 (2) the person's motor vehicle operator's
20 license that includes a photograph of the person, whether
21 issued in this state or in another state;
- 22 (3) an identification card issued by the motor
23 vehicle division of the taxation and revenue department;
- 24 (4) a United States military identification
25 card; or

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

- 4 (a) photograph;
- 5 (b) name;
- 6 (c) date of birth; and
- 7 (d) physical description.

8 C. A person shall not produce a form of
9 identification as required by the Cannabis Revenue and Freedom
10 Act that falsely indicates the person's age.

11 D. In an administrative or criminal prosecution of
12 a licensee or licensee representative for the sale or service
13 of marijuana items to a person younger than twenty-one years of
14 age, the licensee or licensee representative shall not be found
15 to have committed the relevant crime or violation unless it is
16 demonstrated in the administrative or criminal proceeding that
17 a reasonable person would have determined that the
18 identification shown to the licensee or licensee representative
19 and that is offered as evidence in the prosecution was altered
20 or did not accurately describe the person to whom the licensee
21 or licensee representative sold or served marijuana items.

22 SECTION 14. [NEW MATERIAL] DEPARTMENT LICENSING
23 DUTIES.--The department shall:

24 A. beginning July 1, 2018, accept applications for
25 licenses to produce, process and sell marijuana within the

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1 state;

2 B. give priority consideration to applications
3 received on and after July 1, 2018 from applicants who are
4 currently licensed pursuant to the Lynn and Erin Compassionate
5 Use Act and who wish to also be licensed pursuant to the
6 Cannabis Revenue and Freedom Act;

7 C. issue licenses provided for by the Cannabis
8 Revenue and Freedom Act, subject to the provisions of that act
9 and rules promulgated pursuant to that act;

10 D. not unreasonably delay the processing, granting
11 or refusal of applications or the issuance of licenses; and

12 E. not approve a licensed premises that does not
13 have defined boundaries or a licensed premises that is mobile;
14 provided that the department may require that a licensed
15 premises be enclosed by a wall, fence or other structure as a
16 condition of issuing or renewing a license.

17 SECTION 15. [NEW MATERIAL] PRODUCTION LICENSE.--The
18 department shall regulate the production of marijuana. A
19 marijuana producer shall possess a production license issued by
20 the department for the licensed premises at which the marijuana
21 is produced.

22 SECTION 16. [NEW MATERIAL] PROCESSOR LICENSE.--The
23 department shall regulate the processing of marijuana items. A
24 marijuana processor shall possess a processor license issued by
25 the department for the licensed premises at which marijuana

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1 items are processed.

2 SECTION 17. [NEW MATERIAL] WHOLESALE LICENSE.--The
3 department shall regulate the wholesale sale of marijuana
4 items. A marijuana wholesaler shall possess a wholesale
5 license issued by the department for the licensed premises at
6 which marijuana items are received, kept, stored or delivered.

7 SECTION 18. [NEW MATERIAL] RETAIL LICENSE.--The
8 department shall regulate the retail sale of marijuana items.
9 A marijuana retailer shall possess a retail license issued by
10 the department for the licensed premises on which marijuana
11 items are sold.

12 SECTION 19. [NEW MATERIAL] INSPECTION OF LICENSEE BOOKS
13 AND LICENSED PREMISES.--

- 14 A. The department may:
- 15 (1) after seventy-two hours' notice to the
 - 16 owner or the owner's agent, inspect a licensee's books; and
 - 17 (2) at any time, inspect the licensed premises
 - 18 of a licensee to determine whether the licensee is in
 - 19 compliance with the provisions of the Cannabis Revenue and
 - 20 Freedom Act and rules promulgated pursuant to that act.

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

23 SECTION 20. [NEW MATERIAL] MULTIPLE LICENSES.--A person
24 may hold more than one production license, processor license,
25 wholesale license and retail license.

1 SECTION 21. [NEW MATERIAL] CHARACTERISTICS OF A

2 LICENSE.--

3 A. A license issued by the department pursuant to
4 the Cannabis Revenue and Freedom Act shall:

5 (1) be a purely personal privilege;

6 (2) be valid only for the period stated on the
7 license;

8 (3) be renewed in the manner provided in
9 Section 24 of the Cannabis Revenue and Freedom Act;

10 (4) be revoked or suspended as provided in
11 Section 26 of the Cannabis Revenue and Freedom Act;

12 (5) be transferred from the licensed premises
13 for which the license was originally issued to another location
14 only as provided for in the Cannabis Revenue and Freedom Act,
15 rules promulgated pursuant to that act and any relevant
16 municipal ordinance or local regulation;

17 (6) be void upon the licensee's death, except
18 as provided in Subsection B of this section;

19 (7) not constitute property;

20 (8) not be alienable;

21 (9) not be subject to attachment or execution;

22 and

23 (10) not descend by the laws of testate or
24 intestate devolution.

25 B. The department may provide for procedures and

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1 conditions under which:

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

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

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

14 SECTION 22. [NEW MATERIAL] LICENSE TERMS.--

15 A. Except as otherwise provided in this section,
16 all licenses issued or renewed by the department pursuant to
17 the Cannabis Revenue and Freedom Act shall be issued or renewed
18 for a period of one year.

19 B. Notwithstanding Subsection A of this section, a
20 license that is issued for the first time to an applicant may
21 be issued for less than one year. The fee for a license that
22 is issued for less than one year shall be the annual license
23 fee provided in Section 24 of the Cannabis Revenue and Freedom
24 Act.

25 SECTION 23. [NEW MATERIAL] DELIVERY OF MARIJUANA.--A

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1 marijuana producer, marijuana processor and marijuana
2 wholesaler shall deliver marijuana items only to or on a
3 licensed premises. The sale of marijuana items pursuant to a
4 retail license shall be restricted to sales made on the
5 licensed premises described in the license; provided that
6 deliveries may be made by the marijuana retailer to consumers
7 pursuant to bona fide orders received on the licensed premises
8 prior to delivery.

9 SECTION 24. [NEW MATERIAL] LICENSE APPLICATION--RULES--
10 FEES.--

11 A. An application for a new or renewed license
12 issued by the department pursuant to the Cannabis Revenue and
13 Freedom Act shall be submitted to the department upon an
14 application form provided by the department. 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 the department may require.

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

22 C. The department may deny an application that is
23 not submitted on the form provided by the department. The
24 department shall provide an applicant whose application is
25 denied pursuant to this subsection an opportunity to be heard.

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1 A hearing held pursuant to this subsection is not subject to
2 the Administrative Procedures Act.

3 D. Notwithstanding the provisions of Subsection B
4 of this section, the department's revocation of or refusal to
5 issue or renew a license is subject to the Administrative
6 Procedures Act.

7 E. The department shall assess a nonrefundable fee
8 not greater than five hundred dollars (\$500) for processing an
9 application for a new or renewal license.

10 F. The department shall charge an annual license
11 fee of not more than two thousand dollars (\$2,000) for a
12 license issued pursuant to the Cannabis Revenue and Freedom
13 Act. The annual license fee is nonrefundable and shall be paid
14 by an applicant upon the issuance of a license.

15 SECTION 25. [NEW MATERIAL] GROUNDS FOR REFUSING A
16 LICENSE.--

17 A. The department shall not issue a license to any
18 applicant who is younger than twenty-one years of age.

19 B. The department may refuse to issue a license to
20 an applicant if the department reasonably believes:

21 (1) that there are sufficient licensed
22 premises in the locality set out in the application, or that
23 issuing a license in the locality set out in the application is
24 not demanded by public interest or convenience. In determining
25 whether there is a sufficient number of licensed premises in a

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1 locality, the department shall consider seasonal fluctuations
2 in the locality's population and the needs of the locality
3 during the peak seasons; or

4 (2) that the applicant:

5 (a) uses alcoholic beverages, habit-
6 forming drugs, marijuana or controlled substances to excess;

7 (b) has made false statements to the
8 department;

9 (c) is incompetent or otherwise unable
10 to carry on the management of the establishment proposed to be
11 licensed;

12 (d) notwithstanding Subsection C of this
13 section, has been convicted of violating a federal law or the
14 law of any state or any local government, if the conviction is
15 substantially related to the applicant's fitness and ability to
16 lawfully carry out activities pursuant to the license;

17 (e) has failed to maintain a sanitary
18 establishment;

19 (f) is not of good repute and moral
20 character;

21 (g) has a record of noncompliance with
22 the Cannabis Revenue and Freedom Act or rules promulgated
23 pursuant to that act;

24 (h) is not the owner of the business
25 proposed to be licensed, or that additional ownership interests

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1 in the business proposed to be licensed have not been
2 disclosed;

3 (i) has not demonstrated the financial
4 responsibility necessary for the business proposed to be
5 licensed; or

6 (j) is unable to understand provisions
7 of the Cannabis Revenue and Freedom Act or other laws or rules
8 relating to marijuana.

9 C. Notwithstanding Subparagraph (d) of Paragraph
10 (2) of Subsection B of this section, in determining whether the
11 department may refuse to issue a license to an applicant, the
12 department shall not consider the prior conviction of the
13 applicant or any owner, director, officer, manager, employee,
14 agent or other representative of the applicant for:

15 (1) the manufacture of marijuana, if:

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

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

20 (2) the delivery of marijuana to a person who
21 is twenty-one years of age or older, if:

22 (a) the date of the conviction is
23 greater than five years before the date of the application; and

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

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1 (3) the possession of marijuana.

2 SECTION 26. [NEW MATERIAL] GROUNDS FOR REVOKING OR
3 SUSPENDING A LICENSE.--The department may revoke or suspend a
4 license if the department finds or reasonably believes:

5 A. that the licensee:

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

9 (2) has made a false representation or
10 statement to the department to induce or prevent action by the
11 department;

12 (3) has maintained an unsanitary
13 establishment;

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

16 (5) uses alcoholic beverages, habit-forming
17 drugs, marijuana or controlled substances to excess;

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

20 (7) after receiving a license, is convicted of
21 a felony or of violating any state law relating to marijuana or
22 convicted of a misdemeanor or violation of a municipal
23 ordinance, if that violation is committed on the licensed
24 premises; or

25 B. that there is any other reason that, in the

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1 department's opinion and based on public convenience or
2 necessity, warrants canceling or suspending a license.

3 SECTION 27. [NEW MATERIAL] TAXATION PROVISIONS--
4 ADMINISTRATION.--The taxation and revenue department shall
5 administer the taxation provisions of the Cannabis Revenue and
6 Freedom Act and shall prescribe forms and promulgate rules
7 necessary to implement those provisions.

8 SECTION 28. [NEW MATERIAL] DEFINITION OF "SALE" AND
9 "SOLD"--TAXATION PROVISIONS.--

10 A. As used in the taxation provisions of the
11 Cannabis Revenue and Freedom Act, "sale" and "sold" mean a
12 transfer, exchange or barter, in any manner or by any means,
13 and includes:

- 14 (1) sales made by any person; and
- 15 (2) a gift by a person who is engaged in the
16 business of selling marijuana for advertising, as a means of
17 evading tax provisions of the Cannabis Revenue and Freedom Act
18 or for any other purpose.

19 B. If a marijuana producer also holds one or more
20 processor licenses, wholesale licenses or retail licenses, a
21 sale of marijuana flowers, marijuana leaves or immature
22 marijuana plants will be deemed to occur if and when the
23 marijuana producer processes or takes any other action in
24 connection with the marijuana flowers, marijuana leaves or
25 immature marijuana plants for which a processor license,

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1 wholesale license or retail license is required, regardless of
2 whether the marijuana producer continues to own or possess the
3 marijuana flowers, marijuana leaves or immature marijuana
4 plants.

5 SECTION 29. [NEW MATERIAL] TAX ON MARIJUANA.--

6 A. A tax is imposed upon the privilege of engaging
7 in business as a marijuana producer at the rate of:

8 (1) thirty-five dollars (\$35.00) per ounce on
9 all marijuana flowers;

10 (2) ten dollars (\$10.00) per ounce on all
11 marijuana leaves; and

12 (3) five dollars (\$5.00) per immature
13 marijuana plant.

14 B. The rates of tax imposed by this section upon
15 marijuana flowers and marijuana leaves apply proportionately to
16 quantities of less than one ounce.

17 C. The tax imposed by this section shall be
18 measured by the quantities of marijuana flowers, marijuana
19 leaves and immature marijuana plants produced and sold by a
20 marijuana producer. The taxes specified in this section shall
21 be levied and assessed to the marijuana producer at the time of
22 the first sale of the marijuana flowers, marijuana leaves and
23 immature marijuana plants by the marijuana producer.

24 D. Beginning July 1, 2019 and every odd-numbered
25 year thereafter on July 1, the rates of tax provided in

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1 Subsection A of this section shall be adjusted for any increase
2 in the cost of living. The taxation and revenue department
3 shall compute the rates for each biennium by adding to each
4 rate in Subsection A of this section the product obtained by
5 multiplying each rate by a factor that is equal to twenty-five
6 hundredths multiplied by the percentage, if any, by which the
7 monthly averaged United States city average consumer price
8 index for the twelve consecutive months ending May 1 of the
9 prior calendar year exceeds the monthly averaged United States
10 city average consumer price index for the twelve consecutive
11 months ending May 1 of the current year. For a year in which
12 the rates are revised, the taxation and revenue department
13 shall publish the revised rates by July 1.

14 E. The taxation and revenue department shall
15 regularly review the rates of tax provided in Subsection A of
16 this section and shall make recommendations to the legislature
17 regarding appropriate adjustments to the rates that will:

- 18 (1) maximize net revenue;
- 19 (2) minimize the illegal marijuana industry;
- 20 and
- 21 (3) discourage the use of marijuana by persons
22 who are younger than twenty-one years of age.

23 SECTION 30. [NEW MATERIAL] PAYMENT OF TAXES--REFUNDS--
24 INTEREST OR PENALTY--LIMITATIONS--APPEALS.--

25 A. The tax imposed by the Cannabis Revenue and

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1 Freedom Act shall be paid to the taxation and revenue
2 department. The taxes covering the periods for which
3 statements are required to be rendered pursuant to that act
4 shall be paid before the time for filing the statements
5 expires. If those taxes are not paid, a penalty of ten percent
6 and interest at the rate of one percent per month or fraction
7 of a month shall be added to the amount owed and shall be
8 collected. The taxation and revenue department may refund a
9 tax payment imposed upon or paid in error by a licensee.

10 B. The taxation and revenue department may waive
11 interest or a penalty that is assessed to a marijuana producer
12 who is subject to the tax imposed pursuant to the Cannabis
13 Revenue and Freedom Act if that department, in its discretion,
14 determines that the marijuana producer has made a good faith
15 attempt to comply with the requirements of that act.

16 C. Except in the case of fraud, the taxation and
17 revenue department shall not assess any interest or penalty on
18 tax due pursuant to the Cannabis Revenue and Freedom Act
19 following the expiration of thirty-six months from the date of
20 filing of the statement required pursuant to Section 31 of the
21 Cannabis Revenue and Freedom Act that reports the quantities of
22 marijuana flowers, marijuana leaves and immature marijuana
23 plants upon which the tax is due.

24 D. A marijuana producer may appeal a tax imposed
25 pursuant to the Cannabis Revenue and Freedom Act in the manner

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1 provided in the Tax Administration Act.

2 SECTION 31. [NEW MATERIAL] QUANTITIES SOLD--REQUIRED
3 STATEMENT--FAILURE TO FILE STATEMENT--FALSE STATEMENTS.--

4 A. On or before the twentieth day of each month, a
5 marijuana producer shall file with the taxation and revenue
6 department a statement of the quantities of marijuana flowers,
7 marijuana leaves and immature marijuana plants sold by the
8 marijuana producer during the preceding calendar month.

9 B. If a marijuana producer fails, neglects or
10 refuses to file a statement required pursuant to this section
11 or if a marijuana producer files a false statement, the
12 taxation and revenue department shall estimate the quantities
13 of marijuana flowers, marijuana leaves and immature marijuana
14 plants sold by the marijuana producer and assess privilege
15 taxes based on that estimate. The marijuana producer shall
16 have no right to challenge the taxation and revenue
17 department's estimate or the taxes assessed on that estimate
18 following the marijuana producer's failure to comply with this
19 section.

20 SECTION 32. [NEW MATERIAL] TAX LIEN.--The privilege tax
21 required to be paid pursuant to the Cannabis Revenue and
22 Freedom Act constitutes a lien upon, and has the effect of an
23 execution duly levied against, any and all property of a
24 marijuana producer that attaches at the time the marijuana
25 flowers, marijuana leaves and immature marijuana plants subject

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1 to the tax are sold, and the lien remains in place until the
2 tax is paid. The lien created by this section is paramount to
3 all private liens or encumbrances.

4 SECTION 33. [NEW MATERIAL] RECORDS TO BE KEPT BY
5 MARIJUANA PRODUCERS.--

6 A. Every marijuana producer shall keep a complete
7 and accurate record of:

8 (1) all sales of marijuana flowers, marijuana
9 leaves and immature marijuana plants;

10 (2) the number of ounces of marijuana flowers
11 produced, the number of ounces of marijuana leaves produced,
12 the number of immature marijuana plants produced and the dates
13 of production for the marijuana flowers, marijuana leaves and
14 immature marijuana plants produced; and

15 (3) any other information required to be
16 recorded by the department.

17 B. The records required pursuant to Subsection A of
18 this section shall be in a form prescribed by the taxation and
19 revenue department.

20 SECTION 34. [NEW MATERIAL] INSPECTION AND MAINTENANCE OF
21 RECORDS.--

22 A. The taxation and revenue department may, at any
23 time:

24 (1) examine the books and records of a
25 marijuana producer; and

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1 (2) may appoint auditors, investigators
2 and other employees that the taxation and revenue department
3 considers necessary to assist it in performing its duties
4 pursuant to the Cannabis Revenue and Freedom Act.

5 B. Every marijuana producer shall:

6 (1) maintain and keep for two years all
7 records, books and accounts required to be maintained and kept
8 pursuant to the Cannabis Revenue and Freedom Act; and

9 (2) provide copies of those records, books and
10 accounts to the taxation and revenue department upon request.

11 SECTION 35. [NEW MATERIAL] FAILURE TO PAY TAX OR MAINTAIN
12 RECORDS.--

13 A. A marijuana producer shall not:

14 (1) fail to pay the privilege tax required
15 pursuant to the Cannabis Revenue and Freedom Act when it is
16 due; or

17 (2) falsify a statement required to be made
18 pursuant to the Cannabis Revenue and Freedom Act. A violation
19 of this subsection shall constitute a petty misdemeanor.

20 B. No person shall:

21 (1) refuse to allow the taxation and revenue
22 department or its representatives to make an inspection of the
23 books and records as authorized by the Cannabis Revenue and
24 Freedom Act;

25 (2) fail to keep books of account as

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1 prescribed by the taxation and revenue department or as
2 required by the Cannabis Revenue and Freedom Act;

3 (3) fail to keep those books for two years for
4 inspection by the taxation and revenue department; or

5 (4) alter, cancel or obliterate entries in
6 books of account for the purpose of falsifying a record that is
7 required to be made, maintained or kept pursuant to the
8 Cannabis Revenue and Freedom Act.

9 SECTION 36. [NEW MATERIAL] INTERSTATE AND FOREIGN
10 COMMERCE--APPLICABILITY.--The tax provisions of the Cannabis
11 Revenue and Freedom Act do not apply to commerce with foreign
12 nations or to commerce with the several states, except as
13 provided for by the United States constitution and the laws of
14 the United States.

15 SECTION 37. [NEW MATERIAL] EXCLUSIVE RIGHT TO TAX
16 MARIJUANA.--No county or city of this state shall impose a fee
17 or tax, including occupation taxes, privilege taxes and
18 inspection fees, in connection with the purchase, sale,
19 production, processing, transportation or delivery of marijuana
20 items.

21 SECTION 38. [NEW MATERIAL] CANNABIS ADMINISTRATION
22 FUND.--The "cannabis administration fund" is created as a
23 nonreverting fund in the state treasury. The fund consists of
24 appropriations, license fees, charges and fines that are
25 collected by the department pursuant to the Cannabis Revenue

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1 and Freedom Act and that are deposited into the fund and money
2 otherwise accruing to the fund. Money in the fund is
3 appropriated to the department for the purpose of carrying out
4 the department's duties pursuant to the Cannabis Revenue and
5 Freedom Act. Money in the fund shall be disbursed on warrants
6 signed by the secretary of finance and administration pursuant
7 to vouchers signed by the superintendent of regulation and
8 licensing or the superintendent's authorized representative.
9 Any balance that remains in the fund at the end of each fiscal
10 year and that exceeds two hundred fifty thousand dollars
11 (\$250,000) shall be credited to the cannabis revenue fund.

12 SECTION 39. [NEW MATERIAL] CANNABIS REVENUE FUND.--

13 A. The "cannabis revenue fund" is created in the
14 state treasury. The fund consists of appropriations, taxes and
15 fines and other money collected by the taxation and revenue
16 department pursuant to the Cannabis Revenue and Freedom Act and
17 deposited in the fund and money otherwise accruing to the fund.

18 B. Money in the fund is appropriated to the
19 taxation and revenue department for the purpose of carrying out
20 its duties pursuant to the Cannabis Revenue and Freedom Act.
21 At the end of each month, the taxation and revenue department
22 shall certify the amount of money in the fund that is available
23 for distribution and, after withholding an amount that the
24 taxation and revenue department determines is necessary to
25 carry out its duties pursuant to the Cannabis Revenue and

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1 Freedom Act, shall, within thirty-five days of the month for
2 which a distribution is made, distribute the money available
3 for distribution as follows:

4 (1) forty percent to the general fund for
5 distribution through the state equalization guarantee pursuant
6 to the Public School Finance Act;

7 (2) twenty-five percent to the department of
8 health to establish, operate and maintain alcohol and substance
9 abuse prevention, early intervention and treatment and related
10 mental health services;

11 (3) fifteen percent to the department of
12 public safety for state police expenses;

13 (4) ten percent to the state's municipalities
14 to assist local law enforcement in performing duties related to
15 the Cannabis Revenue and Freedom Act, distributed as follows:

16 (a) one-half to municipalities, based on
17 the number of production and processor licenses issued during
18 the calendar year preceding the date of the distribution, for
19 licensed premises located within each municipality relevant to
20 the total number of production and processor licenses issued in
21 the state during that calendar year; and

22 (b) one-half to municipalities, based on
23 the number of retail licenses issued during the calendar year
24 preceding the date of the distribution, for licensed premises
25 located within each municipality relevant to the total number

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1 of retail licenses issued in the state during that calendar
2 year; and

3 (5) ten percent to the state's counties to
4 assist local law enforcement in performing duties related to
5 the Cannabis Revenue and Freedom Act, distributed as follows:

6 (a) one-half to counties, based on the
7 number of production and processor licenses issued during the
8 calendar year preceding the date of the distribution, for
9 licensed premises located within each county relevant to the
10 total number of production and processor licenses issued in the
11 state during that calendar year; and

12 (b) one-half to counties, based on the
13 number of retail licenses issued during the calendar year
14 preceding the date of the distribution, for licensed premises
15 located within each county relevant to the total number of
16 retail licenses issued in the state during that calendar year.

17 C. Money distributed pursuant to this section is in
18 addition to and not in lieu of any other money available to the
19 recipients of the distributions for the purposes provided in
20 this section.

21 D. Money in the cannabis revenue fund shall be
22 disbursed on warrants signed by the secretary of finance and
23 administration pursuant to vouchers signed by the secretary of
24 taxation and revenue or the secretary's authorized
25 representative. Any balance remaining in the fund at the end

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1 of a fiscal year shall not revert to the general fund.

2 SECTION 40. [NEW MATERIAL] IMPORTING AND EXPORTING
3 MARIJUANA PROHIBITED.--

4 A. Marijuana items shall not be imported into this
5 state or exported from this state by any licensee or licensee
6 representative.

7 B. A violation of Subsection A of this section is
8 a:

9 (1) fourth degree felony if the importation or
10 exportation is for consideration; or

11 (2) misdemeanor if the importation or
12 exportation is not for consideration.

13 SECTION 41. [NEW MATERIAL] MARIJUANA AS A PRIZE
14 PROHIBITED.--Marijuana items shall not be given as a prize,
15 premium or consideration for a lottery, contest, game of chance
16 or skill or competition of any kind.

17 SECTION 42. [NEW MATERIAL] PROVIDING MARIJUANA TO AN
18 INTOXICATED PERSON PROHIBITED--ALLOWING CONSUMPTION OF
19 MARIJUANA BY PERSONS WHO ARE YOUNGER THAN TWENTY-ONE YEARS OF
20 AGE PROHIBITED.--

21 A. A person shall not sell, give or otherwise make
22 available a marijuana item to a person who is visibly
23 intoxicated.

24 B. A person who exercises control over private real
25 property shall not:

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

4 (2) allow a person who is younger than twenty-
5 one years of age to remain on the property if the person who is
6 younger than twenty-one years of age consumes marijuana items
7 on the property.

8 C. Subsection B of this section:

9 (1) applies only to a person who is present
10 and in control of the location at the time the consumption
11 occurs; and

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

16 SECTION 43. [NEW MATERIAL] LICENSEE MISREPRESENTATIONS--
17 MAINTENANCE OF DISORDERLY ESTABLISHMENT.--

18 A. A person shall not make false representations or
19 statements to the department to induce or prevent action by the
20 department.

21 B. A licensee shall not maintain a noisy, lewd,
22 disorderly or unsanitary establishment or supply impure or
23 otherwise deleterious marijuana items.

24 C. A licensee shall not misrepresent marijuana
25 items to any person.

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1 SECTION 44. ~~[NEW MATERIAL]~~ UNDERAGE PERSONS--PURCHASE--
2 ENTRY OF LICENSED PREMISES--PENALTIES.--

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

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

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

13 D. In addition to and not in lieu of any other
14 penalty established by law, a person who is younger than
15 twenty-one years of age who violates Subsection A of this
16 section through the person's misrepresentation of the person's
17 age may be required to perform community service, and the court
18 shall order that the person's driving privileges and right to
19 apply for driving privileges be suspended for a period not to
20 exceed one year. If a court issues an order suspending driving
21 privileges pursuant to this section, the court in its
22 discretion and upon petition by the person may withdraw its
23 order at any time.

24 E. If a person cited pursuant to this section fails
25 to appear in court and if the person is at least thirteen years

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1 of age but younger than twenty-one years of age at the time the
2 person fails to appear, in addition to and not in lieu of any
3 other penalty, the court shall issue an order to suspend the
4 person's driving privileges.

5 F. The prohibitions in this section do not apply to
6 a person who is younger than twenty-one years of age who is
7 acting under the direction of the department or state or local
8 law enforcement agencies for the purpose of investigating
9 possible violations of laws prohibiting the sale of marijuana
10 items to persons who are younger than twenty-one years of age.

11 SECTION 45. [NEW MATERIAL] COMPLIANCE WITH STANDARDS.--

12 A. Marijuana items shall not be sold or offered for
13 sale in this state unless the marijuana items comply with the
14 minimum standards required pursuant to the Cannabis Revenue and
15 Freedom Act, rules promulgated pursuant to that act or other
16 state law.

17 B. The department may require a marijuana producer,
18 marijuana processor or marijuana wholesaler to provide a
19 laboratory analysis that demonstrates to the department's
20 satisfaction that particular marijuana items comply with
21 minimum standards.

22 C. Marijuana items offered for sale in this state
23 shall not be altered or tampered with in any way by a person
24 who is not licensed to take such action.

25 D. The department may prohibit the sale of any

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1 marijuana items for a reasonable period of time while the
2 department determines whether the marijuana items comply with
3 minimum standards.

4 SECTION 46. [NEW MATERIAL] MISLEADING MARKS OR LABELS--
5 INJURIOUS OR ADULTERATED INGREDIENTS.--

6 A. A licensee shall not use or allow the use of a
7 mark or label on the container of a marijuana item that is kept
8 for sale if the container does not precisely and clearly
9 indicate the nature of its contents or if the mark or label
10 could deceive a person as to the nature, composition, quantity,
11 age or quality of the marijuana item.

12 B. The department may prohibit a licensee from
13 selling any brand of marijuana item that, in the department's
14 judgment, is deceptively labeled or branded as to the marijuana
15 item's content or contains injurious or adulterated
16 ingredients.

17 SECTION 47. [NEW MATERIAL] EMPLOYMENT--MINIMUM AGE
18 REQUIREMENT.--

19 A. A licensee shall not employ a person who is
20 younger than twenty-one years of age in any part of a licensed
21 premises.

22 B. During an inspection of a licensed premises, the
23 department may require proof that a person who is performing
24 work at the licensed premises is at least twenty-one years of
25 age. If the person does not provide acceptable proof of age

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1 upon the department's request, the department may require the
2 person to immediately leave the licensed premises until the
3 department receives acceptable proof of the person's age. This
4 subsection does not apply to a person who is temporarily at the
5 licensed premises to make a service, maintenance or repair call
6 or for other purposes independent of operations of the licensed
7 premises.

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

18 SECTION 48. [NEW MATERIAL] MATURE MARIJUANA PLANTS.--
19 Except for a licensed marijuana producer and the producer's
20 licensee representatives, a licensee shall not possess a mature
21 marijuana plant. A licensee shall not sell a mature marijuana
22 plant.

23 SECTION 49. [NEW MATERIAL] USE OF MARIJUANA IN A PUBLIC
24 PLACE PROHIBITED.--

25 A. No person shall use any marijuana items in a

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1 public place.

2 B. A person who violates Subsection A of this
3 section is guilty of a misdemeanor.

4 SECTION 50. [NEW MATERIAL] POSSESSION OF MARIJUANA IN A
5 CORRECTIONAL FACILITY PROHIBITED.--

6 A. No person shall possess or use a marijuana item
7 in an adult or youth correctional facility.

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

10 SECTION 51. [NEW MATERIAL] HOMEGROWN MARIJUANA IN PUBLIC
11 VIEW PROHIBITED.--

12 A. No person shall produce, process, keep or store
13 homegrown marijuana or homemade marijuana products if the
14 homegrown marijuana or homemade marijuana products can be
15 readily seen by normal unaided vision from a public place.

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

18 SECTION 52. [NEW MATERIAL] HOMEMADE MARIJUANA EXTRACTS
19 PROHIBITED.--A person shall not produce, process, keep or store
20 homemade marijuana extracts.

21 SECTION 53. [NEW MATERIAL] MARIJUANA LAWS SUPERSEDE AND
22 REPEAL INCONSISTENT LOCAL LAWS AND ORDINANCES.--Notwithstanding
23 the provisions of Section 55 of the Cannabis Revenue and
24 Freedom Act, the provisions of that act are designed to operate
25 uniformly throughout the state and shall be paramount and

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1 superior to and shall replace and supersede all municipal
2 charter enactments or local laws or ordinances that are
3 inconsistent or in conflict with that act. Any conflicting
4 local charters, laws and ordinances are repealed.

5 SECTION 54. [NEW MATERIAL] ESTABLISHMENTS THAT SERVE
6 MARIJUANA--LOCAL GOVERNMENT AUTHORITY.--

7 A. Municipalities and counties may adopt reasonable
8 time, place and manner regulations related to nuisance aspects
9 of establishments that sell marijuana to consumers if the
10 municipality or county makes specific findings that the
11 establishment would cause adverse effects to occur.

12 B. The authority granted to municipalities and
13 counties by this section is in addition to, and not in lieu of,
14 the authority granted to a municipality or county pursuant to
15 its charter and the statutes and the constitution of New
16 Mexico.

17 SECTION 55. [NEW MATERIAL] LOCAL OPTION ELECTION--SALES
18 NOT AFFECTED BY LOCAL OPTION.--

19 A. Any municipality with a population greater than
20 five thousand according to the most recent federal decennial
21 census, whether the county in which that municipality is
22 situated has held an election provided for in this section, or
23 any county in the state may prohibit the operation of premises
24 licensed pursuant to the Cannabis Revenue and Freedom Act upon
25 the following terms and conditions:

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1 (1) at any time after the effective date of
2 the Cannabis Revenue and Freedom Act, the registered qualified
3 electors of the municipality or county may petition the
4 governing body by filing one or more petitions in the
5 appropriate office to hold an election for the purpose of
6 determining whether the operation of premises licensed pursuant
7 to the Cannabis Revenue and Freedom Act shall be prohibited in
8 the municipality or county. If the aggregate of the signatures
9 of such electors on all the petitions equals or exceeds five
10 percent of the number of registered voters of the municipality
11 or county, the governing body shall call an election within
12 seventy-five days of the verification of the petition. The
13 date of the filing of the petition shall be the date of the
14 filing of the last petition that brings the number of
15 signatures up to the required five percent; provided, however,
16 that the governing body shall refuse to recognize the petition
17 if more than three months have elapsed between the date of the
18 first signature and the filing of the last petition necessary
19 to bring the number of signatures on the petition up to five
20 percent;

21 (2) the election shall be called, conducted,
22 counted and canvassed substantially in the manner provided by
23 law for general elections within the county or special
24 municipal elections within the municipality, except as
25 otherwise provided in this section;

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

5 (4) except as otherwise provided in this
6 section, contests, recounts and rechecks shall be permitted as
7 provided for in the case of candidates for county office in
8 general elections or as provided for in the case of special
9 municipal elections within the municipality. Applications for
10 contests, recounts or rechecks may be filed by any person who
11 voted in the election and service shall be made upon the county
12 clerk or municipal clerk as the case may be;

13 (5) if a majority of all the votes cast at the
14 election are cast in favor of the prohibition of the operation
15 of premises licensed pursuant to the Cannabis Revenue and
16 Freedom Act in the county or municipality, the chair of the
17 governing body shall declare by order entered upon the records
18 of the county or municipality that the county or municipality
19 has prohibited the operation of premises licensed pursuant to
20 the Cannabis Revenue and Freedom Act and shall notify the
21 department of the election results;

22 (6) no election held pursuant to this section
23 shall be held within forty-two days of any primary, general,
24 municipal or school district election. If, within sixty days
25 from the verification of any petition as provided in Paragraph

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1 (1) of this subsection, a primary, general, municipal or school
2 election is held, the governing body may call an election for a
3 day not less than sixty days after the primary, general,
4 municipal or school election;

5 (7) if an election is held pursuant to this
6 section in any county that contains within its limits a
7 municipality of more than five thousand persons according to
8 the most recent federal decennial census, it is not necessary
9 for the registered qualified electors in the municipality to
10 file a separate petition asking for a separate or different
11 vote on the question of whether to prohibit the operation of
12 premises licensed pursuant to the Cannabis Revenue and Freedom
13 Act by the municipality. The election in the county shall be
14 conducted so as to separate the votes in the municipality from
15 those in the remaining parts of the county. If a majority of
16 the voters in the county, including the voters in the
17 municipality, vote to prohibit the operation of premises
18 licensed pursuant to the Cannabis Revenue and Freedom Act, then
19 the county shall not allow the operation of those premises; but
20 if a majority of the votes in the municipality are in favor of
21 allowing the operation of premises licensed pursuant to the
22 Cannabis Revenue and Freedom Act, the municipality shall have
23 allowed the operation of those premises in the municipality.
24 Nothing contained in this subsection shall prevent any
25 municipality from having a separate election under the terms of

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1 this section; and

2 (8) any county or municipality that has voted
3 to prohibit the operation of premises licensed pursuant to the
4 Cannabis Revenue and Freedom Act may vote to discontinue the
5 prohibition and to allow the operation of those premises in
6 that county or municipality; the discontinuance shall become
7 effective on the ninetieth day after the local option election
8 is held as provided for in this paragraph.

9 B. The provisions of Subsection A of this section
10 shall not prevent a person who resides in a municipality or
11 county that has elected to prohibit the operation of premises
12 licensed pursuant to the Cannabis Revenue and Freedom Act from
13 having marijuana items that were purchased from licensed
14 marijuana retailers for the person's personal use.

15 SECTION 56. [NEW MATERIAL] DUTY OF OFFICERS--
16 ENFORCEMENT--INFORMATION TO DISTRICT ATTORNEY.--The state and
17 local law enforcement officers in the state shall enforce the
18 Cannabis Revenue and Freedom Act provisions that do not relate
19 to taxation and shall assist the department with detecting
20 violations of that act and with apprehending offenders. Any
21 state or local law enforcement officer that has notice or
22 knowledge of or reasonable belief regarding a violation of
23 those sections shall immediately notify the district attorney
24 and provide the district attorney with the names and addresses
25 of any witnesses to the violation and other information related

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1 to the violation.

2 SECTION 57. [NEW MATERIAL] CONFISCATION OF MARIJUANA AND
3 PROPERTY.--

4 A. Whenever a law enforcement officer arrests a
5 person for a violation of the provisions of the Cannabis
6 Revenue and Freedom Act that do not relate to taxation, the
7 officer may confiscate all marijuana items and other property
8 in the person's possession or on the premises that appear to be
9 used in connection with a violation or in violation of that
10 act. If the person who is arrested is convicted of violating
11 the Cannabis Revenue and Freedom Act, and it is found that the
12 marijuana items or other items confiscated by the officer were
13 used in violation of state law:

14 (1) the marijuana items shall be forfeited and
15 delivered by the court or a law enforcement officer to the
16 appropriate state or local law enforcement agency; and

17 (2) subject to other applicable law, any other
18 property that was confiscated shall be forfeited and delivered
19 by the court or a law enforcement officer to the department.

20 B. The department may destroy or otherwise dispose
21 of property that it receives pursuant to Subsection A of this
22 section. All confiscated property, including lockers, chairs,
23 tables, cash registers, music devices, gambling devices,
24 furniture, furnishings, equipment and facilities for the
25 storing, serving or using of marijuana items, shall be

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1 forfeited to the state, and the clear proceeds shall be
2 deposited in the general fund for distribution through the
3 state equalization guarantee pursuant to the Public School
4 Finance Act.

5 SECTION 58. [NEW MATERIAL] CONVICTION OF LICENSEE--DUTY
6 TO NOTIFY THE DEPARTMENT.--All court officials, district
7 attorneys and municipal authorities in the state shall
8 immediately notify the department of the conviction of a person
9 who is licensed pursuant to the Cannabis Revenue and Freedom
10 Act of a violation of any provision of that act or of a state
11 or local law that relates in any way to marijuana. The
12 notification to the department shall include information about
13 any acts, practices or other conduct of the licensee that may
14 be subversive of the general welfare or contrary to the spirit
15 of the Cannabis Revenue and Freedom Act and shall make
16 recommendations that the department could take to remedy the
17 acts, practices or conduct of the licensee.

18 SECTION 59. [NEW MATERIAL] PROPERTY AND PLACES AS COMMON
19 NUISANCES.--

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

22 (1) any room, house, building, boat, structure
23 or other place where marijuana items are sold, manufactured,
24 bartered or given away in violation of state law;

25 (2) any room, house, building, boat, structure

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1 or other place where persons are permitted to resort for the
2 purpose of using marijuana items in violation of state law;

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

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

8 B. A person who maintains or assists in maintaining
9 a common nuisance or who knowingly suffers or permits a common
10 nuisance to exist in a place of which the person is the owner,
11 manager or lessor shall be guilty of a violation of the
12 Cannabis Revenue and Freedom Act.

13 SECTION 60. [NEW MATERIAL] LIEN ON PLACE USED TO
14 UNLAWFULLY HANDLE MARIJUANA.--If it is proved that the owner of
15 a building or premises has knowingly allowed the building or
16 premises to be used or occupied for the manufacture, sale or
17 possession of marijuana items, contrary to the provisions of
18 the Cannabis Revenue and Freedom Act, that building or premises
19 is subject to a lien for and may be sold to pay all fines and
20 costs assessed against the building's or premises' occupants
21 for any violation of that act. The lien shall be enforced
22 immediately by civil action in any court having jurisdiction by
23 the district attorney of the county in which the building or
24 premises is located.

25 SECTION 61. [NEW MATERIAL] GOVERNOR'S AUTHORITY TO

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1 SUSPEND LICENSE.--In case of invasion, disaster, insurrection,
2 riot or imminent danger thereof the governor may, without
3 notice, suspend any license that was issued pursuant to the
4 Cannabis Revenue and Freedom Act and that is in the affected
5 area for the duration of the invasion, disaster, insurrection,
6 riot or imminent danger thereof.

7 SECTION 62. [NEW MATERIAL] PENALTIES.--

8 A. Except where other punishment is specifically
9 provided for in the Cannabis Revenue and Freedom Act:

10 (1) a violation of any provision of the
11 Cannabis Revenue and Freedom Act shall constitute a
12 misdemeanor; and

13 (2) a violation of any rule promulgated
14 pursuant to the Cannabis Revenue and Freedom Act shall
15 constitute a petty misdemeanor.

16 B. Notwithstanding other provisions of law:

17 (1) a person who is twenty-one years of age or
18 older and who manufactures homegrown marijuana at a household
19 and the total number of homegrown marijuana plants at the
20 household exceeds four but does not exceed eight is guilty of a
21 misdemeanor; and

22 (2) it is unlawful for any person who is
23 twenty-one years of age or older, except for a licensee or a
24 licensee representative, to knowingly or intentionally possess:

25 (a) more than one ounce of usable

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1 marijuana in a public place;

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

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

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

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

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

12 C. A violation of Subparagraphs (a) through (e) of
13 Paragraph (2) of Subsection B 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 D. A violation of Subparagraph (f) of Paragraph (2)
22 of Subsection B of 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 63. [NEW MATERIAL] SECTION 280E OF THE INTERNAL
4 REVENUE CODE.--Section 280E of the Internal Revenue Code of
5 1986, as amended, does not apply for purposes of determining
6 taxable income or loss pursuant to the Cannabis Revenue and
7 Freedom Act.

8 SECTION 64. [NEW MATERIAL] USE OF MARIJUANA WHILE
9 DRIVING--PENALTY.--

10 A. A person commits the offense of use of marijuana
11 while driving if the person uses any marijuana while driving a
12 motor vehicle upon a highway.

13 B. A person who commits use of marijuana while
14 driving is guilty of a misdemeanor.

15 SECTION 65. [NEW MATERIAL] SEVERABILITY.--If any part or
16 application of the Cannabis Revenue and Freedom Act is held
17 invalid, unconstitutional or illegal, the remainder or its
18 application to other situations or persons shall not be
19 affected.

20 SECTION 66. Section 7-2-2 NMSA 1978 (being Laws 1986,
21 Chapter 20, Section 26, as amended) is amended to read:

22 "7-2-2. DEFINITIONS.--For the purpose of the Income Tax
23 Act and unless the context requires otherwise:

24 A. "adjusted gross income" means adjusted gross
25 income as defined in Section 62 of the Internal Revenue Code,

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1 as that section may be amended or renumbered;

2 B. "base income":

3 (1) means, for estates and trusts, that part
4 of the estate's or trust's income defined as taxable income and
5 upon which the federal income tax is calculated in the Internal
6 Revenue Code for income tax purposes plus, for taxable years
7 beginning on or after January 1, 1991, the amount of the net
8 operating loss deduction allowed by Section 172(a) of the
9 Internal Revenue Code, as that section may be amended or
10 renumbered, and taken by the taxpayer for that year;

11 (2) means, for taxpayers other than estates or
12 trusts, that part of the taxpayer's income defined as adjusted
13 gross income plus, for taxable years beginning on or after
14 January 1, 1991, the amount of the net operating loss deduction
15 allowed by Section 172(a) of the Internal Revenue Code, as that
16 section may be amended or renumbered, and taken by the taxpayer
17 for that year;

18 (3) includes, for all taxpayers, any other
19 income of the taxpayer not included in adjusted gross income
20 but upon which a federal tax is calculated pursuant to the
21 Internal Revenue Code for income tax purposes, except amounts
22 for which a calculation of tax is made pursuant to Section 55
23 of the Internal Revenue Code, as that section may be amended or
24 renumbered; "base income" also includes interest received on a
25 state or local bond; and

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1 (4) includes, for all taxpayers, an amount
2 deducted pursuant to Section 7-2-32 NMSA 1978 in a prior
3 taxable year if:

4 (a) such amount is transferred to
5 another qualified tuition program, as defined in Section 529 of
6 the Internal Revenue Code, not authorized in the Education
7 Trust Act; or

8 (b) a distribution or refund is made for
9 any reason other than: 1) to pay for qualified higher
10 education expenses, as defined pursuant to Section 529 of the
11 Internal Revenue Code; or 2) upon the beneficiary's death,
12 disability or receipt of a scholarship;

13 C. "compensation" means wages, salaries,
14 commissions and any other form of remuneration paid to
15 employees for personal services;

16 D. "department" means the taxation and revenue
17 department, the secretary or any employee of the department
18 exercising authority lawfully delegated to that employee by the
19 secretary;

20 E. "fiduciary" means a guardian, trustee, executor,
21 administrator, committee, conservator, receiver, individual or
22 corporation acting in any fiduciary capacity;

23 F. "filing status" means "married filing joint
24 returns", "married filing separate returns", "head of
25 household", "surviving spouse" and "single", as those terms are

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1 generally defined for federal tax purposes;

2 G. "fiscal year" means any accounting period of
3 twelve months ending on the last day of any month other than
4 December;

5 H. "head of household" means "head of household" as
6 generally defined for federal income tax purposes;

7 I. "individual" means a natural person, an estate,
8 a trust or a fiduciary acting for a natural person, trust or
9 estate;

10 J. "Internal Revenue Code" means the United States
11 Internal Revenue Code of 1986, as amended;

12 K. "lump-sum amount" means, for the purpose of
13 determining liability for federal income tax, an amount that
14 was not included in adjusted gross income but upon which the
15 five-year-averaging or the ten-year-averaging method of tax
16 computation provided in Section 402 of the Internal Revenue
17 Code, as that section may be amended or renumbered, was
18 applied;

19 L. "modified gross income" means all income of the
20 taxpayer and, if any, the taxpayer's spouse and dependents,
21 undiminished by losses and from whatever source, including:

- 22 (1) compensation;
23 (2) net profit from business;
24 (3) gains from dealings in property;
25 (4) interest;

- 1 (5) net rents;
- 2 (6) royalties;
- 3 (7) dividends;
- 4 (8) alimony and separate maintenance payments;
- 5 (9) annuities;
- 6 (10) income from life insurance and endowment
- 7 contracts;
- 8 (11) pensions;
- 9 (12) discharge of indebtedness;
- 10 (13) distributive share of partnership income;
- 11 (14) income in respect of a decedent;
- 12 (15) income from an interest in an estate or a
- 13 trust;
- 14 (16) social security benefits;
- 15 (17) unemployment compensation benefits;
- 16 (18) workers' compensation benefits;
- 17 (19) public assistance and welfare benefits;
- 18 (20) cost-of-living allowances; and
- 19 (21) gifts;

20 M. "modified gross income" excludes:

- 21 (1) payments for hospital, dental, medical or
- 22 drug expenses to or on behalf of the taxpayer;
- 23 (2) the value of room and board provided by
- 24 federal, state or local governments or by private individuals
- 25 or agencies based upon financial need and not as a form of

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1 compensation;

2 (3) payments pursuant to a federal, state or
3 local government program directly or indirectly to a third
4 party on behalf of the taxpayer when identified to a particular
5 use or invoice by the payer; ~~[or]~~

6 (4) payments for credits and rebates pursuant
7 to the Income Tax Act and made for a credit pursuant to Section
8 7-3-9 NMSA 1978; or

9 (5) for income tax years commencing on or
10 after January 1, 2019, the amount of any deductions or credits
11 that the taxpayer would have been allowed but for the
12 provisions of Section 280E of the Internal Revenue Code;

13 N. "net income" means, for estates and trusts, base
14 income adjusted to exclude amounts that the state is prohibited
15 from taxing because of the laws or constitution of this state
16 or the United States and means, for taxpayers other than
17 estates or trusts, base income adjusted to exclude:

18 (1) an amount equal to the standard deduction
19 allowed the taxpayer for the taxpayer's taxable year by Section
20 63 of the Internal Revenue Code, as that section may be amended
21 or renumbered;

22 (2) an amount equal to the itemized deductions
23 defined in Section 63 of the Internal Revenue Code, as that
24 section may be amended or renumbered, allowed the taxpayer for
25 the taxpayer's taxable year less the amount excluded pursuant

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1 to Paragraph (1) of this subsection and less the amount of
2 state and local income and sales taxes included in the
3 taxpayer's itemized deductions;

4 (3) an amount equal to the product of the
5 exemption amount allowed for the taxpayer's taxable year by
6 Section 151 of the Internal Revenue Code, as that section may
7 be amended or renumbered, multiplied by the number of personal
8 exemptions allowed for federal income tax purposes;

9 (4) income from obligations of the United
10 States of America less expenses incurred to earn that income;

11 (5) other amounts that the state is prohibited
12 from taxing because of the laws or constitution of this state
13 or the United States;

14 (6) for taxable years that began prior to
15 January 1, 1991, an amount equal to the sum of:

16 (a) net operating loss carryback
17 deductions to that year from taxable years beginning prior to
18 January 1, 1991 claimed and allowed, as provided by the
19 Internal Revenue Code; and

20 (b) net operating loss carryover
21 deductions to that year claimed and allowed;

22 (7) for taxable years beginning on or after
23 January 1, 1991 and prior to January 1, 2013, an amount equal
24 to the sum of any net operating loss carryover deductions to
25 that year claimed and allowed, provided that the amount of any

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1 net operating loss carryover from a taxable year beginning on
2 or after January 1, 1991 and prior to January 1, 2013 may be
3 excluded only as follows:

4 (a) in the case of a timely filed
5 return, in the taxable year immediately following the taxable
6 year for which the return is filed; or

7 (b) in the case of amended returns or
8 original returns not timely filed, in the first taxable year
9 beginning after the date on which the return or amended return
10 establishing the net operating loss is filed; and

11 (c) in either case, if the net operating
12 loss carryover exceeds the amount of net income exclusive of
13 the net operating loss carryover for the taxable year to which
14 the exclusion first applies, in the next four succeeding
15 taxable years in turn until the net operating loss carryover is
16 exhausted for any net operating loss carryover from a taxable
17 year prior to January 1, 2013; in no event shall a net
18 operating loss carryover from a taxable year beginning prior to
19 January 1, 2013 be excluded in any taxable year after the
20 fourth taxable year beginning after the taxable year to which
21 the exclusion first applies;

22 (8) for taxable years beginning on or after
23 January 1, 2013, an amount equal to the sum of any net
24 operating loss carryover deductions to that year claimed and
25 allowed; provided that the amount of any net operating loss

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1 carryover may be excluded only as follows:

2 (a) in the case of a timely filed
3 return, in the taxable year immediately following the taxable
4 year for which the return is filed; or

5 (b) in the case of amended returns or
6 original returns not timely filed, in the first taxable year
7 beginning after the date on which the return or amended return
8 establishing the net operating loss is filed; and

9 (c) in either case, if the net operating
10 loss carryover exceeds the amount of net income exclusive of
11 the net operating loss carryover for the taxable year to which
12 the exclusion first applies, in the next nineteen succeeding
13 taxable years in turn until the net operating loss carryover is
14 exhausted for any net operating loss carryover from a taxable
15 year beginning on or after January 1, 2013; in no event shall a
16 net operating loss carryover from a taxable year beginning: 1)
17 prior to January 1, 2013 be excluded in any taxable year after
18 the fourth taxable year beginning after the taxable year to
19 which the exclusion first applies; and 2) on or after January
20 1, 2013 be excluded in any taxable year after the nineteenth
21 taxable year beginning after the taxable year to which the
22 exclusion first applies; and

23 (9) for taxable years beginning on or after
24 January 1, 2011, an amount equal to the amount included in
25 adjusted gross income that represents a refund of state and

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1 local income and sales taxes that were deducted for federal tax
2 purposes in taxable years beginning on or after January 1,
3 2010;

4 O. "net operating loss" means any net operating
5 loss, as defined by Section 172(c) of the Internal Revenue
6 Code, as that section may be amended or renumbered, for a
7 taxable year as further increased by the income, if any, from
8 obligations of the United States for that year less related
9 expenses;

10 P. "net operating loss carryover" means the amount,
11 or any portion of the amount, of a net operating loss for any
12 taxable year that, pursuant to Paragraph (6), (7) or (8) of
13 Subsection N of this section, may be excluded from base income;

14 Q. "nonresident" means every individual not a
15 resident of this state;

16 R. "person" means any individual, estate, trust,
17 receiver, cooperative association, club, corporation, company,
18 firm, partnership, limited liability company, joint venture,
19 syndicate or other association; "person" also means, to the
20 extent permitted by law, any federal, state or other
21 governmental unit or subdivision or agency, department or
22 instrumentality thereof;

23 S. "resident" means an individual who is domiciled
24 in this state during any part of the taxable year or an
25 individual who is physically present in this state for one

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1 hundred eighty-five days or more during the taxable year; but
2 any individual, other than someone who was physically present
3 in the state for one hundred eighty-five days or more during
4 the taxable year, who, on or before the last day of the taxable
5 year, changed the individual's place of abode to a place
6 without this state with the bona fide intention of continuing
7 actually to abide permanently without this state is not a
8 resident for the purposes of the Income Tax Act for periods
9 after that change of abode;

10 T. "secretary" means the secretary of taxation and
11 revenue or the secretary's delegate;

12 U. "state" means any state of the United States,
13 the District of Columbia, the commonwealth of Puerto Rico, any
14 territory or possession of the United States or any political
15 subdivision of a foreign country;

16 V. "state or local bond" means a bond issued by a
17 state other than New Mexico or by a local government other than
18 one of New Mexico's political subdivisions, the interest from
19 which is excluded from income for federal income tax purposes
20 under Section 103 of the Internal Revenue Code, as that section
21 may be amended or renumbered;

22 W. "surviving spouse" means "surviving spouse" as
23 generally defined for federal income tax purposes;

24 X. "taxable income" means net income less any lump-
25 sum amount;

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1 Y. "taxable year" means the calendar year or fiscal
2 year upon the basis of which the net income is computed under
3 the Income Tax Act and includes, in the case of the return made
4 for a fractional part of a year under the provisions of the
5 Income Tax Act, the period for which the return is made; and

6 Z. "taxpayer" means any individual subject to the
7 tax imposed by the Income Tax Act."

8 SECTION 67. Section 24-15-9 NMSA 1978 (being Laws 1979,
9 Chapter 279, Section 6) is amended to read:

10 "24-15-9. DUTIES OF PASSENGERS.--Every passenger [~~shall~~
11 ~~have~~] has the duty to [~~conduct himself carefully~~] behave in a
12 safe manner and not to:

13 A. board or embark upon or disembark from a ski
14 lift except at an area designated for [~~such~~] that purpose;

15 B. drop, throw or expel any object from a ski lift;

16 C. do any act [~~which shall~~] that will interfere
17 with the running or operation of a ski lift;

18 D. use any ski lift unless the passenger has the
19 ability to use it safely without any instruction on its use by
20 the ski area operator or requests and receives instruction
21 before boarding the ski lift;

22 E. willfully or negligently engage in any type of
23 conduct [~~which~~] that contributes to or causes injury to any
24 person;

25 F. embark on a ski lift without the authority of

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1 the ski area operator;

2 G. use any ski lift without engaging [~~such~~] the
3 safety or restraining devices as may be provided; [~~or~~]

4 H. wear skis without properly securing ski
5 retention devices; or

6 I. use a ski lift while intoxicated or under the
7 influence of any controlled substance."

8 SECTION 68. Section 24-15-10 NMSA 1978 (being Laws 1979,
9 Chapter 279, Section 7, as amended) is amended to read:

10 "24-15-10. DUTIES OF [~~THE~~] SKIERS.--

11 A. It is recognized that skiing as a recreational
12 sport is inherently hazardous to skiers, and it is the duty of
13 each skier to [~~conduct himself carefully~~] behave in a safe
14 manner.

15 B. A person who takes part in the sport of skiing
16 accepts as a matter of law the dangers inherent in that sport
17 insofar as they are obvious and necessary. Each skier
18 expressly assumes the risk of and legal responsibility for
19 [~~any~~] injury to person or property [~~which~~] that results from
20 participation in the sport of skiing, in the skiing area,
21 including [~~any~~] an injury caused by the following: variations
22 in terrain; surface or subsurface snow or ice conditions; bare
23 spots; rocks, trees or other forms of forest growth or debris;
24 and ski lift towers and components thereof, pole lines and
25 snow-making equipment [~~which~~] that are plainly visible or are

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1 plainly marked in accordance with the provisions of Section
2 24-15-7 NMSA 1978, except for ~~[any]~~ injuries to persons or
3 property resulting from any breach of duty imposed upon ski
4 area operators under the provisions of Sections 24-15-7 and
5 24-15-8 NMSA 1978. Therefore, each skier ~~[shall have]~~ has the
6 sole individual responsibility for knowing the range of ~~[his]~~
7 the skier's own ability to negotiate ~~[any]~~ a ski slope or
8 trail, and it ~~[shall be]~~ is the duty of each skier to ski
9 within the limits of the skier's own ability, to maintain
10 reasonable control of speed and course at all times while
11 skiing, to heed all posted warnings, to ski only on a skiing
12 area designated by the ski area operator and to refrain from
13 acting in a manner ~~[which]~~ that may cause or contribute to the
14 injury of anyone.

15 C. Responsibility for collisions by ~~[any]~~ a skier
16 while actually skiing, with ~~[any]~~ a person or object, ~~[shall~~
17 ~~be]~~ is solely that of each individual involved in the
18 collision, except ~~[where]~~ when an employee, agent or officer of
19 the ski area operator is personally involved in a collision
20 while in the course and scope of ~~[his]~~ employment or ~~[where]~~
21 when a collision resulted from ~~[any]~~ a breach of duty imposed
22 upon a ski area operator under the provisions of ~~[Sections]~~
23 Section 24-15-7 or 24-15-8 NMSA 1978. Each skier has the duty
24 to stay clear of and avoid collisions with snow-maintenance
25 equipment, all-terrain vehicles and snowmobiles marked in

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1 compliance with the provisions of Subsections A and J of
2 Section 24-15-7 NMSA 1978, all other vehicles, lift towers,
3 signs and any other structures, amenities or equipment on the
4 ski slopes and trails or in the skiing area.

5 D. No person shall:

6 (1) place [~~any~~] an object in the skiing area
7 or on the uphill track of [~~any~~] a ski lift [~~which~~] that may
8 cause a passenger or skier to fall;

9 (2) cross the track of [~~any~~] a T-bar lift, J-
10 bar lift, platter lift or similar device or a fiber rope tow,
11 except at a designated location;

12 (3) when injured while skiing or using a ski
13 lift or, while skiing, when involved in a collision with [~~any~~]
14 a skier or object in which an injury results, leave the ski
15 area before giving [~~his~~] the person's name and current address
16 to the ski area operator, or representative or employee of the
17 ski area operator, and the location where the injury or
18 collision occurred and the circumstances thereof; provided,
19 however, in the event [~~a skier~~] the person fails to give the
20 notice required by this paragraph, a court, in determining
21 whether or not such failure constitutes a violation of the Ski
22 Safety Act, may consider the reasonableness or feasibility of
23 giving such notice; or

24 (4) use a ski lift, skiing area or ski slopes
25 or trails while intoxicated or under the influence of [~~any~~] a

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1 controlled substance.

2 E. No skier shall fail to wear retention straps or
3 other ski retention devices [~~to help prevent runaway skis~~].

4 F. [~~Any~~] A skier upon being injured shall indicate,
5 to the ski patrol personnel offering first aid treatment or
6 emergency removal to a first aid room, [~~his~~] the skier's
7 acceptance or rejection of [~~such~~] the services as provided by
8 the ski area operator. If [~~such~~] the service is not refused or
9 if the skier is unable to indicate [~~his~~] the skier's acceptance
10 or rejection of [~~such~~] the service, [~~the acceptance of~~] the
11 service is presumed to have been accepted by the skier. [~~Such~~]
12 The acceptance [~~shall~~] does not constitute a waiver of [~~any~~]
13 action for negligent provision of the service by the ski patrol
14 personnel."

15 SECTION 69. Section 29-19-4 NMSA 1978 (being Laws 2003,
16 Chapter 255, Section 4, as amended) is amended to read:

17 "29-19-4. APPLICANT QUALIFICATIONS.--

18 A. The department shall issue a concealed handgun
19 license to an applicant who:

- 20 (1) is a citizen of the United States;
- 21 (2) is a resident of New Mexico or is a member
22 of the armed forces whose permanent duty station is located in
23 New Mexico or is a dependent of such a member;
- 24 (3) is twenty-one years of age or older;
- 25 (4) is not a fugitive from justice;

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1 (5) has not been convicted of a felony in New
2 Mexico or any other state or pursuant to the laws of the United
3 States or any other jurisdiction;

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

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

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

13 (9) is not addicted to alcohol or controlled
14 substances; and

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

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

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

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1 (2) been convicted of a misdemeanor offense
2 involving driving while under the influence of intoxicating
3 liquor or drugs within five years immediately preceding the
4 application for a concealed handgun license;

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

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

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

16 **SECTION 70.** Section 30-6-1 NMSA 1978 (being Laws 1973,
17 Chapter 360, Section 10, as amended) is amended to read:

18 "30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

19 A. As used in this section:

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

22 (2) "neglect" means that a child is without
23 proper parental care and control of subsistence, education,
24 medical or other care or control necessary for the child's
25 well-being because of the faults or habits of the child's

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1 parents, guardian or custodian or their neglect or refusal,
2 when able to do so, to provide them; and

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

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

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

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

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

23 (2) tortured, cruelly confined or cruelly
24 punished; or

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

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1 E. A person who commits abuse of a child that does
2 not result in the child's death or great bodily harm is, for a
3 first offense, guilty of a third degree felony and for second
4 and subsequent offenses is guilty of a second degree felony.
5 If the abuse results in great bodily harm to the child, the
6 person is guilty of a first degree felony.

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

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

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

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

25 J. Evidence that demonstrates that a child has been

1 knowingly and intentionally exposed to the use of
2 methamphetamine shall be deemed prima facie evidence of abuse
3 of the child.

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

8 SECTION 71. Section 30-31-2 NMSA 1978 (being Laws 1972,
9 Chapter 84, Section 2, as amended) is amended to read:

10 "30-31-2. DEFINITIONS.--As used in the Controlled
11 Substances Act:

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

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

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

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

23 E. "controlled substance":

24 (1) means a drug or substance listed in
25 Schedules I through V of the Controlled Substances Act or rules

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1 adopted thereto; and

2 (2) does not include industrial hemp or
3 marijuana for purpose of or conduct pursuant to and in
4 compliance with the Cannabis Revenue and Freedom Act;

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

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

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

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

24 J. "distribute" means to deliver other than by
25 administering or dispensing a controlled substance or

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1 controlled substance analog;

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

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

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

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

24 (2) by a practitioner, or by the
25 practitioner's agent under the practitioner's supervision, for

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1 the purpose of or as an incident to research, teaching or
2 chemical analysis and not for sale;

3 N. "marijuana":

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

9 (2) does not include:

10 (a) the mature stalks of the plant;

11 (b) hashish;

12 (c) tetrahydrocannabinols extracted or
13 isolated from marijuana;

14 (d) fiber produced from the stalks;

15 (e) oil or cake made from the seeds of
16 the plant;

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

20 (g) the sterilized seed of the plant
21 that is incapable of germination; or

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

25 O. "narcotic drug" means any of the following,

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1 whether produced directly or indirectly by extraction from
2 substances of vegetable origin or independently by means of
3 chemical synthesis or by a combination of extraction and
4 chemical synthesis:

5 (1) opium and opiate and any salt, compound,
6 derivative or preparation of opium or opiate;

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

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

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

20 P. "opiate" means any substance having an
21 addiction-forming or addiction-sustaining liability similar to
22 morphine or being capable of conversion into a drug having
23 addiction-forming or addiction-sustaining liability. "Opiate"
24 does not include, unless specifically designated as controlled
25 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of

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1 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.

2 "Opiate" does include its racemic and levorotatory forms;

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

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

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

25 T. "scientific investigator" means a person

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1 registered to conduct research with controlled substances in
2 the course of the person's professional practice or research
3 and includes analytical laboratories;

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

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

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

24 (2) kits used, intended for use or designed
25 for use in manufacturing, compounding, converting, producing,

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1 processing or preparing controlled substances or controlled
2 substance analogs;

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

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

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

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

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

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

24 (9) capsules, balloons, envelopes and other
25 containers used, intended for use or designed for use in

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1 packaging small quantities of controlled substances or
2 controlled substance analogs;

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

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

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

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

17 (b) water pipes;

18 (c) carburetion tubes and devices;

19 (d) smoking and carburetion masks;

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

23 (f) miniature cocaine spoons and cocaine
24 vials;

25 (g) chamber pipes;

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- 1 (h) carburetor pipes;
- 2 (i) electric pipes;
- 3 (j) air-driven pipes;
- 4 (k) chilams;
- 5 (l) bongs; or
- 6 (m) ice pipes or chillers; and

7 (13) in determining whether an object is drug
8 paraphernalia, a court or other authority should consider, in
9 addition to all other logically relevant factors, the
10 following:

11 (a) statements by the owner or by anyone
12 in control of the object concerning its use;

13 (b) the proximity of the object, in time
14 and space, to a direct violation of the Controlled Substances
15 Act or any other law relating to controlled substances or
16 controlled substance analogs;

17 (c) the proximity of the object to
18 controlled substances or controlled substance analogs;

19 (d) the existence of any residue of a
20 controlled substance or controlled substance analog on the
21 object;

22 (e) instructions, written or oral,
23 provided with the object concerning its use;

24 (f) descriptive materials accompanying
25 the object that explain or depict its use;

1 (g) the manner in which the object is
2 displayed for sale; and

3 (h) expert testimony concerning its use;

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

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

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

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1 Federal Food, Drug and Cosmetic Act;

2 X. "human consumption" includes application,
3 injection, inhalation, ingestion or any other manner of
4 introduction;

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

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

13 SECTION 72. Section 30-31-6 NMSA 1978 (being Laws 1972,
14 Chapter 84, Section 6, as amended) is amended to read:

15 "30-31-6. SCHEDULE I.--The following controlled
16 substances are included in Schedule I:

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

- 22 (1) acetylmethadol;
- 23 (2) allylprodine;
- 24 (3) alphacetylmethadol;
- 25 (4) alphameprodine;

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

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

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

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

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

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

- 22 (1) 3,4-methylenedioxy amphetamine;
- 23 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 24 (3) 3,4,5-trimethoxy amphetamine;
- 25 (4) bufotenine;

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

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- 1 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,
2 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
3 (g) 6aR,10aR)-9-(hydroxymethyl)
4 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,
5 10a-tetrahydrobenzo[c]chromen-1-ol);
6 (h) dexanabinol, (6aS,10aS)
7 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)
8 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
9 (i) 1-pentyl-3-(4-chloro naphthoyl)
10 indole;
11 (j) (2-methyl-1-propyl-1H-indol-3-yl)
12 -1-naphthalenyl-methanone; and
13 (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy
14 cyclohexyl)-phenol;
15 (20) 3,4-methylenedioxy methcathinone;
16 (21) 3,4-methylenedioxy pyrovalerone;
17 (22) 4-methylmethcathinone;
18 (23) 4-methoxymethcathinone;
19 (24) 3-fluoromethcathinone; and
20 (25) 4-fluoromethcathinone;

21 D. the enumeration of peyote as a controlled
22 substance does not apply to the use of peyote in bona fide
23 religious ceremonies by a bona fide religious organization, and
24 members of the organization so using peyote are exempt from
25 registration. Any person who manufactures peyote for or

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1 distributes peyote to the organization or its members shall
2 comply with the federal Comprehensive Drug Abuse Prevention and
3 Control Act of 1970 and all other requirements of law;

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

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

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

16 F. controlled substances added to Schedule I by
17 rule adopted by the board pursuant to Section 30-31-3 NMSA
18 1978."

19 SECTION 73. Section 30-31-12 NMSA 1978 (being Laws 1972,
20 Chapter 84, Section 12, as amended) is amended to read:

21 "30-31-12. REGISTRATION REQUIREMENTS.--

22 A. Except for a person who is licensed pursuant to
23 the Cannabis Revenue and Freedom Act, and only with respect to
24 conduct that is pursuant to and in compliance with that act, a
25 person who manufactures, distributes or dispenses a controlled

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1 substance or who proposes to engage in the manufacture,
2 distribution or dispensing of a controlled substance shall
3 obtain a registration issued by the board in accordance with
4 its regulations.

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

11 C. The following persons need not register and may
12 lawfully possess controlled substances:

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

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

21 (3) an ultimate user.

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

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1 E. The board may inspect the establishment of a
2 registrant or applicant for registration in accordance with the
3 board's regulations."

4 **SECTION 74.** Section 30-31-20 NMSA 1978 (being Laws 1972,
5 Chapter 84, Section 20, as amended) is amended to read:

6 "30-31-20. **TRAFFICKING CONTROLLED SUBSTANCES--**
7 **VIOLATION.--**

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

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

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

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

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

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

22 (3) possession with intent to distribute:

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

25 (b) a controlled substance analog of a

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1 controlled substance enumerated in Schedule I or II that is a
2 narcotic drug; or

3 (c) methamphetamine, its salts, isomers
4 and salts of isomers.

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

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

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

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

20 SECTION 75. Section 30-31-21 NMSA 1978 (being Laws 1972,
21 Chapter 84, Section 21, as amended) is amended to read:

22 "30-31-21. DISTRIBUTION TO A MINOR.--

23 A. Except as authorized by the Controlled
24 Substances Act and as provided in the Cannabis Revenue and
25 Freedom Act, no person who is eighteen years of age or older

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1 shall intentionally distribute a controlled substance to a
2 person under the age of eighteen years. Any person who
3 violates this section with respect to:

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

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

8 ~~[(2)]~~ (b) for the second and subsequent
9 offenses, guilty of a second degree felony and shall be
10 sentenced pursuant to the provisions of Section 31-18-15 NMSA
11 1978; and

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

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

19 ~~[(2)]~~ (b) for the second and subsequent
20 offenses, guilty of a first degree felony and shall be
21 sentenced pursuant to the provisions of Section 31-18-15 NMSA
22 1978.

23 B. As provided in the Cannabis Revenue and Freedom
24 Act, a licensee or a licensee representative pursuant to that
25 act shall not sell or deliver marijuana or marijuana items to a

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1 person who is younger than twenty-one years of age. A person
2 who violates the provisions of this subsection is guilty of a
3 fourth degree felony."

4 SECTION 76. Section 30-31-22 NMSA 1978 (being Laws 1972,
5 Chapter 84, Section 22, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

25 (3) a controlled substance enumerated in

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

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

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

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

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

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

9 (1) a counterfeit substance enumerated in
10 Schedule I, II, III or IV is guilty of a fourth degree felony
11 and shall be sentenced pursuant to the provisions of Section
12 31-18-15 NMSA 1978; and

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

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

21 (1) marijuana or synthetic cannabinoids is:
22 (a) 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;

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

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

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

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

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

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

2 (3) a controlled substance enumerated in
3 Schedule V or a controlled substance analog of a controlled
4 substance enumerated in Schedule V is guilty of a fourth degree
5 felony and shall be sentenced pursuant to the provisions of
6 Section 31-18-15 NMSA 1978; and

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

9 (a) a counterfeit substance enumerated in
10 Schedule I, II, III or IV is guilty of a third degree felony
11 and shall be sentenced pursuant to the provisions of Section
12 31-18-15 NMSA 1978; and

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

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

25 SECTION 77. Section 30-31-23 NMSA 1978 (being Laws 1972,

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1 Chapter 84, Section 23, as amended) is amended to read:

2 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION

3 PROHIBITED.--

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

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

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

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

7 (3) eight ounces or more of marijuana or
8 synthetic cannabinoids is guilty of a fourth degree felony and
9 shall be sentenced pursuant to the provisions of Section
10 31-18-15 NMSA 1978.

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

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

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1 or

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

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

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

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

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

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1 residence and excluding a person in or on a motor vehicle in
2 transit through the posted drug-free school zone, with respect
3 to:

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

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

16 (3) eight ounces or more of marijuana or
17 synthetic cannabinoids is guilty of a third degree felony and
18 shall be sentenced pursuant to the provisions of Section
19 31-18-15 NMSA 1978;

20 (4) any amount of any other controlled substance
21 enumerated in Schedule I, II, III or IV or a controlled
22 substance analog of a substance enumerated in Schedule I, II,
23 III or IV, except phencyclidine as enumerated in Schedule III,
24 a narcotic drug enumerated in Schedule I or II or a controlled
25 substance analog of a narcotic drug enumerated in Schedule I or

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1 II, is guilty of a fourth degree felony and shall be sentenced
2 pursuant to the provisions of Section 31-18-15 NMSA 1978; and

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

9 SECTION 78. Section 30-31-24 NMSA 1978 (being Laws 1972,
10 Chapter 84, Section 24, as amended) is amended to read:

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

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

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

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

25 (3) to intentionally refuse or fail to make,

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1 keep or furnish [~~any~~] a record, notification, order form,
2 statement, invoice or information required under the Controlled
3 Substances Act; or

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

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

10 SECTION 79. Section 30-31-25 NMSA 1978 (being Laws 1972,
11 Chapter 84, Section 25, as amended) is amended to read:

12 "30-31-25. CONTROLLED SUBSTANCES--PROHIBITED ACTS.--

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

15 (1) who is a registrant to distribute a
16 controlled substance classified in [~~Schedules~~] Schedule I or
17 II, except pursuant to an order form as required by Section
18 30-31-17 NMSA 1978;

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

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

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1 subterfuge;

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

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

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

16 **SECTION 80.** Section 30-31-25.1 NMSA 1978 (being Laws
17 1981, Chapter 31, Section 2, as amended) is amended to read:

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

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

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

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

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

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

23 C. A person who violates this section with respect to
24 Subsection A of this section is guilty of a misdemeanor and
25 upon conviction shall be punished by a fine of not less than

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1 fifty dollars (\$50.00) nor more than one hundred dollars (\$100)
2 or by imprisonment for a definite term less than one year, or
3 both. A person who violates this section with respect to
4 Subsection B of this section is guilty of a misdemeanor.

5 D. A person eighteen years of age or over who
6 violates the provisions of Subsection B of this section by
7 delivering drug paraphernalia to a person under eighteen years
8 of age and who is at least three years [~~his~~] the person's
9 junior is guilty of a fourth degree felony and shall be
10 sentenced pursuant to the provisions of Section 31-18-15 NMSA
11 1978.

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

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

25 SECTION 81. Section 30-31-26 NMSA 1978 (being Laws 1972,

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1 Chapter 84, Section 26) is amended to read:

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

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

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

13 SECTION 82. Section 30-31-32 NMSA 1978 (being Laws 1972,
14 Chapter 84, Section 31) is amended to read:

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

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

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

24 (2) places, including factories, warehouses,
25 establishments and conveyances, in which persons registered or

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1 exempted from registration requirements under the Controlled
2 Substances Act are permitted to hold, manufacture, compound,
3 process, sell, deliver or otherwise dispose of any controlled
4 substance;

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

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

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

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

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

24 D. this section does not prevent entries and
25 administrative inspections, including seizures of property,

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1 without a warrant:

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

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

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

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

12 SECTION 83. Section 30-31-34 NMSA 1978 (being Laws 1972,
13 Chapter 84, Section 33, as amended) is amended to read:

14 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--

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

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

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

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1 C. all conveyances, including aircraft, vehicles or
2 vessels that are used or intended for use to transport or in
3 any manner to facilitate the transportation for the purpose of
4 sale of property described in Subsection A of this section;

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

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

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

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

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

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

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1 (4) a forfeiture of a conveyance encumbered by a
2 bona fide security interest shall be subject to the interest of
3 a secured party if the secured party neither had knowledge of
4 nor consented to the act or omission; and

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

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

9 "30-31-36. SUMMARY FORFEITURE.--

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

17 B. Notwithstanding the provisions of the Cannabis
18 Revenue and Freedom Act, controlled substances listed in
19 Schedule I or controlled substance analogs of substances listed
20 in Schedule I [~~which~~] that are seized or come into the
21 possession of the state, the owners of which are unknown, are
22 contraband and shall be summarily forfeited to the state.

23 C. Notwithstanding the provisions of the Cannabis
24 Revenue and Freedom Act, species of plants from which
25 controlled substances in Schedules I and II or controlled

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1 substance analogs of substances listed in Schedules I and II
2 may be derived, [~~which~~] that have been planted or cultivated in
3 violation of the Controlled Substances Act or of which the
4 owners or cultivators are unknown or [~~which~~] that are wild
5 growths, may be seized and summarily forfeited to the state."

6 SECTION 85. Section 30-31B-2 NMSA 1978 (being Laws 1989,
7 Chapter 177, Section 2, as amended) is amended to read:

8 "30-31B-2. DEFINITIONS.--As used in the Drug Precursor
9 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 on
14 behalf of a manufacturer, distributor or dispenser. "Agent"
15 does 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 bureau of narcotics and
19 dangerous drugs of the United States department of justice or
20 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
24 regulations adopted thereto; and

25 (2) does not include industrial hemp or

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

3 F. "controlled substance analog" means a substance
4 other than a controlled substance that has a chemical structure
5 substantially similar to that of a controlled substance in
6 Schedule I, II, III, IV or V or that was specifically designed
7 to produce effects substantially similar to that of controlled
8 substances in Schedule I, II, III, IV or V. Examples of
9 chemical classes in which controlled substance analogs are
10 found include, but are not limited to, the following:

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

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

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1 G. "deliver" means the actual, constructive or
2 attempted transfer from one person to another of a controlled
3 substance or controlled substance analog, whether or not there
4 is an agency relationship;

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

10 I. "dispenser" means a practitioner who dispenses and
11 includes hospitals, pharmacies and clinics where controlled
12 substances are dispensed;

13 J. "distribute" means to deliver other than by
14 administering or dispensing a controlled substance or
15 controlled substance analog;

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

22 L. "drug precursor" means a substance, material,
23 compound, mixture or preparation listed in Section 30-31B-3
24 NMSA 1978 or regulations adopted thereto or any of their salts
25 or isomers. "Drug precursor" specifically excludes those

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1 substances, materials, compounds, mixtures or preparations that
2 are prepared for dispensing pursuant to a prescription or over-
3 the-counter distribution as a substance that is generally
4 recognized as safe and effective within the meaning of the
5 Federal Food, Drug and Cosmetic Act or have been manufactured,
6 distributed or possessed in conformance with the provisions of
7 an approved new drug application or an exemption for
8 investigational use within the meaning of Section 505 of the
9 Federal Food, Drug and Cosmetic Act, unless the board makes the
10 findings required pursuant to Subsection B of Section 30-31B-4
11 NMSA 1978;

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

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

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

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1 preparation or compounding of a controlled substance by a
2 practitioner:

3 (1) as an incident to the practitioner's
4 administering or dispensing of a controlled substance in the
5 course of professional practice; or

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

9 P. "person" includes an individual, sole
10 proprietorship, partnership, corporation, association, the
11 state or a political subdivision of the state or other legal
12 entity;

13 Q. "possession" means to actively or constructively
14 exercise dominion over;

15 R. "practitioner" means a physician, certified
16 advanced practice chiropractic physician, dentist, veterinarian
17 or other person licensed to prescribe and administer drugs that
18 are subject to the Controlled Substances Act;

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

25 T. "transfer" means the sale, possession with intent

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1 to sell, barter or giving away of a drug precursor."

2 SECTION 86. Section 47-8-3 NMSA 1978 (being Laws 1975,
3 Chapter 38, Section 3, as amended) is amended to read:

4 "47-8-3. DEFINITIONS.--As used in the Uniform Owner-
5 Resident Relations Act:

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

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

13 C. "amenity" means a facility appurtenance or area
14 supplied by the owner and the absence of which would not
15 materially affect the health and safety of the resident or the
16 habitability of the dwelling unit;

17 D. "codes" includes building codes, housing codes,
18 health and safety codes, sanitation codes and any law,
19 ordinance or governmental regulation concerning fitness for
20 habitation or the construction, maintenance, operation,
21 occupancy or use of a dwelling unit;

22 E. "deposit" means an amount of currency or
23 instrument delivered to the owner by the resident as a pledge
24 to abide by terms and conditions of the rental agreement;

25 F. "dwelling unit" means a structure, mobile home or

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1 the part of a structure, including a hotel or motel, that is
2 used as a home, residence or sleeping place by one person who
3 maintains a household or by two or more persons who maintain a
4 common household and includes a parcel of land leased by its
5 owner for use as a site for the parking of a mobile home;

6 G. "eviction" means any action initiated by the owner
7 to regain possession of a dwelling unit and use of the premises
8 [~~under~~] pursuant to the terms of the Uniform Owner-Resident
9 Relations Act;

10 H. "fair rental value" is that value that is
11 comparable to the value established in the market place;

12 I. "good faith" means honesty in fact in the conduct
13 of the transaction concerned as evidenced by all surrounding
14 circumstances;

15 J. "normal wear and tear" means deterioration that
16 occurs based upon the use for which the rental unit is
17 intended, without negligence, carelessness, accident, abuse or
18 intentional damage of the premises, equipment or chattels of
19 the owner by the residents or by any other person in the
20 dwelling unit or on the premises with the resident's consent;
21 however, uncleanliness does not constitute normal wear and
22 tear;

23 K. "organization" includes a corporation, government,
24 governmental subdivision or agency thereof, business trust,
25 estate, trust, partnership or association, two or more persons

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1 having a joint or common interest or any other legal or
2 commercial entity;

3 L. "owner" means one or more persons, jointly or
4 severally, in whom is vested:

5 (1) all or part of the legal title to property,
6 but shall not include the limited partner in an association
7 regulated ~~[under]~~ pursuant to the Uniform Revised Limited
8 Partnership Act; or

9 (2) all or part of the beneficial ownership and
10 a right to present use and enjoyment of the premises and agents
11 thereof and includes a mortgagee in possession and the lessors,
12 but shall not include a person or persons, jointly or
13 severally, who as owner leases the entire premises to a lessee
14 of vacant land for apartment use;

15 M. "person" includes an individual, corporation,
16 entity or organization;

17 N. "premises" means facilities, facilities and
18 appurtenances, areas and other facilities held out for use of
19 the resident or whose use is promised to the resident
20 coincidental with occupancy of a dwelling unit;

21 O. "rent" means payments in currency or in-kind
22 ~~[under]~~ pursuant to terms and conditions of the rental
23 agreement for use of a dwelling unit or premises, to be made to
24 the owner by the resident, but does not include deposits;

25 P. "rental agreement" means all agreements between an

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1 owner and resident and valid rules and regulations adopted
2 under Section 47-8-23 NMSA 1978 embodying the terms and
3 conditions concerning the use and occupancy of a dwelling unit
4 or premises;

5 Q. "resident" means a person entitled ~~[under]~~
6 pursuant to a rental agreement to occupy a dwelling unit in
7 peaceful possession to the exclusion of others and includes the
8 owner of a mobile home renting premises, other than a lot or
9 parcel in a mobile home park, for use as a site for the
10 location of the mobile home;

11 R. "roomer" means a person occupying a dwelling unit
12 that lacks a major bathroom or kitchen facility in a structure
13 where one or more major facilities are used in common by
14 occupants of the dwelling units. As referred to in this
15 subsection, "major facility", in the case of a bathroom, means
16 toilet and either a bath or shower and, in the case of a
17 kitchen, means refrigerator, stove or sink;

18 S. "single family residence" means a structure
19 maintained and used as a single dwelling unit. Notwithstanding
20 that a dwelling unit shares one or more walls with another
21 dwelling unit, it is a single family residence if it has direct
22 access to a street or thoroughfare and shares neither heating
23 facilities, hot water equipment nor any other essential
24 facility or service with any other dwelling unit;

25 T. "substantial violation" means a violation of the

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1 rental agreement or rules and regulations by the resident or
2 occurring with the resident's consent that occurs in the
3 dwelling unit, on the premises or within three hundred feet of
4 the premises and that excludes conduct that complies with the
5 provisions of the Cannabis Revenue and Freedom Act, but
6 includes the following conduct, which shall be the sole grounds
7 for a substantial violation:

8 (1) possession, use, sale, distribution or
9 manufacture of a controlled substance, excluding misdemeanor
10 possession and use;

11 (2) unlawful use of a deadly weapon;

12 (3) unlawful action causing serious physical
13 harm to another person;

14 (4) sexual assault or sexual molestation of
15 another person;

16 (5) entry into the dwelling unit or vehicle of
17 another person without that person's permission and with intent
18 to commit theft or assault;

19 (6) theft or attempted theft of the property of
20 another person by use or threatened use of force; or

21 (7) intentional or reckless damage to property
22 in excess of one thousand dollars (\$1,000);

23 U. "term" is the period of occupancy specified in the
24 rental agreement; and

25 V. "transient occupancy" means occupancy of a

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1 dwelling unit for which rent is paid on less than a weekly
2 basis or where the resident has not manifested an intent to
3 make the dwelling unit a residence or household."

4 SECTION 87. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect immediately.