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HOUSE BILL 139

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Deborah A. Armstrong and Monica Youngblood

AN ACT

RELATING TO PHARMACEUTICALS; AMENDING A SECTION OF THE
CONTROLLED SUBSTANCES ACT AND ENACTING A NEW SECTION OF THE
NMSA 1978 TO EXEMPT FROM PROSECUTION CERTAIN ACTIVITIES
RELATING TO CERTAIN TYPES OF DRUGS CONTAINING A MARIJUANA
DERIVATIVE; PROVIDING FOR A CONTINGENT EFFECTIVE DATE;
AUTHORIZING RECONCILIATION OF MULTIPLE AMENDMENTS TO THE SAME
SECTION OF LAW.

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

SECTION 1. Section 30-31-6 NMSA 1978 (being Laws 1972,
Chapter 84, Section 6, as amended) is amended to read:

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

A. any of the following opiates, including their
isomers, esters, ethers, salts, and salts of isomers, esters

1 and ethers, unless specifically exempted, whenever the
2 existence of these isomers, esters, ethers and salts is
3 possible within the specific chemical designation:

- 4 (1) acetylmethadol;
- 5 (2) allylprodine;
- 6 (3) alphacetylmethadol;
- 7 (4) alphameprodine;
- 8 (5) alphamethadol;
- 9 (6) benzethidine;
- 10 (7) betacetylmethadol;
- 11 (8) betameprodine;
- 12 (9) betamethadol;
- 13 (10) betaprodine;
- 14 (11) clonitazene;
- 15 (12) dextromoramide;
- 16 (13) dextrorphan;
- 17 (14) diampromide;
- 18 (15) diethylthiambutene;
- 19 (16) dimenoxadol;
- 20 (17) dimepheptanol;
- 21 (18) dimethylthiambutene;
- 22 (19) dioxaphetyl butyrate;
- 23 (20) dipipanone;
- 24 (21) ethylmethylthiambutene;
- 25 (22) etonitazene;

- 1 (23) etoxeridine;
- 2 (24) furethidine;
- 3 (25) hydroxypethidine;
- 4 (26) ketobemidone;
- 5 (27) levomoramide;
- 6 (28) levophenacymorphan;
- 7 (29) morpheridine;
- 8 (30) noracymethadol;
- 9 (31) norlevorphanol;
- 10 (32) normethadone;
- 11 (33) norpipanone;
- 12 (34) phenadoxone;
- 13 (35) phenampromide;
- 14 (36) phenomorphan;
- 15 (37) phenoperidine;
- 16 (38) piritramide;
- 17 (39) proheptazine;
- 18 (40) properidine;
- 19 (41) racemoramide; and
- 20 (42) trimeperidine;

21 B. any of the following opium derivatives, their
22 salts, isomers and salts of isomers, unless specifically
23 exempted, whenever the existence of these salts, isomers and
24 salts of isomers is possible within the specific chemical
25 designation:

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

23 C. any material, compound, mixture or preparation
24 that contains any quantity of the following hallucinogenic
25 substances, their salts, isomers and salts of isomers, unless

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1 specifically exempted, whenever the existence of these salts,
2 isomers and salts of isomers is possible within the specific
3 chemical designation:

- 4 (1) 3,4-methylenedioxy amphetamine;
- 5 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 6 (3) 3,4,5-trimethoxy amphetamine;
- 7 (4) bufotenine;
- 8 (5) diethyltryptamine;
- 9 (6) dimethyltryptamine;
- 10 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 11 (8) ibogaine;
- 12 (9) lysergic acid diethylamide;
- 13 (10) marijuana;
- 14 (11) mescaline;
- 15 (12) peyote, except as otherwise provided in
16 the Controlled Substances Act;
- 17 (13) N-ethyl-3-piperidyl benzilate;
- 18 (14) N-methyl-3-piperidyl benzilate;
- 19 (15) psilocybin;
- 20 (16) psilocyn;
- 21 (17) tetrahydrocannabinols;
- 22 (18) hashish;
- 23 (19) synthetic cannabinoids, including:
 - 24 (a) 1-[2-(4-(morpholinyl)ethyl)
25 -3-(1-naphthoyl)indole;

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

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1 (24) 3-fluoromethcathinone; and

2 (25) 4-fluoromethcathinone;

3 D. the enumeration of peyote as a controlled
4 substance does not apply to the use of peyote in bona fide
5 religious ceremonies by a bona fide religious organization, and
6 members of the organization so using peyote are exempt from
7 registration. Any person who manufactures peyote for or
8 distributes peyote to the organization or its members shall
9 comply with the federal Comprehensive Drug Abuse Prevention and
10 Control Act of 1970 and all other requirements of law;

11 E. the enumeration of marijuana,
12 tetrahydrocannabinols or chemical derivatives of
13 tetrahydrocannabinol as Schedule I controlled substances does
14 not apply to:

15 (1) the use of marijuana,
16 tetrahydrocannabinols or chemical derivatives of
17 tetrahydrocannabinol by certified patients pursuant to the
18 Controlled Substances Therapeutic Research Act or by qualified
19 patients pursuant to the provisions of the Lynn and Erin
20 Compassionate Use Act; ~~and~~ or

21 (2) the use, dispensing, possession,
22 prescribing, storage or transport of a prescription drug that
23 the United States food and drug administration has approved and
24 that contains marijuana, a tetrahydrocannabinol derivative or a
25 chemical derivative of tetrahydrocannabinol; and

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

4 SECTION 2. [NEW MATERIAL] DRUGS CONTAINING MARIJUANA
5 DERIVATIVES--EXEMPTION FROM PROSECUTION--AUTHORIZED
6 PRESCRIBING--DISPENSING--POSSESSION--TRANSPORT--USE.--

7 A. A person shall not be subject to arrest,
8 prosecution or penalty in any manner for any of the following
9 activities:

10 (1) the prescribing to a patient of an
11 approved marijuana derivative;

12 (2) the dispensing, pursuant to a valid
13 prescription, of an approved marijuana derivative;

14 (3) the possession and transport of an
15 approved marijuana derivative by a patient to whom a currently
16 valid prescription was issued or by the patient's authorized
17 representative;

18 (4) the possession, storage of and transport
19 of a drug containing an approved marijuana derivative by a
20 licensed pharmacy or wholesaler in order to facilitate
21 authorized dispensing and use of the drug; and

22 (5) the use of an approved marijuana
23 derivative by a patient to whom a currently valid prescription
24 was issued; provided that the patient uses the drug only in
25 accordance with prescribed use or dispenser instructions.

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