

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 581

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Derrick J. Lente

AN ACT

RELATING TO COMMERCE; ENACTING THE HEMP MANUFACTURING ACT;  
ALLOWING AND REGULATING THE PRODUCTION, TESTING, RESEARCH,  
MANUFACTURING AND TRANSPORT OF HEMP, HEMP EXTRACTS AND HEMP  
FINISHED PRODUCTS; PROVIDING POWERS AND DUTIES; CREATING  
EXEMPTIONS FROM PROSECUTION UNDER THE CONTROLLED SUBSTANCES  
ACT; PROVIDING FOR THE IMPOSITION OF FEES.

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

SECTION 1. A new section of Chapter 76, Article 24 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Chapter 76, Article 24 NMSA  
1978 may be cited as the "Hemp Manufacturing Act"."

SECTION 2. A new section of Chapter 76, Article 24 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Hemp

underscored material = new  
[bracketed material] = delete

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

1 Manufacturing Act:

2 A. "board" means the board of regents of New Mexico  
3 state university;

4 B. "breeder" means a person who conducts research  
5 to develop new hemp varieties;

6 C. "Cannabis sativa L." means the plant Cannabis  
7 sativa L. and any part of the plant, whether growing or not;

8 D. "hemp" means the plant Cannabis sativa L. and  
9 any part of that plant, including seeds and all derivatives,  
10 extracts, cannabinoids, isomers, acids, salts and salts of  
11 isomers, whether growing or not, with a THC concentration of  
12 not more than three-tenths percent on a dry weight basis;

13 E. "hemp-derived material" means any material  
14 containing THC in any concentration derived from Cannabis  
15 sativa L. through any activity authorized pursuant to the Hemp  
16 Manufacturing Act;

17 F. "hemp extract" means oil derived from hemp,  
18 including cannabidiol, cannabidiolic acid and other identified  
19 and non-identified compounds;

20 G. "hemp finished product" means a hemp product  
21 that is intended for retail sale and containing hemp or hemp  
22 extracts that includes food, food additives and herbs for human  
23 use, including consumption, that has a THC content of not more  
24 than three-tenths percent;

25 H. "hemp manufacturer" means a person that

.213041.6GLG

underscored material = new  
[bracketed material] = delete

1 extracts, processes or engages in other manufacturing  
2 activities regarding hemp, including manufacturing intermediate  
3 hemp-derived products and hemp finished products;

4 I. "hemp producer" means a person that cultivates  
5 and harvests hemp and includes a person that cultivates hemp  
6 plants for transfer to other hemp producers;

7 J. "intermediate hemp-derived product" means oil  
8 and extracts, including cannabidiol, cannabidiolic acid and  
9 other identified and non-identified compounds derived from  
10 hemp;

11 K. "manifest" means a form used for identifying the  
12 quantity, composition, origin, routing and destination of hemp-  
13 derived materials during transportation; and

14 L. "THC" means delta-9-tetrahydrocannabinol as  
15 measured using a post-decarboxylation method and based on  
16 percentage dry weight."

17 SECTION 3. A new section of Chapter 76, Article 24 NMSA  
18 1978 is enacted to read:

19 "[NEW MATERIAL] HARVEST CERTIFICATE OR OTHER AUTHORITY--  
20 REQUIREMENT--ISSUANCE.--

21 A. A person licensed by the New Mexico department  
22 of agriculture may harvest hemp for distribution or sale only  
23 after obtaining from the department a harvest certificate for  
24 that hemp. The department shall issue a harvest certificate  
25 for hemp that meets the THC concentration required pursuant to

.213041.6GLG

underscored material = new  
[bracketed material] = delete

1 the Hemp Manufacturing Act as demonstrated by an analysis  
2 performed by a person licensed pursuant to the Hemp  
3 Manufacturing Act.

4 B. A licensed hemp manufacturer may only buy or  
5 otherwise accept hemp that is accompanied by a harvest  
6 certificate issued for that hemp pursuant to this section, a  
7 document issued by a person licensed pursuant to Subsection C  
8 of Section 8 of the Hemp Manufacturing Act or other document  
9 recognized by the New Mexico department of agriculture  
10 demonstrating compliance with the provisions of the Hemp  
11 Manufacturing Act."

12 SECTION 4. A new section of Chapter 76, Article 24 NMSA  
13 1978 is enacted to read:

14 "[NEW MATERIAL] UNPROCESSED HEMP TESTING LABORATORIES--  
15 REQUIREMENTS.--

16 A. The New Mexico department of agriculture shall  
17 issue licenses pursuant to rules issued under Subsection C of  
18 this section for the analysis of unprocessed Cannabis sativa L.  
19 samples for use in determining eligibility for a harvest  
20 certificate.

21 B. A person shall not analyze unprocessed Cannabis  
22 sativa L. samples for use in determining eligibility for a  
23 harvest certificate unless the person is licensed by the New  
24 Mexico department of agriculture to engage in that activity.

25 C. The board, on behalf of the New Mexico

.213041.6GLG

underscored material = new  
[bracketed material] = delete

1 department of agriculture, shall adopt rules that include:

2 (1) procedures for the issuance, denial,  
3 renewal, suspension or revocation of a license issued by the  
4 New Mexico department of agriculture for the analysis of  
5 unprocessed Cannabis sativa L. samples, including license terms  
6 and procedures for appeal of a denial, suspension or revocation  
7 that include notice and opportunity for a hearing;

8 (2) qualifications for licensure that include  
9 the demonstrated ability to analyze THC concentrations in  
10 Cannabis sativa L.;

11 (3) proficiency standards and requirements for  
12 storage, recordkeeping and inspections;

13 (4) requirements that unprocessed Cannabis  
14 sativa L. samples containing THC levels of more than  
15 three-tenths percent be disposed of according to specified  
16 methods; and

17 (5) licensing fees not to exceed the lesser of  
18 one thousand dollars (\$1,000) or the cost of administration of  
19 a license issued pursuant to this section.

20 D. A license issued pursuant to this section does  
21 not relieve a licensee of the responsibility to obtain other  
22 licenses or permits required by law."

23 SECTION 5. A new section of Chapter 76, Article 24 NMSA  
24 1978 is enacted to read:

25 "[NEW MATERIAL] HEMP BREEDER--REQUIREMENTS--EXEMPTIONS.--

.213041.6GLG

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

1           A. The New Mexico department of agriculture shall  
2 issue licenses pursuant to rules issued under Subsection C of  
3 this section to breed Cannabis sativa L. to produce new hemp  
4 varieties.

5           B. A person shall not breed Cannabis sativa L. to  
6 produce new hemp varieties unless the person is licensed by the  
7 New Mexico department of agriculture or licensed pursuant to  
8 Subsection C of Section 8 of the Hemp Manufacturing Act to  
9 engage in that activity.

10          C. The board, on behalf of the New Mexico  
11 department of agriculture, shall adopt rules that include:

12                   (1) procedures for the issuance, denial,  
13 renewal, suspension and revocation of a license issued by the  
14 New Mexico department of agriculture to breed Cannabis sativa  
15 L. to produce new hemp varieties, including license terms and  
16 procedures for appeal of a denial, suspension or revocation  
17 that include notice and opportunity for a hearing;

18                   (2) qualifications for licensure that include  
19 the demonstrated ability to breed Cannabis sativa L. to produce  
20 new hemp varieties under secure conditions;

21                   (3) proficiency standards and requirements for  
22 storage, recordkeeping and inspections;

23                   (4) requirements that Cannabis sativa L.  
24 containing THC levels of more than three-tenths percent be  
25 disposed of according to specified methods; and

.213041.6GLG

underscoring material = new  
[bracketed material] = delete

1 (5) fees not to exceed the lesser of one  
2 thousand dollars (\$1,000) or the cost of administration of a  
3 license issued pursuant to this section.

4 D. A license issued pursuant to this section does  
5 not relieve the licensee of the responsibility to obtain other  
6 licenses or permits as required by law."

7 SECTION 6. A new section of Chapter 76, Article 24 NMSA  
8 1978 is enacted to read:

9 "[NEW MATERIAL] HEMP MANUFACTURERS--PERMITS--RULES--  
10 REQUIREMENTS.--

11 A. The department of environment shall issue  
12 permits pursuant to rules issued under Subsection C of this  
13 section to extract, process or engage in other manufacturing  
14 activities regarding hemp, including manufacturing intermediate  
15 hemp-derived products and hemp finished products.

16 B. A person shall not extract, process or engage in  
17 other manufacturing activities regarding hemp, including  
18 manufacturing intermediate hemp-derived products and hemp  
19 finished products without a permit issued by the department of  
20 environment or a license issued pursuant to Subsection C of  
21 Section 8 of the Hemp Manufacturing Act.

22 C. The department of environment shall adopt rules  
23 that include:

24 (1) procedures for the issuance, denial,  
25 renewal, suspension and revocation of a permit issued by the

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

1 department of environment to manufacture hemp products,  
2 including permit terms and procedures for appeal of a denial,  
3 suspension or revocation that include notice and opportunity  
4 for a hearing;

5 (2) qualifications for permitting that include  
6 health, sanitation, safety and security;

7 (3) proficiency standards and requirements for  
8 storage, recordkeeping and inspections;

9 (4) requiring, and providing a process for,  
10 the disposal of hemp-derived material containing THC levels of  
11 more than three-tenths percent; and

12 (5) fees not to exceed the lesser of one  
13 thousand dollars (\$1,000) or the cost of administration of a  
14 permit issued pursuant to this section.

15 D. A hemp manufacturer that produces intermediate  
16 hemp-derived products or hemp finished products intended for  
17 human consumption by eating or drinking are subject to the  
18 provisions of the Food Service Sanitation Act and the New  
19 Mexico Food Act.

20 E. Hemp finished products produced by a hemp  
21 manufacturer holding a permit issued pursuant to this section  
22 shall not be deemed adulterated as that term is used in the  
23 Food Service Sanitation Act and the New Mexico Food Act.

24 F. Fees collected pursuant to this section shall be  
25 deposited in the food service sanitation fund.

.213041.6GLG



underscored material = new  
[bracketed material] = delete

1           G. A permit issued pursuant to this section does  
2 not relieve the holder of the permit of the responsibility to  
3 obtain other licenses or permits as required by law."

4           SECTION 7. A new section of Chapter 76, Article 24 NMSA  
5 1978 is enacted to read:

6           "[NEW MATERIAL] TRANSPORTING HEMP AND HEMP-DERIVED  
7 MATERIALS--MANIFEST--RULES--REQUIREMENTS.--

8           A. A person shall not transport hemp unless during  
9 such transportation the person has in the person's immediate  
10 possession a harvest certificate for that hemp provided by the  
11 licensed grower.

12           B. A person shall not transport hemp-derived  
13 materials unless during such transportation the person has in  
14 the person's immediate possession a manifest issued by a person  
15 licensed pursuant to the Hemp Manufacturing Act or other  
16 applicable law.

17           C. The department of environment shall establish a  
18 manifest system and any other reasonable means necessary to  
19 ensure that hemp-derived materials originating from a person  
20 permitted pursuant to Section 6 of the Hemp Manufacturing Act  
21 are identifiable during transport and that the materials are  
22 transported only between persons licensed, permitted or  
23 otherwise authorized to possess hemp-derived materials pursuant  
24 to the Hemp Manufacturing Act or other applicable law.

25           D. A person that transports hemp-derived materials

.213041.6GLG

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

1 or food additive hemp finished products intended for human  
2 consumption by eating or drinking shall be subject to the  
3 provisions of the Food Service Sanitation Act and the New  
4 Mexico Food Act."

5 SECTION 8. A new section of Chapter 76, Article 24 NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] INDIAN NATIONS, TRIBES AND PUEBLOS--NO  
8 STATE REGULATION--COOPERATIVE OR JOINT POWERS AGREEMENTS--  
9 RECOGNITION OF TRIBALLY ISSUED LICENSES.--

10 A. The state acknowledges that federally recognized  
11 Indian nations, tribes and pueblos located wholly or partially  
12 within New Mexico may, pursuant to Section 10113 of the federal  
13 Agriculture Improvement Act of 2018, and as a matter of their  
14 inherent tribal sovereignty, develop their own plans for the  
15 regulation of the production of hemp on their own tribal lands,  
16 and that those plans shall be developed in compliance with the  
17 federal Agriculture Improvement Act of 2018.

18 B. The New Mexico department of agriculture and the  
19 department of environment may enter into cooperative agreements  
20 or joint powers agreements with federally recognized Indian  
21 nations, tribes and pueblos located wholly or partially within  
22 New Mexico that seek the state's assistance in developing hemp  
23 production plans that are acceptable to the director of the New  
24 Mexico department of agriculture and the department of  
25 environment, or in the regulation of hemp production on tribal

.213041.6GLG

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

1 lands, or in the testing of hemp plants for THC, or the  
2 transportation of hemp or hemp-derived material; provided that  
3 no such agreement shall purport to give the state any  
4 jurisdiction over any such activities or material on tribal  
5 lands.

6 C. A cooperative agreement or joint powers  
7 agreement may include provisions recognizing a tribally issued  
8 license that authorizes manufacturing on tribal lands,  
9 including the extraction, processing or engaging in other  
10 manufacturing activities regarding hemp, including  
11 manufacturing intermediate hemp-derived products and hemp  
12 finished products under Section 6 of the Hemp Manufacturing  
13 Act."

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

16 "30-31-2. DEFINITIONS.--As used in the Controlled  
17 Substances Act:

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

21 B. "agent" includes an authorized person who acts  
22 on behalf of a manufacturer, distributor or dispenser. It does  
23 not include a common or contract carrier, public  
24 warehouseperson or employee of the carrier or warehouseperson;

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

.213041.6GLG

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

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

4           E. "controlled substance" means a drug or substance  
5 listed in Schedules I through V of the Controlled Substances  
6 Act or rules adopted thereto;

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

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

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

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

.213041.6GLG

underscored material = new  
[bracketed material] = delete

1 J. "distribute" means to deliver other than by  
2 administering or dispensing a controlled substance or  
3 controlled substance analog;

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

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

14 M. "hemp" means the plant Cannabis sativa L. and  
15 any part of that plant, including seeds and all derivatives,  
16 extracts, cannabinoids, isomers, acids, salts and salts of  
17 isomers, whether growing or not, with a delta-9-  
18 tetrahydrocannabinol concentration of not more than three-  
19 tenths percent on a dry weight basis;

20 [~~M.~~] N. "manufacture" means the production,  
21 preparation, compounding, conversion or processing of a  
22 controlled substance or controlled substance analog by  
23 extraction from substances of natural origin or independently  
24 by means of chemical synthesis or by a combination of  
25 extraction and chemical synthesis and includes any packaging or

.213041.6GLG

underscored material = new  
[bracketed material] = delete

1 repackaging of the substance or labeling or relabeling of its  
2 container, except that this term does not include the  
3 preparation or compounding of a controlled substance:

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

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

11 ~~[N-]~~ O. "marijuana" means all parts of the plant  
12 cannabis, including any and all varieties, species and  
13 subspecies of the genus Cannabis, whether growing or not, the  
14 seeds thereof and every compound, manufacture, salt,  
15 derivative, mixture or preparation of the plant or its seeds.  
16 It does not include the mature stalks of the plant, hashish,  
17 tetrahydrocannabinols extracted or isolated from marijuana,  
18 fiber produced from the stalks, oil or cake made from the seeds  
19 of the plant, any other compound, manufacture, salt,  
20 derivative, mixture or preparation of the mature stalks, fiber,  
21 oil or cake, or the sterilized seed of the plant that is  
22 incapable of germination; or the plant Cannabis sativa L. and  
23 any part of the plant, whether growing or not, containing a  
24 delta-9-tetrahydrocannabinol concentration of no more than  
25 three-tenths percent on a dry weight basis;

.213041.6GLG

underscored material = new  
[bracketed material] = delete

1           [~~Θ-~~] P. "narcotic drug" means any of the following,  
2 whether produced directly or indirectly by extraction from  
3 substances of vegetable origin or independently by means of  
4 chemical synthesis or by a combination of extraction and  
5 chemical synthesis:

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

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

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

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

21           [~~P-~~] Q. "opiate" means any substance having an  
22 addiction-forming or addiction-sustaining liability similar to  
23 morphine or being capable of conversion into a drug having  
24 addiction-forming or addiction-sustaining liability. "Opiate"  
25 does not include, unless specifically designated as controlled

.213041.6GLG

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

1 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of  
2 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.

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

4 [Q-] R. "person" means an individual, partnership,  
5 corporation, association, institution, political subdivision,  
6 government agency or other legal entity;

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

15 [S-] T. "prescription" means an order given  
16 individually for the person for whom is prescribed a controlled  
17 substance, either directly from a licensed practitioner or the  
18 practitioner's agent to the pharmacist, including by means of  
19 electronic transmission, or indirectly by means of a written  
20 order signed by the prescriber, bearing the name and address of  
21 the prescriber, the prescriber's license classification, the  
22 name and address of the patient, the name and quantity of the  
23 drug prescribed, directions for use and the date of issue and  
24 in accordance with the Controlled Substances Act or rules  
25 adopted thereto;

.213041.6GLG



underscored material = new  
[bracketed material] = delete

1           ~~[F.]~~ U. "scientific investigator" means a person  
2 registered to conduct research with controlled substances in  
3 the course of the person's professional practice or research  
4 and includes analytical laboratories;

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

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

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

25                   (2) kits used, intended for use or designed

.213041.6GLG

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

1 for use in manufacturing, compounding, converting, producing,  
2 processing or preparing controlled substances or controlled  
3 substance analogs;

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

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

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

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

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

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

25 (9) capsules, balloons, envelopes and other

.213041.6GLG

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

1 containers used, intended for use or designed for use in  
2 packaging small quantities of controlled substances or  
3 controlled substance analogs;

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

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

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

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

18 (b) water pipes;

19 (c) carburetion tubes and devices;

20 (d) smoking and carburetion masks;

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

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

.213041.6GLG

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

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

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

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

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

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

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

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

25 (f) descriptive materials accompanying

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

1 the object that explain or depict its use;

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

4 (h) expert testimony concerning its use;

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

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

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

underscoring material = new  
[bracketed material] = delete

1       investigational use within the meaning of Section 505 of the  
2       Federal Food, Drug, and Cosmetic Act;

3               ~~[X.]~~ Y. "human consumption" includes application,  
4       injection, inhalation, ingestion or any other manner of  
5       introduction;

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

11              ~~[Z.]~~ AA. "valid practitioner-patient relationship"  
12      means a professional relationship, as defined by the  
13      practitioner's licensing board, between the practitioner and  
14      the patient."

15              **SECTION 10.** Section 30-31-6 NMSA 1978 (being Laws 1972,  
16      Chapter 84, Section 6, as amended by Laws 2017, Chapter 139,  
17      Section 2, by Laws 2017, Chapter 140, Section 3 and by Laws  
18      2018, Chapter 41, Section 1) is amended to read:

19              "30-31-6. SCHEDULE I.--The following controlled  
20      substances are included in Schedule I:

21              A. any of the following opiates, including their  
22      isomers, esters, ethers, salts, and salts of isomers, esters  
23      and ethers, unless specifically exempted, whenever the  
24      existence of these isomers, esters, ethers and salts is  
25      possible within the specific chemical designation:

.213041.6GLG

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

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

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

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

- 23 (1) acetorphine;
- 24 (2) acetyldihydrocodeine;
- 25 (3) benzylmorphine;



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

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

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

.213041.6GLG

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

1 (e) 1-pentyl-3-(2-methoxyphenylacetyl)  
2 indole;

3 (f) cannabicyclohexanol (CP 47, 497 and  
4 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)  
5 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,  
6 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

7 (g) 6aR,10aR)-9-(hydroxymethyl)  
8 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,  
9 10a-tetrahydrobenzo[c]chromen-1-ol);

10 (h) dexanabinol, (6aS,10aS)  
11 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)  
12 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

13 (i) 1-pentyl-3-(4-chloro naphthoyl)  
14 indole;

15 (j) (2-methyl-1-propyl-1H-indol-3-yl)  
16 -1-naphthalenyl-methanone; and

17 (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy  
18 cyclohexyl)-phenol;

19 (20) 3,4-methylenedioxy-methcathinone;

20 (21) 3,4-methylenedioxypropylvalerone;

21 (22) 4-methylmethcathinone;

22 (23) 4-methoxymethcathinone;

23 (24) 3-fluoromethcathinone; and

24 (25) 4-fluoromethcathinone;

25 D. the enumeration of peyote as a controlled

underscored material = new  
[bracketed material] = delete

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

8 E. the enumeration of marijuana,  
9 tetrahydrocannabinols or chemical derivatives of  
10 tetrahydrocannabinol as Schedule I controlled substances does  
11 not apply to:

12 (1) ~~[industrial]~~ hemp pursuant to rules  
13 promulgated by the board of regents of New Mexico state  
14 university on behalf of the New Mexico department of  
15 agriculture;

16 (2) cultivation of ~~[industrial]~~ hemp by  
17 ~~[qualified entities]~~ persons pursuant to rules ~~[adopted by]~~  
18 promulgated by the board of regents of New Mexico state  
19 university on behalf of the New Mexico department of  
20 agriculture;

21 (3) tetrahydrocannabinols or chemical  
22 derivatives of tetrahydrocannabinols, including  
23 tetrahydrocannabinols or chemical derivatives of  
24 tetrahydrocannabinols with concentrations of up to five percent  
25 as measured using a post-decarboxylation method and based on

underscoring material = new  
[bracketed material] = delete

1 percentage dry weight, possessed by a person in connection with  
2 the cultivation, transportation, testing, researching,  
3 manufacturing or other processing of the plant Cannabis sativa  
4 L., or any part of the plant whether growing or not, if  
5 authorized pursuant to rules promulgated, pursuant to the Hemp  
6 Manufacturing Act, by the board of regents of New Mexico state  
7 university on behalf of the New Mexico department of  
8 agriculture or the department of environment;

9 (4) tetrahydrocannabinols or chemical  
10 derivatives of tetrahydrocannabinols, including  
11 tetrahydrocannabinols or chemical derivatives of  
12 tetrahydrocannabinols in any concentration possessed by a  
13 person in connection with the extraction of  
14 tetrahydrocannabinols or chemical derivatives of  
15 tetrahydrocannabinols, if authorized pursuant to rules  
16 promulgated, pursuant to the Hemp Manufacturing Act, by the  
17 board of regents of New Mexico state university on behalf of  
18 the New Mexico department of agriculture or the department of  
19 environment;

20 ~~(3)~~ (5) the use of marijuana,  
21 tetrahydrocannabinols or chemical derivatives of  
22 tetrahydrocannabinol by certified patients pursuant to the  
23 Controlled Substances Therapeutic Research Act or by qualified  
24 patients pursuant to the provisions of the Lynn and Erin  
25 Compassionate Use Act; or

.213041.6GLG

underscored material = new  
[bracketed material] = delete

1                    [~~(4)~~] (6) the use, dispensing, possession,  
2                    prescribing, storage or transport of a prescription drug that  
3                    the United States food and drug administration has approved and  
4                    that contains marijuana, a tetrahydrocannabinol derivative or a  
5                    chemical derivative of tetrahydrocannabinol; and

6                    F. controlled substances added to Schedule I by  
7                    rule adopted by the board pursuant to Section 30-31-3 NMSA  
8                    1978."

9                    SECTION 11. Section 76-24-2 NMSA 1978 (being Laws 2017,  
10                    Chapter 140, Section 1) is amended to read:

11                    "76-24-2. [~~INDUSTRIAL~~] HEMP [~~RESEARCH~~]--NEW MEXICO  
12                    DEPARTMENT OF AGRICULTURE--NEW MEXICO HEMP RESEARCH AND  
13                    DEVELOPMENT FUND.--

14                    [~~A. As used in this section, "industrial hemp"~~  
15                    ~~means the plant Cannabis sativa L. and any part of the plant,~~  
16                    ~~whether growing or not, containing a delta-9-~~  
17                    ~~tetrahydrocannabinol concentration of no more than three-tenths~~  
18                    ~~percent on a dry weight basis.~~

19                    ~~B.]~~ A. The intent of this section is to bring  
20                    New Mexico into compliance with federal law.

21                    [~~G.]~~ B. Notwithstanding any other provision of law  
22                    to the contrary, the board, through the New Mexico department  
23                    of agriculture, shall issue licenses pursuant to rules enacted  
24                    under Subsection [~~D~~] C of this section to grow [~~industrial~~]  
25                    hemp for research and development, [~~purposes, including~~]

underscored material = new  
[bracketed material] = delete

1 agricultural, agronomic, ecological, processing, sales and  
2 marketing [~~research~~] purposes.

3 [~~D.~~] C. The board, on behalf of the director of the  
4 New Mexico department of agriculture, shall adopt rules to  
5 establish and carry out the provisions of this section,  
6 including requirements for licensure, training of law  
7 enforcement personnel, inspection, recordkeeping, fees not to  
8 exceed program costs and compliance processes. An institution  
9 of higher education, person or business that plans to grow  
10 [~~industrial~~] hemp seed or [~~industrial~~] hemp fiber shall obtain  
11 a grower's license by submitting an application to the New  
12 Mexico department of agriculture pursuant to promulgated rules.

13 [~~E.~~] D. A person who holds a license issued  
14 pursuant to this section may grow [~~industrial~~] hemp for  
15 research and development, [~~purposes, including~~] agricultural,  
16 agronomic, ecological, processing, sales and marketing  
17 [~~research~~] or any other purpose allowed by federal regulation  
18 [~~in~~] or law.

19 [~~F. New Mexico state university~~] E. The board  
20 shall establish a "New Mexico [~~industrial~~] hemp research and  
21 development fund". The fund consists of fees collected by the  
22 New Mexico department of agriculture [~~for administration of the~~  
23 ~~industrial hemp research and development program~~] pursuant to  
24 the Hemp Manufacturing Act, donations, grants and income earned  
25 from investment of the fund and money otherwise accruing to the

.213041.6GLG

underscoring material = new  
[bracketed material] = delete

1 fund. Money in the fund shall not revert to any other fund at  
2 the end of a fiscal year. The [~~New Mexico department of~~  
3 ~~agriculture~~] board shall administer the fund, and money in the  
4 fund is subject to appropriation by the legislature to the [~~New~~  
5 ~~Mexico~~] board for the department [~~of agriculture~~] to [~~conduct~~  
6 ~~related programs~~] administer the provisions of the Hemp  
7 Manufacturing Act. Money in the fund shall be disbursed on  
8 warrants signed by the secretary of finance and administration  
9 pursuant to vouchers signed by the director of the New Mexico  
10 department of agriculture or the director's authorized  
11 representative."

12 SECTION 12. REPEAL.--Section 76-24-1 NMSA 1978 (being  
13 Laws 2017, Chapter 139, Section 1) is repealed.

14 SECTION 13. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2019.

16 - 32 -