

HOUSE BILL 107

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Andrea Reeb

AN ACT

RELATING TO CRIME; AMENDING SECTIONS OF THE CONTROLLED
SUBSTANCES ACT; PROVIDING A PENALTY FOR WHEN THE TRAFFICKING OF
CERTAIN CONTROLLED SUBSTANCES, CONTROLLED SUBSTANCE ANALOGS OR
COUNTERFEIT SUBSTANCES RESULTS IN THE DEATH OF A HUMAN BEING;
REVISING PENALTIES; PRESCRIBING FINES.

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

SECTION 1. Section 30-31-20 NMSA 1978 (being Laws 1972,
Chapter 84, Section 20, as amended) is amended to read:

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

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

(1) manufacture of a controlled substance
enumerated in Schedules I through V or a controlled substance

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1 analog [~~as defined in Subsection W of Section 30-31-2 NMSA~~
2 ~~1978~~];

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

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

7 (b) a controlled substance analog of a
8 controlled substance enumerated in Schedule I or II that is a
9 narcotic drug; [~~or~~]

10 (c) a counterfeit substance of a
11 controlled substance enumerated in Schedule I or II that is a
12 narcotic drug;

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

16 [~~(e)~~] (e) methamphetamine, its salts,
17 isomers and salts of isomers; or

18 (3) possession with intent to distribute:

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

21 (b) a controlled substance analog of a
22 controlled substance enumerated in Schedule I or II that is a
23 narcotic drug; [~~or~~]

24 (c) a counterfeit substance of a
25 controlled substance enumerated in Schedule I or II that is a

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1 narcotic drug;

2 (d) a counterfeit substance of a
3 controlled substance analog of a controlled substance
4 enumerated in Schedule I or II that is a narcotic drug; or

5 ~~[(e)]~~ (e) methamphetamine, its salts,
6 isomers and salts of isomers.

7 B. Except as authorized by the Controlled
8 Substances Act, it is unlawful for a person to intentionally
9 traffic. A person who violates this subsection is:

10 (1) for the first offense, except as provided
11 in Paragraph (2) of this subsection, guilty of a second degree
12 felony for trafficking a controlled substance and shall be
13 sentenced pursuant to the provisions of Section 31-18-15 NMSA
14 1978; ~~[and]~~ provided that the person shall serve a minimum term
15 of imprisonment of nine years;

16 (2) for the first offense resulting in the
17 death of a human being, guilty of a second degree felony for
18 trafficking a controlled substance resulting in the death of a
19 human being and shall be sentenced pursuant to the provisions
20 of Section 31-18-15 NMSA 1978; provided that the person shall
21 serve a minimum term of imprisonment of twelve years;

22 ~~[(2)]~~ (3) for the second and subsequent
23 offenses, except as provided in Paragraph (4) of this
24 subsection, guilty of a first degree felony and shall be
25 sentenced pursuant to the provisions of Section 31-18-15 NMSA

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1 1978; and

2 (4) for the second and subsequent offenses, if
3 the offense results in the death of a human being, guilty of a
4 first degree felony for trafficking a controlled substance
5 resulting in the death of a human being and shall be sentenced
6 pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

12 SECTION 2. Section 30-31-21 NMSA 1978 (being Laws 1972,
13 Chapter 84, Section 21, as amended) is amended to read:

14 "30-31-21. DISTRIBUTION TO A MINOR.--

15 A. Except as authorized by the Controlled
16 Substances Act, no person who is eighteen years of age or older
17 shall intentionally distribute a controlled substance to a
18 person under the age of eighteen years.

19 B. Except as provided in Subsection C of this
20 section, any person who violates this section with respect to a
21 controlled substance enumerated in Schedule I, II, III or IV or
22 a controlled substance analog of any controlled substance
23 enumerated in Schedule I, II, III or IV is:

24 (1) for the first offense, guilty of a second
25 degree felony and shall be sentenced pursuant to the provisions

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1 of Section 31-18-15 NMSA 1978; and

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

5 C. A person who violates this section with respect
6 to a controlled substance enumerated in Schedule I or II that
7 is a narcotic drug or a controlled substance analog of a
8 controlled substance enumerated in Schedule I or II that is a
9 narcotic drug, methamphetamine, its salts, isomers or salts of
10 isomers as enumerated in Schedule II or a controlled substance
11 analog of methamphetamine, its salts, isomers or salts of
12 isomers is guilty of a first degree felony and shall be
13 sentenced pursuant to the provisions of Section 31-18-15 NMSA
14 1978."

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

17 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--
18 DISTRIBUTION PROHIBITED.--

19 A. Except as authorized by the Controlled
20 Substances Act, it is unlawful for a person to intentionally
21 distribute or possess with intent to distribute a controlled
22 substance or a controlled substance analog except a substance
23 enumerated in Schedule I or II that is a narcotic drug, a
24 controlled substance analog of a controlled substance
25 enumerated in Schedule I or II that is a narcotic drug or

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1 methamphetamine, its salts, isomers and salts of isomers. A
2 person who violates this subsection with respect to:

3 (1) synthetic cannabinoids is:

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

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

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

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

21 (2) any other controlled substance enumerated
22 in Schedule I, II, III or IV or a controlled substance analog
23 of a controlled substance enumerated in Schedule I, II, III or
24 IV except a substance enumerated in Schedule I or II that is a
25 narcotic drug, a controlled substance analog of a controlled

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1 substance enumerated in Schedule I or II that is a narcotic
2 drug or methamphetamine, its salts, isomers and salts of
3 isomers, is:

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

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

11 (3) a controlled substance enumerated in
12 Schedule V or a controlled substance analog of a controlled
13 substance enumerated in Schedule V is guilty of a misdemeanor
14 and shall be punished by a fine of not less than one hundred
15 dollars (\$100) or more than five hundred dollars (\$500) or by
16 imprisonment for a definite term not less than one hundred
17 eighty days but less than one year, or both.

18 B. It is unlawful for a person to distribute gamma
19 hydroxybutyric acid or flunitrazepam to another person without
20 that person's knowledge and with intent to commit a crime
21 against that person, including criminal sexual penetration.
22 For the purposes of this subsection, "without that person's
23 knowledge" means the person is unaware that a substance with
24 the ability to alter that person's ability to appraise conduct
25 or to decline participation in or communicate unwillingness to

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1 participate in conduct is being distributed to that person.

2 Any person who violates this subsection is:

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

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

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

14 (1) a counterfeit substance enumerated in
15 Schedule I, II, III or IV, except a counterfeit substance of a
16 controlled substance enumerated in Schedule I or II that is a
17 narcotic drug or a counterfeit substance of a controlled
18 substance analog of a controlled substance enumerated in
19 Schedule I or II that is a narcotic drug, is guilty of a fourth
20 degree felony and shall be sentenced pursuant to the provisions
21 of Section 31-18-15 NMSA 1978; and

22 (2) a counterfeit substance enumerated in
23 Schedule V is guilty of a petty misdemeanor and shall be
24 punished by a fine of not more than one hundred dollars (\$100)
25 or by imprisonment for a definite term not to exceed six

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1 months, or both.

2 D. A person who knowingly violates Subsection A or
3 C of this section while within a drug-free school zone with
4 respect to:

5 (1) synthetic cannabinoids is:

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

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

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

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

23 (2) any other controlled substance enumerated
24 in Schedule I, II, III or IV or a controlled substance analog
25 of a controlled substance enumerated in Schedule I, II, III or

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1 IV except a substance enumerated in Schedule I or II that is a
2 narcotic drug, a controlled substance analog of a controlled
3 substance enumerated in Schedule I or II that is a narcotic
4 drug or methamphetamine, its salts, isomers and salts of
5 isomers, is:

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

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

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

18 (4) the intentional creation, delivery or
19 possession with the intent to deliver:

20 (a) a counterfeit substance enumerated
21 in Schedule I, II, III or IV, except a counterfeit substance of
22 a controlled substance enumerated in Schedule I or II that is a
23 narcotic drug or a counterfeit substance of a controlled
24 substance analog of a controlled substance enumerated in
25 Schedule I or II that is a narcotic drug, is guilty of a third

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

3 (b) a counterfeit substance enumerated
4 in Schedule V is guilty of a misdemeanor and shall be punished
5 by a fine of not less than one hundred dollars (\$100) nor more
6 than five hundred dollars (\$500) or by imprisonment for a
7 definite term not less than one hundred eighty days but less
8 than one year, or both.

9 E. Notwithstanding the provisions of Subsection A
10 of this section, distribution of a small amount of synthetic
11 cannabinoids for no remuneration shall be treated as provided
12 in Paragraph (1) of Subsection B of Section 30-31-23 NMSA
13 1978."

14 SECTION 4. Section 31-18-15 NMSA 1978 (being Laws 1977,
15 Chapter 216, Section 4, as amended) is amended to read:

16 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
17 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
18 DEDUCTIONS.--

19 A. As used in a statute that establishes a
20 noncapital felony, the following defined felony classifications
21 and associated basic sentences of imprisonment are as follows:

| 22 FELONY CLASSIFICATION | BASIC SENTENCE |
|---------------------------|-------------------|
| 23 first degree felony | |
| 24 resulting in the death | |
| 25 of a child | life imprisonment |

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1 first degree felony for
2 aggravated criminal sexual
3 penetration life imprisonment
4 first degree felony for
5 trafficking a controlled
6 substance resulting in
7 the death of a human being life imprisonment
8 first degree felony eighteen years imprisonment
9 second degree felony
10 resulting in the death of
11 a human being eighteen years imprisonment
12 second degree felony for
13 trafficking a controlled
14 substance resulting in
15 the death of a human being eighteen years imprisonment
16 second degree felony for a
17 sexual offense against a
18 child fifteen years imprisonment
19 second degree felony for
20 sexual exploitation of
21 children twelve years imprisonment
22 second degree felony nine years imprisonment
23 third degree felony resulting
24 in the death of a human being six years imprisonment
25 third degree felony for a

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1 sexual offense against a
2 child six years imprisonment
3 third degree felony for sexual
4 exploitation of children eleven years imprisonment
5 third degree felony three years imprisonment
6 fourth degree felony for
7 sexual exploitation of
8 children ten years imprisonment
9 fourth degree felony eighteen months imprisonment.

10 B. The appropriate basic sentence of imprisonment
11 shall be imposed upon a person convicted and sentenced pursuant
12 to Subsection A of this section, unless the court alters the
13 sentence pursuant to the provisions of the Criminal Sentencing
14 Act.

15 C. A period of parole shall be imposed only for
16 felony convictions wherein a person is sentenced to
17 imprisonment of more than one year, unless the parties to a
18 proceeding agree that a period of parole should be imposed. If
19 a period of parole is imposed, the court shall include in the
20 judgment and sentence of each person convicted and sentenced to
21 imprisonment in a corrections facility designated by the
22 corrections department authority for a period of parole to be
23 served in accordance with the provisions of Section 31-21-10
24 NMSA 1978 after the completion of any actual time of
25 imprisonment and authority to require, as a condition of

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1 parole, the payment of the costs of parole services and
2 reimbursement to a law enforcement agency or local crime
3 stopper program in accordance with the provisions of that
4 section. If imposed, the period of parole shall be deemed to
5 be part of the sentence of the convicted person in addition to
6 the basic sentence imposed pursuant to Subsection A of this
7 section together with alterations, if any, pursuant to the
8 provisions of the Criminal Sentencing Act.

9 D. When a court imposes a sentence of imprisonment
10 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or
11 31-18-17 NMSA 1978 and suspends or defers the basic sentence of
12 imprisonment provided pursuant to the provisions of Subsection
13 A of this section, the period of parole shall be served in
14 accordance with the provisions of Section 31-21-10 NMSA 1978
15 for the degree of felony for the basic sentence for which the
16 inmate was convicted. For the purpose of designating a period
17 of parole, a court shall not consider that the basic sentence
18 of imprisonment was suspended or deferred and that the inmate
19 served a period of imprisonment pursuant to the provisions of
20 the Criminal Sentencing Act.

21 E. The court may, in addition to the imposition of
22 a basic sentence of imprisonment, impose a fine not to exceed:

23 (1) for a first degree felony resulting in the
24 death of a child, seventeen thousand five hundred dollars
25 (\$17,500);

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1 (2) for a first degree felony for aggravated
2 criminal sexual penetration, seventeen thousand five hundred
3 dollars (\$17,500);

4 (3) for a first degree felony for trafficking
5 a controlled substance resulting in the death of a human being,
6 seventeen thousand five hundred dollars (\$17,500);

7 [~~(3)~~] (4) for a first degree felony, fifteen
8 thousand dollars (\$15,000);

9 [~~(4)~~] (5) for a second degree felony resulting
10 in the death of a human being, twelve thousand five hundred
11 dollars (\$12,500);

12 [~~(5)~~] (6) for a second degree felony for a
13 sexual offense against a child, twelve thousand five hundred
14 dollars (\$12,500);

15 (7) for a second degree felony for trafficking
16 a controlled substance resulting in the death of a human being,
17 twelve thousand five hundred dollars (\$12,500);

18 [~~(6)~~] (8) for a second degree felony for
19 sexual exploitation of children, five thousand dollars
20 (\$5,000);

21 [~~(7)~~] (9) for a second degree felony, ten
22 thousand dollars (\$10,000);

23 [~~(8)~~] (10) for a third degree felony resulting
24 in the death of a human being, five thousand dollars (\$5,000);

25 [~~(9)~~] (11) for a third degree felony for a

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1 sexual offense against a child, five thousand dollars (\$5,000);

2 [~~(10)~~] (12) for a third degree felony for
3 sexual exploitation of children, five thousand dollars
4 (\$5,000);

5 [~~(11)~~] (13) for a third or fourth degree
6 felony, five thousand dollars (\$5,000); or

7 [~~(12)~~] (14) for a fourth degree felony for
8 sexual exploitation of children, five thousand dollars
9 (\$5,000).

10 F. When the court imposes a sentence of
11 imprisonment for a felony offense, the court shall indicate
12 whether or not the offense is a serious violent offense as
13 defined in Section 33-2-34 NMSA 1978. The court shall inform
14 an offender that the offender's sentence of imprisonment is
15 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37
16 and 33-2-38 NMSA 1978. If the court fails to inform an
17 offender that the offender's sentence is subject to those
18 provisions or if the court provides the offender with erroneous
19 information regarding those provisions, the failure to inform
20 or the error shall not provide a basis for a writ of habeas
21 corpus.

22 G. No later than October 31 of each year, the
23 New Mexico sentencing commission shall provide a written report
24 to the secretary of corrections, all New Mexico criminal court
25 judges, the administrative office of the district attorneys and

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1 the chief public defender. The report shall specify the
2 average reduction in the sentence of imprisonment for serious
3 violent offenses and nonviolent offenses, as defined in Section
4 33-2-34 NMSA 1978, due to meritorious deductions earned by
5 prisoners during the previous fiscal year pursuant to the
6 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38
7 NMSA 1978. The corrections department shall allow the
8 commission access to documents used by the department to
9 determine earned meritorious deductions for prisoners."

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