

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

23<sup>rd</sup> Navajo Nation Council - - Fourth Year, 2018

AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ENACTING THE "CONTROLLED SUBSTANCE DEFINITION ACT OF 2018"; AMENDING TITLE 17 CHAPTER 3, CONTROLLED SUBSTANCES AT 17 N.N.C. §§ 390, 394

BE IT ENACTED:

**SECTION ONE. AUTHORITY**

- A. The Health, Education and Human Services Committee is a standing committee of the Navajo Nation Council and is empowered to review and recommend resolutions relating to social services, health, environmental health, education, veterans and veterans services, employment and labor. 2 N.N.C. §§ 164(A) (1), 400(A) and 401(B) (6) (a) (2012); CO-45-12.
- B. The Resources and Development Committee is a standing committee of the Navajo Nation Council and is empowered to review and make recommendations to the Navajo Nation Council for final approval resolutions requiring Navajo Nation Council approval to accomplish or impact the Committee purposes. 2 N.N.C. §§ 164(A) (1), 500(A) and 501(B) (4) (f) (2012); CO-45-12.
- C. The Law and Order Committee is a standing committee of the Navajo Nation Council and is empowered with the authority to review and make recommendations to the Navajo Nation Council on amendments to and enactments in the Navajo Nation Code. 2 N.N.C. §§ 164(A) (1), 600(A), and 601(B) (14) (2012); CO-45-12.
- D. The Naabik'iyáti' Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 164 (A) (9), reviews proposed legislation which requires final action by the Navajo Nation Council. CO-45-12.
- E. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164(A) (2012); CO-45-12.

**SECTION TWO. FINDINGS**

- A. The Navajo Nation is responsible for the enforcement of the Criminal Code, including amendments, as may be enacted by the Navajo Nation through its Council and the President.
- B. The purposes of the Navajo Nation Criminal Code, being applied in harmony with the other Titles of the Navajo Nation Code and policies of the Navajo Nation, include, among others, proscribing certain substances that may pose the threat of inflicting substantial harm to individuals or public interests, giving all persons entering into the territorial jurisdiction of the Navajo Nation Courts a fair warning of such proscribed substances by clear statement within the Criminal Code, and protecting and promoting the interests of the Navajo Nation, its public, and its economy and economic development within its territorial jurisdiction.
- C. The Navajo Nation Code, at Title 17, Chapter 3, Controlled Substances, Definitions was last amended with respect to the definition of "Marijuana" on July 20, 2000, by Council Resolution CJY-54-00, which defined "Marijuana" as "...those Cannabis plants that contain an amount equal to or more than one and four-tenths percent (1.4%) tetrahydrocannabinol" (THC). See **Exhibit A**.
- D. The Agricultural Act of 2014, (the Federal Farm Bill) made that standard under federal law more restrictive, lowering the amount of allowable THC from 1.4% to 0.3% (less than one percent); defining Cannabis as hemp, not marijuana, provided that no part of the plant, including the leaves and flowers, exceeds "... a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis". 128 Stat 649 Sec. 7606 (b) (2); Public Law 113-79-Feb. 7, 2014; See **Exhibit B**.
- E. The Navajo Nation Code defining controlled substances is not consistent with existing federal law, and in fact, allows more THC than federal law permits.
- F. The Navajo Nation Council finds it to be in the best interest of the Navajo Nation to enact "The Controlled Substances Definition Act of 2018" and thereby amend the Navajo Nation Code to conform to the Federal definition of industrial hemp/marijuana.

**SECTION THREE. RESOLVED**

- A. The Navajo Nation hereby enacts "The Controlled Substances Definition Act of 2018" to conform Navajo Nation Code with the Federal definition of industrial hemp/marijuana as found in the Public Law 113-79, February 7, 2014, The Agricultural Act of 2014.
- B. The enactment of this resolution does not authorize the cultivation, growth possession, development or propagation of industrial hemp until the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits for industrial hemp.
- C. The Navajo Nation hereby amends the Title 17 as follows:

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**NAVAJO NATION CODE  
TITLE 17. LAW AND ORDER  
CHAPTER 3.  
SUBCHAPTER 10. CONTROLLED SUBSTANCES**

\* \* \* \*

**§ 390. Definitions**

The following definitions apply in this Subchapter:

- A. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.
- B. "Marijuana" means ~~these Cannabis plants that contain an amount equal to or more than one and four-tenths percent (1.4%) tetrahydrocannabinol.~~ the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of more than three tenths percent (0.3%) on a dry weight basis.
- C. "Opium" includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

\* \* \* \*

**§ 394. Possession or sale of controlled substances**

- A. Offense. A person commits an offense pursuant to this Section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:

1. Opium or coca leaves, or any compound, manufacture, salt, derivative, mixture or preparation thereof, apomorphine and its salts excepted , and including the following:
  - a. Acetorphine;
  - b. Acetyldihydrocodeine;
  - c. Benylmorphine;
  - d. Codeine;
  - e. Codeine methylbromide;
  - f. Codeine-n-oxide;
  - g. Cyrenorphine;
  - h. Desomorphine;
  - i. Dihydromorphine;
  - j. Drotebanol;
  - k. Ethylmorphine;
  - l. Etorphine;
  - m. Heroin;
  - n. Hydrocodone;
  - o. Hydromorphinol;
  - p. Hydromorphone;
  - q. Methyldesorphine;
  - r. Methyldihydromorphine;
  - s. Metopon;
  - t. Morphine;
  - u. Morphine methylbromide;
  - v. Morphine methylsulfonate;
  - w. Morphine-n-oxide;
  - x. Myrophine;
  - y. Nalorphine;
  - z. Nicocodeine;
  - aa. Nicomorphine;
  - bb. Normorphine;
  - cc. Oxycodone;
  - dd. Oxymorphone;
  - ee. Pholocodine;
  - ff. Thebacon;
  - gg. Thebaine;
  - hh. Cocaine.
  
2. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers;
  - a. Lysergic acid diethylamide;
  - b. Mescaline;

- c. Psilocybin;
  - d. Psilocyn;
  - e. Hashish;
  - f. Peyote;
  - g. 4-bromo-2, 5-dimethoxyamphetamine;
  - h. Bufotenine;
  - i. Diethyltryptamine;
  - j. 2, 5-dimethoxyamphetamine;
  - k. Dimethyltryptamine;
  - l. 5-methoxy-3, 4-methylenedioxyamphetamine;
  - m. 4-methyl-2, 5-dimethoxyamphetamine;
  - n. Ibogaine;
  - o. Lysergic acid amide;
  - p. Methoxymethylenedioxyamphetamine (MMDA);
  - q. Methylenedioxyamphetamine (MDA);
  - r. 3, 4-metyulenedioxyamphetamine;
  - s. 3, 4-methylenedioxy-n-ethylamphetamine;
  - t. N-ethyl-3-piperidyl benzilate (JB-318);
  - u. N-hydroxy-3, 4-methylenedioxyamphetamine;
  - v. N-methyl-3-piperidyl bezilate (JB-336);
  - w. N-(1-phenylcyclohexyl) ethylamine (PCE);
  - x. Nabilone;
  - y. 1-(1-phenylcyclohexyl) pyrrolidine (PHP);
  - z. 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine;
  - aa. Para-methoxamphetamine (PMA);
  - bb. Synhexyl;
  - cc. Trimethoxyamphetamine.
3. Any material, compound, mixture or preparation which contains an amount ~~equal to or~~ more than ~~1.4%~~ three tenths percent (0.3%) quantity of tetrahydrocannabinol (T.H.C.) on a dry weight basis.
4. Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, isomers, and salts of isomers having a potential for abuse associated with a stimulant effect on the central nervous system:
- a. Amphetamine;
  - b. Benzphetamine;
  - c. Cathine ((+)-norpseudoephedrine);
  - d. Clorpheniramine;
  - e. Clortermine.
  - f. Diethylpropion;
  - g. Fencamfamin;
  - h. Fenethylline;
  - i. Fenproporex;

- j. Mazindol;
  - k. Mefenorex;
  - l. Methamphetamine;
  - m. 4-methylaminorex;
  - n. Methylphenidate;
  - o. N-ethylamphetamine;
  - p. N, N-dimethylamphetamine;
  - q. Pemoline;
  - r. Phendimetrazine;
  - s. Phenmetrazine;
  - t. Pipradol;
  - u. Propylhexedrine;
  - v. Pyrovalerone;
  - w. Spa ((-)-1-dimethylamino-1, 2-diphenylethane).
5. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
- a. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted;
  - b. Alprazolam;
  - c. Bromazepam;
  - d. Camazepam;
  - e. Chloral betaine;
  - f. Chloral hydrate;
  - g. Chlordiazepoxide;
  - h. Chlorhexadol;
  - i. Clobazam;
  - j. Clonazepam;
  - k. Clorazepate;
  - l. Clotiazepam;
  - m. Cloxazolam;
  - n. Delorazepam;
  - o. Diazepam;
  - p. Estazolam;
  - q. Ethchlorvynol;
  - r. Ethinamate;
  - s. Ethyl loflazepate;
  - t. Fenfluramine;
  - u. Fludiazepam;
  - v. Flunitrazepam;
  - w. Flurazepam;
  - x. Gamma hydroxyl butyrate;
  - y. Glutethimide;

z. Halazepam;  
aa. Haloxazolam;  
bb. Ketamine;  
cc. Ketazolam;  
dd. Loprazolam;  
ee. Lorazepam;  
ff. Lormetazepam;  
gg. Lysergic acid;  
hh. Metabutamate;  
ii. Mecloqualone;  
jj. Medazepam;  
kk. Meprobamate;  
ll. Methaqualone;  
mm. Methylprylon;  
nn. Midazolam;  
oo. Nimetazepam;  
pp. Nitrazepam;  
qq. Nordiazepam;  
rr. Oxazepam;  
ss. Oxazolam;  
tt. Paraldehyde;  
uu. Petrichloral;  
vv. Phencyclidine;  
ww. Pinazepam;  
xx. Praxepam;  
yy. Scopolamine;  
zz. Sulfondiethylmethane;  
aaa. Sulfoethylmethane;  
bbb. Sulfomethane;  
ccc. Quazepam;  
ddd. Temazepam;  
eee. Tetrazepam;  
fff. Tiletamine;  
ggg. Triazolam;  
hhh. Zolazepam.

6. Narcotic drugs, including the following, whether of natural or synthetic origin and any substance neither chemically or physically distinguishable from them:

a. Acetyl-alpha-methylfentanyl;  
b. Acetylmethadol;  
c. Alfentanil;  
d. Allyprodine;  
e. Alphacetylmethadol;  
f. Alphameprodine;  
g. Alphamethadol;

h. Alphamethylfentanyl;  
i. Alphamethyllofentanyl;  
j. Alphaprodine;  
k. Amidone (methadone);  
l. Anileridine  
m. Benzethidine;  
n. Benzylfentanyl;  
o. Betacetylmethadol;  
p. Betahydroxyfentanyl;  
q. Betahydroxy-3-methylfentanyl;  
r. Betameprodine  
s. Betamethadol;  
t. Betaprodine;  
u. Bezitramide;  
v. Buphrenorphine and its salts;  
w. Cafentanil;  
x. Clonitazene;  
y. Detropoxyphene;  
z. Diampromide;  
aa. Diethylthiambutene;  
bb. Difenoxin;  
cc. Dihydrocodeine;  
dd. Dimenoxadol;  
ee. Dimepheptanol;  
ff. Dimethylthiambutene;  
gg. Dioxaphetyl butyrate;  
hh. Diphenoxylate;  
ii. Dipipanone;  
jj. Ethylmethyliambutene;  
kk. Etonitazene;  
ll. Etoxeridine;  
mm. Fentanyl;  
nn. Furethidine;  
oo. Hydroxypethidine;  
pp. Isoamidone (isomethadone);  
qq. Isonipecaine;  
rr. Ketobemidone;  
ss. Levomethorphan;  
tt. Levoaramide;  
uu. Levophenacetylmorphan;  
vv. Levorphanol;  
ww. Metazocine;  
xx. 3-Methylfentanyl;  
yy. 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);  
zz. 3-Methylthiofentanyl;  
aaa. Morpheridine;  
bbb. Noracymethadol



ccc. Norlevorphanol;  
 ddd. Normethadone;  
 eee. Norpipanone;  
 fff. Paraflourofentanyl;  
 ggg. Pentazocine  
 hhh. Phenadoxone;  
 iii. Phenampromide;  
 jjj. Phenazocine;  
 kkk. 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine  
 (PEPAP);  
 lll. Phenomorphan;  
 mmm. Phenoperidine;  
 nnn. Piminodine;  
 ooo. Piritramide;  
 ppp. Prohepatazine;  
 qqq. Properidine;  
 rrr. Propiram;  
 sss. Racemethorphan;  
 ttt. Racemoramide;  
 uuu. Racemorphan;  
 vvv. Sufentanil;  
 www. Thenylfentanyl;  
 xxx. Thiofentanyl;  
 yyy. Tilidine;  
 zzz. Trimeperidine.

- B. Defense. It is a defense to a prosecution under this Section that the controlled substance or narcotic was obtained directly from or pursuant to a valid prescription or order issued by a practitioner acting in the course of his or her professional practice.
- C. Peyote. This listing of Peyote (more commonly known as azeé') in Subsection A does not apply to the use of azeé' by an enrolled member of an Indian tribe for bona fide ceremonial purposes in connection with nahaghá. Individuals who use, possess, or transport azeé' for use in nahaghá are exempt from this prohibition. Azeé' is lawful on the Navajo Nation.
- D. Sentence.
1. Any person found guilty of possession or sale of controlled substances shall be sentenced to imprisonment for a term not to exceed three hundred sixty-five (365) days, or be ordered to pay a fine not to exceed five thousand dollars \$5,000.00 or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and whether restitution or nályééh shall be paid to the victim(s).
  3. The trial court may utilize the services of the Navajo Peacemaker Court to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
  4. The trial court may consider the imposition of a peace or security bond upon the defendant, including the pledges of family or clan sureties.
  5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
  6. The trial court shall consider the utility of labor or community service sentences, under the supervision of the Navajo Nation Department of Public Safety or a public or private organization, including the Chapter in which the defendant resides.
- E. Rehabilitation. At the discretion of the court, any person found guilty of violating this Section, and found to be addicted to a controlled substance, may be ordered to receive rehabilitative treatment pursuant to 17 N.N.C. §220.

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#### **SECTION FOUR. CODIFICATION**

The provisions of the Act, which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

#### **SECTION FIVE. SAVINGS CLAUSE**

Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

#### **SECTION SIX. EFFECTIVE DATE**

Amendments enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).

**CERTIFICATION**

I, hereby, certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in favor and 02 opposed, on this 18th day of October 2018.

LoRenzo C. Bates, Speaker  
23rd Navajo Nation Council

10-24-18

Date

Motion: Honorable Jonathan Perry  
Second: Honorable Nathaniel Brown

Speaker LoRenzo C. Bates not voting

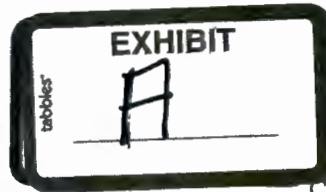
**ACTION BY THE NAVAJO NATION PRESIDENT:**

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (c) (10), on this 2<sup>nd</sup> day of November 2018.

\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c) (11), on this \_\_\_\_\_ day of \_\_\_\_\_ 2018 for reason(s) expressed in the attached letter to the Speaker

\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation



CJY-54-00

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

Approving Amendments to 17 N.N.C. §§ 390-395 to  
Distinguish Between Industrial Hemp and Marijuana  
Based on the Percentage of T.H.C. Contained  
Within the Cannabis Plant

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A), the Navajo Nation Council is the governing body of the Navajo Nation; and
2. Pursuant to 2 N.N.C. §103, all powers not delegated are reserved to the Navajo Nation Council; and
3. During 1996, several members and entities of the Navajo Nation expressed a desire to grow industrial hemp (not marijuana) for economic purposes; and
4. Although industrial hemp and marijuana are from the same species of plant - Cannabis sativa, there is a scientific difference between them, documents supporting this are attached hereto as Exhibit "A". Industrial hemp generally refers to plant species of cannabis sativa and Cannabis indica that possess high fibers and usually contain low levels of Tetrahydrocannabinol (T.H.C.) Marijuana refers to plant species of cannabis sativa that possess low fibers and high levels of T.H.C. It is high levels of T.H.C. that gives marijuana its hallucinogenic effect; and
5. Hemp can be used for many purposes, such as fabrics, pulp, paper, oil, paints, sealants, fuel and food. Documents supporting this assertion are attached hereto as Exhibit "B". In fact, hemp has long been used throughout United States history; the first two copies of the Declaration of Independence were written on hemp. Until the 1820's, 80 percent of America's textile and fabrics and other products were made from hemp. During World War II, the United States encouraged farmers to grow hemp which was used for wartime purposes, like parachutes, riggings, ropes and fire hoses of wartime ships. Documents supporting these assertions are attached hereto as Exhibit "C"; and

6. President Bill Clinton in Executive Order 121 dated June 7, 1994, (attached hereto as Exhibit "D") Part IX General Provisions (a) states that cannabis hemp is a strategic food source; and

7. The growing of industrial hemp in the United States is allowed only by federal permit, and several states have permits pending to grow industrial hemp within their jurisdiction. These states have passed legislation recognizing the distinction between industrial hemp and marijuana and have amended their criminal laws and passed legislation regulating the growing of industrial hemp. Documents supporting this assertion are attached hereto as Exhibit "E"; and

8. During this time of declining Navajo Nation revenues, the Navajo Nation should begin exploring other means of economic development for its members. Researching or allowing the production of industrial hemp may provide economic development to the Navajo Nation. However, before the Navajo Nation can research or allow industrial hemp to be produced, the Navajo Nation must first amend its criminal law; and

9. In order for the Navajo Nation to allow the growing of industrial hemp for economic development purposes, the Navajo Nation must amend its criminal law that pertains to controlled substance, 17 N.N.C. §§ 390-395. Attached hereto as Exhibit "F" are proposed amendments to the 17 N.N.C. §§ 390-395; and

10. The Resources Committee of the Navajo Nation Council by Resolution RCAP-75-00, attached hereto as Exhibit "G", approved and recommended that the Public Safety Committee of the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395; and

11. The Economic Development Committee of the Navajo Nation Council by Resolution EDCMY-39-00, attached hereto as Exhibit "H", approved and recommended that the Public Safety Committee of the Navajo Nation Council, and the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395; and

12. The Public Safety Committee of the Navajo Nation Council by Resolution PSCAP-08-00, attached hereto as Exhibit "I", approved and recommended that the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395, to distinguish between industrial hemp and marijuana based on the percentage of T.H.C. contained within the cannabis plant; and

13. The Navajo Nation Council finds that it is in the best interest of economic development within the Navajo Nation that these amendments be adopted and the health, welfare and safety of the Navajo people will not be endangered thereby.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby approves amendments to 17 N.N.C. §§ 390-395, attached hereto as Exhibit "F", which distinguishes between industrial hemp and marijuana based on the percentage of T.H.C. contained within the cannabis plant.

2. The enactment of this resolution does not authorize the cultivation, growth, possession, development or propagation of industrial hemp until the Navajo Nation creates a regulatory system for industrial hemp and obtains necessary and applicable permits for industrial hemp.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 58 in favor, 11 opposed and 1 abstained, this 20th day of July 2000.

*Edward T. Begay*  
Edward T. Begay, Speaker  
Navajo Nation Council

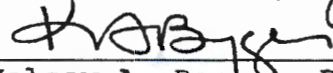
July 24, 2000  
Date

Motion: Jones Begay  
Second: Peter Watchman



ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 ©(10), on this 1st day of August 2000.



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Kelsey A. Begaye, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 ©(10) this \_\_\_ day of \_\_\_\_\_ 2000 for the reason(s) expressed in the attached letter to the Speaker.

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Kelsey A. Begaye, President  
Navajo Nation

EXHIBIT "F"

Proposed Amendments

17 N.N.C. Chapter 3  
Subchapter 10. Controlled Substance,  
§§ 390 et seq.

Subchapter 10. Controlled Substances

§ 390. Definitions

The following definitions apply in this subchapter:

A. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

B. "Marijuana" means those Cannabis plants that contain an amount equal to or more than 1.4% tetrahydrocannabinol.

B-C. "Opium" includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

§ 391. Possession of Marijuana

A. Offense. A person commits an offense pursuant to this section if he or she possesses marijuana and such marijuana is intended for his or her personal use.

B. Sentence. Any person found guilty of violating this section with respect to:

1. One avoirdupois ounce or less of marijuana shall, for the first offense, be ordered to pay a fine not to exceed \$50 and, for subsequent convictions of possession of marijuana within a period of 180 days of any previous conviction based upon violation of this section, he or she shall be ordered to pay a fine not to exceed \$100;

2. More than one avoirdupois ounce and less than eight avoirdupois ounces of marijuana shall be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$250, or both;

3. Eight avoirdupois ounces or more of marijuana shall be sentenced to imprisonment for a term not to exceed 180 days, ~~or~~ be ordered to pay a fine not to exceed \$500, or both.



**§ 392. Production or Delivery of Marijuana**

A. Offense. A person commits an offense pursuant to this section if he or she intentionally or knowingly produces, delivers, or possesses marijuana with intent to deliver such marijuana to another.

B. "Deliver" or "delivery" means the actual or constructive transfer of possession of marijuana to another with or without consideration, whether or not there is an agency relationship.

C. Sentence. Any person found guilty of producing or selling marijuana shall be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.

**§ 393. Delivery of Marijuana to Minors**

A. Offense. A person commits an offense pursuant to this section if he or she is at least 18 years of age, and violates 17 N.N.C. §391 by delivering marijuana to a person under 18 years of age.

B. Deliver or delivery means the actual or constructive transfer of possession of marijuana, with or without consideration, whether or not there is any agency relations.

C. Sentence. Any person found guilty of delivering marijuana to minors shall be sentenced to imprisonment for a term not to exceed 180 days and to pay a fine not to exceed \$500.

**§ 394. Possession or Sale of Controlled Substances**

A. Offense. A person commits an offense pursuant to this section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:

1. Opium or coca leaves, or any compound, manufacture, salt, derivative, mixture or preparation thereof, unless specifically excepted;

2. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers:

- a. Lysergic acid diethylamide;
- b. Mescaline;
- c. Psilocybin;
- d. Psilocin;
- e. Hashish;
- ~~f. Tetrahydrocannabinol (T.H.C.)~~
- ~~g. f. Peyote.~~

3. Any material, compound, mixture or preparation which contains an amount equal to or more than 1.4% quantity of tetrahydrocannabinol (T.H.C.).

B. Defense. It is a defense to a prosecution under this section that the controlled substance or narcotic was obtained directly from or pursuant to a valid prescription or order issued by a practitioner acting in the course of his or her professional practice.

C. Peyote. It shall not be unlawful for any members of the Native American Church to transport, buy, sell, possess or use peyote in any form in connection with recognized religious practices, sacraments or services of the Native American Church.

D. Sentence. Any person found guilty of possession or sale of controlled substances shall be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.

E. Rehabilitation. At the discretion of the court, any person found guilty of violating this section, and found to be addicted to a narcotic, maybe ordered to receive rehabilitative treatment pursuant to 17 N.N.C. §220.

**§ 395. Forfeiture and Destruction of Controlled Substances**

A. Upon the conviction of any person based upon violation of this subchapter, the court shall order the marijuana, controlled substance or narcotic forfeited to the Navajo Nation and destroyed or otherwise disposed of.

B. A record of the place where such controlled substance or narcotic was seized, the kinds and quantities of the substance or narcotic so destroyed, and the time, place and manner of destruction shall be kept, and a return under oath reporting such destruction shall be made to the court by the officer who destroys such controlled substance or narcotic.

Cornell Law School



U.S. Code › Title 7 › Chapter 88 › Subchapter VII › § 5940

## 7 U.S. Code § 5940 - Legitimacy of industrial hemp research

**(a) IN GENERAL** Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), chapter 81 of title 41, or any other Federal law, an institution of higher education (as defined in section 1001 of title 20) or a State department of agriculture may grow or cultivate industrial hemp if—

- (1)** the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- (2)** the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

**(b) DEFINITIONS** In this section:

**(1) AGRICULTURAL PILOT PROGRAM** The term “agricultural pilot program” means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

**(A)** in States that permit the growth or cultivation of industrial hemp under the laws of the State; and

**(B)** in a manner that—

**(i)** ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;

**(ii)** requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and

**(iii)** authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

**(2) INDUSTRIAL HEMP**

The term “industrial hemp” means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

**(3) STATE DEPARTMENT OF AGRICULTURE**

The term “State department of agriculture” means the agency, commission, or department of a State government responsible for agriculture within the State.

(Pub. L. 113–79, title VII, § 7606, Feb. 7, 2014, 128 Stat. 912; Pub. L. 114–95, title IX, § 9215(f), Dec. 10, 2015, 129 Stat. 2166.)

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One Hundred Thirteenth Congress  
of the  
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Friday,  
the third day of January, two thousand and fourteen*

An Act

To provide for the reform and continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2018, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Agricultural Act of 2014”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary of Agriculture.

TITLE I—COMMODITIES

Subtitle A—Repeals and Reforms

PART I—REPEALS

- Sec. 1101. Repeal of direct payments.
- Sec. 1102. Repeal of counter-cyclical payments.
- Sec. 1103. Repeal of average crop revenue election program.

PART II—COMMODITY POLICY

- Sec. 1111. Definitions.
- Sec. 1112. Base acres.
- Sec. 1113. Payment yields.
- Sec. 1114. Payment acres.
- Sec. 1115. Producer election.
- Sec. 1116. Price loss coverage.
- Sec. 1117. Agriculture risk coverage.
- Sec. 1118. Producer agreements.
- Sec. 1119. Transition assistance for producers of upland cotton.

Subtitle B—Marketing Loans

- Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.
- Sec. 1202. Loan rates for nonrecourse marketing assistance loans.
- Sec. 1203. Term of loans.
- Sec. 1204. Repayment of loans.
- Sec. 1205. Loan deficiency payments.
- Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.
- Sec. 1207. Special marketing loan provisions for upland cotton.
- Sec. 1208. Special competitive provisions for extra long staple cotton.
- Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.
- Sec. 1210. Adjustments of loans.

Subtitle C—Sugar

- Sec. 1301. Sugar policy.

Subtitle D—Dairy

PART I—MARGIN PROTECTION PROGRAM FOR DAIRY PRODUCERS

- Sec. 1401. Definitions.

H. R. 2642—8

- Sec. 7602. Concessions and agreements with nonprofit organizations for National Arboretum.
- Sec. 7603. Agricultural and food law research, legal tools, and information.
- Sec. 7604. Cotton Disease Research Report.
- Sec. 7605. Miscellaneous technical corrections.
- Sec. 7606. Legitimacy of industrial hemp research.

TITLE VIII—FORESTRY

Subtitle A—Repeal of Certain Forestry Programs

- Sec. 8001. Forest land enhancement program.
- Sec. 8002. Watershed forestry assistance program.
- Sec. 8003. Expired cooperative national forest products marketing program.
- Sec. 8004. Hispanic-serving institution agricultural land national resources leadership program.
- Sec. 8005. Tribal watershed forestry assistance program.
- Sec. 8006. Separate Forest Service decisionmaking and appeals process.

Subtitle B—Reauthorization of Cooperative Forestry Assistance Act of 1978 Programs

- Sec. 8101. State-wide assessment and strategies for forest resources.

Subtitle C—Reauthorization of Other Forestry-Related Laws

- Sec. 8201. Rural revitalization technologies.
- Sec. 8202. Office of International Forestry.
- Sec. 8203. Healthy forests reserve program.
- Sec. 8204. Insect and disease infestation.
- Sec. 8205. Stewardship and result contracting projects.
- Sec. 8206. Good neighbor authority

Subtitle D—Miscellaneous Provisions

- Sec. 8301. Revision of strategic plan for forest inventory and analysis.
- Sec. 8302. Forest service participation in ACES program.
- Sec. 8303. Extension of stewardship contracts authority regarding use of designation by prescription to all thinning sales under National Forest Management Act of 1976.
- Sec. 8304. Reimbursement of fire funds.
- Sec. 8305. Forest Service large airtanker and aerial asset firefighting recapitalization pilot program.
- Sec. 8306. Land conveyance, Jefferson National Forest in Wise County, Virginia.

TITLE IX—ENERGY

- Sec. 9001. Definitions.
- Sec. 9002. Biobased markets program.
- Sec. 9003. Biorefinery assistance.
- Sec. 9004. Repowering assistance program.
- Sec. 9005. Bioenergy program for advanced biofuels.
- Sec. 9006. Biodiesel fuel education program.
- Sec. 9007. Rural Energy for America Program.
- Sec. 9008. Biomass research and development.
- Sec. 9009. Feedstock Flexibility Program for Bioenergy Producers.
- Sec. 9010. Biomass Crop Assistance Program.
- Sec. 9011. Repeal of forest biomass for energy.
- Sec. 9012. Community wood energy program.
- Sec. 9013. Repeal of biofuels infrastructure study.
- Sec. 9014. Repeal of renewable fertilizer study.
- Sec. 9015. Energy efficiency report for USDA facilities.

TITLE X—HORTICULTURE

- Sec. 10001. Specialty crops market news allocation.
- Sec. 10002. Repeal of grant program to improve movement of specialty crops.
- Sec. 10003. Farmers' market and local food promotion program.
- Sec. 10004. Organic agriculture.
- Sec. 10005. Investigations and enforcement of the Organic Foods Production Act of 1990.
- Sec. 10006. Food safety education initiatives.
- Sec. 10007. Consolidation of plant pest and disease management and disaster prevention programs.
- Sec. 10008. Importation of seed.
- Sec. 10009. Bulk shipments of apples to Canada.

- (1) an overview of the threat FOV Race 4 poses to the cotton industry in the United States;
- (2) the status and progress of Federal research initiatives to detect, contain, or eradicate FOV Race 4, including current FOV Race 4-specific research projects; and
- (3) a comprehensive strategy to combat FOV Race 4 that establishes—

(A) detection and identification goals;

(B) containment goals;

(C) eradication goals; and

(D) a plan to partner with the cotton industry in the United States to maximize resources, information sharing, and research responsiveness and effectiveness.

**SEC. 7605. MISCELLANEOUS TECHNICAL CORRECTIONS.**

Sections 7408 and 7409 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2013) are both amended by striking “Title III of the Department of Agriculture Reorganization Act of 1994” and inserting “Title III of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994”.

**SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.**

(a) **IN GENERAL.**—Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.), chapter 81 of title 41, United States Code, or any other Federal law, an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a State department of agriculture may grow or cultivate industrial hemp if—

(1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and

(2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL PILOT PROGRAM.**—The term “agricultural pilot program” means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

(A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and

(B) in a manner that—

(i) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;

(ii) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and

(iii) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) **INDUSTRIAL HEMP.**—The term “industrial hemp” means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol



concentration of not more than 0.3 percent on a dry weight basis.

(3) STATE DEPARTMENT OF AGRICULTURE.—The term “State department of agriculture” means the agency, commission, or department of a State government responsible for agriculture within the State.

## TITLE VIII—FORESTRY

### Subtitle A—Repeal of Certain Forestry Programs

#### SEC. 8001. FOREST LAND ENHANCEMENT PROGRAM.

(a) REPEAL.—Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is repealed.

(b) CONFORMING AMENDMENT.—Section 8002 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 16 U.S.C. 2103 note) is amended by striking subsection (a).

#### SEC. 8002. WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b) is repealed.

#### SEC. 8003. EXPIRED COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

Section 18 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2112) is repealed.

#### SEC. 8004. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.

Section 8402 of the Food, Conservation, and Energy Act of 2008 (16 U.S.C. 1649a) is repealed.

#### SEC. 8005. TRIBAL WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 303 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6542) is repealed.

#### SEC. 8006. SEPARATE FOREST SERVICE DECISIONMAKING AND APPEALS PROCESS.

(a) REPEAL.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (16 U.S.C. 1612 note; Public Law 102–381) is repealed.

(b) FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS.—Section 428 of division E of the Consolidated Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112–74) shall not apply to any project or activity implementing a land and resource management plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) that is categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1 **SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.**

2 (a) **IN GENERAL.**—Notwithstanding the Controlled  
3 Substances Act (21 U.S.C. 801 et seq.), the Safe and  
4 Drug-Free Schools and Communities Act (20 U.S.C. 7101  
5 et seq.), chapter 81 of title 41, United States Code, or  
6 any other Federal law, an institution of higher education  
7 (as defined in section 101 of the Higher Education Act  
8 of 1965 (20 U.S.C. 1001)) or a State department of agri-  
9 culture may grow or cultivate industrial hemp if—

10 (1) the industrial hemp is grown or cultivated  
11 for purposes of research conducted under an agricul-  
12 tural pilot program or other agricultural or academic  
13 research; and

14 (2) the growing or cultivating of industrial  
15 hemp is allowed under the laws of the State in which  
16 such institution of higher education or State depart-  
17 ment of agriculture is located and such research oc-  
18 curs.

19 (b) **DEFINITIONS.**—In this section:

20 (1) **AGRICULTURAL PILOT PROGRAM.**—The  
21 term “agricultural pilot program” means a pilot pro-  
22 gram to study the growth, cultivation, or marketing  
23 of industrial hemp—

24 (A) in States that permit the growth or  
25 cultivation of industrial hemp under the laws of  
26 the State; and



1 (B) in a manner that—

2 (i) ensures that only institutions of  
3 higher education and State departments of  
4 agriculture are used to grow or cultivate  
5 industrial hemp;

6 (ii) requires that sites used for grow-  
7 ing or cultivating industrial hemp in a  
8 State be certified by, and registered with,  
9 the State department of agriculture; and

10 (iii) authorizes State departments of  
11 agriculture to promulgate regulations to  
12 carry out the pilot program in the States  
13 in accordance with the purposes of this  
14 section.

15 (2) INDUSTRIAL HEMP.—The term “industrial  
16 hemp” means the plant *Cannabis sativa L.* and any  
17 part of such plant, whether growing or not, with a  
18 delta-9 tetrahydrocannabinol concentration of not  
19 more than 0.3 percent on a dry weight basis.

20 (3) STATE DEPARTMENT OF AGRICULTURE.—  
21 The term “State department of agriculture” means  
22 the agency, commission, or department of a State  
23 government responsible for agriculture within the  
24 State.

**NAVAJO NATION**

RCS# 1307

2018 Fall Session

10/18/2018

06:13:27 PM

Amd# to Amd#

Legislation 0268-18: Enacting

PASSED

MOT Perry

the "Controlled Substance

SEC Brown

Definition Act of 2018";

Amending Title 17 Chapter 3...

**Yea : 15**

**Nay : 2**

**Excused : 0**

**Not Voting : 6**

**Yea : 15**

Begay, K  
BeGaye, N  
Bennett  
Brown

Chee  
Damon  
Daniels  
Filfred

Jack  
Perry  
Phelps  
Shepherd

Slim  
Smith  
Witherspoon

**Nay : 2**

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Pete

**Excused : 0**

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Bates  
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