

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

20<sup>TH</sup> NAVAJO NATION COUNCIL - Third Year, 2005

AN ACT

RELATING TO HEALTH, PUBLIC SAFETY AND JUDICIARY; ENACTING  
THE NAVAJO NATION CONTROLLED SUBSTANCES ACT OF 2004;  
AMENDING TITLE 17 OF THE NAVAJO NATION CODE

BE IT ENACTED:

Section 1. Enactment of the Navajo Nation Controlled  
Substances Act of 2004

The Navajo Nation Council hereby enacts the Navajo  
Nation Controlled Substances Act of 2004.

Section 2. Purpose

The purpose of the Navajo Nation Controlled Substances  
Act of 2004 to include additional substances with the  
potential beings, including methamphetamine, within the  
listing of controlled substances banned from the Navajo  
Nation, and to provide increased criminal penalties for  
possession, manufacture, transportation, sale, use, trade  
or delivery of all such controlled substances.

Section 3. Amendments to Title 17 Navajo Nation Code

The Navajo Nation Council hereby amends the Navajo  
Nation Code, Title 17, as follows:

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§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 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. Cyprenorphine;
- h. Desomorphine;
- i. Dihydromorphine;
- j. Drotebanol;
- k. Ethylmorphine;
- l. Etorphine;
- m. Heroin;
- n. Hydrocodone;
- o. Hydromorphenol;
- 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. Pholcodine;
- 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-metyulenedioxymethamphetamine;
- s. 3, 4-methylenedioxy-n-ethylamphetamine;
- t. N-ethyl-3-pipereidyl benzilate (JB-318)
- u. N-hydroxy-3, 4-methylenedixoyamphetamine;
- 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. Synbexyl;
- cc. Trimethoxyamphetamine.

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

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 ((+)-norpsuedoephedrine);
- d. Clorphentermine;
- 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 or 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 hydroxy butyrate;
- y. Glutethimide;

z. Halazepam;  
aa. Haloazolam;  
bb. Ketamine;  
cc. Ketazolam;  
dd. Loprazolam;  
ee. Lorazepam;  
ff. Lormetazepam;  
gg. Lysergic acid;  
hh. Metabutamate;  
ii. Mecloqualone;  
jj. Medazepam;  
kk. Meproamate;  
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 synethic origin and any substance neither chemically or physically distinguished from them:

a. Acetyl-alpha-methylfentanyl;  
b. Acetylmethadol;  
c. Alfentanil;  
d. Allyprodine;  
e. Alphacetylmethadol;

f. Alphameprodine;  
g. Alphasmethadol;  
h. Alphasmethalfentanyl;  
i. Alphasmethaliofentanyl;  
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. Bezitramine;  
v. Buprenorphine and its salts;  
w. Cafentanil;  
x. Clonitazene;  
y. Detropoxyphene;  
z. Diampromide;  
aa. Diethylthiambutene;  
bb. Difenoquin;  
cc. Dihydrocodeine;  
dd. Dimenoxadol;  
ee. Dimepexanol;  
ff. Dimethylthiambutene;  
gg. Dioxaphetyl butyrate;  
hh. Diphenoxylate;  
ii. Dipipanone;  
jj. Ehtylmethyliambutene;  
kk. Etonitazene;  
ll. Etoxadine;  
mm. Fentanyl;  
nn. Furethidine;  
oo. Hydroxypethidine;  
pp. Isoamidone (isomethadone);  
qq. Isonipeccaine;  
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. 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.

1. Any person found guilty of possession or sale of controlled substances ~~may~~ shall be sentenced to imprisonment for a term not to exceed ~~180~~ 365 days, or be ordered to pay a fine not to exceed ~~\$2500~~ \$5,000, 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 ~~nareetie~~ controlled substance, may be ordered to receive rehabilitative treatment pursuant to 17 N.N.C. §220.

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 64 in favor and 0 opposed, this 11<sup>th</sup> day of February 2005.

Lawrence T. Morgan, Speaker  
Navajo Nation Council

\_\_\_\_\_  
Date

Motion: Duane Tsinigine  
Second: Willie Tracey, Jr.

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 \_\_\_\_\_ day of \_\_\_\_\_ 2005.

\_\_\_\_\_  
Joe Shirley, Jr., President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this \_\_\_\_\_ day of \_\_\_\_\_ 2005 for the reason(s) expressed in the attached letter to the Speaker.

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Joe Shirley, Jr., President  
Navajo Nation