TITLE: An Action Relating To Health, Education And Human Services, Resources And Development, Law And Order And Naabik’íyáti’ Committees And The Navajo Nation Council; Amending Title 17 Chapter 3, Controlled Substances At 17 N.N.C. §§ 390, 394

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Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
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DATE: September 9, 2020

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

PURPOSE: The purpose of this legislation is to amend Title 17 Chapter 3, Controlled Substances at 17 N.N.C. §§ 390, 394. An amendment would be made to the definition of "marijuana" among other purposes.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.
AN ACT
RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK’IYÁTI’ COMMITTEES AND THE NAVAJO NATION COUNCIL; 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).
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).
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).

D. The Naabik'íyáti' 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.

E. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164(A).

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 Navajo Nation Code, at Title 17, Chapter 3, Controlled Substances, Definitions was last amended with respect to the definition of “Marijuana” on November 1, 2018 by Council Resolution CO-75-18.

SECTION THREE. AMENDING TITLE 17, CHAPTER 3, SUBCHAPTER 10
A. 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, eegonine or substances from which cocaine or eegonine may be synthesized or made.

B. Marijuana" means 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 all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, containing any amount of delta-9-tetrahydrocannabinol. Such term does not include any part of the plant Cannabis sativa L., whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis produced or delivered in strict compliance with an industrial hemp regulatory system approved by the Navajo Nation Council or its designee.

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 and offense pursuant to this section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:

* * * *

3. Any material, compound, mixture or preparation which contains an amount more than three-tenths percent (0.3%) quantity of tetrahydrocannabinol (T.H.C.) on a dry weight basis.

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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).