

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

October 5, 2020

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CS-76-20, *An Act Relating to Health, Education and Human Services, Resources and Development, Law and Order and Naabik'iyati' Committees and the Navajo Nation Council; Amending Title 17 Chapter 3, Controlled Substances at 17 N.N.C. §§390, 394 and §396*

Dear Speaker Damon,

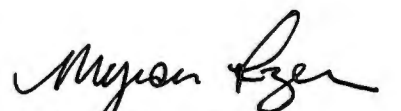
Thank you to the Navajo Division of Public Safety, Navajo Police Department, Office of the Prosecutor, Navajo Environmental Protection Agency, and many others who put the time and effort in creating a safer Navajo Nation. Our laws are what protect us and guide us in our daily lives and our Law and Order Code is the belt of discipline that so many of us grew up with and taught us right from wrong. As a sovereign nation, we have the ability to discipline those who commit crimes and we must continue to support our law enforcement team with the tools to protect our communities. CS-76-20 is a step in that direction.

Alcohol and drug use are rampant in our communities and often result in domestic violence, vehicle wrecks, neglect of children, suicide, exposure deaths, and other devastating incidents. As leaders we must address these matters with the resources available. Changes to the Navajo Nation Code is a start and we can provide our support to a comprehensive review of our Criminal Code done by those who work directly with the Code – Prosecutors, Public Defenders, private attorneys and advocates, law enforcement, and former judges.

Changes to our laws are often born out of necessity, as with CS-76-20. The need to clarify what is a criminal offense involving marijuana helps law enforcement protect our communities. The resolution also provides a future of economic development with industrial hemp production on terms approved by the Navajo Nation Council and Navajo President. Signing CS-76-20 into law is a message going across the Navajo Nation that from this day forward we will keep our families, our communities, and our Nation safe.

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

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 AND § 396

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:

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 ~~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 excludes 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 accordance with an industrial hemp regulatory system approved by the Navajo Nation Council or pursuant to the pilot project created by CJN-24-19 and any extensions.

- 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:

~~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. Marijuana as defined in § 390.~~

§ 396. Civil Forfeiture

- A. Civil Forfeiture. Any personal or real property, including leases and permits, of any person found liable for an offense under Chapter 3, Subchapter 10 is subject to forfeiture to the Navajo Nation if the following conditions are met:

1. There is proof, beyond a reasonable doubt, that the property was used in connection with the possession, manufacture, transportation, sale, use, trade or delivery of any controlled substance; and
2. The person liable for an offense has received notice of the proposed forfeiture by the Office of the Prosecutor

and been provided an opportunity to be heard on that issue before the District Court.

a. For the purposes of civil forfeiture in this Subsection, notice of a proposed forfeiture shall be deemed adequate if the forfeiture is alleged in a complaint for an offense under Chapter 3, Subchapter 10, and the property to be forfeited is described with particularity.

B. Forfeiture of Navajo Nation employment or office

1. Navajo Nation official convicted of violating any offense within this Subchapter shall immediately forfeit any present or future employment or elected office with any Navajo Nation entity, division, department, agency, program or enterprise.

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 24th 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 16 in Favor, and 05 Opposed, on this 24th day of September 2020.

Honorable Rickie Nez, Speaker Pro Tem
24th Navajo Nation Council

09-30-2020

DATE

Motion: Honorable Vince James
Second: Honorable Kee Allen Begay, Jr.

Speaker Pro Tem Rickie Nez 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 5th day of October, 2020.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2020 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

NAVAJO NATION

500

9/24/2020

Navajo Nation Council Special Session

11:04:38 PM

Amd# to Amd#

Legislation No. 0222-20

PASSED

MOT James, V

Amending Title 17 Chapter 3,

SEC Begay, K

Controlled Substances at 17
N.N.C. Subsections 390-394

Yeas : 16

Nays : 5

Excused : 1

Not Voting : 1

Yea : 16

Begay, K

Crotty

James, V

Tso, E

Begay, P

Daniels

Smith

Walker, T

Brown

Freeland, M

Stewart, W

Wauneka, E

Charles-Newton

Halona, P

Tso, D

Yazzie

Nay : 5

Begay, E

Slater, C

Tso, C

Yellowhair

Henio, J

Excused : 1

Damon

Not Voting : 1

Tso

Presiding Speaker: Nez, R