

ASSEMBLY, No. 4587

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 22, 2015

Sponsored by:

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District 6 (Burlington and Camden)

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District 6 (Burlington and Camden)

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District 20 (Union)

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District 22 (Middlesex, Somerset and Union)

Senator NILSA CRUZ-PEREZ

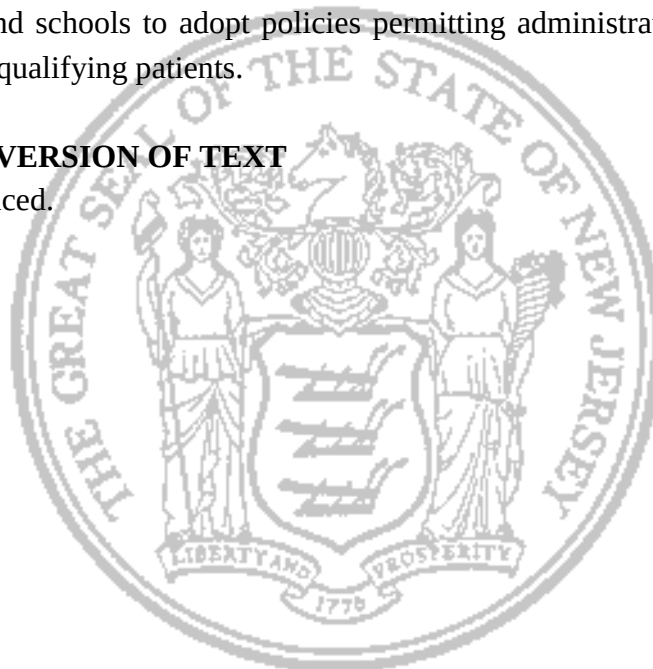
District 5 (Camden and Gloucester)

SYNOPSIS

Requires facilities providing services to persons with developmental disabilities and schools to adopt policies permitting administration of medical marijuana to qualifying patients.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2015)

1 **AN ACT** concerning medical marijuana, supplementing chapter 40
2 of Title 18A of the New Jersey Statutes and chapter 6D of Title
3 30 of the Revised Statutes, and amending P.L.2009, c.307 and
4 N.J.S.2C:35-18.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. (New section) a. A board of education or chief school
10 administrator of a nonpublic school shall develop a policy
11 authorizing parents, guardians, and primary caregivers to administer
12 medical marijuana to a student while the student is on school
13 grounds, aboard a school bus, or attending a school-sponsored
14 event.

15 b. A policy adopted pursuant to subsection a. of this section
16 shall, at a minimum:

17 (1) require that the student be authorized to engage in the
18 medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-
19 1 et al.) and that the parent, guardian, or primary caregiver be
20 authorized to assist the student with the medical use of marijuana
21 pursuant to P.L.2009, c.307 (C.24:6I-1 et al.);

22 (2) establish protocols for verifying the registration status and
23 ongoing authorization pursuant to P.L.2009, c.307 (C.24:6I-1 et al.)
24 concerning the medical use of marijuana for the student and the
25 parent, guardian, or primary caregiver;

26 (3) expressly authorize parents, guardians, and primary
27 caregivers of students who have been authorized for the medical use
28 of marijuana to administer medical marijuana to the student while
29 the student is on school grounds, aboard a school bus, or attending a
30 school-sponsored event;

31 (4) identify locations on school grounds where medical
32 marijuana may be administered; and

33 (5) prohibit the administration of medical marijuana to a student
34 by smoking or other form of inhalation while the student is on
35 school grounds, aboard a school bus, or attending a school-
36 sponsored event.

37 c. Medical marijuana may be administered to a student while
38 the student is on school grounds, aboard a school bus, or attending
39 school-sponsored events, provided that such administration is
40 consistent with the requirements of the policy adopted pursuant to
41 this section.

42
43 2. (New section) a. The chief administrator of a facility that
44 offers services for persons with developmental disabilities shall
45 develop a policy authorizing a parent, guardian, or primary
46 caregiver authorized to assist a qualifying patient with the use of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) to
2 administer medical marijuana to a person who is receiving services
3 for persons with developmental disabilities at the facility.

4 b. A policy adopted pursuant to subsection a. of this section
5 shall, at a minimum:

6 (1) require the person receiving services for persons with
7 developmental disabilities be a qualifying patient authorized for the
8 use of medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-
9 1 et al.), and that the parent, guardian, or primary caregiver be
10 authorized to assist the person with the medical use of marijuana
11 pursuant to P.L.2009, c.307 (C.24:6I-1 et al.);

12 (2) establish protocols for verifying the registration status and
13 ongoing authorization pursuant to P.L.2009, c.307 (C.24:6I-1 et al.)
14 concerning the medical use of marijuana for the person and the
15 parent, guardian, or primary caregiver;

16 (3) expressly authorize parents, guardians, and primary
17 caregivers to administer medical marijuana to the person receiving
18 services for persons with developmental disabilities while the
19 person is at the facility; and

20 (4) identify locations at the facility where medical marijuana
21 may be administered.

22 c. Medical marijuana may be administered to a person
23 receiving services for persons with developmental disabilities at a
24 facility that offers such services while the person is at the facility,
25 provided that such administration is consistent with the
26 requirements of the policy adopted pursuant to this section and the
27 provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

28 d. Nothing in this section shall be construed to authorize
29 medical marijuana to be smoked in any place where smoking is
30 prohibited pursuant to N.J.S.2C:33-13.

31

32 3. N.J.S.2C:35-18 is amended to read as follows:

33 2C:35-18. Exemption; Burden of Proof. a. If conduct is
34 authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.)
35 **【or】**, P.L.2009, c.307 (C.24:6I-1 et al.), or P.L. , c. (C.)
36 (pending before the Legislature as this bill), that authorization shall,
37 subject to the provisions of this section, constitute an exemption
38 from criminal liability under this chapter or chapter 36, and the
39 absence of such authorization shall not be construed to be an
40 element of any offense in this chapter or chapter 36. It is an
41 affirmative defense to any criminal action arising under this chapter
42 or chapter 36 that the defendant is the authorized holder of an
43 appropriate registration, permit or order form or is otherwise
44 exempted or excepted from criminal liability by virtue of any
45 provision of P.L.1970, c.226 (C.24:21-1 et seq.) **【or】**, P.L.2009,
46 c.307 (C.24:6I-1 et al.), or P.L. , c. (C.) (pending before
47 the Legislature as this bill). The affirmative defense established
48 herein shall be proved by the defendant by a preponderance of the
49 evidence. It shall not be necessary for the State to negate any

1 exemption set forth in this act or in any provision of Title 24 of the
2 Revised Statutes in any complaint, information, indictment or other
3 pleading or in any trial, hearing or other proceeding under this act.

4 b. No liability shall be imposed by virtue of this chapter or
5 chapter 36 upon any duly authorized State officer, engaged in the
6 enforcement of any law or municipal ordinance relating to
7 controlled dangerous substances or controlled substance analogs.
8 (cf: P.L.2009, c.307, s.12)

9
10 4. Section 6 of P.L.2009, c.307 (C.24:6I-6) is amended to read
11 as follows:

12 6. a. The provisions of N.J.S.2C:35-18 shall apply to any
13 qualifying patient, primary caregiver, alternative treatment center,
14 physician, or any other person acting in accordance with the
15 provisions of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or P.L. ,
16 c. (C.) (pending before the Legislature as this bill).

17 b. A qualifying patient, primary caregiver, alternative treatment
18 center, physician, or any other person acting in accordance with the
19 provisions of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or P.L. ,
20 c. (C.) (pending before the Legislature as this bill) shall not
21 be subject to any civil or administrative penalty, or denied any right
22 or privilege, including, but not limited to, civil penalty or
23 disciplinary action by a professional licensing board, related to the
24 medical use of marijuana as authorized under **【this act】** P.L.2009,
25 c.307 (C.24:6I-1 et al.) or P.L. , c. (C.) (pending before
26 the Legislature as this bill).

27 c. Possession of, or application for, a registry identification
28 card shall not alone constitute probable cause to search the person
29 or the property of the person possessing or applying for the registry
30 identification card, or otherwise subject the person or his property
31 to inspection by any governmental agency.

32 d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
33 relating to destruction of marijuana determined to exist by the
34 department, shall not apply if a qualifying patient or primary
35 caregiver has in his possession a registry identification card and no
36 more than the maximum amount of usable marijuana that may be
37 obtained in accordance with section 10 of **【this act】** P.L.2009,
38 c.307 (C.24:6I-10).

39 e. No person shall be subject to arrest or prosecution for
40 constructive possession, conspiracy or any other offense for simply
41 being in the presence or vicinity of the medical use of marijuana as
42 authorized under **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or
43 P.L. , c. (C.) (pending before the Legislature as this bill).

44 f. No custodial parent, guardian, or person who has legal
45 custody of a qualifying patient who is a minor shall be subject to
46 arrest or prosecution for constructive possession, conspiracy or any
47 other offense for assisting the minor in the medical use of marijuana

1 as authorized under **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or
2 P.L. , c. (C.) (pending before the Legislature as this bill).
3 (cf: P.L.2009, c.307, s.6)
4

5 5. The Commissioner of Human Services and the State Board
6 of Education may, in consultation with the Commissioner of Health
7 and pursuant to the "Administrative Procedure Act," P.L.1968,
8 c.410 (C.52:14B-1 et seq.), adopt rules and regulations as may be
9 necessary to implement the provisions of this act.
10

11 6. This act shall take effect immediately.
12
13

14 STATEMENT

15

16 This bill requires boards of education, chief school
17 administrators of nonpublic schools, and chief administrators of
18 facilities providing services to persons with developmental
19 disabilities to adopt a policy authorizing parents, guardians, and
20 primary caregivers to administer medical marijuana to qualifying
21 patients under certain circumstances.

22 In the case of a public or nonpublic school, parents, guardians,
23 and primary caregivers would be authorized to administer medical
24 marijuana to a student in a nonsmokable form while the student is
25 on school grounds, aboard a school bus, or attending a school-
26 sponsored event, provided the administration is consistent with a
27 school policy that: (1) requires the student to be authorized to
28 engage in the medical use of marijuana pursuant to the
29 "Compassionate Use Medical Marijuana Act" and the parent,
30 guardian, or primary caregiver to be authorized to assist the student
31 with the medical use of medical marijuana; (2) establishes protocols
32 for verifying the registration status and ongoing authorization
33 concerning the medical use of marijuana for the student and the
34 parent, guardian, or primary caregiver; (3) expressly authorizes
35 parents, guardians, and primary caregivers to administer medical
36 marijuana to the student while the student is on school grounds,
37 aboard a school bus, or attending a school-sponsored event; (4)
38 identifies locations on school grounds where medical marijuana
39 may be administered; and (5) prohibits the administration of
40 medical marijuana by smoking or other form of inhalation.

41 The bill expressly authorizes parents, guardians, and primary
42 caregivers to administer medical marijuana to a student while on
43 school grounds, aboard a school bus, or attending a school event,
44 provided that such administration is consistent with the provisions
45 of the school's policy.

46 In the case of facilities providing services to persons with
47 developmental disabilities, the chief administrator of the facility
48 would be required to develop a policy authorizing a parent,
49 guardian, or primary caregiver to administer medical marijuana to a

1 qualifying patient who is receiving services at the facility. The
2 policy would be required to: (1) require the person receiving
3 services be a qualifying patient authorized for the use of medical
4 marijuana, and that the parent, guardian, or primary caregiver be
5 authorized to assist the person with the medical use of marijuana;
6 (2) establish protocols for verifying the registration status and
7 ongoing authorization concerning the medical use of marijuana for
8 the person and the parent, guardian, or primary caregiver; (3)
9 expressly authorize parents, guardians, and primary caregivers to
10 administer medical marijuana to the person receiving services at the
11 facility while at the facility; and (4) identify locations at the facility
12 where medical marijuana may be administered. Nothing in the bill
13 would permit medical marijuana to be smoked in a place where
14 smoking is prohibited pursuant to N.J.S.2C:33-13.

15 The bill provides that conduct authorized under its provisions
16 falls within the provisions of N.J.S.2C:35-18 and section 6 of
17 P.L.2009, c.307 (C.24:6I-6) that provide immunity from civil and
18 criminal liability and professional disciplinary action for persons
19 acting in accordance with the “Compassionate Use Medical
20 Marijuana Act.”