

# ASSEMBLY, No. 1557

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman MICHAEL PATRICK CARROLL**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

Legalizes marijuana and provides for records expungement for certain past marijuana offenses; treats marijuana products similar to tobacco products, including use of civil penalties for providing marijuana to persons under 19 years of age.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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2

1 AN ACT concerning marijuana legalization, revising various parts of  
2 the statutory law, and supplementing chapter 170 of Title 2A of  
3 the New Jersey Statutes and Title 26 of the Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. N.J.S.2C:35-2 is amended to read as follows:  
9 2C:35-2. As used in this chapter:

10 "Administer" means the direct application of a controlled  
11 dangerous substance or controlled substance analog, whether by  
12 injection, inhalation, ingestion, or any other means, to the body of a  
13 patient or research subject by: (1) a practitioner (or, in his  
14 presence, by his lawfully authorized agent), or (2) the patient or  
15 research subject at the lawful direction and in the presence of the  
16 practitioner.

17 "Agent" means an authorized person who acts on behalf of or at  
18 the direction of a manufacturer, distributor, or dispenser but does  
19 not include a common or contract carrier, public warehouseman, or  
20 employee thereof.

21 "Controlled dangerous substance" means a drug, substance, or  
22 immediate precursor in Schedules I through V, any substance the  
23 distribution of which is specifically prohibited in N.J.S.2C:35-3, in  
24 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of  
25 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120  
26 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b),  
27 and any drug or substance which, when ingested, is metabolized or  
28 otherwise becomes a controlled dangerous substance in the human  
29 body. When any statute refers to controlled dangerous substances,  
30 or to a specific controlled dangerous substance, it shall also be  
31 deemed to refer to any drug or substance which, when ingested, is  
32 metabolized or otherwise becomes a controlled dangerous substance  
33 or the specific controlled dangerous substance, and to any substance  
34 that is an immediate precursor of a controlled dangerous substance  
35 or the specific controlled dangerous substance. The term shall not  
36 include distilled spirits, wine, malt beverages, as those terms are  
37 defined or used in R.S.33:1-1 et seq., **[or]** tobacco and tobacco  
38 products, marijuana and marijuana products, other than medical  
39 marijuana as provided under the "New Jersey Compassionate Use  
40 Medical Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et al.). The  
41 term, wherever it appears in any law or administrative regulation of  
42 this State, shall include controlled substance analogs.

43 "Controlled substance analog" means a substance that has a  
44 chemical structure substantially similar to that of a controlled

**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 dangerous substance and that was specifically designed to produce  
2 an effect substantially similar to that of a controlled dangerous  
3 substance. The term shall not include a substance manufactured or  
4 distributed in conformance with the provisions of an approved new  
5 drug application or an exemption for investigational use within the  
6 meaning of section 505 of the "Federal Food, Drug, and Cosmetic  
7 Act," 52 Stat. 1052 (21 U.S.C. s.355).

8 "Counterfeit substance" means a controlled dangerous substance  
9 or controlled substance analog which, or the container or labeling of  
10 which, without authorization, bears the trademark, trade name, or  
11 other identifying mark, imprint, number, or device, or any likeness  
12 thereof, of a manufacturer, distributor, or dispenser other than the  
13 person or persons who in fact manufactured, distributed, or  
14 dispensed the substance and which thereby falsely purports or is  
15 represented to be the product of, or to have been distributed by,  
16 such other manufacturer, distributor, or dispenser.

17 "Deliver" or "delivery" means the actual, constructive, or  
18 attempted transfer from one person to another of a controlled  
19 dangerous substance or controlled substance analog, whether or not  
20 there is an agency relationship.

21 "Dispense" means to deliver a controlled dangerous substance or  
22 controlled substance analog to an ultimate user or research subject  
23 by or pursuant to the lawful order of a practitioner, including the  
24 prescribing, administering, packaging, labeling, or compounding  
25 necessary to prepare the substance for that delivery. "Dispenser"  
26 means a practitioner who dispenses.

27 "Distribute" means to deliver other than by administering or  
28 dispensing a controlled dangerous substance or controlled substance  
29 analog. "Distributor" means a person who distributes.

30 "Drugs" means (a) substances recognized in the official United  
31 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
32 United States, or official National Formulary, or any supplement to  
33 any of them; and (b) substances intended for use in the diagnosis,  
34 cure, mitigation, treatment, or prevention of disease in man or other  
35 animals; and (c) substances (other than food) intended to affect the  
36 structure or any function of the body of man or other animals; and  
37 (d) substances intended for use as a component of any article  
38 specified in subsections (a), (b), and (c) of this section; but does not  
39 include devices or their components, parts, or accessories.

40 "Drug or alcohol dependent person" means a person who as a  
41 result of using a controlled dangerous substance or controlled  
42 substance analog or alcohol has been in a state of psychic or  
43 physical dependence, or both, arising from the use of that controlled  
44 dangerous substance or controlled substance analog or alcohol on a  
45 continuous or repetitive basis. Drug or alcohol dependence is  
46 characterized by behavioral and other responses, including but not  
47 limited to a strong compulsion to take the substance on a recurring

1 basis in order to experience its psychic effects, or to avoid the  
2 discomfort of its absence.

3 "Hashish" means the resin extracted from any part of the plant  
4 Genus Cannabis L. and any compound, manufacture, salt,  
5 derivative, mixture, or preparation of such resin.

6 "Manufacture" means the production, preparation, propagation,  
7 compounding, conversion, or processing of a controlled dangerous  
8 substance or controlled substance analog, either directly or by  
9 extraction from substances of natural origin, or independently by  
10 means of chemical synthesis, or by a combination of extraction and  
11 chemical synthesis, and includes any packaging or repackaging of  
12 the substance or labeling or relabeling of its container, except that  
13 this term does not include the preparation or compounding of a  
14 controlled dangerous substance or controlled substance analog by  
15 an individual for his own use or the preparation, compounding,  
16 packaging, or labeling of a controlled dangerous substance: (1) by  
17 a practitioner as an incident to his administering or dispensing of a  
18 controlled dangerous substance or controlled substance analog in  
19 the course of his professional practice, or (2) by a practitioner (or  
20 under his supervision) for the purpose of, or as an incident to,  
21 research, teaching, or chemical analysis and not for sale.

22 "Marijuana" means all parts of the plant Genus Cannabis L.,  
23 whether growing or not; the seeds thereof, and every compound,  
24 manufacture, salt, derivative, mixture, or preparation of the plant or  
25 its seeds, except those containing resin extracted from the plant; but  
26 shall not include the mature stalks of the plant, fiber produced from  
27 the stalks, oil, or cake made from the seeds of the plant, any other  
28 compound, manufacture, salt, derivative, mixture, or preparation of  
29 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant  
30 which is incapable of germination.

31 "Narcotic drug" means any of the following, whether produced  
32 directly or indirectly by extraction from substances of vegetable  
33 origin, or independently by means of chemical synthesis, or by a  
34 combination of extraction and chemical synthesis:

- 35 (a) Opium, coca leaves, and opiates;  
36 (b) A compound, manufacture, salt, derivative, or preparation of  
37 opium, coca leaves, or opiates;  
38 (c) A substance (and any compound, manufacture, salt,  
39 derivative, or preparation thereof) which is chemically identical  
40 with any of the substances referred to in subsections (a) and (b),  
41 except that the words "narcotic drug" as used in this act shall not  
42 include decocainized coca leaves or extracts of coca leaves, which  
43 extracts do not contain cocaine or ecogine.

44 "Opiate" means any dangerous substance having an addiction-  
45 forming or addiction-sustaining liability similar to morphine or  
46 being capable of conversion into a drug having such addiction-  
47 forming or addiction-sustaining liability. It does not include, unless  
48 specifically designated as controlled pursuant to the provisions of

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1 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer  
2 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
3 It does include its racemic and levorotatory forms.

4 "Opium poppy" means the plant of the species *Papaver*  
5 *somniferum* L., except the seeds thereof.

6 "Person" means any corporation, association, partnership, trust,  
7 other institution or entity, or one or more individuals.

8 "Plant" means an organism having leaves and a readily  
9 observable root formation, including, but not limited to, a cutting  
10 having roots, a rootball or root hairs.

11 "Poppy straw" means all parts, except the seeds, of the opium  
12 poppy, after mowing.

13 "Practitioner" means a physician, dentist, veterinarian, scientific  
14 investigator, laboratory, pharmacy, hospital, or other person  
15 licensed, registered, or otherwise permitted to distribute, dispense,  
16 conduct research with respect to, or administer a controlled  
17 dangerous substance or controlled substance analog in the course of  
18 professional practice or research in this State.

19 (a) "Physician" means a physician authorized by law to practice  
20 medicine in this or any other state and any other person authorized  
21 by law to treat sick and injured human beings in this or any other  
22 state.

23 (b) "Veterinarian" means a veterinarian authorized by law to  
24 practice veterinary medicine in this State.

25 (c) "Dentist" means a dentist authorized by law to practice  
26 dentistry in this State.

27 (d) "Hospital" means any federal institution, or any institution  
28 for the care and treatment of the sick and injured, operated or  
29 approved by the appropriate State department as proper to be  
30 entrusted with the custody and professional use of controlled  
31 dangerous substances or controlled substance analogs.

32 (e) "Laboratory" means a laboratory to be entrusted with the  
33 custody of narcotic drugs and the use of controlled dangerous  
34 substances or controlled substance analogs for scientific,  
35 experimental, and medical purposes and for purposes of instruction  
36 approved by the Department of Health.

37 "Production" includes the manufacture, planting, cultivation,  
38 growing, or harvesting of a controlled dangerous substance or  
39 controlled substance analog.

40 "Immediate precursor" means a substance which the Division of  
41 Consumer Affairs in the Department of Law and Public Safety has  
42 found to be and by regulation designates as being the principal  
43 compound commonly used or produced primarily for use, and  
44 which is an immediate chemical intermediary used or likely to be  
45 used in the manufacture of a controlled dangerous substance or  
46 controlled substance analog, the control of which is necessary to  
47 prevent, curtail, or limit such manufacture.

1 "Residential treatment facility" means any facility licensed and  
2 approved by the Department of Human Services and which is  
3 approved by any county probation department for the inpatient  
4 treatment and rehabilitation of drug or alcohol dependent persons.

5 "Schedules I, II, III, IV, and V" are the schedules set forth in  
6 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-  
7 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified  
8 by any regulations issued by the Director of the Division of  
9 Consumer Affairs in the Department of Law and Public Safety  
10 pursuant to the director's authority as provided in section 3 of  
11 P.L.1970, c.226 (C.24:21-3).

12 "State" means the State of New Jersey.

13 "Ultimate user" means a person who lawfully possesses a  
14 controlled dangerous substance or controlled substance analog for  
15 his own use or for the use of a member of his household or for  
16 administration to an animal owned by him or by a member of his  
17 household.

18 "Prescription legend drug" means any drug which under federal  
19 or State law requires dispensing by prescription or order of a  
20 licensed physician, veterinarian, or dentist and is required to bear  
21 the statement "Rx only" or similar wording indicating that such  
22 drug may be sold or dispensed only upon the prescription of a  
23 licensed medical practitioner and is not a controlled dangerous  
24 substance or stramonium preparation.

25 "Stramonium preparation" means a substance prepared from any  
26 part of the stramonium plant in the form of a powder, pipe mixture,  
27 cigarette, or any other form with or without other ingredients.

28 "Stramonium plant" means the plant *Datura Stramonium* Linne,  
29 including *Datura Tatula* Linne.

30 (cf: P.L.2013, c.35, s.1)

31

32 2. N.J.S.2C:35-4 is amended to read as follows:

33 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et  
34 seq.), any person who knowingly maintains or operates any  
35 premises, place or facility used for the manufacture of  
36 methamphetamine, lysergic acid diethylamide, phencyclidine,  
37 gamma hydroxybutyrate, flunitrazepam, [marijuana in an amount  
38 greater than five pounds or ten plants or] any substance listed in  
39 Schedule I or II, or the analog of any such substance, or any person  
40 who knowingly aids, promotes, finances or otherwise participates in  
41 the maintenance or operations of such premises, place or facility, is  
42 guilty of a crime of the first degree and shall, except as provided in  
43 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall  
44 include the imposition of a minimum term which shall be fixed at,  
45 or between, one-third and one-half of the sentence imposed, during  
46 which the defendant shall be ineligible for parole. Notwithstanding  
47 the provisions of subsection a. of N.J.S.2C:43-3, the court may also  
48 impose a fine not to exceed \$750,000.00 or five times the street

1 value of all controlled dangerous substances, controlled substance  
2 analogs, gamma hydroxybutyrate or flunitrazepam at any time  
3 manufactured or stored at such premises, place or facility,  
4 whichever is greater.

5 (cf: P.L.1999, c.133, s.2)

6

7 3. N.J.S.2C:35-5 is amended to read as follows:

8 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except  
9 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be  
10 unlawful for any person knowingly or purposely:

11 (1) To manufacture, distribute or dispense, or to possess or have  
12 under his control with intent to manufacture, distribute or dispense,  
13 a controlled dangerous substance or controlled substance analog; or

14 (2) To create, distribute, or possess or have under his control  
15 with intent to distribute, a counterfeit controlled dangerous  
16 substance.

17 b. Any person who violates subsection a. with respect to:

18 (1) Heroin, or its analog, or coca leaves and any salt, compound,  
19 derivative, or preparation of coca leaves, and any salt, compound,  
20 derivative, or preparation thereof which is chemically equivalent or  
21 identical with any of these substances, or analogs, except that the  
22 substances shall not include decocainized coca leaves or extractions  
23 which do not contain cocaine or ecogine, or 3,4-  
24 methylenedioxyamphetamine or 3,4-  
25 methylenedioxyamphetamine, in a quantity of five ounces or more  
26 including any adulterants or dilutants is guilty of a crime of the first  
27 degree. The defendant shall, except as provided in N.J.S.2C:35-12,  
28 be sentenced to a term of imprisonment by the court. The term of  
29 imprisonment shall include the imposition of a minimum term  
30 which shall be fixed at, or between, one-third and one-half of the  
31 sentence imposed, during which the defendant shall be ineligible for  
32 parole. Notwithstanding the provisions of subsection a. of  
33 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

34 (2) A substance referred to in paragraph (1) of this subsection,  
35 in a quantity of one-half ounce or more but less than five ounces,  
36 including any adulterants or dilutants is guilty of a crime of the  
37 second degree;

38 (3) A substance referred to in paragraph (1) of this subsection in  
39 a quantity less than one-half ounce including any adulterants or  
40 dilutants is guilty of a crime of the third degree except that,  
41 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a  
42 fine of up to \$75,000.00 may be imposed;

43 (4) A substance classified as a narcotic drug in Schedule I or II  
44 other than those specifically covered in this section, or the analog of  
45 any such substance, in a quantity of one ounce or more including  
46 any adulterants or dilutants is guilty of a crime of the second  
47 degree;

1 (5) A substance classified as a narcotic drug in Schedule I or II  
2 other than those specifically covered in this section, or the analog of  
3 any such substance, in a quantity of less than one ounce including  
4 any adulterants or dilutants is guilty of a crime of the third degree  
5 except that, notwithstanding the provisions of subsection b. of  
6 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

7 (6) Lysergic acid diethylamide, or its analog, in a quantity of  
8 100 milligrams or more including any adulterants or dilutants, or  
9 phencyclidine, or its analog, in a quantity of 10 grams or more  
10 including any adulterants or dilutants, is guilty of a crime of the  
11 first degree. Except as provided in N.J.S.2C:35-12, the court shall  
12 impose a term of imprisonment which shall include the imposition  
13 of a minimum term, fixed at, or between, one-third and one-half of  
14 the sentence imposed by the court, during which the defendant shall  
15 be ineligible for parole. Notwithstanding the provisions of  
16 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be  
17 imposed;

18 (7) Lysergic acid diethylamide, or its analog, in a quantity of  
19 less than 100 milligrams including any adulterants or dilutants, or  
20 where the amount is undetermined, or phencyclidine, or its analog,  
21 in a quantity of less than 10 grams including any adulterants or  
22 dilutants, or where the amount is undetermined, is guilty of a crime  
23 of the second degree;

24 (8) Methamphetamine, or its analog, or phenyl-2-propanone  
25 (P2P), in a quantity of five ounces or more including any  
26 adulterants or dilutants is guilty of a crime of the first degree.  
27 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a  
28 fine of up to \$300,000.00 may be imposed;

29 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone  
30 (P2P), in a quantity of one-half ounce or more but less than five  
31 ounces including any adulterants or dilutants is guilty of a crime of  
32 the second degree;

33 (b) Methamphetamine, or its analog, or phenyl-2-propanone  
34 (P2P), in a quantity of less than one-half ounce including any  
35 adulterants or dilutants is guilty of a crime of the third degree  
36 except that notwithstanding the provisions of subsection b. of  
37 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

38 (10) (a) **【Marijuana in a quantity of 25 pounds or more**  
39 **including any adulterants or dilutants, or 50 or more marijuana**  
40 **plants, regardless of weight, or hashish】** Hashish in a quantity of  
41 five pounds or more including any adulterants or dilutants, is guilty  
42 of a crime of the first degree. Notwithstanding the provisions of  
43 subsection a. of N.J.S.2C:43-3, a fine of up to \$300,000.00 may be  
44 imposed;

45 (b) **【Marijuana in a quantity of five pounds or more but less than**  
46 **25 pounds including any adulterants or dilutants, or 10 or more but**  
47 **fewer than 50 marijuana plants, regardless of weight, or hashish】**  
48 Hashish in a quantity of one pound or more but less than five



1 pounds **[,]** including any adulterants and dilutants, is guilty of a  
2 crime of the second degree;

3 (11) **【**Marijuana in a quantity of one ounce or more but less than  
4 five pounds including any adulterants or dilutants, or hashish**】**  
5 Hashish in a quantity of five grams or more but less than one pound  
6 including any adulterants or dilutants, is guilty of a crime of the  
7 third degree except that, notwithstanding the provisions of  
8 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be  
9 imposed;

10 (12) **【**Marijuana in a quantity of less than one ounce including  
11 any adulterants or dilutants, or hashish**】** Hashish in a quantity of  
12 less than five grams including any adulterants or dilutants, is guilty  
13 of a crime of the fourth degree;

14 (13) Any other controlled dangerous substance classified in  
15 Schedule I, II, III or IV, or its analog, is guilty of a crime of the  
16 third degree, except that, notwithstanding the provisions of  
17 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be  
18 imposed; or

19 (14) Any Schedule V substance, or its analog, is guilty of a crime  
20 of the fourth degree except that, notwithstanding the provisions of  
21 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be  
22 imposed.

23 c. Where the degree of the offense for violation of this section  
24 depends on the quantity of the substance, the quantity involved  
25 shall be determined by the trier of fact. Where the indictment or  
26 accusation so provides, the quantity involved in individual acts of  
27 manufacturing, distribution, dispensing or possessing with intent to  
28 distribute may be aggregated in determining the grade of the  
29 offense, whether distribution or dispensing is to the same person or  
30 several persons, provided that each individual act of manufacturing,  
31 distribution, dispensing or possession with intent to distribute was  
32 committed within the applicable statute of limitations.

33 (cf: P.L.2000, c.136, s.1)

34

35 4. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read  
36 as follows:

37 1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by  
38 distributing, dispensing or possessing with intent to distribute a  
39 controlled dangerous substance or controlled substance analog  
40 while on any school property used for school purposes which is  
41 owned by or leased to any elementary or secondary school or school  
42 board, or within 1,000 feet of such school property or a school bus,  
43 or while on any school bus, is guilty of a crime of the third degree  
44 and shall, except as provided in N.J.S.2C:35-12, be sentenced by  
45 the court to a term of imprisonment. **【**Where the violation involves  
46 less than one ounce of marijuana, the term of imprisonment shall  
47 include the imposition of a minimum term which shall be fixed at,

1 or between, one-third and one-half of the sentence imposed, or one  
2 year, whichever is greater, during which the defendant shall be  
3 ineligible for parole. In all other cases, the **】** The term of  
4 imprisonment shall include the imposition of a minimum term  
5 which shall be fixed at, or between, one-third and one-half of the  
6 sentence imposed, or three years, whichever is greater, during  
7 which the defendant shall be ineligible for parole. Notwithstanding  
8 the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
9 \$150,000 may also be imposed upon any conviction for a violation  
10 of this section.

11 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or  
12 subsection a. of this section, the court may waive or reduce the  
13 minimum term of parole ineligibility required under subsection a. of  
14 this section or place the defendant on probation pursuant to  
15 paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this  
16 determination, the court shall consider:

17 (a) the extent of the defendant's prior criminal record and the  
18 seriousness of the offenses for which the defendant has been  
19 convicted;

20 (b) the specific location of the present offense in relation to the  
21 school property, including distance from the school and the  
22 reasonable likelihood of exposing children to drug-related activities  
23 at that location;

24 (c) whether school was in session at the time of the offense; and

25 (d) whether children were present at or in the immediate vicinity  
26 of the location when the offense took place.

27 (2) The court shall not waive or reduce the minimum term of  
28 parole ineligibility or sentence the defendant to probation if it finds  
29 that:

30 (a) the offense took place while on any school property used for  
31 school purposes which is owned by or leased to any elementary or  
32 secondary school or school board, or while on any school bus; or

33 (b) the defendant in the course of committing the offense used  
34 or threatened violence or was in possession of a firearm.

35 If the court at sentencing elects not to impose a minimum term of  
36 imprisonment and parole ineligibility pursuant to this subsection,  
37 imposes a term of parole ineligibility less than the minimum term  
38 prescribed in subsection a. of this section, or places the defendant  
39 on probation for a violation of subsection a. of this section, the  
40 sentence shall not become final for 10 days in order to permit the  
41 prosecution to appeal the court's finding and the sentence imposed.  
42 The Attorney General shall develop guidelines to ensure the  
43 uniform exercise of discretion in making determinations regarding  
44 whether to appeal a decision to waive or reduce the minimum term  
45 of parole ineligibility or place the defendant on probation.

46 Nothing in this subsection shall be construed to establish a basis  
47 for overcoming a presumption of imprisonment authorized or  
48 required by subsection d. of N.J.S.2C:44-1, or a basis for not

1 imposing a term of imprisonment or term of parole ineligibility  
2 authorized or required to be imposed pursuant to subsection f. of  
3 N.J.S.2C:43-6 or upon conviction for a crime other than the offense  
4 set forth in this subsection.

5 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
6 provisions of law, a conviction arising under this section shall not  
7 merge with a conviction for a violation of subsection a. of  
8 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or  
9 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

10 d. It shall be no defense to a prosecution for a violation of this  
11 section that the actor was unaware that the prohibited conduct took  
12 place while on or within 1,000 feet of any school property. Nor  
13 shall it be a defense to a prosecution under this section, or under  
14 any other provision of this **[title]** Title, that no juveniles were  
15 present on the school property at the time of the offense or that the  
16 school was not in session.

17 e. It is an affirmative defense to prosecution for a violation of  
18 this section that the prohibited conduct took place entirely within a  
19 private residence, that no person 17 years of age or younger was  
20 present in such private residence at any time during the commission  
21 of the offense, and that the prohibited conduct did not involve  
22 distributing, dispensing or possessing with the intent to distribute or  
23 dispense any controlled dangerous substance or controlled  
24 substance analog for profit. The affirmative defense established in  
25 this section shall be proved by the defendant by a preponderance of  
26 the evidence. Nothing herein shall be construed to establish an  
27 affirmative defense with respect to a prosecution for an offense  
28 defined in any other section of this chapter.

29 f. In a prosecution under this section, a map produced or  
30 reproduced by any municipal or county engineer for the purpose of  
31 depicting the location and boundaries of the area on or within 1,000  
32 feet of any property used for school purposes which is owned by or  
33 leased to any elementary or secondary school or school board, or a  
34 true copy of such a map, shall, upon proper authentication, be  
35 admissible and shall constitute prima facie evidence of the location  
36 and boundaries of those areas, provided that the governing body of  
37 the municipality or county has adopted a resolution or ordinance  
38 approving the map as official finding and record of the location and  
39 boundaries of the area or areas on or within 1,000 feet of the school  
40 property. Any map approved pursuant to this section may be  
41 changed from time to time by the governing body of the  
42 municipality or county. The original of every map approved or  
43 revised pursuant to this section, or a true copy thereof, shall be filed  
44 with the clerk of the municipality or county, and shall be  
45 maintained as an official record of the municipality or county.  
46 Nothing in this section shall be construed to preclude the  
47 prosecution from introducing or relying upon any other evidence or  
48 testimony to establish any element of this offense; nor shall this

1 section be construed to preclude the use or admissibility of any map  
2 or diagram other than one which has been approved by the  
3 governing body of a municipality or county, provided that the map  
4 or diagram is otherwise admissible pursuant to the Rules of  
5 Evidence.

6 (cf: P.L.2009, c.192, s.1)

7

8 5. Section 1 of P.L.1997, c.327 (C.2C:35-7.1) is amended to  
9 read as follows:

10 1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by  
11 distributing, dispensing or possessing with intent to distribute a  
12 controlled dangerous substance or controlled substance analog  
13 while in, on or within 500 feet of the real property comprising a  
14 public housing facility, a public park, or a public building is guilty  
15 of a crime of the second degree **】, except that it is a crime of the**  
16 **third degree if the violation involved less than one ounce of**  
17 **marijuana】.**

18 b. It shall be no defense to a prosecution for violation of this  
19 section that the actor was unaware that the prohibited conduct took  
20 place while on or within 500 feet of a public housing facility, a  
21 public park, or a public building.

22 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
23 provisions of law, a conviction arising under this section shall not  
24 merge with a conviction for a violation of subsection a. of  
25 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or  
26 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).  
27 Nothing in this section shall be construed to preclude or limit a  
28 prosecution or conviction for a violation of **【N.J.S.2C:35-7】 section**  
29 **1 of P.L.1987, c.101 (C.2C:35-7)** or any other offense defined in  
30 this chapter.

31 d. It is an affirmative defense to prosecution for a violation of  
32 this section that the prohibited conduct did not involve distributing,  
33 dispensing or possessing with the intent to distribute or dispense  
34 any controlled dangerous substance or controlled substance analog  
35 for profit, and that the prohibited conduct did not involve  
36 distribution to a person 17 years of age or younger. The affirmative  
37 defense established in this section shall be proved by the defendant  
38 by a preponderance of the evidence. Nothing herein shall be  
39 construed to establish an affirmative defense with respect to a  
40 prosecution for an offense defined in any other section of this  
41 chapter.

42 e. In a prosecution under this section, a map produced or  
43 reproduced by any municipal or county engineer for the purpose of  
44 depicting the location and boundaries of the area on or within 500  
45 feet of a public housing facility which is owned by or leased to a  
46 housing authority according to the "Local Redevelopment and  
47 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or  
48 within 500 feet of a public park, or the area in or within 500 feet of

1 a public building, or a true copy of such a map, shall, upon proper  
2 authentication, be admissible and shall constitute prima facie  
3 evidence of the location and boundaries of those areas, provided  
4 that the governing body of the municipality or county has adopted a  
5 resolution or ordinance approving the map as official finding and  
6 record of the location and boundaries of the area or areas on or  
7 within 500 feet of a public housing facility, a public park, or a  
8 public building. Any map approved pursuant to this section may be  
9 changed from time to time by the governing body of the  
10 municipality or county. The original of every map approved or  
11 revised pursuant to this section, or a true copy thereof, shall be filed  
12 with the clerk of the municipality or county, and shall be  
13 maintained as an official record of the municipality or county.  
14 Nothing in this section shall be construed to preclude the  
15 prosecution from introducing or relying upon any other evidence or  
16 testimony to establish any element of this offense; nor shall this  
17 section be construed to preclude the use or admissibility of any map  
18 or diagram other than one which has been approved by the  
19 governing body of a municipality or county, provided that the map  
20 or diagram is otherwise admissible pursuant to the Rules of  
21 Evidence.

22 f. As used in this act:

23 "Public housing facility" means any dwelling, complex of  
24 dwellings, accommodation, building, structure or facility and real  
25 property of any nature appurtenant thereto and used in connection  
26 therewith, which is owned by or leased to a local housing authority  
27 in accordance with the "Local Redevelopment and Housing Law,"  
28 P.L.1992, c.79 (C.40A:12A-1 et seq.) for the purpose of providing  
29 living accommodations to persons of low income.

30 "Public park" means a park, recreation facility or area or  
31 playground owned or controlled by a State, county or local  
32 government unit.

33 "Public building" means any publicly owned or leased library or  
34 museum.

35 (cf: P.L.1997, c.327, s.1)

36

37 6. N.J.S.2C:35-10 is amended to read as follows:

38 2C:35-10. Possession, Use or Being Under the Influence, or  
39 Failure to Make Lawful Disposition.

40 a. It is unlawful for any person, knowingly or purposely, to  
41 obtain, or to possess, actually or constructively, a controlled  
42 dangerous substance or controlled substance analog, unless the  
43 substance was obtained directly, or pursuant to a valid prescription  
44 or order form from a practitioner, while acting in the course of his  
45 professional practice, or except as otherwise authorized by  
46 P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this  
47 section with respect to:

1 (1) A controlled dangerous substance, or its analog, classified in  
2 Schedule I, II, III or IV other than those specifically covered in this  
3 section, is guilty of a crime of the third degree except that,  
4 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a  
5 fine of up to \$35,000.00 may be imposed;

6 (2) Any controlled dangerous substance, or its analog, classified  
7 in Schedule V, is guilty of a crime of the fourth degree except that,  
8 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a  
9 fine of up to \$15,000.00 may be imposed;

10 (3) Possession of [more than 50 grams of marijuana, including  
11 any adulterants or dilutants, or] more than five grams of hashish is  
12 guilty of a crime of the fourth degree, except that, notwithstanding  
13 the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
14 \$25,000.00 may be imposed; or

15 (4) Possession of [50 grams or less of marijuana, including any  
16 adulterants or dilutants, or] five grams or less of hashish is a  
17 disorderly person.

18 Any person who commits any offense defined in this section  
19 while on any property used for school purposes which is owned by  
20 or leased to any elementary or secondary school or school board, or  
21 within 1,000 feet of any such school property or a school bus, or  
22 while on any school bus, and who is not sentenced to a term of  
23 imprisonment, shall, in addition to any other sentence which the  
24 court may impose, be required to perform not less than 100 hours of  
25 community service.

26 b. Any person who uses or who is under the influence of any  
27 controlled dangerous substance, or its analog, for a purpose other  
28 than the treatment of sickness or injury as lawfully prescribed or  
29 administered by a physician is a disorderly person.

30 In a prosecution under this subsection, it shall not be necessary  
31 for the State to prove that the accused did use or was under the  
32 influence of any specific drug, but it shall be sufficient for a  
33 conviction under this subsection for the State to prove that the  
34 accused did use or was under the influence of some controlled  
35 dangerous substance, counterfeit controlled dangerous substance, or  
36 controlled substance analog, by proving that the accused did  
37 manifest physical and physiological symptoms or reactions caused  
38 by the use of any controlled dangerous substance or controlled  
39 substance analog.

40 c. Any person who knowingly obtains or possesses a controlled  
41 dangerous substance or controlled substance analog in violation of  
42 subsection a. of this section and who fails to voluntarily deliver the  
43 substance to the nearest law enforcement officer is guilty of a  
44 disorderly persons offense. Nothing in this subsection shall be  
45 construed to preclude a prosecution or conviction for any other  
46 offense defined in this [title] Title or any other statute.

47 (cf: P.L.1997, c.181, s.6)

- 1       7. Section 3 of P.L.2001, c.114 (C.2C:35B-3) is amended to  
2 read as follows:
- 3       3. As used in this act:
- 4       a. "Marketing of controlled dangerous substances" means the  
5 illegal distributing, dispensing, or possessing with intent to  
6 distribute, a specified controlled dangerous substance.
- 7       b. "Individual user of controlled dangerous substance" means  
8 the individual whose illegal use of a specified controlled dangerous  
9 substance is the basis of an action brought under this act.
- 10      c. "Level 1 offense" means:
- 11       (1) possessing with intent to distribute less than four ounces of a  
12 specified controlled dangerous substance as defined in this section;  
13 or
- 14       (2) distributing or dispensing less than one ounce of a specified  
15 controlled dangerous substance as defined in this section **【;】**.
- 16       (3) **【possessing with intent to distribute 25 or more but less than**  
17 **50 marijuana plants;】** (Deleted by amendment, P.L. , c. )  
18 (pending before the Legislature as this bill)
- 19       (4) **【possessing with intent to distribute less than four pounds of**  
20 **marijuana, or】** (Deleted by amendment, P.L. , c. ) (pending  
21 before the Legislature as this bill)
- 22       (5) **【distributing or dispensing more than 28.5 grams of**  
23 **marijuana.】** (Deleted by amendment, P.L. , c. ) (pending before  
24 the Legislature as this bill)
- 25      d. "Level 2 offense" means:
- 26       (1) possessing with intent to distribute four ounces or more but  
27 less than eight ounces of a specified controlled dangerous substance  
28 as defined in this section; or
- 29       (2) distributing or dispensing one ounce or more but less than  
30 two ounces of a specified controlled dangerous substance as defined  
31 in this section **【;】**.
- 32       (3) **【possessing with intent to distribute 50 or more but less than**  
33 **75 marijuana plants;】** (Deleted by amendment, P.L. , c. )  
34 (pending before the Legislature as this bill)
- 35       (4) **【possessing with intent to distribute four pounds or more but**  
36 **less than eight pounds of marijuana, or】** (Deleted by amendment,  
37 P.L. , c. ) (pending before the Legislature as this bill)
- 38       (5) **【distributing or dispensing more than one pound but less**  
39 **than five pounds of marijuana.】** (Deleted by amendment, P.L. ,  
40 c. ) (pending before the Legislature as this bill)
- 41      e. "Level 3 offense" means:
- 42       (1) possessing with intent to distribute eight ounces or more but  
43 less than 16 ounces of a specified controlled dangerous substance as  
44 defined in this section; or

- 1 (2) distributing or dispensing two ounces or more but less than  
2 four ounces of a specified controlled dangerous substance as  
3 defined in this section **【;】** .
- 4 (3) **【possessing with intent to distribute 75 or more but less than**  
5 **100 marijuana plants;】** (Deleted by amendment, P.L. , c. )  
6 (pending before the Legislature as this bill)
- 7 (4) **【possessing with intent to distribute eight pounds or more**  
8 **but less than 16 pounds of marijuana, or】** (Deleted by amendment,  
9 P.L. , c. ) (pending before the Legislature as this bill)
- 10 (5) **【distributing or dispensing more than five pounds but less**  
11 **than 10 pounds of marijuana.】** (Deleted by amendment, P.L. ,  
12 c. ) (pending before the Legislature as this bill)
- 13 f. "Level 4 offense" means:
- 14 (1) possessing with intent to distribute 16 ounces or more of a  
15 specified controlled dangerous substance as defined in this section;  
16 or
- 17 (2) distributing or dispensing four ounces or more of a specified  
18 controlled dangerous substance as defined in this section **【;】** .
- 19 (3) **【possessing with intent to distribute 100 or more marijuana**  
20 **plants;】** (Deleted by amendment, P.L. , c. ) (pending before the  
21 Legislature as this bill)
- 22 (4) **【possessing with intent to distribute 16 pounds or more of**  
23 **marijuana, or】** (Deleted by amendment, P.L. , c. ) (pending  
24 before the Legislature as this bill)
- 25 (5) **【distributing or dispensing more than 10 pounds of**  
26 **marijuana.】** (Deleted by amendment, P.L. , c. ) (pending before  
27 the Legislature as this bill)
- 28 g. "Participate in the illegal marketing of controlled dangerous  
29 substances" means to transport, import into this State, distribute,  
30 dispense, sell, possess with intent to distribute, or offer to distribute  
31 a controlled dangerous substance, in violation of any of the  
32 provisions of chapter 35 of Title 2C of the New Jersey Statutes.  
33 "Participate in the marketing of controlled dangerous substances"  
34 does not include the purchase or receipt of a controlled dangerous  
35 substance for personal use only.
- 36 h. "Person" means any natural person, association, partnership,  
37 corporation or other entity.
- 38 i. "Period of illegal use" means, in relation to the individual  
39 user of a controlled dangerous substance, the time of the  
40 individual's first illegal use of a controlled dangerous substance to  
41 the accrual of the cause of action.
- 42 j. "Place of illegal activity" means, in relation to the individual  
43 user of a specified controlled dangerous substance, each county in  
44 which the individual illegally possess or uses a specified controlled  
45 dangerous substance.



1 k. "Place of participation" means, in relation to a defendant in  
2 an action brought under this act, each county in which the defendant  
3 participates in the marketing of controlled dangerous substances.

4 l. "Specified controlled dangerous substance" means heroin,  
5 cocaine, lysergic acid diethylamide, phencyclidine,  
6 methamphetamine, phenyl-2-propanone (P2P) and any other  
7 controlled dangerous substance specified under the provisions of  
8 N.J.S.2C:35-5 as being unlawful to manufacture, distribute, or  
9 dispense, or to possess or have under a person's control with intent  
10 to manufacture, distribute or dispense.

11 (cf: P.L.2001, c.114, s.3)

12

13 8. N.J.S.2C:36-1 is amended to read as follows:

14 2C:36-1. Drug paraphernalia, defined; determination.

15 As used in this act, "drug paraphernalia" means all equipment,  
16 products and materials of any kind which are used or intended for  
17 use in planting, propagating, cultivating, growing, harvesting,  
18 manufacturing, compounding, converting, producing, processing,  
19 preparing, testing, analyzing, packaging, repackaging, storing,  
20 containing, concealing, ingesting, inhaling, or otherwise introducing  
21 into the human body a controlled dangerous substance, controlled  
22 substance analog or toxic chemical in violation of the provisions of  
23 chapter 35 of this **[title]** Title. It shall include, but not be limited  
24 to: a. kits used or intended for use in planting, propagating,  
25 cultivating, growing or harvesting of any species of plant which is a  
26 controlled dangerous substance or from which a controlled  
27 dangerous substance can be derived; b. kits used or intended for use  
28 in manufacturing, compounding, converting, producing, processing,  
29 or preparing controlled dangerous substances or controlled  
30 substance analogs; c. isomerization devices used or intended for use  
31 in increasing the potency of any species of plant which is a  
32 controlled dangerous substance; d. testing equipment used or  
33 intended for use identifying, or in analyzing the strength,  
34 effectiveness or purity of controlled dangerous substances or  
35 controlled substance analogs; e. scales and balances used or  
36 intended for use in weighing or measuring controlled dangerous  
37 substances or controlled substance analogs; f. dilutants and  
38 adulterants, such as quinine hydrochloride, mannitol, mannite,  
39 dextrose and lactose, used or intended for use in cutting controlled  
40 dangerous substances or controlled substance analogs; g.  
41 **[separation gins and sifters used or intended for use in removing**  
42 **twigs and seeds from, or in otherwise cleaning or refining,**  
43 **marihuana;]** (Deleted by amendment, P.L. , c. ) (pending before  
44 the Legislature as this bill) h. blenders, bowls, containers, spoons  
45 and mixing devices used or intended for use in compounding  
46 controlled dangerous substances or controlled substance analogs; i.  
47 capsules, balloons, envelopes and other containers used or intended  
48 for use in packaging small quantities of controlled dangerous

1 substances or controlled substance analogs; j. containers and other  
2 objects used or intended for use in storing or concealing controlled  
3 dangerous substances, controlled substance analogs or toxic  
4 chemicals; k. objects used or intended for use in ingesting, inhaling,  
5 or otherwise introducing [marihuana,] cocaine, hashish, hashish  
6 oil, nitrous oxide or the fumes of a toxic chemical into the human  
7 body, such as (1) metal, wooden, acrylic, glass, stone, plastic, or  
8 ceramic pipes with or without screens, permanent screens, hashish  
9 heads, or punctured metal bowls; (2) water pipes; (3) carburetion  
10 tubes and devices; (4) smoking and carburetion masks; (5) roach  
11 clips, meaning objects used to hold burning material [ , such as a  
12 marihuana cigarette,] that has become too small or too short to be  
13 held in the hand; (6) miniature cocaine spoons, and cocaine vials;  
14 (7) chamber pipes; (8) carburetor pipes; (9) electric pipes; (10) air-  
15 driven pipes; (11) chillums; (12) bongos; (13) ice pipes or chillers;  
16 (14) compressed gas containers, such as tanks, cartridges or  
17 canisters, that contain food grade or pharmaceutical grade nitrous  
18 oxide as a principal ingredient; (15) chargers or charging bottles,  
19 meaning metal, ceramic or plastic devices that contain an interior  
20 pin that may be used to expel compressed gas from a cartridge or  
21 canister; and (16) tubes, balloons, bags, fabrics, bottles or other  
22 containers used to concentrate or hold in suspension a toxic  
23 chemical or the fumes of a toxic chemical.

24 In determining whether or not an object is drug paraphernalia,  
25 the trier of fact, in addition to or as part of the proofs, may consider  
26 the following factors: a. statements by an owner or by anyone in  
27 control of the object concerning its use; b. the proximity of the  
28 object of illegally possessed controlled dangerous substances,  
29 controlled substance analogs or toxic chemicals; c. the existence of  
30 any residue of illegally possessed controlled dangerous substances,  
31 controlled substance analogs or toxic chemicals on the object; d.  
32 direct or circumstantial evidence of the intent of an owner, or of  
33 anyone in control of the object, to deliver it to persons whom he  
34 knows intend to use the object to facilitate a violation of this act;  
35 the innocence of an owner, or of anyone in control of the object, as  
36 to a direct violation of this act shall not prevent a finding that the  
37 object is intended for use as drug paraphernalia; e. instructions, oral  
38 or written, provided with the object concerning its use; f.  
39 descriptive materials accompanying the object which explain or  
40 depict its use; g. national or local advertising whose purpose the  
41 person knows or should know is to promote the sale of objects  
42 intended for use as drug paraphernalia; h. the manner in which the  
43 object is displayed for sale; i. the existence and scope of legitimate  
44 uses for the object in the community; and j. expert testimony  
45 concerning its use.

46 (cf: P.L.2007, c.31, s.2)

47

48 9. N.J.S.2C:36A-1 is amended to read as follows:

1       2C:36A-1. Conditional discharge for certain first offenses. a.  
2 Whenever any person who has not previously been convicted of any  
3 offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a  
4 disorderly persons or petty disorderly persons offense defined in  
5 chapter 35 or 36 of this **【title】 Title** or, subsequent to the effective  
6 date of this **【title】 Title**, under any law of the United States, this  
7 State or any other state relating to **【marijuana, or】** stimulant,  
8 depressant, or hallucinogenic drugs, and who has not previously  
9 participated in a program of supervisory treatment pursuant to  
10 N.J.S.2C:43-12 or conditional dismissal pursuant to P.L.2013, c.158  
11 (C.2C:43-13.1 et al.) is charged with or convicted of any disorderly  
12 persons offense or petty disorderly persons offense under chapter 35  
13 or 36 of this **【title】 Title**, the court upon notice to the prosecutor  
14 and subject to subsection c. of this section, may on motion of the  
15 defendant or the court:

16       (1) Suspend further proceedings and with the consent of the  
17 person after reference to the State Bureau of Identification criminal  
18 history record information files, place him under supervisory  
19 treatment upon such reasonable terms and conditions as it may  
20 require; or

21       (2) After a plea of guilty or finding of guilty, and without  
22 entering a judgment of conviction, and with the consent of the  
23 person after proper reference to the State Bureau of Identification  
24 criminal history record information files, place him on supervisory  
25 treatment upon reasonable terms and conditions as it may require,  
26 or as otherwise provided by law.

27       b. In no event shall the court require as a term or condition of  
28 supervisory treatment under this section, referral to any residential  
29 treatment facility for a period exceeding the maximum period of  
30 confinement prescribed by law for the offense for which the  
31 individual has been charged or convicted, nor shall any term of  
32 supervisory treatment imposed under this subsection exceed a  
33 period of three years. If a person is placed under supervisory  
34 treatment under this section after a plea of guilty or finding of guilt,  
35 the court as a term and condition of supervisory treatment shall  
36 suspend the person's driving privileges for a period to be fixed by  
37 the court at not less than six months or more than two years unless  
38 the court finds compelling circumstances warranting an exception.  
39 For the purposes of this subsection, compelling circumstances  
40 warranting an exception exist if the suspension of the person's  
41 driving privileges will result in extreme hardship and alternative  
42 means of transportation are not available. In the case of a person  
43 who at the time of placement under supervisory treatment under this  
44 section is less than 17 years of age, the period of suspension of  
45 driving privileges authorized herein, including a suspension of the  
46 privilege of operating a motorized bicycle, shall commence on the  
47 day the person is placed on supervisory treatment and shall run for a

1 period as fixed by the court of not less than six months or more than  
2 two years after the day the person reaches the age of 17 years.

3 If the driving privilege of a person is under revocation,  
4 suspension, or postponement for a violation of this **[title]** Title or  
5 Title 39 of the Revised Statutes at the time of the person's  
6 placement on supervisory treatment under this section, the  
7 revocation, suspension or postponement period imposed herein shall  
8 commence as of the date of the termination of the existing  
9 revocation, suspension or postponement. The court which places a  
10 person on supervisory treatment under this section shall collect and  
11 forward the person's driver's license to the New Jersey Motor  
12 Vehicle Commission and file an appropriate report with the  
13 commission in accordance with the procedure set forth in  
14 N.J.S.2C:35-16. The court shall also inform the person of the  
15 penalties for operating a motor vehicle during the period of license  
16 suspension or postponement as required in N.J.S.2C:35-16.

17 Upon violation of a term or condition of supervisory treatment  
18 the court may enter a judgment of conviction and proceed as  
19 otherwise provided, or where there has been no plea of guilty or  
20 finding of guilty, resume proceedings. Upon fulfillment of the terms  
21 and conditions of supervisory treatment the court shall terminate the  
22 supervisory treatment and dismiss the proceedings against him.  
23 Termination of supervisory treatment and dismissal under this  
24 section shall be without court adjudication of guilt and shall not be  
25 deemed a conviction for purposes of disqualifications or  
26 disabilities, if any, imposed by law upon conviction of a crime or  
27 disorderly persons offense but shall be reported by the clerk of the  
28 court to the State Bureau of Identification criminal history record  
29 information files. Termination of supervisory treatment and  
30 dismissal under this section may occur only once with respect to  
31 any person. Imposition of supervisory treatment under this section  
32 shall not be deemed a conviction for the purposes of determining  
33 whether a second or subsequent offense has occurred under section  
34 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this **[title]**  
35 Title or any law of this State.

36 c. Proceedings under this section shall not be available to any  
37 defendant unless the court in its discretion concludes that:

38 (1) The defendant's continued presence in the community, or in  
39 a civil treatment center or program, will not pose a danger to the  
40 community; or

41 (2) That the terms and conditions of supervisory treatment will  
42 be adequate to protect the public and will benefit the defendant by  
43 serving to correct any dependence on or use of controlled  
44 substances which he may manifest; and

45 (3) The person has not previously received supervisory  
46 treatment under section 27 of P.L.1970, c.226 (C.24:21-27),  
47 N.J.S.2C:43-12, or the provisions of this chapter.

1 d. A person seeking conditional discharge pursuant to this  
2 section shall pay to the court a fee of \$75 which shall be paid to the  
3 Treasurer of the State of New Jersey for deposit in the General  
4 Fund. The defendant shall also be required to pay restitution, costs  
5 and other assessments as provided by law. A person may apply for a  
6 waiver of this fee, by reason of poverty, pursuant to the Rules  
7 Governing the Courts of the State of New Jersey, or the court may  
8 permit the defendant to pay the conditional discharge fee and other  
9 assessments in installments or may order other alternatives pursuant  
10 to section 1 of P.L.2009, c.317 (C.2B:12-23.1).

11 (cf: P.L.2013, c.158, s.10)

12

13 10. N.J.S.2C:41-1 is amended to read as follows:

14 2C:41-1. For purposes of this section and N.J.S.2C:41-2 through  
15 N.J.S.2C:41-6:

16 a. "Racketeering activity" means (1) any of the following  
17 crimes which are crimes under the laws of New Jersey or are  
18 equivalent crimes under the laws of any other jurisdiction:

19 (a) murder

20 (b) kidnapping

21 (c) gambling

22 (d) promoting prostitution

23 (e) obscenity

24 (f) robbery

25 (g) bribery

26 (h) extortion

27 (i) criminal usury

28 (j) violations of Title 33 of the Revised Statutes

29 (k) violations of Title 54A of the New Jersey Statutes and Title  
30 54 of the Revised Statutes

31 (l) arson

32 (m) burglary

33 (n) theft and all crimes defined in chapter 20 of Title 2C of the  
34 New Jersey Statutes

35 (o) forgery and fraudulent practices and all crimes defined in  
36 chapter 21 of Title 2C of the New Jersey Statutes

37 (p) fraud in the offering, sale or purchase of securities

38 (q) alteration of motor vehicle identification numbers

39 (r) unlawful manufacture, purchase, use or transfer of firearms

40 (s) unlawful possession or use of destructive devices or  
41 explosives

42 (t) violation of sections 112 through 116 inclusive of the  
43 "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-  
44 116)

45 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6  
46 and all crimes involving illegal distribution of a controlled  
47 dangerous substance or controlled substance analog **], except**  
48 **possession of less than one ounce of marijuana]**

- 1 (v) violation of subsection b. of N.J.S.2C:24-4 except for  
2 subparagraph (b) of paragraph (5) of subsection b.
- 3 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16),  
4 leader of firearms trafficking network
- 5 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),  
6 weapons training for illegal activities
- 7 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2),  
8 terrorism
- 9 (z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human  
10 trafficking
- 11 (aa) violation of N.J.S.2C:12-1 requiring purposeful or knowing  
12 conduct
- 13 (bb) violation of N.J.S.2C:12-3, terroristic threats
- 14 (cc) violation of section 1 of P.L.2015, c.85 (C.2C:33-31), dog  
15 fighting.
- 16 (2) any conduct defined as "racketeering activity" under Title  
17 18, U.S.C.s.1961(1)(A), (B) and (D).
- 18 b. "Person" includes any individual or entity or enterprise as  
19 defined herein holding or capable of holding a legal or beneficial  
20 interest in property.
- 21 c. "Enterprise" includes any individual, sole proprietorship,  
22 partnership, corporation, business or charitable trust, association, or  
23 other legal entity, any union or group of individuals associated in  
24 fact although not a legal entity, and it includes illicit as well as licit  
25 enterprises and governmental as well as other entities.
- 26 d. "Pattern of racketeering activity" requires:
- 27 (1) Engaging in at least two incidents of racketeering conduct  
28 one of which shall have occurred after the effective date of this act  
29 and the last of which shall have occurred within 10 years (excluding  
30 any period of imprisonment) after a prior incident of racketeering  
31 activity; and
- 32 (2) A showing that the incidents of racketeering activity  
33 embrace criminal conduct that has either the same or similar  
34 purposes, results, participants or victims or methods of commission  
35 or are otherwise interrelated by distinguishing characteristics and  
36 are not isolated incidents.
- 37 e. "Unlawful debt" means a debt:
- 38 (1) Which was incurred or contracted in gambling activity  
39 which was in violation of the law of the United States, a state or  
40 political subdivision thereof; or
- 41 (2) Which is unenforceable under state or federal law in whole  
42 or in part as to principal or interest because of the laws relating to  
43 usury.
- 44 f. "Documentary material" includes any book, paper,  
45 document, writing, drawing, graph, chart, photograph, phonorecord,  
46 magnetic or recording or video tape, computer printout, other data  
47 compilation from which information can be obtained or from which

1 information can be translated into useable form or other tangible  
2 item.

3 g. "Attorney General" includes the Attorney General of New  
4 Jersey, his assistants and deputies. The term shall also include a  
5 county prosecutor or his designated assistant prosecutor if a county  
6 prosecutor is expressly authorized in writing by the Attorney  
7 General to carry out the powers conferred on the Attorney General  
8 by this chapter.

9 h. "Trade or commerce" shall include all economic activity  
10 involving or relating to any commodity or service.

11 (cf: P.L.2015, c.85, s.3)

12

13 11. N.J.S.2C:52-2 is amended to read as follows:

14 2C:52-2. Indictable Offenses.

15 a. In all cases, except as herein provided, wherein a person has  
16 been convicted of a crime under the laws of this State and who has  
17 not been convicted of any prior or subsequent crime, whether within  
18 this State or any other jurisdiction, and has not been convicted of a  
19 disorderly persons or petty disorderly persons offense on more than  
20 two occasions may, after the expiration of a period of 10 years from  
21 the date of his most recent conviction, payment of fine, satisfactory  
22 completion of probation or parole, or release from incarceration for  
23 that crime or for any disorderly persons or petty disorderly persons  
24 offense, whichever is later, present an expungement application to  
25 the Superior Court in the county in which the conviction for the  
26 crime was adjudged, which contains a duly verified petition as  
27 provided in N.J.S.2C:52-7 for the criminal conviction sought to be  
28 expunged, and may also contain additional duly verified petitions  
29 for no more than two convictions for any disorderly persons or petty  
30 disorderly persons offenses, praying that the conviction, or  
31 convictions if applicable, and all records and information pertaining  
32 thereto be expunged. The petition for each conviction appended to  
33 an application shall comply with the requirements set forth in  
34 N.J.S.2C:52-1 et seq.

35 Notwithstanding the provisions of the preceding paragraph, a  
36 petition may be filed and presented, and the court may grant an  
37 expungement pursuant to this section, although less than 10 years  
38 has expired in accordance with the requirements of the preceding  
39 paragraph where the court finds:

40 (1) less than 10 years has expired from the satisfaction of a fine,  
41 but the ten-year time requirement is otherwise satisfied, and the  
42 court finds that the person substantially complied with any payment  
43 plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so  
44 due to compelling circumstances affecting his ability to satisfy the  
45 fine; or

46 (2) at least five years has expired from the date of his  
47 conviction, payment of fine, satisfactory completion of probation or  
48 parole, or release from incarceration, whichever is later; the person

1 has not been convicted of a crime, disorderly persons offense, or  
2 petty disorderly persons offense since the time of the conviction;  
3 and the court finds in its discretion that expungement is in the  
4 public interest, giving due consideration to the nature of the  
5 offense, and the applicant's character and conduct since conviction.

6 In determining whether compelling circumstances exist for the  
7 purposes of paragraph (1) of this subsection, a court may consider  
8 the amount of the fine or fines imposed, the person's age at the time  
9 of the offense, the person's financial condition and other relevant  
10 circumstances regarding the person's ability to pay.

11 Although subsequent convictions for no more than two  
12 disorderly or petty disorderly persons offenses shall not be an  
13 absolute bar to relief, the nature of those conviction or convictions  
14 and the circumstances surrounding them shall be considered by the  
15 court and may be a basis for denial of relief if they or either of them  
16 constitute a continuation of the type of unlawful activity embodied  
17 in the criminal conviction for which expungement is sought.

18 b. Records of conviction pursuant to statutes repealed by this  
19 Code for the crimes of murder, manslaughter, treason, anarchy,  
20 kidnapping, rape, forcible sodomy, arson, perjury, false swearing,  
21 robbery, embracery, or a conspiracy or any attempt to commit any  
22 of the foregoing, or aiding, assisting or concealing persons accused  
23 of the foregoing crimes, shall not be expunged.

24 Records of conviction for the following crimes specified in the  
25 New Jersey Code of Criminal Justice shall not be subject to  
26 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except  
27 death by auto as specified in N.J.S.2C:11-5; N.J.S.2C:13-1  
28 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or  
29 Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human  
30 Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual  
31 Assault); subsection a. of N.J.S.2C:14-3 (Aggravated Criminal  
32 Sexual Contact); if the victim is a minor, subsection b. of  
33 N.J.S.2C:14-3 (Criminal Sexual Contact); if the victim is a minor  
34 and the offender is not the parent of the victim, N.J.S.2C:13-2  
35 (Criminal Restraint) or N.J.S.2C:13-3 (False Imprisonment);  
36 N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson and Related  
37 Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare  
38 of a child by engaging in sexual conduct which would impair or  
39 debauch the morals of the child, or causing the child other harm);  
40 paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or  
41 filming a child in a prohibited sexual act); paragraph (3) of  
42 subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to  
43 engage in a prohibited sexual act); subparagraph (a) of paragraph  
44 (5) of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with  
45 intent to distribute or using a file-sharing program to store items  
46 depicting the sexual exploitation or abuse of a child); subparagraph  
47 (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing  
48 or viewing items depicting the sexual exploitation or abuse of a



1 child); N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2 (False Swearing);  
2 paragraph (4) of subsection b. of N.J.S.2C:34-1 (Knowingly  
3 promoting the prostitution of the actor's child); section 2 of  
4 P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3  
5 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical  
6 Weapons, Biological Agents or Nuclear or Radiological Devices);  
7 and conspiracies or attempts to commit such crimes.

8 Records of conviction for any crime committed by a person  
9 holding any public office, position or employment, elective or  
10 appointive, under the government of this State or any agency or  
11 political subdivision thereof and any conspiracy or attempt to  
12 commit such a crime shall not be subject to expungement if the  
13 crime involved or touched such office, position or employment.

14 c. In the case of conviction for the possession of marijuana that  
15 occurred prior to the effective date of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill): a petition may be filed and  
17 presented at any time; the provisions of N.J.S.2C:52-9 through  
18 N.J.S.2C:52-14 shall not apply to the petition; and the court, upon  
19 review of the petition, shall immediately grant the expungement. In  
20 the case of conviction for the sale or distribution of a controlled  
21 dangerous substance or possession thereof with intent to sell,  
22 expungement shall be denied except where the crimes involve:

23 (1) **【Marijuana, where the total quantity sold, distributed or**  
24 **possessed with intent to sell was 25 grams or less;】** (Deleted by  
25 amendment, P.L. , c. ) (pending before the Legislature as this  
26 bill)

27 (2) Hashish, where the total quantity sold, distributed or  
28 possessed with intent to sell was five grams or less; or

29 (3) Any controlled dangerous substance provided that the  
30 conviction is of the third or fourth degree, where the court finds that  
31 expungement is consistent with the public interest, giving due  
32 consideration to the nature of the offense and the petitioner's  
33 character and conduct since conviction.

34 d. In the case of a State licensed physician or podiatrist  
35 convicted of an offense involving drugs or alcohol or pursuant to  
36 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
37 court shall notify the State Board of Medical Examiners upon  
38 receipt of a petition for expungement of the conviction and records  
39 and information pertaining thereto.

40 (cf: P.L.2015, c.261, s.2)

41  
42 12. N.J.S.2C:52-3 is amended to read as follows:

43 2C:52-3. Disorderly persons offenses and petty disorderly  
44 persons offenses.

45 a. Any person convicted of a disorderly persons offense or  
46 petty disorderly persons offense under the laws of this State who  
47 has not been convicted of any prior or subsequent crime, whether  
48 within this State or any other jurisdiction, may present an

1 expungement application to the Superior Court pursuant to this  
2 section. Any person convicted of a disorderly persons offense or  
3 petty disorderly persons offense under the laws of this State who  
4 has also been convicted of a prior or subsequent crime shall not be  
5 eligible to apply for an expungement pursuant to this section, but  
6 may present an expungement application to the Superior Court  
7 pursuant to N.J.S.2C:52-2.

8 b. **【Any】** In all cases, except as herein provided, any person  
9 convicted of a disorderly persons offense or petty disorderly  
10 persons offense under the laws of this State who has not been  
11 convicted of any prior or subsequent crime, whether within this  
12 State or any other jurisdiction, or who has not been convicted of a  
13 disorderly persons or petty disorderly persons offense on more than  
14 two other occasions, may, after the expiration of a period of five  
15 years from the date of his most recent conviction, payment of fine,  
16 satisfactory completion of probation or release from incarceration  
17 for any disorderly persons or petty disorderly persons offense,  
18 whichever is later, present an expungement application to the  
19 Superior Court in the county in which the conviction for the most  
20 recent disorderly persons or petty disorderly persons offense was  
21 adjudged, which contains a duly verified petition as provided in  
22 N.J.S.2C:52-7 for the disorderly persons or petty disorderly persons  
23 conviction sought to be expunged, and which may also contain  
24 additional duly verified petitions for no more than two other  
25 convictions for disorderly persons or petty disorderly persons  
26 offenses, praying that the conviction, or convictions if applicable,  
27 and all records and information pertaining thereto be expunged.  
28 The petition for each conviction appended to an application shall  
29 comply with the requirements of N.J.S.2C:52-1 et seq.

30 Notwithstanding the provisions of the preceding paragraph, a  
31 petition may be filed and presented, and the court may grant an  
32 expungement pursuant to this section, when the court finds:

33 (1) less than five years has expired from the satisfaction of a  
34 fine, but the five-year time requirement is otherwise satisfied, and  
35 the court finds that the person substantially complied with any  
36 payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could  
37 not do so due to compelling circumstances affecting his ability to  
38 satisfy the fine; or

39 (2) at least three years have expired from the date of his  
40 conviction, payment of fine, satisfactory completion of probation or  
41 parole, or release from incarceration, whichever is later; the person  
42 has not been convicted of a crime, disorderly persons offense, or  
43 petty disorderly persons offense since the time of the conviction;  
44 and the court finds in its discretion that expungement is in the  
45 public interest, giving due consideration to the nature of the  
46 offense, and the applicant's character and conduct since conviction.

47 In determining whether compelling circumstances exist for the  
48 purposes of paragraph (1) of this subsection, a court may consider

1 the amount of the fine or fines imposed, the person's age at the time  
2 of the offense, the person's financial condition and other relevant  
3 circumstances regarding the person's ability to pay.

4 c. In the case of conviction for the possession, use or being  
5 under the influence, or failure to make lawful disposition, of  
6 marijuana, that occurred prior to the effective date of P.L. \_\_\_\_\_,  
7 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill): a petition  
8 may be filed and presented at any time; the provisions of  
9 N.J.S.2C:52-9 through N.J.S.2C:52-14 shall not apply to the  
10 petition; and the court, upon review of the petition, shall  
11 immediately grant the expungement.  
12 (cf: P.L.2015, c.261, s.3)

13

14 13. N.J.S.2C:52-5 is amended to read as follows:

15 2C:52-5. Expungement of Records of Young Drug Offenders.  
16 Notwithstanding the provisions of **[sections]** N.J.S.2C:52-2 and  
17 N.J.S.2C:52-3, after a period of not less than one year following  
18 conviction, termination of probation or parole or discharge from  
19 custody, whichever is later, any person convicted of an offense  
20 under chapters 35 or 36 of this **[title]** Title for the possession or use  
21 of a controlled dangerous substance, convicted of violating section  
22 3 of P.L.1955, c.277 [ , §3] (C.2A:170-77.5), or convicted of  
23 violating section 1 of P.L.1962, c.113 [ , §1] (C.2A:170-77.8), and  
24 who at the time of the offense was 21 years of age or younger, may  
25 apply to the Superior Court in the county wherein the matter was  
26 disposed of for the expungement of such person's conviction and all  
27 records pertaining thereto. The relief of expungement under this  
28 section shall be granted only if said person has not, prior to the time  
29 of hearing, violated any of the conditions of his probation or parole,  
30 albeit subsequent to discharge from probation or parole, has not  
31 been convicted of any previous or subsequent criminal act or any  
32 subsequent or previous violation of chapters 35 or 36 of this **[title]**  
33 Title or of section 3 of P.L.1955, c.277 [ , §3] (C.2A:170-77.5) or  
34 section 1 of P.L.1962, c.113 [ , §1] (C.2A:170-77.8), or who has not  
35 had a prior or subsequent criminal matter dismissed because of  
36 acceptance into a supervisory treatment or other diversion program.

37 This section shall not apply to any person who has been  
38 convicted of the sale or distribution of a controlled dangerous  
39 substance or possession with the intent to sell any controlled  
40 dangerous substance except:

41 (1) **[Marihuana, where the total sold, distributed or possessed**  
42 **with intent to sell was 25 grams or less, or]** (Deleted by  
43 amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the Legislature as this  
44 bill)

45 (2) Hashish, where the total amount sold, distributed or  
46 possessed with intent to sell was 5 grams or less.

47 (cf: P.L.1987, c.106, s.16)

1       14. Section 8 of P.L.1983, c.392 (C.13:1E-133) is amended to  
2 read as follows:

3       8. The provisions of any law to the contrary notwithstanding,  
4 no license shall be approved by the department:

5       a. Unless the department finds that the applicant, or the  
6 permittee, as the case may be, in any prior performance record in  
7 the collection, transportation, treatment, storage, transfer or disposal  
8 of solid waste or hazardous waste, has exhibited sufficient integrity,  
9 reliability, expertise, and competency to engage in the collection or  
10 transportation of solid waste or hazardous waste, or to operate the  
11 solid waste facility or hazardous waste facility, given the potential  
12 economic consequences for affected counties, municipalities and  
13 ratepayers or significant adverse impacts upon human health and  
14 the environment which could result from the irresponsible  
15 participation therein or operation thereof, or if no prior record  
16 exists, that the applicant or the permittee is likely to exhibit that  
17 integrity, reliability, expertise and competence.

18       b. If any person required to be listed in the disclosure  
19 statement, or otherwise shown to have a beneficial interest in the  
20 business of the applicant, the permittee or the licensee, has been  
21 convicted of any of the following crimes under the laws of New  
22 Jersey or the equivalent thereof under the laws of any other  
23 jurisdiction:

- 24       (1) Murder;
- 25       (2) Kidnapping;
- 26       (3) Gambling;
- 27       (4) Robbery;
- 28       (5) Bribery;
- 29       (6) Extortion;
- 30       (7) Criminal usury;
- 31       (8) Arson;
- 32       (9) Burglary;
- 33       (10) Theft and related crimes;
- 34       (11) Forgery and fraudulent practices;
- 35       (12) Fraud in the offering, sale or purchase of securities;
- 36       (13) Alteration of motor vehicle identification numbers;
- 37       (14) Unlawful manufacture, purchase, use or transfer of firearms;
- 38       (15) Unlawful possession or use of destructive devices or  
39 explosives;
- 40       (16) Violation of N.J.S.2C:35-5 **】, except possession of 84 grams**  
41 **or less of marijuana,】** or of N.J.S.2C:35-10;
- 42       (17) Racketeering, **【P.L.1981, c.167 (C.2C:41-1 et seq.)】**  
43 **N.J.S.2C:41-1 et seq.;**
- 44       (18) Violation of criminal provisions of the "New Jersey  
45 Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- 46       (19) Any purposeful or reckless violation of the criminal  
47 provisions of any federal or state environmental protection laws,

1 rules, or regulations, including, but not limited to, solid waste or  
2 hazardous waste management laws, rules, or regulations;

3 (20) Violation of N.J.S.2C:17-2;

4 (21) Any offense specified in chapter 28 of Title 2C of the New  
5 Jersey Statutes; or

6 (22) Violation of the "Solid Waste Utility Control Act [of  
7 1970]," P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221  
8 (C.48:13A-6.1).

9 c. If the Attorney General determines that there is a reasonable  
10 suspicion to believe that a person required to be listed in the  
11 disclosure statement, or otherwise shown to have a beneficial  
12 interest in the business of the applicant, the permittee or the  
13 licensee, does not possess a reputation for good character, honesty  
14 and integrity, and that person or the applicant, the permittee or the  
15 licensee fails, by clear and convincing evidence, to establish his  
16 reputation for good character, honesty and integrity.

17 d. With respect to the approval of an initial license, if there are  
18 current prosecutions or pending charges in any jurisdiction against  
19 any person required to be listed in the disclosure statement, or  
20 otherwise shown to have a beneficial interest in the business of the  
21 applicant or the permittee, for any of the crimes enumerated in  
22 subsection b. of this section, provided, however, that at the request  
23 of the applicant, permittee, or the person charged, the department  
24 shall defer decision upon such application during the pendency of  
25 such charge.

26 e. If any person required to be listed in the disclosure  
27 statement, or otherwise shown to have a beneficial interest in the  
28 business of the applicant, permittee or the licensee, has pursued  
29 economic gain in an occupational manner or context which is in  
30 violation of the criminal or civil public policies of this State, where  
31 such pursuit creates a reasonable belief that the participation of that  
32 person in any activity required to be licensed under this act would  
33 be inimical to the policies of this act. For the purposes of this  
34 section, "occupational manner or context" means the systematic  
35 planning, administration, management, or execution of an activity  
36 for financial gain.

37 f. If the Attorney General determines that any person required  
38 to be listed in the disclosure statement, or otherwise shown to have  
39 a beneficial interest in the business of the applicant, permittee or the  
40 licensee, has been identified by the State Commission of  
41 Investigation or the Federal Bureau of Investigation as a career  
42 offender or a member of a career offender cartel or an associate of a  
43 career offender or career offender cartel, where such identification,  
44 membership or association creates a reasonable belief that the  
45 participation of that person in any activity required to be licensed  
46 under this act would be inimical to the policies of this act. For the  
47 purposes of this section, "career offender" means any person whose  
48 behavior is pursued in an occupational manner or context for the

1 purpose of economic gain, utilizing such methods as are deemed  
2 criminal violations of the public policy of this State; and a "career  
3 offender cartel" means any group of persons who operate together  
4 as career offenders.

5 A license may be approved by the department for any applicant  
6 or permittee if the information contained within the disclosure  
7 statement and investigative report, including any determination  
8 made by the Attorney General concerning the character, honesty  
9 and integrity of any person required to be listed in the disclosure  
10 statement, or otherwise shown to have a beneficial interest in the  
11 business of the applicant or permittee, would not require  
12 disqualification pursuant to subsection a., b., c., e. or f. of this  
13 section.

14 A license approved by the department for any applicant or  
15 permittee pursuant to this section is non-transferable and shall be  
16 valid only for the length of time for which it is given.

17 Any applicant or permittee who is denied an initial license  
18 pursuant to this section shall, upon a written request transmitted to  
19 the department within 30 days of that denial, be afforded the  
20 opportunity for a hearing thereon in the manner provided for  
21 contested cases pursuant to the "Administrative Procedure Act,"  
22 P.L.1968, c.410 (C.52:14B-1 et seq.).  
23 (cf: P.L.1991, c.269, s.6)

24

25 15. R.S.24:5-18 is amended to read as follows:

26 24:5-18. For the purposes of this subtitle a drug or device shall  
27 also be deemed to be misbranded:

28 a. If its labeling is false or misleading in any particular.

29 b. If in package form unless it bears a label containing the  
30 name and place of business of the manufacturer, packer, or  
31 distributor.

32 c. If any word, statement or other information required by or  
33 under authority of this subtitle to appear on the label or labeling is  
34 not prominently placed thereon with such conspicuousness (as  
35 compared with other words, statements or designs in the labeling)  
36 and in such terms as to render it likely to be read and understood by  
37 the ordinary individual under customary conditions of purchase and  
38 use.

39 d. If it is for use by man and contains any quantity of the  
40 narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-  
41 eucaine, bromal, [cannabis,] carbromal, chloral, coca, cocaine,  
42 codeine, heroin, [marihuana,] morphine, opium, paraldehyde,  
43 peyote, or sulphonmethane; or any chemical derivative of such  
44 substance, which derivative has been by the Department of Health  
45 of the State of New Jersey after investigation found to be, and by  
46 regulations under this subtitle designated as, habit forming; unless  
47 its label bears the name and quantity or proportion of such

1 substance, or derivative and in juxtaposition therewith, the  
2 statement "Warning--May be habit forming."

3 e. If it is a drug and is not designated solely by a name  
4 recognized in an official compendium, unless its label bears (1) the  
5 common or usual name of the drug, if such there be; and (2) in case  
6 it is fabricated from 2 or more ingredients, the common or usual  
7 name of each active ingredient, including the kind and quantity or  
8 proportion of any alcohol, and also including, whether active or not,  
9 the name and quantity or proportion of any bromides, ether,  
10 chloroform, acetanilid, acetphanetidin, amidopyrine, antipyrine,  
11 atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis  
12 glusocides, mercury, ouabain, strophanthin, strychnine, thyroid, or  
13 any derivative or preparation of any such substances, contained  
14 therein; provided, that to the extent that compliance with the  
15 requirements of clause (2) of this paragraph is impracticable,  
16 exemptions may be established by regulations promulgated by the  
17 State department.

18 f. Unless its labeling bears (1) adequate directions for use; and  
19 (2) such adequate warnings against use in those pathological  
20 conditions or by children where its use may be dangerous to health,  
21 or against unsafe dosage or methods or duration of administration  
22 or application, in such manner and form, as are necessary for the  
23 protection of users; provided, that where any requirement of clause  
24 (1) of this paragraph, as applied to any drug or device, is not  
25 necessary for the protection of the public health, the Department of  
26 Health of the State of New Jersey may promulgate regulations  
27 exempting such drug or device from such requirement.

28 g. If it purports to be a drug the name of which is recognized in  
29 an official compendium, unless it is packaged and labeled as  
30 prescribed therein; provided, that the method of packing may be  
31 modified with the consent of the State department. Whenever a  
32 drug is recognized in both the United States Pharmacopoeia and the  
33 Homeopathic Pharmacopoeia of the United States it shall be subject  
34 to the requirements of the United States Pharmacopoeia unless it is  
35 labeled and offered for sale as a homeopathic drug, in which case it  
36 shall be subject to the provisions of the Homeopathic  
37 Pharmacopoeia of the United States and not to those of the United  
38 States Pharmacopoeia.

39 h. If it has been found by the Department of Health of the State  
40 of New Jersey to be a drug liable to deterioration, unless it is  
41 packaged in such form and manner, and its label bears a statement  
42 of such precautions, as the Department of Health of the State of  
43 New Jersey may by regulations require as necessary for the  
44 protection of the public health. No such regulation shall be  
45 established for any drug recognized in an official compendium until  
46 the State department shall have informed the appropriate body  
47 charged with the revision of such compendium of the need for such

1 packaging or labeling requirements and such body shall have failed  
2 within a reasonable time to prescribe such requirements.

3 i. (1) If it is a drug and its container is so made, formed or  
4 filled as to be misleading; or (2) if it is an imitation of another  
5 drug; or (3) if it is offered for sale under the name of another drug.

6 j. If it is dangerous to health when used in the dosage, or with  
7 the frequency or duration prescribed, recommended, or suggested in  
8 the labeling thereof.

9 k. If it is a depressant or stimulant drug as defined pursuant to  
10 law and not in the possession or control of a person specified by  
11 law as entitled to possession or control of such depressant or  
12 stimulant drug. Any depressant or stimulant drug misbranded under  
13 the preceding sentence shall be deemed dangerous or fraudulent for  
14 purposes of marking and detaining under the provisions of  
15 **【section】 R.S.24:4-12 【of this Title】.**

16 (cf: P.L.1966, c.314, s.8)

17

18 16. Section 2 of P.L.2009, c.307 (C.24:6I-2) is amended to read  
19 as follows:

20 2. The Legislature finds and declares that:

21 a. Modern medical research has discovered a beneficial use for  
22 marijuana in treating or alleviating the pain or other symptoms  
23 associated with certain debilitating medical conditions, as found by  
24 the National Academy of Sciences' Institute of Medicine in March  
25 1999;

26 b. **【According to the U.S. Sentencing Commission and the**  
27 **Federal Bureau of Investigation, 99 out of every 100 marijuana**  
28 **arrests in the country are made under state law, rather than under**  
29 **federal law.】** Consequently, changing **【state】** State law will have  
30 the practical effect of **【protecting from arrest the vast majority of】**  
31 benefiting seriously ill people who have a medical need to use  
32 marijuana;

33 c. Although federal law currently prohibits the use of  
34 marijuana, the laws of **【Alaska, California, Colorado, Hawaii,**  
35 **Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode**  
36 **Island, Vermont, and Washington】** many states permit the use of  
37 marijuana for medical purposes **【,** and in Arizona**】** or permit  
38 doctors **【are permitted】** to prescribe marijuana. New Jersey joins  
39 this effort for the health and welfare of its citizens; and

40 d. States are not required to enforce federal law or prosecute  
41 people for engaging in activities prohibited by federal law;  
42 therefore, compliance with this act does not put the State of New  
43 Jersey in violation of federal law **【; and】** .

44 e. **【Compassion dictates that a distinction be made between**  
45 **medical and non-medical uses of marijuana. Hence, the purpose of**  
46 **this act is to protect from arrest, prosecution, property forfeiture,**  
47 **and criminal and other penalties, those patients who use marijuana**



1 to alleviate suffering from debilitating medical conditions, as well  
2 as their physicians, primary caregivers, and those who are  
3 authorized to produce marijuana for medical purposes.】 (Deleted by  
4 amendment, P.L. , c. ) (pending before the Legislature as this  
5 bill)

6 (cf: P.L.2009, c.307, s.2)

7

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

10 6. a. The provisions of N.J.S.2C:35-18 shall apply to any  
11 qualifying patient, primary caregiver, alternative treatment center,  
12 physician, or any other person acting in accordance with the  
13 provisions of P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158  
14 (C.18A:40-12.22 et al.).

15 b. A qualifying patient, primary caregiver, alternative treatment  
16 center, physician, or any other person acting in accordance with the  
17 provisions of P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158  
18 (C.18A:40-12.22 et al.) shall not be subject to any civil or  
19 administrative penalty, or denied any right or privilege, including,  
20 but not limited to, civil penalty or disciplinary action by a  
21 professional licensing board, related to the medical use of marijuana  
22 as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015,  
23 c.158 (C.18A:40-12.22 et al.).

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

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

37 e. No person shall be subject to arrest or prosecution for  
38 constructive possession, conspiracy or any other offense for simply  
39 being in the presence or vicinity of the medical use of marijuana as  
40 authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015,  
41 c.158 (C. 18A:40-12.22 et al.).

42 f. No custodial parent, guardian, or person who has legal  
43 custody of a qualifying patient who is a minor shall be subject to  
44 arrest or prosecution for constructive possession, conspiracy or any  
45 other offense for assisting the minor in the medical use of marijuana  
46 as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015,  
47 c.158 (C.18A:40-12.22 et al.).

48 (cf: P.L.2015, c.158, s.4)

1 18. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read  
2 as follows:

3 2. As used in this act:

4 "Administer" means the direct application of a controlled  
5 dangerous substance, whether by injection, inhalation, ingestion, or  
6 any other means, to the body of a patient or research subject by: (1)  
7 a practitioner (or, in his presence, by his lawfully authorized agent),  
8 or (2) the patient or research subject at the lawful direction and in  
9 the presence of the practitioner.

10 "Agent" means an authorized person who acts on behalf of or at  
11 the direction of a manufacturer, distributor, or dispenser but does  
12 not include a common or contract carrier, public warehouseman, or  
13 employee thereof.

14 "Commissioner" means the Commissioner of Health.

15 "Controlled dangerous substance" means a drug, substance, or  
16 immediate precursor in Schedules I through V of article 2 of  
17 P.L.1970, c.226 (C.24:21-1 et seq.). The term shall not include  
18 distilled spirits, wine, malt beverages, as those terms are defined or  
19 used in R.S.33:1-1 et seq., **[or]** tobacco and tobacco products, or  
20 marijuana and marijuana products, other than medical marijuana as  
21 provided under the "New Jersey Compassionate Use Medical  
22 Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et al.).

23 "Counterfeit substance" means a controlled dangerous substance  
24 which, or the container or labeling of which, without authorization,  
25 bears the trademark, trade name, or other identifying mark, imprint,  
26 number or device, or any likeness thereof, of a manufacturer,  
27 distributor, or dispenser other than the person or persons who in fact  
28 manufactured, distributed, or dispensed such substance and which  
29 thereby falsely purports or is represented to be the product of, or to  
30 have been distributed by, such other manufacturer, distributor, or  
31 dispenser.

32 "Deliver" or "delivery" means the actual, constructive, or  
33 attempted transfer from one person to another of a controlled  
34 dangerous substance, whether or not there is an agency relationship.

35 "Director" means the Director of the Division of Consumer  
36 Affairs in the Department of Law and Public Safety.

37 "Dispense" means to deliver a controlled dangerous substance to  
38 an ultimate user or research subject by or pursuant to the lawful  
39 order of a practitioner, including the prescribing, administering,  
40 packaging, labeling, or compounding necessary to prepare the  
41 substance for that delivery. "Dispenser" means a practitioner who  
42 dispenses.

43 "Distribute" means to deliver other than by administering or  
44 dispensing a controlled dangerous substance. "Distributor" means a  
45 person who distributes.

46 "Division" means the Division of Consumer Affairs in the  
47 Department of Law and Public Safety.

1 "Drug Enforcement Administration" means the Drug  
2 Enforcement Administration in the United States Department of  
3 Justice.

4 "Drugs" means (a) substances recognized in the official United  
5 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
6 United States, or official National Formulary, or any supplement to  
7 any of them; and (b) substances intended for use in the diagnosis,  
8 cure, mitigation, treatment, or prevention of disease in man or other  
9 animals; and (c) substances (other than food) intended to affect the  
10 structure or any function of the body of man or other animals; and  
11 (d) substances intended for use as a component of any article  
12 specified in subsections (a), (b), and (c) of this section; but does not  
13 include devices or their components, parts or accessories.

14 "Drug dependent person" means a person who is using a  
15 controlled dangerous substance and who is in a state of psychic or  
16 physical dependence, or both, arising from the use of that controlled  
17 dangerous substance on a continuous basis. Drug dependence is  
18 characterized by behavioral and other responses, including but not  
19 limited to a strong compulsion to take the substance on a recurring  
20 basis in order to experience its psychic effects, or to avoid the  
21 discomfort of its absence.

22 "Hashish" means the resin extracted from any part of the plant  
23 Genus Cannabis L. and any compound, manufacture, salt,  
24 derivative, mixture, or preparation of such resin.

25 **["Marihuana"]** "Marijuana" means all parts of the plant Genus  
26 Cannabis L., whether growing or not; the seeds thereof; and every  
27 compound, manufacture, salt, derivative, mixture, or preparation of  
28 the plant or its seeds, except those containing resin extracted from  
29 the plant; but shall not include the mature stalks of the plant, fiber  
30 produced from the stalks, oil or cake made from the seeds of the  
31 plant, any other compound, manufacture, salt, derivative, mixture,  
32 or preparation of such mature stalks, fiber, oil, or cake, or the  
33 sterilized seed of the plant which is incapable of germination.

34 "Manufacture" means the production, preparation, propagation,  
35 compounding, conversion, or processing of a controlled dangerous  
36 substance, either directly or by extraction from substances of  
37 natural origin, or independently by means of chemical synthesis, or  
38 by a combination of extraction and chemical synthesis, and includes  
39 any packaging or repackaging of the substance or labeling or  
40 relabeling of its container, except that this term does not include the  
41 preparation or compounding of a controlled dangerous substance by  
42 an individual for his own use or the preparation, compounding,  
43 packaging, or labeling of a controlled dangerous substance: (1) by a  
44 practitioner as an incident to his administering or dispensing of a  
45 controlled dangerous substance in the course of his professional  
46 practice, or (2) by a practitioner (or under his supervision) for the  
47 purpose of, or as an incident to, research, teaching, or chemical  
48 analysis and not for sale.

1 "Narcotic drug" means any of the following, whether produced  
2 directly or indirectly by extraction from substances of vegetable  
3 origin, or independently by means of chemical synthesis, or by a  
4 combination of extraction and chemical synthesis:

5 (a) Opium, coca leaves, and opiates;

6 (b) A compound, manufacture, salt, derivative, or preparation of  
7 opium, coca leaves, or opiates;

8 (c) A substance (and any compound, manufacture, salt,  
9 derivative, or preparation thereof) which is chemically identical  
10 with any of the substances referred to in subsections (a) and (b),  
11 except that the words "narcotic drug" as used in this act shall not  
12 include decocainized coca leaves or extracts of coca leaves, which  
13 extracts do not contain cocaine or ecgonine.

14 "Official written order" means an order written on a form  
15 provided for that purpose by the Attorney General of the United  
16 States or his delegate, under any laws of the United States making  
17 provisions therefor, if such order forms are authorized and required  
18 by the federal law, and if no such form is provided, then on an  
19 official form provided for that purpose by the division. If  
20 authorized by the Attorney General of the United States or the  
21 division, the term shall also include an order transmitted by  
22 electronic means.

23 "Opiate" means any dangerous substance having an addiction-  
24 forming or addiction-sustaining liability similar to morphine or  
25 being capable of conversion into a drug having such addiction-  
26 forming or addiction-sustaining liability. It does not include, unless  
27 specifically designated as controlled under section 3 of this act, the  
28 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its  
29 salts (dextromethorphan). It does include its racemic and  
30 levorotatory forms.

31 "Opium poppy" means the plant of the species *Papaver*  
32 *somniferum* L., except the seeds thereof.

33 "Person" means any corporation, association, partnership, trust,  
34 other institution or entity, or one or more individuals.

35 "Pharmacist" means a registered pharmacist of this State.

36 "Pharmacy owner" means the owner of a store or other place of  
37 business where controlled dangerous substances are compounded or  
38 dispensed by a registered pharmacist; but nothing in this chapter  
39 contained shall be construed as conferring on a person who is not  
40 registered or licensed as a pharmacist any authority, right, or  
41 privilege that is not granted to him by the pharmacy laws of this  
42 State.

43 "Poppy straw" means all parts, except the seeds, of the opium  
44 poppy, after mowing.

45 "Practitioner" means a physician, dentist, veterinarian, scientific  
46 investigator, laboratory, pharmacy, hospital, or other person  
47 licensed, registered, or otherwise permitted to distribute, dispense,  
48 conduct research with respect to, or administer a controlled

1 dangerous substance in the course of professional practice or  
2 research in this State.

3 (a) "Physician" means a physician authorized by law to practice  
4 medicine in this or any other state and any other person authorized  
5 by law to treat sick and injured human beings in this or any other  
6 state.

7 (b) "Veterinarian" means a veterinarian authorized by law to  
8 practice veterinary medicine in this State.

9 (c) "Dentist" means a dentist authorized by law to practice  
10 dentistry in this State.

11 (d) "Hospital" means any federal institution, or any institution  
12 for the care and treatment of the sick and injured, operated or  
13 approved by the appropriate State department as proper to be  
14 entrusted with the custody and professional use of controlled  
15 dangerous substances.

16 (e) "Laboratory" means a laboratory to be entrusted with the  
17 custody of narcotic drugs and the use of controlled dangerous  
18 substances for scientific, experimental, and medical purposes and  
19 for purposes of instruction approved by the Department of Health.

20 "Production" includes the manufacture, planting, cultivation,  
21 growing, or harvesting of a controlled dangerous substance.

22 "Immediate precursor" means a substance which the division has  
23 found to be and by regulation designates as being the principal  
24 compound commonly used or produced primarily for use, and  
25 which is an immediate chemical intermediary used or likely to be  
26 used in the manufacture of a controlled dangerous substance, the  
27 control of which is necessary to prevent, curtail, or limit such  
28 manufacture.

29 "State" means the State of New Jersey.

30 "Ultimate user" means a person who lawfully possesses a  
31 controlled dangerous substance for his own use or for the use of a  
32 member of his household or for administration to an animal owned  
33 by him or by a member of his household.

34 (cf: P.L.2012, c.17, s.92)

35

36 19. Section 5 of P.L.1970, c.226 (C.24:21-5) is amended to read  
37 as follows:

38 5. Schedule I.

39 a. Tests. The director shall place a substance in Schedule I if he  
40 finds that the substance: (1) has high potential for abuse; and (2)  
41 has no accepted medical use in treatment in the United States; or  
42 lacks accepted safety for use in treatment under medical  
43 supervision.

44 b. The controlled dangerous substances listed in this section are  
45 included in Schedule I, subject to any revision and republishing by  
46 the director pursuant to subsection d. of section 3 of P.L.1970,  
47 c.226 (C.24:21-3), and except to the extent provided in any other  
48 schedule.

- 1 c. Any of the following opiates, including their isomers, esters,  
2 and ethers, unless specifically excepted, whenever the existence of  
3 such isomers, esters, ethers and salts is possible within the specific  
4 chemical designation:
- 5 (1) Acetylmethadol
  - 6 (2) Allylprodine
  - 7 (3) Alphacetylmethadol
  - 8 (4) Alphameprodine
  - 9 (5) Alphamethadol
  - 10 (6) Benzethidine
  - 11 (7) Betacetylmethadol
  - 12 (8) Betameprodine
  - 13 (9) Betamethadol
  - 14 (10) Betaprodine
  - 15 (11) Clonitazene
  - 16 (12) Dextromoramide
  - 17 (13) Dextrorphan
  - 18 (14) Diampromide
  - 19 (15) Diethylthiambutene
  - 20 (16) Dimenoxadol
  - 21 (17) Dimepheptanol
  - 22 (18) Dimethylthiambutene
  - 23 (19) Dioxaphetyl butyrate
  - 24 (20) Dipipanone
  - 25 (21) Ethylmethylthiambutene
  - 26 (22) Etonitazene
  - 27 (23) Etoxidine
  - 28 (24) Furethidine
  - 29 (25) Hydroxypethidine
  - 30 (26) Ketobemidone
  - 31 (27) Levomoramide
  - 32 (28) Levophenacymorphan
  - 33 (29) Morpheridine
  - 34 (30) Noracymethadol
  - 35 (31) Norlevorphanol
  - 36 (32) Normethadone
  - 37 (33) Norpipanone
  - 38 (34) Phenadoxone
  - 39 (35) Phenampromide
  - 40 (36) Phenomorphan
  - 41 (37) Phenoperidine
  - 42 (38) Piritramide
  - 43 (39) Proheptazine
  - 44 (40) Properidine
  - 45 (41) Racemoramide
  - 46 (42) Trimeperidine.
- 47 d. Any of the following narcotic substances, their salts, isomers  
48 and salts of isomers, unless specifically excepted, whenever the

1 existence of such salts, isomers and salts of isomers is possible  
2 within the specific chemical designation:

- 3 (1) Acetorphine
- 4 (2) Acetylcodeine
- 5 (3) Acetyldihydrocodeine
- 6 (4) Benzylmorphine
- 7 (5) Codeine methylbromide
- 8 (6) Codeine-N-Oxide
- 9 (7) Cyprenorphine
- 10 (8) Desomorphine
- 11 (9) Dihydromorphine
- 12 (10) Etorphine
- 13 (11) Heroin
- 14 (12) Hydromorphanol
- 15 (13) Methyldesorphine
- 16 (14) Methylhydromorphine
- 17 (15) Morphine methylbromide
- 18 (16) Morphine methylsulfonate
- 19 (17) Morphine-N-Oxide
- 20 (18) Myrophine
- 21 (19) Nicocodeine
- 22 (20) Nicomorphine
- 23 (21) Normorphine
- 24 (22) Phoclodine
- 25 (23) Thebacon.

26 e. Any material, compound, mixture or preparation which  
27 contains any quantity of the following hallucinogenic substances,  
28 their salts, isomers and salts of isomers, unless specifically  
29 excepted, whenever the existence of such salts, isomers, and salts of  
30 isomers is possible within the specific chemical designation:

- 31 (1) 3,4-methylenedioxy amphetamine
- 32 (2) 5-methoxy-3,4-methylenedioxy amphetamine
- 33 (3) 3,4,5-trimethoxy amphetamine
- 34 (4) Bufotenine
- 35 (5) Diethyltryptamine
- 36 (6) Dimethyltryptamine
- 37 (7) 4-methyl-2,5-dimethoxylamphetamine
- 38 (8) Ibogaine
- 39 (9) Lysergic acid diethylamide
- 40 (10) **【Marihuana】** (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_)
- 41 (pending before the Legislature as this bill)
- 42 (11) Mescaline
- 43 (12) Peyote
- 44 (13) N-ethyl-3-piperidyl benzilate
- 45 (14) N-methyl-3-piperidyl benzilate
- 46 (15) Psilocybin
- 47 (16) Psilocyn.

1 (17) **【Tetrahydrocannabinols.】** (Deleted by amendment, P.L. ,  
2 c. ) (pending before the Legislature as this bill)

3 (cf: P.L.2007, c.244, s.3)

4

5 20. Section 29 of P.L.1970, c.226 (C.24:21-29) is amended to  
6 read as follows:

7 29. Second or subsequent offenses. a. Any person convicted of  
8 any offense under this act, if the offense is a second or subsequent  
9 offense, shall be punished by a term of imprisonment of up to twice  
10 that otherwise authorized, by up to twice the fine otherwise  
11 authorized, or by both.

12 b. For purposes of this section, an offense shall be considered a  
13 second or subsequent offense, if, prior to the commission of the  
14 offense, the offender has at any time been convicted of an offense  
15 or offenses under this act or under any law of the United States or  
16 of any state relating to narcotic drugs, **【marihuana,】** depressant,  
17 stimulant, or hallucinogenic drugs.

18 (cf: P.L.1987, c.106, s.21)

19

20 21. (New section) a. A person shall not, either directly or  
21 indirectly by an agent or employee, sell, offer for sale, distribute for  
22 commercial purpose at no cost or minimal cost or with coupons or  
23 rebate offers, give, or furnish, to a person under 19 years of age:

24 (1) the plant Genus Cannabis L., or any part of the plant; or

25 (2) any cigarettes made of or containing marijuana which can be  
26 smoked, marijuana cigarette paper, or other marijuana product in  
27 any form.

28 b. The establishment of all of the following shall constitute a  
29 defense to any action brought pursuant to subsection a. of this  
30 section:

31 (1) that the purchaser or the recipient of the promotional sample  
32 falsely represented, by producing either a driver's license or non-  
33 driver identification card issued by the New Jersey Motor Vehicle  
34 Commission, a similar card issued pursuant to the laws of another  
35 state or the federal government of Canada, or a photographic  
36 identification card issued by a county clerk, that the purchaser or  
37 recipient was of legal age to make the purchase or receive the  
38 sample;

39 (2) that the appearance of the purchaser or the recipient of the  
40 promotional sample was such that an ordinary prudent person would  
41 believe the purchaser or recipient to be of legal age to make the  
42 purchase or receive the sample; and

43 (3) that the sale or distribution was made in good faith, relying  
44 upon the production of the identification set forth in paragraph (1)  
45 of this subsection, the appearance of the purchaser or recipient, and  
46 in the reasonable belief that the purchaser or recipient was of legal  
47 age to make the purchase or receive the sample.



1 c. A person who violates the provisions of subsection a. of this  
2 section who actually sells or otherwise provides the plant Genus  
3 Cannabis L., marijuana, marijuana cigarette paper, or other  
4 marijuana product to a person under 19 years of age, shall be liable  
5 to a civil penalty of not less than \$250 for the first violation, not  
6 less than \$500 for the second violation, and \$1,000 for the third and  
7 each subsequent violation. The civil penalty shall be collected  
8 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
9 c.274 (C.2A:58-10 et seq.), in a summary proceeding before the  
10 municipal court having jurisdiction. An official authorized by  
11 statute or ordinance to enforce the State or local health codes or a  
12 law enforcement officer having enforcement authority in that  
13 municipality may issue a summons for a violation of the provisions  
14 of subsection a. of this section, and may serve and execute all  
15 process with respect to the enforcement of this section consistent  
16 with the Rules of Court. A penalty recovered under the provisions  
17 of this subsection shall be recovered by and in the name of the State  
18 by the local health agency. The penalty shall be paid into the  
19 treasury of the municipality in which the violation occurred for the  
20 general uses of the municipality.

21

22 22. (New section) The Commissioner of Health is authorized to  
23 enforce the provisions of section 21 of P.L. , c. (C. )  
24 (pending before the Legislature as this bill) with respect to the  
25 prohibition on the sale and commercial distribution of the plant  
26 Genus Cannabis L., marijuana, marijuana cigarette paper, or other  
27 marijuana product to persons under 19 years of age. The  
28 commissioner may delegate the enforcement authority provided in  
29 this section to local health agencies, subject to the availability of  
30 sufficient funding. The commissioner shall report quarterly to the  
31 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
32 19.1), on the enforcement program's progress, results of  
33 enforcement efforts, and other matters the commissioner deems  
34 appropriate.

35

36 23. N.J.S.2C:33-13 is amended to read as follows:

37 2C:33-13. Smoking in Public. a. Any person who smokes or  
38 carries lighted tobacco in or upon any bus or other public  
39 conveyance, except group charter buses, specially marked railroad  
40 smoking cars, limousines or livery services, and, when the driver is  
41 the only person in the vehicle, autocabs, is a petty disorderly  
42 person. Any person who smokes or carries lighted marijuana in or  
43 upon any bus or other public conveyance is a petty disorderly  
44 person. For the purposes of this section, "bus" includes school  
45 buses and other vehicles owned or contracted for by the governing  
46 body, board or individual of a nonpublic school, a public or private  
47 college, university, or professional training school, or a board of  
48 education of a school district, that are used to transport students to

1 and from school and school-related activities; and the prohibition  
2 on smoking or carrying lighted tobacco or marijuana shall apply  
3 even if students are not present in the vehicle.

4 b. Any person who smokes or carries lighted tobacco or  
5 marijuana in any public place, including but not limited to places of  
6 public accommodation, where such smoking is prohibited by  
7 municipal ordinance under authority of R.S.40:48-1 and R.S.40:48-  
8 2 or by the owner or person responsible for the operation of the  
9 public place, and when adequate notice of such prohibition has been  
10 conspicuously posted, is guilty of a petty disorderly persons  
11 offense. Notwithstanding the provisions of N.J.S.2C:43-3, the  
12 maximum fine which can be imposed for violation of this section is  
13 \$200.

14 c. The provisions of this section shall supersede any other  
15 statute and any rule or regulation adopted pursuant to law.

16 (cf: P.L.2003, c.233, s.1)

17  
18 24. Section 1 of P.L.2010, c.121 (C.18A:39-31) is amended to  
19 read as follows:

20 1. a. The board of education of any school district may enter  
21 into a contract for the sale of advertising space on the exterior sides  
22 of school buses owned or leased by the school district, subject to  
23 the limitations set forth in this section. Advertisements for tobacco,  
24 marijuana, or alcohol products or for political advocacy shall be  
25 prohibited, in addition to any other advertisements for products or  
26 services or by sponsors that the Commissioner of Education deems  
27 inappropriate. All advertisements shall require prior approval by the  
28 local board of education.

29 b. In the event that a board of education enters into a contract  
30 for the sale of advertising space on the exterior sides of school  
31 buses pursuant to subsection a. of this section, 50% of any revenue  
32 generated by the sale shall be used by the board to offset the fuel  
33 costs of providing pupil transportation services, and the remaining  
34 50% of the revenue shall be used to support any programs and  
35 services the board may deem appropriate.

36 c. The provisions of the "Public School Contracts Law,"  
37 N.J.S.18A:18A-1 et seq., shall apply to any contract entered into by  
38 a board of education pursuant to this act.

39 (cf: P.L.2010, c.121, s.1)

40  
41 25. The title of P.L.1987, c.389 is amended to read as follows:

42 **AN ACT** providing for a comprehensive education program on the  
43 nature and effects of drugs, alcohol, tobacco, marijuana, and  
44 controlled dangerous substances, supplementing Title 18A of  
45 the New Jersey Statutes, revising parts of the statutory law and  
46 making an appropriation.

47 (cf: P.L.1989, c.225, s.1)

1       26. Section 1 of P.L.1987, c.389 (C.18A:40A-1) is amended to  
2 read as follows:

3       1. Instructional programs on the nature of drugs, alcohol,  
4 anabolic steroids, tobacco, marijuana, and controlled dangerous  
5 substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2),  
6 and their physiological, psychological, sociological and legal  
7 effects on the individual, the family and society shall be taught in  
8 each public school and in each grade from kindergarten through 12  
9 in a manner adapted to the age and understanding of the pupils.  
10 The programs shall be based upon the curriculum guidelines  
11 established by the Commissioner of Education pursuant to section 2  
12 of this act, and shall be included in the curriculum for each grade in  
13 such a manner as to provide a thorough and comprehensive  
14 treatment of the subject.

15 (cf: P.L.1989, c.225, s.2)

16

17       27. Section 2 of P.L.1987, c.389 (C.18A:40A-2) is amended to  
18 read as follows:

19       2. The Commissioner of Education, in consultation with the  
20 Commissioner of Health, shall develop curriculum guidelines for  
21 education programs on drugs, alcohol, anabolic steroids, tobacco,  
22 marijuana, and controlled dangerous substances. These guidelines  
23 shall be reviewed annually, and shall be updated as necessary to  
24 insure that the curriculum reflects the most current information  
25 available on the nature and treatment of drug, alcohol, anabolic  
26 steroids, tobacco, marijuana, and controlled dangerous substance  
27 abuse and treatment. The guidelines shall provide for a sequential  
28 course of study for each grade, K-12, and shall, at a minimum,  
29 include:

30       a. Detailed, factual information regarding the physiological,  
31 psychological, sociological and legal aspects of substance abuse;

32       b. Detailed information concerning the availability of help and  
33 assistance for pupils and their families with chemical dependency  
34 problems;

35       c. Decision making and coping skills; and,

36       d. The development of activities and attitudes which are  
37 consistent with a healthy life style.

38       The guidelines shall include model instructional units, shall  
39 define specific behavioral and learning objectives and shall  
40 recommend instructional materials suitable for each grade level.

41 (cf: P.L.1989, c.225, s.3)

42

43       28. Section 3 of P.L.1987, c.389 (C.18A:40A-3) is amended to  
44 read as follows:

45       3. a. Upon completion of the curriculum guidelines required  
46 pursuant to section 2 of this act, the Commissioner of Education, in  
47 consultation with the Commissioner of Health, shall establish  
48 inservice workshops and training programs to train selected public

1 school teachers to teach an education program on drugs, alcohol,  
2 anabolic steroids, tobacco, marijuana, and controlled dangerous  
3 substances. The inservice training programs may utilize existing  
4 county or regional offices, or such other institutions, agencies or  
5 persons as the Commissioner of Education deems appropriate. The  
6 programs and workshops shall provide instructional preparation for  
7 the teaching of the drug, alcohol, anabolic steroids, tobacco,  
8 marijuana, and controlled dangerous substances curriculum, and  
9 shall, in addition to the curriculum material, include information on  
10 the history, pharmacology, physiology and psychosocial aspects of  
11 drugs, alcohol, anabolic steroids, tobacco, marijuana, and controlled  
12 dangerous substances, symptomatic behavior associated with  
13 substance abuse, the availability of rehabilitation and treatment  
14 programs, and the legal aspects of substance abuse. Each local  
15 board of education shall provide time for the inservice training  
16 during the usual school schedule in order to insure that appropriate  
17 teaching staff members are prepared to teach the education program  
18 in each grade in each school district.

19 b. Upon completion of the initial inservice training program,  
20 the Commissioner of Education shall insure that programs and  
21 workshops that reflect the most current information on substance  
22 abuse are prepared and are made available to teaching staff  
23 members at regular intervals.

24 c. In addition to providing inservice training programs for  
25 teaching staff members who will provide instruction on substance  
26 abuse in the public schools, the Commissioner of Education shall  
27 make these training programs available to such other instructional  
28 and supervisory personnel as he deems necessary and appropriate.  
29 (cf: P.L.1989, c.225, s.4)

30

31 29. Section 5 of P.L.1987, c.389 (C.18A:40A-5) is amended to  
32 read as follows:

33 5. The board of education in each school district in the State in  
34 which a nonpublic school is located shall have the power and duty  
35 to loan to all pupils attending nonpublic schools located within the  
36 district all educational materials developed by the Commissioner of  
37 Education pursuant to this act for the instruction of public school  
38 pupils on the nature and effects of drugs, alcohol, anabolic steroids,  
39 tobacco, marijuana, and controlled dangerous substances. The  
40 Commissioner of Education shall make these materials available so  
41 that the local board of education shall not be required to expend  
42 funds for the loan of these materials.

43 (cf: P.L.1989, c.225, s.5)

44

45 30. The title of P.L.2005, c.383 is amended to read as follows:

1 AN ACT concerning smoking and marijuana smoking in indoor  
2 public places and workplaces and revising parts of the statutory  
3 law.

4 (cf: P.L.2005, c.383, title)

5

6 31. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to  
7 read as follows:

8 3. As used in this act:

9 "Bar" means a business establishment or any portion of a  
10 nonprofit entity, which is devoted to the selling and serving of  
11 alcoholic beverages for consumption by the public, guests, patrons  
12 or members on the premises and in which the serving of food, if  
13 served at all, is only incidental to the sale or consumption of such  
14 beverages.

15 "Cigar bar" means any bar, or area within a bar, designated  
16 specifically for the smoking of tobacco products, purchased on the  
17 premises or elsewhere; except that a cigar bar that is in an area  
18 within a bar shall be an area enclosed by solid walls or windows, a  
19 ceiling and a solid door and equipped with a ventilation system  
20 which is separately exhausted from the nonsmoking areas of the bar  
21 so that air from the smoking area is not recirculated to the  
22 nonsmoking areas and smoke is not backstreamed into the  
23 nonsmoking areas.

24 "Cigar lounge" means any establishment, or area within an  
25 establishment, designated specifically for the smoking of tobacco  
26 products, purchased on the premises or elsewhere; except that a  
27 cigar lounge that is in an area within an establishment shall be an  
28 area enclosed by solid walls or windows, a ceiling and a solid door  
29 and equipped with a ventilation system which is separately  
30 exhausted from the nonsmoking areas of the establishment so that  
31 air from the smoking area is not recirculated to the nonsmoking  
32 areas and smoke is not backstreamed into the nonsmoking areas.

33 "Electronic smoking device" means an electronic device that can  
34 be used to deliver nicotine or other substances, not including  
35 marijuana, to the person inhaling from the device **[, including]** . An  
36 electronic smoking device may include, but is not limited to, an  
37 electronic cigarette, cigar, cigarillo, or pipe.

38 "Indoor public place" means a structurally enclosed place of  
39 business, commerce or other service-related activity, whether  
40 publicly or privately owned or operated on a for-profit or nonprofit  
41 basis, which is generally accessible to the public, including, but not  
42 limited to: a commercial or other office building; office or building  
43 owned, leased or rented by the State or by a county or municipal  
44 government; public and nonpublic elementary or secondary school  
45 building; board of education building; theater or concert hall; public  
46 library; museum or art gallery; bar; restaurant or other  
47 establishment where the principal business is the sale of food for  
48 consumption on the premises, including the bar area of the

1 establishment; garage or parking facility; any public conveyance  
2 operated on land or water, or in the air, and passenger waiting  
3 rooms and platform areas in any stations or terminals thereof; health  
4 care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et  
5 seq.); patient waiting room of the office of a health care provider  
6 licensed pursuant to Title 45 of the Revised Statutes; child care  
7 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.);  
8 race track facility; facility used for the holding of sporting events;  
9 ambulatory recreational facility; shopping mall or retail store; hotel,  
10 motel or other lodging establishment; apartment building lobby or  
11 other public area in an otherwise private building; or a passenger  
12 elevator in a building other than a single-family dwelling.

13 “Marijuana smoking” means the burning of, inhaling from,  
14 exhaling the smoke from, or the possession of a lighted marijuana  
15 cigarette, pipe or any other matter or substance which contains  
16 marijuana that can be smoked.

17 "Person having control of an indoor public place or workplace"  
18 means the owner or operator of a commercial or other office  
19 building or other indoor public place from whom a workplace or  
20 space within the building or indoor public place is leased.

21 "Smoking" means the burning of, inhaling from, exhaling the  
22 smoke from, or the possession of a lighted cigar, cigarette, pipe or  
23 any other matter or substance which contains tobacco or any other  
24 matter that can be smoked, not including marijuana, or the inhaling  
25 or exhaling of smoke or vapor from an electronic smoking device.

26 "Tobacco retail establishment" means an establishment in which  
27 at least 51% of retail business is the sale of tobacco products and  
28 accessories, and in which the sale of other products is merely  
29 incidental.

30 "Workplace" means a structurally enclosed location or portion  
31 thereof at which a person performs any type of service or labor.  
32 (cf: P.L.2009, c.182, s.2)

33  
34 32. Section 4 of P.L.2005, c.383 (C.26:3D-58) is amended to  
35 read as follows:

36 4. a. Smoking is prohibited in an indoor public place or  
37 workplace, except as otherwise provided in this act. Marijuana  
38 smoking is prohibited in an indoor public place or workplace.

39 b. Smoking **[is]** and marijuana smoking are prohibited in any  
40 area of any building of, or on the grounds of, any public or  
41 nonpublic elementary or secondary school, regardless of whether  
42 the area is an indoor public place or is outdoors.

43 (cf: P.L.2005, c.383, s.4)

44  
45 33. Section 5 of P.L.2005, c.383 (C.26:3D-59) is amended to  
46 read as follows:

47 5. The provisions of P.L.2005, c.383 (C.26:3D-55 et seq.) shall  
48 not apply to private homes, private residences and private

1 automobiles. The provisions of **【this act】** P.L.2005, c.383  
2 (C.26:3D-55 et seq.) concerning smoking shall not apply to:

3 a. any cigar bar or cigar lounge that, in the calendar year  
4 ending December 31, 2004, generated 15% or more of its total  
5 annual gross income from the on-site sale of tobacco products and  
6 the rental of on-site humidors, not including any sales from vending  
7 machines, and is registered with the local board of health in the  
8 municipality in which the bar or lounge is located. The registration  
9 shall remain in effect for one year and shall be renewable only if:  
10 (1) in the preceding calendar year, the cigar bar or lounge generated  
11 15% or more if its total annual gross income from the on-site sale of  
12 tobacco products and the rental of on-site humidors, and (2) the  
13 cigar bar or cigar lounge has not expanded its size or changed its  
14 location since December 31, 2004;

15 b. any tobacco retail establishment, or any area the tobacco  
16 retail establishment provides for the purposes of smoking;

17 c. any tobacco business when the testing of a cigar or pipe  
18 tobacco by heating, burning or smoking is a necessary and integral  
19 part of the process of making, manufacturing, importing or  
20 distributing cigars or pipe tobacco; and

21 d. **【private homes, private residences and private automobiles;**  
22 **and】** (Deleted by amendment, P.L. , c. ) (pending before the  
23 Legislature as this bill)

24 e. the area within the perimeter of:

25 (1) any casino as defined in section 6 of P.L.1977, c.110  
26 (C.5:12-6) approved by the Casino Control Commission that  
27 contains at least 150 stand-alone slot machines, 10 table games, or  
28 some combination thereof approved by the commission, which  
29 machines and games are available to the public for wagering; and

30 (2) any casino simulcasting facility approved by the Casino  
31 Control Commission pursuant to section 4 of P.L.1992, c.19  
32 (C.5:12-194) that contains a simulcast counter and dedicated seating  
33 for at least 50 simulcast patrons or a simulcast operation and at least  
34 10 table games, which simulcast facilities and games are available  
35 to the public for wagering.

36 (cf: P.L.2005, c.383, s.5)

37

38 34. Section 7 of P.L.2005, c.383 (C.26:3D-61) is amended to  
39 read as follows:

40 7. a. The person having control of an indoor public place or  
41 workplace shall place in every public entrance to the indoor public  
42 place or workplace a sign or signs, which shall be located so as to  
43 be clearly visible to the public and shall contain letters or a symbol  
44 which contrast in color with the sign or signs, indicating that  
45 marijuana smoking is prohibited therein, and smoking is prohibited  
46 therein, except in such designated smoking areas as provided  
47 pursuant to this act. The sign or signs shall also indicate that  
48 violators are subject to a fine. The person having control of the

1 indoor public place or workplace shall post a sign stating "Smoking  
2 Permitted" in letters at least one inch in height or marked by the  
3 international symbol for "Smoking Permitted" in those areas where  
4 smoking is permitted.

5 b. The provisions of this section shall not be construed to  
6 prevent a lessee of the workplace, or space within the building or  
7 indoor public place, from enforcing the smoking or marijuana  
8 smoking restrictions imposed by the owner or operator of a  
9 commercial or other office building or other indoor public place.

10 (cf: P.L.2005, c.383, s.7)

11

12 35. Section 8 of P.L.2005, c.383 (C.26:3D-62) is amended to  
13 read as follows:

14 8. a. The person having control of an indoor public place or  
15 workplace shall order any person smoking or marijuana smoking in  
16 violation of this act to comply with the provisions of this act. A  
17 person, after being so ordered, who smokes or marijuana smokes in  
18 violation of this act is subject to a fine of not less than \$250 for the  
19 first offense, \$500 for the second offense and \$1,000 for each  
20 subsequent offense. A penalty shall be recovered in accordance  
21 with the provisions of subsections c. and d. of this section.

22 b. The Department of Health or the local board of health or the  
23 board, body, or officers exercising the functions of the local board  
24 of health according to law, upon written complaint or having reason  
25 to suspect that an indoor public place or workplace covered by the  
26 provisions of this act is or may be in violation of the provisions of  
27 this act, shall, by written notification, advise the person having  
28 control of the place accordingly, and order appropriate action to be  
29 taken. A person receiving that notice, who fails or refuses to  
30 comply with the order, is subject to a fine of not less than \$250 for  
31 the first offense, \$500 for the second offense, and \$1,000 for each  
32 subsequent offense. In addition to the penalty provided herein, the  
33 court may order immediate compliance with the provisions of this  
34 act.

35 c. A penalty recovered under the provisions of this act shall be  
36 recovered by and in the name of the Commissioner of Health or by  
37 and in the name of the local board of health. When the plaintiff is  
38 the Commissioner of Health, the penalty recovered shall be paid by  
39 the commissioner into the treasury of the State. When the plaintiff  
40 is a local board of health, the penalty recovered shall be paid by the  
41 local board into the treasury of the municipality where the violation  
42 occurred.

43 d. A municipal court shall have jurisdiction over proceedings  
44 to enforce and collect any penalty imposed because of a violation of  
45 this act if the violation has occurred within the territorial  
46 jurisdiction of the court. The proceedings shall be summary and in  
47 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,  
48 c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a



1 summons or warrant and shall issue only at the suit of the  
2 Commissioner of Health, or the local board of health, as the case  
3 may be, as plaintiff.

4 e. The penalties provided in subsections a. and b. of this  
5 section shall be the only civil remedy for a violation of this act, and  
6 there shall be no private right of action against a party for failure to  
7 comply with the provisions of this act.

8 (cf: P.L.2012, c.17, s.331)

9

10 36. Section 9 of P.L.2005, c.383 (C.26:3D-63) is amended to  
11 read as follows:

12 9. The provisions of this act shall supersede any other statute,  
13 municipal ordinance and rule or regulation adopted pursuant to law  
14 concerning smoking or marijuana smoking in an indoor public place  
15 or workplace, except where smoking or marijuana smoking is  
16 prohibited by municipal ordinance under authority of R.S.40:48-1  
17 or R.S.40:48-2, or by any other statute or regulation adopted  
18 pursuant to law for purposes of protecting life and property from  
19 fire or protecting public health, and except for those provisions of a  
20 municipal ordinance which provide restrictions on or prohibitions  
21 against smoking or marijuana smoking equivalent to, or greater  
22 than, those provided under this act.

23 (cf: P.L.2005, c.383, s.9)

24

25 37. Section 3 of P.L.1941, c.308 (C.34:6-136.3) is amended to  
26 read as follows:

27 3. Prohibited homework. The manufacture of any of the  
28 following by industrial homework shall be unlawful, and no permit  
29 or certificate issued under this act shall be deemed to authorize such  
30 manufacture: (1) Articles of food or drink, (2) Articles for use in  
31 connection with the serving of food or drink, (3) Toys and dolls, (4)  
32 Tobacco and marijuana, (5) Drugs and poisons, (6) Bandages and  
33 other sanitary goods, (7) Explosives, fireworks, and articles of like  
34 character, (8) Articles of infants' and children's wearing apparel, (9)  
35 Articles of women's or men's wearing apparel, (10) Articles, the  
36 processing of which requires exposure to substances determined by  
37 the commissioner to be hazardous to the health or safety of persons  
38 so exposed, (11) the manufacture or distribution of dolls' clothing in  
39 any tenement house is hereby prohibited, anything to the contrary  
40 herein notwithstanding.

41 (cf: P.L.1991, c.47, s.1)

42

43 38. The following sections are repealed:

44 Sections 1 and 2 of P.L.1939, c.248 (C.26:2-81 and 26:2-82); and  
45 Section 46 of P.L.1970, c.226 (C.24:21-44).

46

47 39. This act shall take effect on the first day of January that is  
48 more than 180 days following enactment, and the Attorney General,

1 Commissioner of Health, and other State department heads may  
2 take any anticipatory administrative action in advance of the  
3 effective date as necessary for the implementation of this act.

4  
5  
6 STATEMENT

7  
8 This bill would legalize marijuana by removing all criminal  
9 liability associated with marijuana from the “New Jersey Code of  
10 Criminal Justice,” Title 2C of the New Jersey Statutes, as well as its  
11 regulation as a controlled dangerous substance under the “New  
12 Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226  
13 (C.24:21-1 et seq.). The manufacturing, distribution, possession,  
14 and use of medical marijuana would remain subject to these acts  
15 and the “New Jersey Compassionate Use Medical Marijuana Act,”  
16 P.L.2009, c.307 (C.24:6I-1 et al.).

17 With respect to criminal or disorderly persons offense  
18 convictions pre-dating marijuana legalization that relate to  
19 marijuana possession, use or being under the influence of  
20 marijuana, or failure to make lawful disposition of marijuana, these  
21 convictions could be expunged in an expedited process. An  
22 expungement petition could be filed and presented in Superior  
23 Court at any time, notwithstanding the general ten-year waiting  
24 period (for crimes) or general five-year waiting period (for  
25 disorderly persons offenses) normally applicable. The provisions of  
26 N.J.S.2C:52-9 through N.J.S.2C:52-14, concerning law enforcement  
27 objections, a required hearing, and grounds for denial, would not  
28 apply to the petition; and the court, upon review of the petition,  
29 would immediately grant the expungement.

30 Similar to cigarettes and other tobacco products, the sale or  
31 distribution of marijuana, marijuana products, or the marijuana  
32 plant Genus Cannabis L. would be prohibited to persons less than  
33 19 years of age. A violation of this prohibition would subject the  
34 liable party to a civil penalty of not less than \$250 for the first  
35 violation, not less than \$500 for the second violation, and \$1,000  
36 for the third and any subsequent violation. These are the same  
37 monetary penalties that apply to the underage sale or distribution of  
38 cigarettes and other tobacco products. The Commissioner of Health  
39 would be authorized to enforce the prohibition against underage  
40 marijuana sales or distribution, or delegate this enforcement  
41 authority to local health agencies, and make a quarterly report to the  
42 Legislature on prohibition enforcement, just as the commissioner  
43 does currently with respect to cigarettes and other tobacco products.

44 Other ways in which the bill would treat legal marijuana  
45 similarly to cigarettes and other tobacco products include:

- 46 - Prohibiting marijuana smoking in various indoor or public  
47 places pursuant to the “New Jersey Smoke-Free Air Act,”  
48 P.L.2005, c.383 (C.26:3D-55 et seq.);

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- 1       - Prohibiting industrial manufacturing of marijuana for an
  - 2       employer in a home setting;
  - 3       - Prohibiting advertisements for marijuana on the exterior sides
  - 4       of school buses owned or leased by a school district; and
  - 5       - Requiring instructional programs in schools on the
  - 6       physiological, psychological, and sociological effects of
  - 7       marijuana on the individual, family, and society.
- 8       The bill would repeal three sections of law that are either
- 9       outdated or would be obviated by marijuana legalization. The
- 10      outdated section, section 46 of P.L.1970, c.226 (C.24:21-44), dealt
- 11      with a 1970's study on penalties concerning the use and possession
- 12      of marijuana established under the "New Jersey Controlled
- 13      Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.).
- 14      The sections that would be obviated, sections 1 and 2 of P.L.1939,
- 15      c.248 (C.26:2-81 and 26:2-82), address the detection and
- 16      destruction of illegal marijuana.
- 17      The bill would take effect on the first day of January that is more
- 18      than 180 days following enactment, and the Attorney General,
- 19      Commissioner of Health, and other State department heads would
- 20      have the authority to take any anticipatory administrative action in
- 21      advance of the effective date as necessary for the implementation of
- 22      the bill.