

ASSEMBLY, No. 3421

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 15, 2018

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Co-Sponsored by:

Assemblywoman Vainieri Huttle and Assemblyman Eustace

SYNOPSIS

“Jake Honig’s Law”; removes limits on amount of medical marijuana that may be dispensed at one time and expands access to edible forms, including oils.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/6/2018)

1 AN ACT concerning medical marijuana and amending P.L.2009,
2 c.307.

3

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

6

7 1. Section 7 of P.L.2009, c.307 (C.24:6I-7) is amended to read
8 as follows:

9 7. a. The department shall accept applications from entities for
10 permits to operate as alternative treatment centers, and may charge
11 a reasonable fee for the issuance of a permit under this section. The
12 department shall seek to ensure the availability of a sufficient
13 number of alternative treatment centers throughout the State,
14 pursuant to need, including at least two each in the northern,
15 central, and southern regions of the State. The first two centers
16 issued a permit in each region shall be nonprofit entities, and
17 centers subsequently issued permits may be nonprofit or for-profit
18 entities.

19 An alternative treatment center shall be authorized to acquire a
20 reasonable initial and ongoing inventory, as determined by the
21 department, of marijuana seeds or seedlings and paraphernalia,
22 possess, cultivate, plant, grow, harvest, process, display,
23 manufacture, deliver, transfer, transport, distribute, supply, sell, or
24 dispense marijuana, or related supplies to qualifying patients or
25 their primary caregivers who are registered with the department
26 pursuant to section 4 of this act. An alternative treatment center
27 shall not be limited in the number of strains of medical marijuana
28 cultivated, and may package and directly dispense marijuana to
29 qualifying patients in dried form, oral lozenges, topical
30 formulations, or edible form, or any other form as authorized by the
31 commissioner. Edible form shall include tablets, capsules, oils,
32 drops or syrups, and any other form as authorized by the
33 commissioner. **[Edible forms shall be available only to qualifying
34 patients who are minors.]**

35 Applicants for authorization as nonprofit alternative treatment
36 centers shall be subject to all applicable State laws governing
37 nonprofit entities, but need not be recognized as a 501(c)(3)
38 organization by the federal Internal Revenue Service.

39 b. The department shall require that an applicant provide such
40 information as the department determines to be necessary pursuant
41 to regulations adopted pursuant to this act.

42 c. A person who has been convicted of a crime involving any
43 controlled dangerous substance or controlled substance analog as
44 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
45 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law

**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 of the United States or any other state shall not be issued a permit to
2 operate as an alternative treatment center or be a director, officer, or
3 employee of an alternative treatment center, unless such conviction
4 occurred after the effective date of this act and was for a violation
5 of federal law relating to possession or sale of marijuana for
6 conduct that is authorized under this act.

7 d. (1) The commissioner shall require each applicant seeking a
8 permit to operate as an alternative treatment center to undergo a
9 criminal history record background check. For purposes of this
10 section, the term "applicant" shall include any owner, director,
11 officer, or employee of an alternative treatment center. The
12 commissioner is authorized to exchange fingerprint data with and
13 receive criminal history record background information from the
14 Division of State Police and the Federal Bureau of Investigation
15 consistent with the provisions of applicable federal and State laws,
16 rules, and regulations. The Division of State Police shall forward
17 criminal history record background information to the
18 commissioner in a timely manner when requested pursuant to the
19 provisions of this section.

20 An applicant shall submit to being fingerprinted in accordance
21 with applicable State and federal laws, rules, and regulations. No
22 check of criminal history record background information shall be
23 performed pursuant to this section unless the applicant has
24 furnished his written consent to that check. An applicant who
25 refuses to consent to, or cooperate in, the securing of a check of
26 criminal history record background information shall not be
27 considered for a permit to operate, or authorization to be employed
28 at, an alternative treatment center. An applicant shall bear the cost
29 for the criminal history record background check, including all
30 costs of administering and processing the check.

31 (2) The commissioner shall not approve an applicant for a
32 permit to operate, or authorization to be employed at, an alternative
33 treatment center if the criminal history record background
34 information of the applicant reveals a disqualifying conviction as
35 set forth in subsection c. of this section.

36 (3) Upon receipt of the criminal history record background
37 information from the Division of State Police and the Federal
38 Bureau of Investigation, the commissioner shall provide written
39 notification to the applicant of his qualification for or
40 disqualification for a permit to operate or be a director, officer, or
41 employee of an alternative treatment center.

42 If the applicant is disqualified because of a disqualifying
43 conviction pursuant to the provisions of this section, the conviction
44 that constitutes the basis for the disqualification shall be identified
45 in the written notice.

46 (4) The Division of State Police shall promptly notify the
47 commissioner in the event that an individual who was the subject of
48 a criminal history record background check conducted pursuant to

1 this section is convicted of a crime or offense in this State after the
2 date the background check was performed. Upon receipt of that
3 notification, the commissioner shall make a determination regarding
4 the continued eligibility to operate or be a director, officer, or
5 employee of an alternative treatment center.

6 (5) Notwithstanding the provisions of subsection b. of this
7 section to the contrary, the commissioner may offer provisional
8 authority for an applicant to be an employee of an alternative
9 treatment center for a period not to exceed three months if the
10 applicant submits to the commissioner a sworn statement attesting
11 that the person has not been convicted of any disqualifying
12 conviction pursuant to this section.

13 (6) Notwithstanding the provisions of subsection b. of this
14 section to the contrary, no employee of an alternative treatment
15 center shall be disqualified on the basis of any conviction disclosed
16 by a criminal history record background check conducted pursuant
17 to this section if the individual has affirmatively demonstrated to
18 the commissioner clear and convincing evidence of rehabilitation.
19 In determining whether clear and convincing evidence of
20 rehabilitation has been demonstrated, the following factors shall be
21 considered:

22 (a) the nature and responsibility of the position which the
23 convicted individual would hold, has held or currently holds;

24 (b) the nature and seriousness of the crime or offense;

25 (c) the circumstances under which the crime or offense
26 occurred;

27 (d) the date of the crime or offense;

28 (e) the age of the individual when the crime or offense was
29 committed;

30 (f) whether the crime or offense was an isolated or repeated
31 incident;

32 (g) any social conditions which may have contributed to the
33 commission of the crime or offense; and

34 (h) any evidence of rehabilitation, including good conduct in
35 prison or in the community, counseling or psychiatric treatment
36 received, acquisition of additional academic or vocational
37 schooling, successful participation in correctional work-release
38 programs, or the recommendation of those who have had the
39 individual under their supervision.

40 e. The department shall issue a permit to a person to operate as
41 an alternative treatment center if the department finds that issuing
42 such a permit would be consistent with the purposes of this act and
43 the requirements of this section are met and the department has
44 verified the information contained in the application. The
45 department shall approve or deny an application within 60 days
46 after receipt of a completed application. The denial of an
47 application shall be considered a final agency decision, subject to
48 review by the Appellate Division of the Superior Court. The

1 department may suspend or revoke a permit to operate as an
2 alternative treatment center for cause, which shall be subject to
3 review by the Appellate Division of the Superior Court.

4 f. A person who has been issued a permit pursuant to this
5 section shall display the permit at the premises of the alternative
6 treatment center at all times when marijuana is being produced, or
7 dispensed to a registered qualifying patient or the patient's primary
8 caregiver.

9 g. An alternative treatment center shall report any change in
10 information to the department not later than 10 days after such
11 change, or the permit shall be deemed null and void.

12 h. An alternative treatment center may charge a registered
13 qualifying patient or primary caregiver for the reasonable costs
14 associated with the production and distribution of marijuana for the
15 cardholder.

16 i. The commissioner shall adopt regulations to:

17 (1) require such written documentation of each delivery of
18 marijuana to, and pickup of marijuana for, a registered qualifying
19 patient, including the date and amount dispensed, to be maintained
20 in the records of the alternative treatment center, as the
21 commissioner determines necessary to ensure effective
22 documentation of the operations of each alternative treatment
23 center;

24 (2) monitor, oversee, and investigate all activities performed by
25 an alternative treatment center; and

26 (3) ensure adequate security of all facilities 24 hours per day,
27 including production and retail locations, and security of all
28 delivery methods to registered qualifying patients.

29 (cf: P.L.2013, c.160, s.2)

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

33 10. a. A physician shall provide written instructions for a
34 registered qualifying patient or his caregiver to present to an
35 alternative treatment center concerning the total amount of usable
36 marijuana that a patient may be dispensed, in weight, in a 30-day
37 period **【, which amount shall not exceed two ounces】**. If no amount
38 is noted, the maximum amount that may be dispensed at one time
39 **【is two ounces】** shall be at the discretion of the alternative
40 treatment center, based on the patient's qualifying medical
41 condition and an assessment of the patient's treatment needs.

42 b. A physician may issue multiple written instructions at one
43 time authorizing the patient to receive a total of up to a 90-day
44 supply, provided that the following conditions are met:

45 (1) Each separate set of instructions shall be issued for a
46 legitimate medical purpose by the physician, as provided in this act;

1 (2) Each separate set of instructions shall indicate the earliest
2 date on which a center may dispense the marijuana, except for the
3 first dispensation if it is to be filled immediately; and

4 (3) The physician has determined that providing the patient with
5 multiple instructions in this manner does not create an undue risk of
6 diversion or abuse.

7 c. A registered qualifying patient or his primary caregiver shall
8 present the patient's or caregiver's registry identification card, as
9 applicable, and these written instructions to the alternative
10 treatment center, which shall verify and log the documentation
11 presented. A physician may provide a copy of a written instruction
12 by electronic or other means, as determined by the commissioner,
13 directly to an alternative treatment center on behalf of a registered
14 qualifying patient. The dispensation of marijuana pursuant to any
15 written instructions shall occur within one month of the date that
16 the instructions were written or the instructions are void.

17 d. A patient may be registered at only one alternative treatment
18 center at any time.

19 (cf: P.L.2009, c.307, s.10)

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21 3. This act shall take effect immediately.

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STATEMENT

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26 This bill revises certain requirements concerning patient access
27 to medical marijuana. Specifically, the bill provides that alternative
28 treatment centers may make medical marijuana available to patients
29 in oil form, removes a restriction that made edible forms of medical
30 marijuana available only to qualifying patients who are minors, and
31 removes the current two ounce limit on the quantity of medical
32 marijuana that may be dispensed in a 30-day supply. The patient's
33 physician may authorize the patient to be dispensed a 30-day supply
34 of medical marijuana in any quantity; if the physician does not
35 specify a quantity, the amount dispensed will be at the discretion of
36 the alternative treatment center, based on the patient's qualifying
37 medical condition and an assessment of the patient's treatment
38 needs.

39 This bill is designated "Jake Honig's Law" in honor of Jake
40 Honig, a seven-year old Howell resident nicknamed "Jake the
41 Tank" who, at the age of two, was diagnosed with a rare and
42 aggressive form of brain cancer with a rare genetic mutation. After
43 undergoing dozens of rounds of chemotherapy, proton radiation
44 therapy, and surgery, his tumor went into remission for four years,
45 until follow-up scans determined that the tumor had returned and
46 spread to other parts of his body. Jake's doctors advised his parents
47 that there was nothing more to be done, and he was released to
48 hospice care in his own home, where, despite being prescribed six

A3421 DOWNEY, HOUGHTALING

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1 different medications to treat his various symptoms, medical
2 marijuana proved to be the most effective way of stopping his
3 nausea, vomiting, agitation, and acid reflux, and improving his
4 mood, stimulating his appetite, and restoring his mental well-being.

5 Although medical marijuana proved to be an effective treatment
6 for Jake, his parents noted the difficulties they encountered with the
7 cost, quantity limits, and issues related to producing their own
8 cannabis oil to administer to Jake. In honor of Jake, who passed
9 away on January 21, 2018, this bill seeks to remove certain
10 restrictions on access to medical marijuana in order to reduce the
11 suffering experienced by, and improve the quality of life of, New
12 Jersey patients, like Jake, seeking treatment for a debilitating
13 medical condition.