

ASSEMBLY, No. 430

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Allows certain drug dealing offenses to be graded by "units," rather than weight, of controlled dangerous substances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/3/2020)

1 **AN ACT** concerning controlled dangerous substances, amending
2 N.J.S.2C:35-2 and N.J.S.2C:35-5 and supplementing chapter 35
3 of Title 2C of the New Jersey 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 "Adulterants or dilutants" means substances which are mixed or
11 combined with a controlled dangerous substance and any medium
12 which is used to carry a controlled dangerous substance, if the
13 controlled dangerous substance is not readily removable from the
14 medium. The terms shall include, but not be limited to blotter
15 paper, stamps or cigarettes.

16 "Administer" means the direct application of a controlled
17 dangerous substance or controlled substance analog, whether by
18 injection, inhalation, ingestion, or any other means, to the body of a
19 patient or research subject by: (1) a practitioner (or, in his
20 presence, by his lawfully authorized agent), or (2) the patient or
21 research subject at the lawful direction and in the presence of the
22 practitioner.

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

27 "Controlled dangerous substance" means a drug, substance, or
28 immediate precursor in Schedules I through V, any substance the
29 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
30 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
31 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011,
32 c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-
33 5.3b), and any drug or substance which, when ingested, is
34 metabolized or otherwise becomes a controlled dangerous substance
35 in the human body. When any statute refers to controlled dangerous
36 substances, or to a specific controlled dangerous substance, it shall
37 also be deemed to refer to any drug or substance which, when
38 ingested, is metabolized or otherwise becomes a controlled
39 dangerous substance or the specific controlled dangerous substance,
40 and to any substance that is an immediate precursor of a controlled
41 dangerous substance or the specific controlled dangerous substance.
42 The term shall not include distilled spirits, wine, malt beverages, as
43 those terms are defined or used in R.S.33:1-1 et seq., or tobacco and
44 tobacco products. The term, wherever it appears in any law or
45 administrative regulation of this State, shall include controlled
46 substance analogs.

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

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

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

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

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

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

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

1 limited to a strong compulsion to take the substance on a recurring
2 basis in order to experience its psychic effects, or to avoid the
3 discomfort of its absence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 "Immediate precursor" means a substance which the Division of
42 Consumer Affairs in the Department of Law and Public Safety has
43 found to be and by regulation designates as being the principal
44 compound commonly used or produced primarily for use, and
45 which is an immediate chemical intermediary used or likely to be
46 used in the manufacture of a controlled dangerous substance or
47 controlled substance analog, the control of which is necessary to
48 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 "Unit" means either the smallest discrete pill, tablet, capsule,
31 vial, packet, fold or other unit of distribution or packaging of the
32 controlled dangerous substance, or the amount which is commonly
33 distributed for consumption at one time by an individual to achieve
34 the desired effect, whichever method of measurement is less.

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

36

37 2. (New section) Degree of offense based upon quantity of
38 substance; weight and units; charging.

39 The number of units or plants of a substance manufactured,
40 distributed, dispensed or possessed or controlled with intent to
41 manufacture, distribute or dispense shall not be used to determine
42 whether an offense has been committed or the degree of the offense
43 unless the indictment so provides. If the amount of a controlled
44 dangerous substance or controlled substance analog, by avoirdupois
45 weight or, where applicable, metric weight, which is manufactured,
46 distributed, dispensed or possessed or controlled with the intent to
47 manufacture, distribute or dispense, is sufficient to establish guilt of
48 a crime or falls within one degree of a crime, but the number of

1 units or plants of the substance would not be sufficient to establish
2 guilt or falls within a different degree of crime, the actor shall be
3 guilty of the crime or the greater degree of crime.

4
5 3. N.J.S.2C:35-5 is amended to read as follows:

6 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
7 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
8 unlawful for any person knowingly or purposely:

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

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

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

16 (1) (a) Heroin, or its analog, in a quantity of one ounce or more
17 including any adulterants or dilutants; or

18 (b) coca leaves and any salt, compound, derivative, or
19 preparation of coca leaves, and any salt, compound, derivative, or
20 preparation thereof which is chemically equivalent or identical with
21 any of these substances, or analogs, except that the substances shall
22 not include decocainized coca leaves or extractions which do not
23 contain cocaine or ecogine, or 3,4-
24 methylenedioxymethamphetamine or 3,4-
25 methylenedioxyamphetamine, in a quantity of five ounces or more
26 including any adulterants or dilutants; or

27 (c) 500 or more units of any of the substances referred to in
28 subparagraphs (a) or (b) is guilty of a crime of the first degree.

29 The defendant shall, except as provided in N.J.S.2C:35-12, be
30 sentenced to a term of imprisonment by the court. The term of
31 imprisonment shall include the imposition of a minimum term
32 which shall be fixed at, or between, one-third and one-half of the
33 sentence imposed, during which the defendant shall be ineligible for
34 parole. Notwithstanding the provisions of subsection a. of
35 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

36 (2) **【A】** (a) Heroin or its analog, in a quantity of one-quarter
37 ounce or more, but less than one ounce including any adulterants or
38 dilutants; or

39 (b) any other substance referred to in subparagraph (b) of
40 paragraph (1) of this subsection, in a quantity of one-half ounce or
41 more but less than five ounces, including any adulterants or
42 dilutants; or

43 (c) 100 or more units but fewer than 500 units of any of the
44 substances referred to in subparagraphs (a) or (b) of paragraph (1)
45 of this subsection, is guilty of a crime of the second degree;

46 (3) **【A】** (a) Heroin or its analog, in a quantity of less than
47 one quarter ounce including any adulterants or dilutants; or

48 (b) any other substance referred to in subparagraph (b) of

1 paragraph (1) of this subsection in a quantity less than one-half
2 ounce including any adulterants or dilutants; or

3 (c) fewer than 100 units of any of the substances referred to in
4 subparagraphs (a) or (b) of paragraph (1) of this subsection, is
5 guilty of a crime of the third degree except that, notwithstanding the
6 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
7 \$75,000.00 may be imposed;

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

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

19 (6) Lysergic acid diethylamide, or its analog, in a quantity of
20 100 milligrams or more, or 500 or more units, including any
21 adulterants or dilutants, or phencyclidine, or its analog, in a quantity
22 of 10 grams or more, or 500 or more units, including any
23 adulterants or dilutants, is guilty of a crime of the first degree.
24 Except as provided in N.J.S.2C:35-12, the court shall impose a term
25 of imprisonment which shall include the imposition of a minimum
26 term, fixed at, or between, one-third and one-half of the sentence
27 imposed by the court, during which the defendant shall be ineligible
28 for parole. Notwithstanding the provisions of subsection a. of
29 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

30 (7) Lysergic acid diethylamide, or its analog, in a quantity of
31 less than 100 milligrams, or 100 or more units but fewer than 500
32 units, including any adulterants or dilutants, or where the amount is
33 undetermined, or phencyclidine, or its analog, in a quantity of less
34 than 10 grams, or 100 or more units but fewer than 500 units,
35 including any adulterants or dilutants, or where the amount is
36 undetermined, is guilty of a crime of the second degree;

37 (8) Methamphetamine, or its analog, or phenyl-2-propanone
38 (P2P), in a quantity of five ounces or more, or 500 or more units,
39 including any adulterants or dilutants is guilty of a crime of the first
40 degree. Notwithstanding the provisions of subsection a. of
41 N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;

42 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
43 (P2P), in a quantity of one-half ounce or more but less than five
44 ounces, or 100 or more units but fewer than 500 units, including
45 any adulterants or dilutants is guilty of a crime of the second
46 degree;

47 (b) Methamphetamine, or its analog, or phenyl-2-propanone
48 (P2P), in a quantity of less than one-half ounce including any

1 adulterants or dilutants is guilty of a crime of the third degree
2 except that notwithstanding the provisions of subsection b. of
3 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

4 (10) (a) Marijuana in a quantity of 25 pounds or more including
5 any adulterants or dilutants, or 50 or more marijuana plants,
6 regardless of weight, or hashish in a quantity of five pounds or
7 more including any adulterants or dilutants, is guilty of a crime of
8 the first degree. Notwithstanding the provisions of subsection a. of
9 N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;

10 (b) Marijuana in a quantity of five pounds or more but less than
11 25 pounds including any adulterants or dilutants, or 10 or more but
12 fewer than 50 marijuana plants, regardless of weight, or hashish in a
13 quantity of one pound or more but less than five pounds, including
14 any adulterants and dilutants, is guilty of a crime of the second
15 degree;

16 (11) Marijuana in a quantity of one ounce or more but less than
17 five pounds including any adulterants or dilutants, or hashish in a
18 quantity of five grams or more but less than one pound including
19 any adulterants or dilutants, is guilty of a crime of the third degree
20 except that, notwithstanding the provisions of subsection b. of
21 N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;

22 (12) Marijuana in a quantity of less than one ounce including
23 any adulterants or dilutants, or hashish in a quantity of less than five
24 grams including any adulterants or dilutants, is guilty of a crime of
25 the fourth degree;

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

31 (14) Any Schedule V substance, or its analog, is guilty of a
32 crime of the fourth degree except that, notwithstanding the
33 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
34 \$25,000.00 may be imposed.

35 c. Where the degree of the offense for violation of this section
36 depends on the quantity of the substance, the quantity involved
37 shall be determined by the trier of fact. Where the indictment or
38 accusation so provides, the quantity involved in individual acts of
39 manufacturing, distribution, dispensing or possessing with intent to
40 distribute may be aggregated in determining the grade of the
41 offense, whether distribution or dispensing is to the same person or
42 several persons, provided that each individual act of manufacturing,
43 distribution, dispensing or possession with intent to distribute was
44 committed within the applicable statute of limitations.
45 (cf: P.L.2000, c.136, s.1).

46
47 4. This act shall take effect immediately.

STATEMENT

This bill would establish new classification schemes for certain controlled dangerous substances.

Currently, the seriousness of a drug distribution offense is measured by reference to the amount, or weight, of controlled dangerous substances involved. However, some controlled dangerous substances, such as LSD and methamphetamine, are not sold by weight and are difficult to measure by weight. This bill would give prosecutors the option to grade the seriousness of a drug distribution offense by reference to the number of units involved, rather than the weight of the drugs.

Under this bill, a unit would be defined as either the smallest discrete pill, tablet, capsule, vial, packet, fold or other unit of distribution or packaging of the controlled dangerous substance, or the amount which is commonly distributed for consumption at one time by an individual to achieve the desired effect, whichever method of measurement is less.

This new classification scheme is intended to more accurately grade the crime of distributing particular substances such as LSD and methamphetamine, and also to more accurately grade such crimes as the packaging of illicit substances for street level distribution.

The new scheme is intended to give prosecutors an additional tool to use in charging those involved in drug trafficking. In many cases, it would have the effect of granting prosecutors the option to charge a defendant with a higher level offense than would otherwise be possible under current law.

The charge by "units" would apply only to persons who distribute or possess illicit drugs with the intent to distribute. It would not be used to determine the seriousness of "simple possession" drug offenses.

The bill would establish a new classification scheme for the crime of distribution of heroin to make the weights comparable, in terms of amounts commonly consumed, to the weights required for cocaine. Under current law, the distribution of heroin and cocaine are punishable as if they were the same substance. However, heroin provides more pharmacological effect from a given weight than does cocaine. Thus, in effect, the current statutes allow those who distribute heroin to be treated more leniently than those who distribute cocaine.

Consequently, the new classification scheme established under the bill for the crime of distribution of heroin and cocaine would be as follows:

A person would be guilty of a crime of the *first degree* for distributing or possessing with intent to distribute the following:

- 1 • one ounce or more of heroin (instead of the current five
- 2 ounces or more), or
- 3 • five ounces or more of cocaine (same as current law), or
- 4 • *500 or more units* of either cocaine or heroin.

5 A person would be guilty of a crime of the *second degree* for

6 distributing or possessing with intent to distribute the following:

- 7 • one-quarter ounce or more but less than one ounce of
- 8 heroin (instead of the current one-half ounce or more but
- 9 less than five ounces), or
- 10 • one-half ounce or more but less than five ounces of
- 11 cocaine (same as current law), or
- 12 • *100 or more units but fewer than 500 units* of cocaine or
- 13 heroin.

14 A person would be guilty of a crime of the *third degree* for

15 distributing or possessing with intent to distribute the following:

- 16 • less than one quarter ounce (instead of the current less
- 17 than one-half ounce) of heroin, or
- 18 • less than one-half ounce of cocaine (same as current law),
- 19 or
- 20 • *fewer than 100 units* of cocaine or heroin.

21 The mandatory minimum terms of imprisonment under the

22 statute and the mandatory minimum fines remain unchanged.

23 The bill would also add the “units” measurement scheme for the

24 following:

25 (1) the first degree crimes of distributing or possessing with

26 intent to distribute: (a) lysergic acid diethylamide (LSD), or its

27 analog, in a quantity of 100 milligrams or more *or 500 or more*

28 *units*; or phencyclidine, or its analog, in a quantity of 10 grams or

29 more *or 500 or more units*; or (b) Methamphetamine, or its analog,

30 or P2P, in a quantity of five ounces or more *or 500 or more units*.

31 (2) the second degree crimes of distributing or possessing with

32 intent to distribute: (a) lysergic acid diethylamide (LSD), or its

33 analog, in a quantity of less than 100 milligrams *grams or 100 or*

34 *more units but fewer than 500 units* or phencyclidine, or its analog,

35 in a quantity of less than 10 grams *or 100 or more units but fewer*

36 *than 500 units*; or (b) Methamphetamine, or P2P, in a quantity of

37 one-half ounce or more but less than five ounces *or 100 or more*

38 *units but fewer than 500 units*. (The third degree crime concerning

39 a quantity of less than one-half ounce remains the same.)

40 The gradation scheme for distributing or possessing with intent

41 to distribute marijuana and hashish remain the same as does the

42 gradation scheme for controlled dangerous substances classified in

43 Schedules I, II, III, IV, or V.