

ASSEMBLY, No. 1374

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

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District 31 (Hudson)

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District 34 (Essex and Passaic)

SYNOPSIS

Legalizes possession and personal use of small amounts of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning marijuana, amending and supplementing
2 various parts of the statutory law.

3

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

6

7 1. (New section) Findings.

8 The Legislature finds and declares that:

9 a. It is the intent of the people of New Jersey to adopt a new
10 approach to our marijuana policies by taxing, controlling and
11 legalizing marijuana like alcohol for adults;

12 b. It is the intent of the people of New Jersey that the
13 provisions of this act will prevent the sale or distribution of
14 marijuana to persons under 21 years of age;

15 c. This act is designed to eliminate the problems caused by the
16 unregulated manufacture, distribution, and use of marijuana within
17 New Jersey;

18 d. This act will divert funds from marijuana sales from going to
19 illegal enterprises, gangs, and cartels;

20 e. New Jersey law enforcement officers made over 24,000
21 arrests for marijuana possession in 2012, more than in the previous
22 20 years;

23 f. In 2012, a person was arrested for marijuana possession in
24 New Jersey approximately every 22 minutes;

25 g. Black New Jerseyans are nearly three times more likely to be
26 arrested for marijuana possession than white New Jerseyans, despite
27 similar usage rates;

28 h. Marijuana possession arrests constituted three out of every
29 five drug arrests in New Jersey in 2012;

30 i. New Jersey spends approximately \$127 million per year on
31 marijuana possession enforcement costs;

32 j. Taxing, controlling, and legalizing marijuana for adults like
33 alcohol will free up precious resources to allow our criminal justice
34 system to focus on serious crime and public safety issues;

35 k. Taxing, controlling, and legalizing marijuana for adults like
36 alcohol will strike a blow at the illegal enterprises that profit from
37 New Jersey's current, unregulated marijuana illegal market;

38 l. New Jersey must strengthen our support for evidence-based,
39 drug prevention programs that work to educate New Jerseyans,
40 particularly young New Jerseyans, about the harms of drug abuse;

41 m. New Jersey must enhance State-supported programming that
42 provides appropriate, evidence-based treatment for those who suffer
43 from the illness of drug addiction;

44 n. Controlling and regulating the manufacture, distribution, and
45 sale of marijuana will strengthen our ability to keep marijuana away
46 from minors;

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 o. A controlled system of marijuana manufacturing,
2 distribution, and sale must be designed in a way that enhances
3 public health and minimizes harms to New Jersey communities and
4 families;
- 5 p. The regulated marijuana system in New Jersey must be
6 regulated so as to prevent persons younger than 21 years of age
7 from accessing or purchasing marijuana;
- 8 q. A marijuana arrest in New Jersey can have a debilitating
9 impact on a person's future, including consequences for one's job
10 prospects, housing access, financial health, familial integrity,
11 immigration status, and educational opportunities;
- 12 r. The tax revenue generated from a controlled marijuana
13 manufacture, distribution, and retail sales system in New Jersey will
14 generate hundreds of millions of dollars to bolster effective,
15 evidence-based drug treatment and education, and to reinvest in
16 New Jersey communities;
- 17 s. New Jersey cannot afford to sacrifice its public safety and
18 civil rights by continuing its ineffective and wasteful marijuana
19 enforcement policies.

20

21 2. (New section) Definitions.

22 As used in P.L. , c. (C.) (pending before the Legislature
23 as this bill), unless the context otherwise requires:

24 "Consumer" means a person 21 years of age or older who
25 purchases, acquires, owns, holds or uses marijuana or marijuana
26 products for personal use by a person 21 years of age or older, but
27 not for resale to others.

28 "Consumption" means the act of ingesting, inhaling, or otherwise
29 introducing marijuana into the human body.

30 "Director" means the Director of the Division of Marijuana
31 Enforcement.

32 "Division" means the Division of Marijuana Enforcement in the
33 Department of Law and Public Safety.

34 "Financial consideration," means value that is given or received
35 either directly or indirectly through sales, barter, trade, fees,
36 charges, dues, contributions or donations; but does not include:
37 homegrown marijuana that is given or received when nothing is
38 given or received in return; or homegrown marijuana products that
39 are given or received when nothing is given or received in return.

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

43 "Household" means a housing unit and any place in or around a
44 housing unit at which the occupants of the housing unit are
45 producing, processing or storing homegrown marijuana or
46 homemade marijuana products.

47 "Housing unit" means a house, an apartment, a mobile home, a
48 group of rooms, or a single room that is occupied as separate living

1 quarters, in which the occupants live and eat separately from any
2 other persons in the building and which have direct access from the
3 outside of the building or through a common hall.

4 “Immature marijuana plant” means a marijuana plant that is not
5 flowering.

6 “Industrial hemp” means the plant of the genus cannabis and any
7 part of such plant, whether growing or not, with a delta-9
8 tetrahydrocannabinol concentration that does not exceed three-
9 tenths percent on a dry weight basis.

10 “Licensee” means a person who holds a license issued under this
11 act that is designated as either a Class 1 Marijuana Cultivation
12 Facility license, herein also referred to as a Marijuana Producer
13 license, or a Class 1 Marijuana Product Manufacturing Facility
14 license; herein also referred to as a Marijuana Processor license, a
15 Class 2 Marijuana Wholesaler license; a Class 3 Marijuana Retailer
16 license; or a Class 4 Marijuana Transportation license.

17 “Licensee representative” means an owner, director, officer,
18 manager, employee, agent or other representative of a licensee, to
19 the extent that the person acts in a representative capacity.

20 “Local governmental entity” means a municipality.

21 “Marijuana” means all parts of the plant Genus Cannabis L.,
22 whether growing or not; the seeds thereof, and every compound,
23 manufacture, salt, derivative, mixture, or preparation of the plant or
24 its seeds, except those containing resin extracted from the plant; but
25 shall not include the weight of any other ingredient combined with
26 marijuana to prepare topical or oral administrations, food, drink, or
27 other product.

28 “Marijuana Cultivation Facility” means an entity licensed to
29 cultivate marijuana and sell marijuana to marijuana producers, to
30 marijuana product manufacturing facilities, and to other marijuana
31 cultivation facilities, but not to consumers. This entity shall hold a
32 Class 1 Marijuana Cultivation Facility license.

33 “Marijuana establishment” means a marijuana cultivation
34 facility, a marijuana testing facility, a marijuana product
35 manufacturing facility, or a marijuana retailer.

36 “Marijuana extract” means a substance obtained by separating
37 resins from marijuana by: (i) a chemical extraction process using a
38 hydrocarbon-based solvent, such as butane, hexane or propane; (ii)
39 a chemical extraction process using the hydrocarbon-based solvent
40 carbon dioxide, if the process uses high heat or pressure; or (ii) Any
41 other process identified by the division by rule.

42 “Marijuana flowers” means the flowers of the plant genus
43 Cannabis within the plant family Cannabaceae.

44 “Marijuana items” means marijuana, marijuana products, and
45 marijuana extracts.

46 “Marijuana leaves” means the leaves of the plant genus Cannabis
47 within the plant family Cannabaceae.

1 “Marijuana paraphernalia” means any equipment, products, or
2 materials of any kind which are used, intended for use, or designed
3 for use in planting, propagating, cultivating, growing, harvesting,
4 composting, manufacturing, compounding, converting, producing,
5 processing, preparing, testing, analyzing, packaging, repackaging,
6 storing, vaporizing, or containing marijuana, or for ingesting,
7 inhaling, or otherwise introducing marijuana into the human body.

8 “Marijuana processor” means a person who processes marijuana
9 items in this State.

10 “Marijuana producer” means a person who produces marijuana
11 in this State.

12 “Marijuana product manufacturing facility” means an entity
13 licensed to purchase marijuana; manufacture, prepare, and package
14 marijuana items; and sell items to other marijuana product
15 manufacturing facilities and to marijuana retailers, but not to
16 consumers. This entity shall hold a Class 1 Marijuana Product
17 Manufacturing Facility license.

18 “Marijuana products” means a product containing marijuana or
19 marijuana extracts and other ingredients intended for human
20 consumption or use, including a product intended to be applied to
21 the skin or hair, edible products, ointments, and tinctures.
22 Marijuana products do not include: (i) marijuana by itself; or (ii)
23 marijuana extract by itself.

24 “Marijuana retailer” means an entity licensed to purchase
25 marijuana from marijuana cultivation facilities and marijuana items
26 from marijuana product manufacturing facilities or marijuana
27 wholesalers and to sell marijuana and marijuana products to
28 consumers. This entity shall hold a Class 3 Marijuana Retailer
29 license.

30 “Marijuana testing facility” means an independent, third-party
31 entity meeting accreditation requirements established by the
32 Division that is licensed to analyze and certify the safety and
33 potency of marijuana items.

34 “Marijuana transporter” means an entity licensed to transport
35 marijuana through and within the State of New Jersey and to
36 maintain a warehouse. This entity shall hold a Class 4 Marijuana
37 Transportation license.

38 “Marijuana wholesaler” means any licensed person or entity who
39 sells marijuana items or marijuana paraphernalia for the purpose of
40 resale either to a licensed marijuana wholesaler or to a licensed
41 marijuana retailer. This entity shall hold a Class 2 Marijuana
42 Wholesaler license.

43 “Mature marijuana plant” means a marijuana plant that is not an
44 immature marijuana plant.

45 “Medical marijuana center” means an entity permitted by a State
46 agency to sell marijuana and marijuana products pursuant to the
47 “New Jersey Compassionate Use Medical Marijuana Act” P.L.2009,
48 c.307 (C.24:6I-1 et seq.).

1 “Noncommercial” means not dependent or conditioned upon the
2 provision or receipt of financial consideration.

3 “Premises” or “licensed premises” includes the following areas
4 of a location licensed under this act: all public and private enclosed
5 areas at the location that are used in the business operated at the
6 location, including offices, kitchens, rest rooms and storerooms; all
7 areas outside a building that the division has specifically licensed
8 for the production, processing, wholesale sale, or retail sale of
9 marijuana items; and, for a location that the division has
10 specifically licensed for the production of marijuana outside a
11 building, the entire lot or parcel that the licensee owns, leases or has
12 a right to occupy.

13 “Processes” means the processing, compounding, or conversion
14 of marijuana into marijuana products or marijuana extracts;
15 “Processes” does not include packaging or labeling.

16 “Produces” means the manufacture, planting, cultivation,
17 growing or harvesting of marijuana. “Produces” does not include
18 the drying of marijuana by a marijuana processor, if the marijuana
19 processor is not otherwise producing marijuana; or the cultivation
20 and growing of an immature marijuana plant by a marijuana
21 processor, marijuana wholesaler or marijuana retailer if the
22 marijuana processor, marijuana wholesaler, or marijuana retailer
23 purchased or otherwise received the plant from a licensed marijuana
24 producer.

25 “Public place” means any place to which the public has access
26 that is not privately owned; or any place to which the public has
27 access where alcohol consumption is not allowed, including but not
28 limited to a public street, road, thoroughfare, sidewalk, bridge,
29 alley, plaza, park, playground, swimming pool, or shopping area,
30 public transportation facility, vehicle used for public transportation,
31 parking lot, public library, or any other public building, structure, or
32 area.

33 “Radio” means a system for transmitting sound without visual
34 images, and includes broadcast, cable, on-demand, satellite, or
35 internet programming. Radio includes any audio programming
36 downloaded or streamed via the internet.

37 “Television” means a system for transmitting visual images and
38 sound that are reproduced on screens, and includes broadcast, cable,
39 on-demand, satellite, or internet programming. Television includes
40 any video programming downloaded or streamed via the internet.

41 “THC” means Delta-9-tetrahydrocannabinol, the main
42 psychoactive chemical contained in the cannabis plant.

43 “Unreasonably impracticable” means that the measures necessary
44 to comply with the regulations require such a high investment of
45 risk, money, time, or any other resource or asset that the operation
46 of a marijuana establishment is not worthy of being carried out in
47 practice by a reasonably prudent businessperson.

1 3. (New section) Personal use of marijuana.

2 Notwithstanding any other provision of law, the following acts
3 are not unlawful and shall not be a criminal offense or a basis for
4 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other
5 applicable law for persons 21 years of age or older:

6 a. Possessing, using, purchasing, or transporting: marijuana
7 paraphernalia; one ounce or less of marijuana; 16 ounces or less of
8 marijuana infused product in solid form; 72 ounces or less in liquid
9 form; 7 grams or less of marijuana concentrate; and up to 6
10 immature marijuana plants subject to the provisions of subsection b.
11 of this this section.

12 b. Transfer of one ounce or less of marijuana; 16 ounces or less
13 of marijuana infused product in solid form; 72 ounces or less in
14 liquid form; 7 grams or less of marijuana concentrate; and up to 6
15 immature plants, without marijuana cultivation facility to a person
16 who is of or over the legal age for purchasing marijuana items,
17 provided that such transfer is for non-promotional, non-business
18 purposes.

19 c. Consumption of marijuana items, provided that nothing in
20 this section shall permit a person to smoke or otherwise consume
21 marijuana items openly in a public place.

22 d. Assisting another person who is of or over the legal age for
23 purchasing marijuana items in any of the acts described in
24 subsections a. through c. of this section.

25

26 4. (New section) Lawful operation of marijuana
27 establishments.

28 Notwithstanding any other provision of law, the following acts
29 are not unlawful and shall not be a criminal offense or a basis for
30 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other
31 applicable law for persons 21 years of age or older:

32 a. manufacture, possession, or purchase of marijuana
33 paraphernalia or the sale of marijuana paraphernalia to a person
34 who is 21 years of age or older.

35 b. possessing, displaying, or transporting marijuana items;
36 purchase of marijuana from a marijuana cultivation facility;
37 purchase of marijuana items from a marijuana product
38 manufacturing facility; or sale of marijuana items to consumers, if
39 the person conducting the activities described in this subsection has
40 obtained a current, valid license to operate as a marijuana retailer or
41 is acting in his capacity as an owner, employee, or agent of a
42 licensed marijuana retailer.

43 c. cultivating, harvesting, processing, packaging, transporting,
44 displaying, or possessing marijuana; delivery or transfer of
45 marijuana to a marijuana testing facility; selling marijuana to a
46 marijuana cultivation facility, a marijuana product manufacturing
47 facility, or a marijuana retailer; or the purchase of marijuana from a
48 marijuana cultivation facility, if the person conducting the activities

1 described in this subsection has obtained a current, valid license to
2 operate a marijuana cultivation facility or is acting in his capacity as
3 an owner, employee, or agent of a licensed marijuana cultivation
4 facility.

5 d. packaging, processing, transporting, manufacturing,
6 displaying, or possessing marijuana items; delivery or transfer of
7 marijuana items to a marijuana testing facility; selling marijuana
8 items to a marijuana retailer or a marijuana product manufacturing
9 facility; the purchase of marijuana from a marijuana cultivation
10 facility; or the purchase of marijuana items from a marijuana
11 product manufacturing facility, if the person conducting the
12 activities described in this subsection has obtained a current, valid
13 license to operate a marijuana product manufacturing facility or is
14 acting in his capacity as an owner, employee, or agent of a licensed
15 marijuana product manufacturing facility.

16 e. possessing, cultivating, processing, repackaging, storing,
17 transporting, displaying, transferring, or delivering marijuana items
18 if the person has obtained a current, valid license to operate a
19 marijuana testing facility or is acting in his capacity as an owner,
20 employee, or agent of a licensed marijuana testing facility.

21 f. leasing or otherwise allowing the use of property owned,
22 occupied, or controlled by any person, corporation or other entity
23 for any of the activities conducted lawfully in accordance with
24 subsections a. through e. of this section.

25

26 5. (New section) Prohibition of Persons Under the Legal Age
27 Purchasing Marijuana.

28 a. No person, either directly or indirectly by an agent or
29 employee, shall sell, offer for sale, distribute for commercial
30 purpose at no cost or minimal cost, give, or furnish, to a person
31 under 21 years of age, any marijuana items.

32 b. Any licensee or employee or agent of a licensee who allows
33 a person under the age of 21 to procure marijuana items is guilty of
34 a disorderly persons offense and subject to a civil penalty of not
35 less than \$250 for the first violation; \$500 for the second violation;
36 and \$1,000 for the third and each subsequent violation; in addition,
37 subject to a hearing, a licensee's license may be revoked;

38 c. The establishment of all of the following facts by a licensee,
39 employee, or agent, allowing any such person under the age of 21 to
40 procure marijuana items shall constitute a defense to any
41 prosecution pursuant to the provisions of subsections a. and b. of
42 this section:

43 (1) That the purchaser of the marijuana or marijuana product
44 falsely represented, by producing either a United States passport;
45 driver's license or non-driver identification card issued by the New
46 Jersey Motor Vehicle Commission; a similar card issued pursuant to
47 the laws of another state; United States military identification card;

- 1 or a photographic identification card issued by a county clerk, that
2 he was of legal age to make the purchase;
- 3 (2) That the appearance of the purchaser was such that an
4 ordinary prudent person would believe him to be 21 years of age or
5 older, of legal age to make the purchase; and
- 6 (3) That the sale or distribution was made in good faith, relying
7 upon the production of the identification in paragraph (1) of this
8 subsection, the minor's appearance, and in the reasonable belief that
9 the purchaser or recipient was actually of legal age to make the
10 purchase.
- 11 d. It shall be unlawful for a person under the age of 21 to
12 attempt to purchase, or acquire a marijuana item, even if such
13 marijuana items may be legally purchased by persons at or above
14 the legal age for purchasing marijuana items.
- 15 For purposes of this subsection, purchasing a marijuana item
16 includes accepting a marijuana item, and acquiring a marijuana item
17 includes consuming a marijuana item.
- 18 e. It shall be unlawful for a person under the age of 21 to
19 present or offer to a marijuana establishment or the marijuana
20 establishment's agent or employee any written or oral evidence of
21 age that is false, fraudulent, or not actually the person's own, for the
22 purpose of:
- 23 (1) Purchasing, attempting to purchase, or otherwise procuring
24 or attempting to procure marijuana or marijuana products; or
- 25 (2) Gaining access to a marijuana establishment.
- 26 f. Except as permitted by the division by rule or regulation, or
27 as necessary on an emergency basis, a person under legal age for
28 purchasing marijuana items may not enter or attempt to enter any
29 portion of a licensed premises that is posted or otherwise identified
30 as being prohibited to the use of persons under legal age for
31 purchasing marijuana items, unless accompanied by and supervised
32 by a parent or legal guardian.
- 33 g. Any person who shall violate any of the provisions of
34 subsections d., e., or f. of this section shall be deemed and adjudged
35 to be a disorderly person, and upon conviction thereof, shall be
36 punished by a fine of not less than \$500.
- 37 h. The prohibitions of this section do not apply to a person
38 under the legal age for purchasing marijuana items who is acting
39 under the direction of the division or under the direction of State or
40 local law enforcement agencies for the purpose of investigating
41 possible violations of the laws prohibiting sale of marijuana items
42 to persons who are under the legal age for purchasing marijuana
43 items.
- 44 i. The prohibitions of this section do not apply to a person
45 under the legal age for purchasing marijuana items who is acting
46 under the direction of a licensee for the purpose of investigating
47 possible violations by employees of the licensee of laws prohibiting

1 sales of marijuana items to persons who are under the legal age for
2 purchasing marijuana items.

3 j. A person under the legal age for purchasing marijuana items
4 is not in violation of this section, and is immune from prosecution
5 under this section if:

6 (1) The person contacted emergency medical services or a law
7 enforcement agency in order to obtain medical assistance for
8 another person who was in need of medical assistance because that
9 person consumed a marijuana item and the evidence of the violation
10 of this section was obtained as a result of the person's having
11 contacted emergency medical services or a law enforcement
12 agency; or

13 (2) The person was in need of medical assistance because the
14 person consumed a marijuana item and the evidence of the violation
15 of this section was obtained as a result of the person's having
16 sought or obtained the medical assistance.

17 (3) Paragraph (1) of this subsection does not exclude the use of
18 evidence obtained as a result of a person's having sought medical
19 assistance in proceedings for crimes or offenses other than a
20 violation of this section.

21

22 6. Section 3 of P.L.1948, c.439 (C.52:17B-3) is amended to
23 read as follows:

24 3. There is hereby established in the Department of Law and
25 Public Safety a Division of Law, a Division of State Police, a
26 Division of Alcoholic Beverage Control, **【**a Division of Motor
27 Vehicles,**】** a Division of Weights and Measures, a Division of
28 Marijuana Enforcement and a Division of Professional Boards.

29 The Attorney General shall have the authority to organize and
30 maintain in his offices an Administrative Division and to assign to
31 employment therein such secretarial, clerical and other assistants in
32 the department as his office and the internal operations of the
33 department shall require.

34 (cf: P.L.1948, c.439, s.3)

35

36 7. (New section) Powers and duties of the division.

37 a. The Division of Marijuana Enforcement shall have all
38 powers necessary or proper to enable it to carry out the division's
39 duties, functions, and powers under this act. The jurisdiction,
40 supervision, duties, functions, and powers of the division extend to
41 any person who buys, sells, produces, processes, transports, or
42 delivers any marijuana items within this State. The division may sue
43 and be sued.

44 b. The duties, functions and powers of the division include the
45 following:

46 (1) To regulate the purchase, sale, production, processing,
47 transportation and delivery of marijuana items in accordance with
48 the provisions of this act.

1 (2) To grant, refuse, suspend or cancel licenses for the sale,
2 processing, or production of marijuana items, or other licenses in
3 regard to marijuana items, and to permit, in the division's
4 discretion, the transfer of a license between persons.

5 (3) To investigate and aid in the prosecution of every violation
6 of the statutory laws of this State relating to marijuana items and to
7 cooperate in the prosecution of offenders before any State court of
8 competent jurisdiction.

9 (4) To adopt, amend, or repeal regulations as necessary to carry
10 out the intent and provisions of this act.

11 (5) To exercise all powers incidental, convenient, or necessary
12 to enable the division to administer or carry out the provisions of
13 this act, or any other law of this State that charges the division with
14 a duty, function, or power related to marijuana. Powers described in
15 this paragraph include, but are not limited to:

16 (a) Issuing subpoenas;

17 (b) Compelling attendance of witnesses;

18 (c) Administering oaths;

19 (d) Certifying official acts;

20 (e) Taking depositions as provided by law;

21 (f) Compelling the production of books, payrolls, accounts,
22 papers, records, documents and testimony; and

23 (g) Establishing fees in addition to the application, licensing,
24 and renewal fees, provided that any fee established by the division
25 is reasonably calculated not to exceed the cost of the activity for
26 which the fee is charged.

27 (6) To adopt rules regulating and prohibiting marijuana
28 producers, marijuana processors, marijuana wholesalers, and
29 marijuana retailers from advertising marijuana items in a manner
30 that is appealing to minors; that promotes excessive use; that
31 promotes illegal activity; or that otherwise presents a significant
32 risk to public health and safety.

33 (7) To regulate the use of marijuana items for scientific,
34 pharmaceutical, manufacturing, mechanical, industrial, and other
35 purposes.

36 c. The powers of the division further include the power to
37 purchase, seize, possess, and dispose of marijuana items.

38 (1) The division may purchase, possess, seize, or dispose of
39 marijuana items as is necessary to ensure compliance with and
40 enforcement of the provisions of this act, and any rule adopted
41 pursuant thereto.

42 (2) Any State officer, board, commission, corporation,
43 institution, department, or other State body, and any local officer,
44 board, commission, institution, department, or other local
45 government body, that is permitted by the statutory laws of this
46 State to perform a duty, function, or power with respect to a
47 marijuana item, may purchase, possess, seize, or dispose of the
48 marijuana item as the State officer, board, commission, corporation,

1 institution, department or other State body, or the local officer,
2 board, commission, institution, department or other local
3 government body, considers necessary to ensure compliance with
4 and enforce the applicable statutory law or any rule adopted under
5 the applicable statutory law.

6 d. The division shall be under the immediate supervision of a
7 director. The director of the division shall be appointed by the
8 Governor, with the advice and consent of the Senate, and shall serve
9 during the term of office of the Governor appointing him and until
10 the director's successor is appointed and has qualified.

11

12 8. (New section) Regulation of marijuana.

13 a. Not later than one year following the effective date of
14 P.L. , c. (C.) (pending before the Legislature as this bill),
15 the division shall adopt, pursuant to the "Administrative Procedure
16 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
17 necessary for implementation of P.L. c. (C.) (pending before the
18 Legislature as this bill), which shall be consistent with the intent of
19 this act. Such regulations shall not prohibit the operation of
20 marijuana establishments, either expressly or through regulations
21 that make their operation unreasonably impracticable. The division
22 may create an expert task force to make recommendations to the
23 Division about the content of such regulations. Such regulations
24 shall include:

25 (1) Procedures for the application, issuance, denial, renewal,
26 suspension, and revocation of a license to operate a marijuana
27 establishment. Such procedures shall include a period of no longer
28 than 90 days by which the division must provide the applicant with
29 notice of the division's approval or denial of any fully completed
30 application for licensure or renewal and a period not to exceed 30
31 days in which a license shall be issued following approval of an
32 application.

33 (2) License application and renewal fees shall be established by
34 the division. The division shall establish licensing goals for New
35 Jersey residents. The division shall make good faith efforts to meet
36 these goals.

37 (3) The division shall establish licensing goals for New Jersey
38 residents. The division shall make good faith efforts to meet these
39 goals. Qualifications for licensure shall be directly and
40 demonstrably related to the operation of a marijuana establishment,
41 provided that the division shall make licenses available to as diverse
42 a group as possible, including, but not limited to, requirements that
43 no license of any kind shall be issued to:

44 (a) A person under the legal age to purchase marijuana items;

45 (b) A person doing business as a sole proprietor who has not
46 lawfully resided in the State for at least two years prior to applying
47 to receive a license;

1 (c) A partnership, employee cooperative, association, nonprofit
2 corporation, or corporation unless formed under the laws of this
3 State, and unless all of the members thereof are qualified to obtain a
4 license;

5 (d) A person whose place of business is conducted by a manager
6 or agent, unless the manager or agent possesses the same
7 qualifications required of the licensee;

8 (e) Should the division choose to establish criteria for licensure
9 related to an applicant's criminal history, it shall not consider
10 convictions under paragraphs (3) and (4) of subsection a. of N.J.S.
11 2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.
12 2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of
13 N.J.S.2C:35-5, or similar offenses.

14 (4) The division shall establish licensing goals for minority
15 owned and female owned business as these terms are defined in
16 section 3 of P.L. 1983, c.482 (C. 52:32-19). The Division shall
17 analyze the number of licenses issued in each county and compare
18 that analysis to the number of qualified minority owned and female
19 owned businesses that applied in each county. The Division shall
20 make good faith efforts to meet the goals it establishes for the
21 licensure of minority owned and female owned businesses;

22 (5) Security requirements for marijuana establishments;

23 (6) Requirements to prevent the sale or diversion of marijuana
24 and marijuana products to persons under the legal age to purchase
25 marijuana items, including, but not limited to, requirements that:

26 (a) All licensees and licensee representatives, before selling or
27 serving marijuana or marijuana products to any person about whom
28 there is any reasonable doubt of the person's having reached the
29 legal age to purchase marijuana items, shall require such person to
30 produce one of the following pieces of identification:

31 (i) The person's passport.

32 (ii) The person's motor vehicle driver's license, whether issued
33 by New Jersey or by any other state, provided the license displays a
34 picture of the person.

35 (iii) A New Jersey identification card issued by the New Jersey
36 Motor Vehicle Commission.

37 (iv) A United States military identification card.

38 (v) A photographic identification card issued by a New Jersey
39 county clerk.

40 (vi) Any other identification card issued by a state that bears a
41 picture of the person, the name of the person, the person's date of
42 birth and a physical description of the person.

43 (b) No marijuana establishment shall employ persons under the
44 legal age to purchase marijuana items nor shall any marijuana
45 retailer allow persons under the legal age to purchase marijuana
46 items from entering or remaining on the premises of a marijuana
47 retailer unless accompanied by a parent or legal guardian;

- 1 (c) Packaging and branding regulations to prevent marketing of
2 marijuana items and marijuana paraphernalia to people under the
3 legal age to purchase marijuana items;
- 4 (7) Labeling and packaging requirements for marijuana items
5 sold or distributed by a marijuana establishment, including, but not
6 limited to, requirements that:
- 7 (a) Packaging and branding rules which prevent marketing of
8 marijuana items and marijuana paraphernalia to people under the
9 legal age to purchase marijuana items, including, but not limited to,
10 rules that prohibit any statement, illustration, or image that:
- 11 (i) Includes false statements;
- 12 (ii) Promotes over-consumption;
- 13 (iii) Depicts a child or other person under legal age consuming
14 marijuana items; or
- 15 (iv) Includes objects, such as toys, characters, or cartoon
16 characters suggesting the presence of a person under the legal age to
17 purchase marijuana items, or any other depiction designed in any
18 manner to be especially appealing to persons under the legal age to
19 purchase marijuana items;
- 20 (b) Ensure marijuana items are packaged in child-resistant
21 containers;
- 22 (c) Marijuana items warning labels adequately inform
23 consumers about safe marijuana use and warn of the consequences
24 of misuse or overuse;
- 25 (d) Labeling rules that mandate clear identification of health and
26 safety information, including, but not limited to:
- 27 (i) Net weight;
- 28 (ii) Production date and expiration date;
- 29 (iii) An ingredient list that includes, but is not limited to, all
30 ingredients used to manufacture the marijuana product and a list of
31 all potential allergens contained within the product;
- 32 (iv) Strain or type of cannabis, listed by scientific terms, if
33 available, and generic or “slang” names;
- 34 (v) Whether the product requires refrigeration;
- 35 (vi) Growth method (whether dirt grown, hydroponic, or
36 otherwise) and an indication whether or not the cannabis was grown
37 using all-organic materials and a complete list of all nonorganic
38 pesticides, fungicides and herbicides used during the cultivation of
39 the cannabis;
- 40 (vii) Serving size, the total number of servings, and a statement
41 regarding the percentage of THC contained in the marijuana
42 product and in each serving. For example: “The serving size of
43 active THC in this product is X mg. This product contains X
44 servings of marijuana, and the total amount of active THC in this
45 product is X mg.” Serving sizes are recommended to be
46 individually wrapped.
- 47 (viii) Warning labels that include, but are not limited to, one or
48 more of the following:

- 1 -- "This product contains marijuana."
2 -- "This product is infused with marijuana"
3 -- "This product is intended for use by adults 21 years and older.
4 Keep out of the reach of children."
5 -- "The intoxicating effects of this product may be delayed by
6 two or more hours."
7 -- "There may be health risks associated with the consumption of
8 this product, including for women who are pregnant, breastfeeding,
9 or planning on becoming pregnant."
10 -- "Do not drive a motor vehicle or operate heavy machinery
11 while using marijuana."
12 (e) Labeling rules mandate the source of the marijuana items,
13 including, but not limited to, the license number of the marijuana
14 cultivation facility where the marijuana used to produce the
15 marijuana item was grown, the license number of the marijuana
16 product manufacturing facility that produced the marijuana item;
17 and the license number of the marijuana retailer that sold the
18 marijuana item and the production batch and lot numbers of the
19 marijuana items.
20 (8) Health and safety regulations and standards for the
21 manufacture and sale of marijuana products and the cultivation of
22 marijuana, including, but not limited to, requirements that:
23 (a) Establish accreditation and licensure criteria for marijuana
24 testing facilities;
25 (b) The division issues licenses for a sufficient number of
26 marijuana testing facilities, if those facilities meet the requirements
27 for licensure, in order to ensure testing of marijuana items produced
28 and sold in the State;
29 (c) Every licensed marijuana cultivation facility and marijuana
30 product manufacturing facility must submit representative samples
31 of marijuana and marijuana products to marijuana testing facilities
32 for inspection and testing to certify compliance with health, safety,
33 and potency standards adopted by the division on a schedule set by
34 the division. Any sample remaining after testing shall be destroyed
35 or returned to the licensee;
36 (d) Prescribe methods of producing, processing, and packaging
37 marijuana items; conditions of sanitation; safe handling
38 requirements; approved pesticides and pesticide testing
39 requirements; and standards of ingredients, quality, and identity of
40 marijuana items produced, processed, packaged, or sold by
41 marijuana establishments;
42 (e) Establish accreditation and licensing criteria for responsible
43 marijuana server and seller training and certification programs for
44 marijuana retailer employees;
45 (f) Provide that no licensed marijuana establishment or
46 employee of a marijuana establishment shall consume, or allow to
47 be consumed, any marijuana items on the establishment's premises,
48 except as otherwise permitted by the division;

- 1 (g) Set appropriate dosage, potency, and serving size limits for
2 marijuana and other marijuana products, provided that a
3 standardized serving of marijuana shall be no more than 10
4 milligrams of active THC and no individual edible retail product
5 unit for sale shall contain more than 100 milligrams of active THC,
6 and that marijuana and marijuana product packaging prevent
7 children from access;
- 8 (h) Require that each single standardized serving of marijuana
9 in a multiple-serving edible marijuana product is physically
10 demarked in a way that enables a reasonable person to determine
11 how much of the product constitutes a single serving of active THC,
12 and that each standardized serving of marijuana must be easily
13 separable to allow an average person 21 years of age and over to
14 physically separate, with minimal effort, individual servings of the
15 product;
- 16 (i) Require that, if it is impracticable to clearly demark every
17 standardized serving of marijuana or to make each standardized
18 serving easily separable in an edible marijuana product, the product
19 must contain no more than 10 milligrams of active THC per unit of
20 sale;
- 21 (j) Establish screening, hiring, training and supervising
22 requirements for retail store employees and others who manufacture
23 or handle marijuana items;
- 24 (k) Promote general sanitary requirements for the handling,
25 storage, and disposal of marijuana items, and the maintenance of
26 marijuana establishments;
- 27 (l) Provide for rigorous auditing, inspection, and monitoring of
28 marijuana establishments for compliance with health and safety
29 rules and regulations;
- 30 (m) Require the implementation of security requirements for
31 retail outlets and premises where marijuana items are produced or
32 processed, and safety protocols for marijuana establishments and
33 their employees;
- 34 (n) Prescribe reasonable restrictions on the manner, methods,
35 and means by which, licensees shall transport marijuana items
36 within the State; and
- 37 (o) Establish procedures for identification, seizure, confiscation,
38 destruction, or donation to law enforcement for training purposes of
39 all marijuana or marijuana products produced, processed, sold, or
40 offered for sale within this State which do not conform in all
41 respects to the standards prescribed by this chapter or the rules
42 adopted to implement and enforce these chapters.
- 43 (9) Restrictions on the advertising and display of marijuana
44 items and marijuana paraphernalia, including, but not limited to,
45 requirements that:
- 46 (a) Restrict advertising of marijuana items and marijuana
47 paraphernalia in ways that target or are designed to appeal to
48 individuals under the legal age to purchase marijuana items,

1 including, but not limited to depictions of a person under 21 years
2 of age consuming marijuana, or, includes objects, such as toys,
3 characters, or cartoon characters suggesting the presence of a
4 person under 21 years of age, or any other depiction designed in any
5 manner to be especially appealing to a person under 21 years of
6 age;

7 (b) Marijuana retailers shall not display any signage in a
8 window, on a door, or on the outside of the premises of a marijuana
9 retailer that is visible to the general public from a public right-of-
10 way, other than a single sign no larger than one thousand six
11 hundred square inches identifying the retail outlet by the licensee's
12 business trade name;

13 (c) No licensed marijuana establishment shall advertise any
14 marijuana items or marijuana paraphernalia on television, radio or
15 internet between the hours of 6:00am and 10:00pm.

16 (d) No licensed marijuana establishment shall engage in
17 advertising unless it has reliable evidence that no more than 20
18 percent of the audience for the advertisement is reasonably expected
19 to be under the legal age to purchase marijuana items.

20 (e) No licensed marijuana establishment may engage in
21 advertising or marketing directed towards location-based devices,
22 including but not limited to cellular phones, unless the marketing is
23 a mobile device application installed on the device by the owner of
24 the device who is 21 years of age or older and includes a permanent
25 and easy opt-out feature;

26 (f) No licensed marijuana establishment may sponsor a
27 charitable, sports, musical, artistic, cultural, social, or other similar
28 event or engage in advertising at or in connection with such an
29 event unless it has reliable evidence that no more than 20 percent of
30 the audience at the event is reasonably expected to be under the
31 legal age to purchase marijuana items;

32 (g) All advertisements must contain warnings, including but not
33 limited to one or more of the following:

34 (i) "This product contains marijuana;"

35 (ii) "Marijuana can impair concentration, coordination, and
36 judgment. Do not operate a vehicle or machinery under the
37 influence of this drug;"

38 (iii) "There may be health risks associated with the consumption
39 of this product;"

40 (iv) "For use only by adults 21 years of age and older. Keep out
41 of the reach of children."

42 (v) "This product was produced without regulatory oversight for
43 health, safety or efficacy."

44 (vi) "The intoxicating effects of this product may be delayed by
45 two or more hours."

46 (vii) "There may be health risks associated with the
47 consumption of this product, including for women who are
48 pregnant, breastfeeding, or planning on becoming pregnant."

1 (viii) No licensed marijuana establishment shall place or
2 maintain, or cause to be placed or maintained an advertisement of
3 marijuana items or marijuana paraphernalia in any form or through
4 any medium whatsoever within 200 feet of an elementary or
5 secondary school grounds, recreation center or facility, arcade,
6 child care center, public park, playground, public swimming pool or
7 library; on or in a public transit vehicle or public transit shelter; on
8 or in publicly owned or operated property. For the purposes of this
9 section, a noncommercial message shall not be considered an
10 advertisement. This section also shall not apply to advertisements
11 within the premises of a marijuana retailer.

12 (10) A requirement that only marijuana items and marijuana
13 paraphernalia are available for sale at a marijuana establishment;
14 and

15 (11) Procedures for the division to conduct announced and
16 unannounced visits to marijuana establishments to make, or cause to
17 be made, such investigations as it shall deem proper in the
18 administration of P.L. ,c. (C.)(pending before the
19 Legislature as this bill) and any and all other laws which may
20 hereafter be enacted concerning marijuana, or the manufacture,
21 distribution or sale thereof, or the collection of taxes thereon,
22 including the inspection and search of premises for which the
23 license is sought or has been issued, of any building containing the
24 same, of licensed buildings, examination of the books, records,
25 accounts, documents and papers of the licensees or on the licensed
26 premises;

27 (a) The division shall be authorized, after adequate notice to the
28 owner or the agent of the owner, to make an examination of the
29 books and may at any time make an examination of the premises of
30 any person licensed under P.L. ,c. (C.)(pending before the
31 Legislature as this bill) for the purpose of determining compliance
32 with this act and the rules of the division. The division shall not
33 require the books of any licensee to be maintained on the premises
34 of the licensee.

35 (b) The division may, at any time, examine the books and
36 records of any marijuana producer, and may appoint auditors,
37 investigators and other employees that the division considers
38 necessary to enforce its powers and perform its duties.

39 (c) During any inspection of a licensed premises, the division
40 may require proof that a person performing work at the premises is
41 21 years of age or older. If the person does not provide the division
42 with acceptable proof of age upon request, the division may require
43 the person to immediately cease any activity and leave the premises
44 until the division receives acceptable proof of age.

45 (d) The division shall not be required to obtain a search warrant
46 to conduct an investigation or search of licensed premises.

47 (12) Record keeping requirements, including but not limited to
48 the following:

1 (a) (i) the obligation of every marijuana producer to keep a
2 complete and accurate record of all sales of marijuana flowers,
3 marijuana leaves, and immature marijuana plants, and a complete
4 and accurate record of the number of marijuana flowers produced,
5 the number of ounces of marijuana leaves produced, the number of
6 immature marijuana plants produced, and the dates of production;
7 and

8 (ii) the obligation of every marijuana establishment to keep a
9 complete and accurate record of all sales of marijuana, and a
10 complete and accurate record of the number of ounces of marijuana
11 items sold, provided that marijuana retailers shall not retain
12 personally identifying information about persons 21 years of age
13 who or older who purchase marijuana or marijuana products in
14 marijuana retailers. Such records shall be kept and maintained for
15 two years. The records shall be in such form and contain such other
16 information as the division may require.

17 (b) The division may, at any time, but with adequate notice,
18 examine the books and records of any marijuana establishment, and
19 may appoint auditors, investigators, and other employees that the
20 division considers necessary to enforce its powers and duties as
21 described in P.L. , c. (C.) (pending before the Legislature as this
22 bill).

23 (13) Procedures for inspecting samples of marijuana items,
24 including:

25 (a) On a schedule determined by the division, every licensed
26 marijuana producer and processor must submit representative
27 samples of marijuana, useable marijuana, or marijuana-infused
28 products produced or processed by the licensee to an independent,
29 third-party testing laboratory meeting the accreditation
30 requirements established by the division, for inspection and testing
31 to certify compliance with standards adopted by the division. Any
32 sample remaining after testing shall be destroyed by the laboratory
33 or returned to the licensee.

34 (b) Licensees must submit the results of this inspection and
35 testing to the division on a form developed by the division.

36 (c) If a representative sample inspected and tested under this
37 section does not meet the applicable standards adopted by the
38 division, the entire lot from which the sample was taken must be
39 destroyed.

40 (14) Establishing the number of marijuana retailers:

41 (a) Assuming there are sufficient qualified applicants for
42 licensure, there shall be at least one marijuana retail store per
43 county.

44 (b) A determination of the maximum number of marijuana
45 retailers that may be licensed in each local governmental entity,
46 taking into consideration:

47 (i) population distribution, provided that the division shall
48 consider seasonal fluctuations in the population of the county and

1 shall ensure that there are adequate licensed premises to serve the
2 market demands of the county during the peak seasons;

3 (ii) the provision of adequate access to licensed sources of
4 useable marijuana and marijuana products to discourage purchases
5 from the illegal market;

6 (15) Civil penalties for the failure to comply with regulations
7 made pursuant to this section.

8 b. In order to ensure that individual privacy is protected, the
9 division shall not require a consumer to provide a marijuana retailer
10 with personal information other than government-issued
11 identification to determine the consumer's age, and a marijuana
12 retailer shall not be required to acquire and record personal
13 information about consumers other than information typically
14 acquired in a financial transaction conducted by the holder of a
15 Class C retail license concerning alcoholic beverages as set forth in
16 R.S.33:1-12.

17 c. Once regulations are adopted pursuant to subsection a. of
18 this section, but prior to the commencement of the application
19 process, the division shall conduct a series of information sessions
20 in every county in New Jersey to educate New Jerseyans about the
21 responsibilities, opportunities, requirements, obligations, and
22 processes for application for a license to operate a marijuana
23 establishment. The division shall conduct an appropriate number of
24 information sessions in each county considering the population of
25 each county, but no fewer than two information sessions in each
26 county. The division shall publicize the day, time, location, and
27 agenda of these information sessions broadly through television,
28 radio, internet, print, and through local agencies.

29 d. The division shall:

30 (i) Examine available research, and may conduct or commission
31 new research or convene an expert task force, to investigate the
32 influence of marijuana on the ability of a person to drive a vehicle
33 and on the concentration of delta-9 tetrahydrocannabinol in a
34 person's blood, in each case taking into account all relevant factors;
35 and

36 (ii) Present the results of the research to the Legislature and
37 make recommendations to the Legislature regarding whether any
38 amendments to the rules and regulations adopted by the division are
39 appropriate.

40

41 9. (New section) Tracking system. a. The division shall
42 develop and maintain a system for tracking the transfer of
43 marijuana items between licensed premises.

44 b. The purposes of the system developed and maintained under
45 this section include, but are not limited to:

46 (1) Preventing the diversion of marijuana items to criminal
47 enterprises, gangs, cartels and other states;

- 1 (2) Preventing persons from substituting or tampering with
2 marijuana items;
- 3 (3) Ensuring an accurate accounting of the production,
4 processing and sale of marijuana items;
- 5 (4) Ensuring that taxes are collected for the purpose of being
6 distributed as described in section 10 of P.L. ,
7 c. (C.)(pending before the Legislature as this bill);
- 8 (5) Ensuring that laboratory testing results are accurately
9 reported; and
- 10 (6) Ensuring compliance with the rules and regulations adopted
11 under the provisions of P.L. , c. (C.)(pending before the
12 Legislature as this bill), and any other law of this State that charges
13 the division with a duty, function or power related to marijuana.
- 14 c. The system developed and maintained under this section
15 must be capable of tracking, at a minimum:
- 16 (1) The propagation of immature marijuana plants and the
17 production of marijuana by a marijuana producer;
- 18 (2) The processing of marijuana by a marijuana processor;
- 19 (3) The receiving, storing and delivering of marijuana items by
20 a marijuana wholesaler;
- 21 (4) The sale of marijuana items by a marijuana retailer to a
22 consumer;
- 23 (5) The purchase and sale of marijuana items between licensees;
- 24 (6) The transfer of marijuana items between licensed premises;
- 25 (7) The collection of taxes imposed upon the retail sale of
26 marijuana items and
- 27 (8) Any other information that the division determines is
28 reasonably necessary to accomplish the duties, functions and
29 powers of the division.
- 30
- 31 10. (New section) Taxation.
- 32 a. There shall be a tax levied upon marijuana or marijuana
33 products sold or otherwise transferred by a marijuana retailer to a
34 person 21 years of age or older at a rate of seven percent. To
35 encourage early participation in and development of marijuana
36 establishments and to undermine the illegal marketplace, the tax
37 shall escalate annually over a three year period: such that in year
38 one following the enactment of P.L. , c. (C.)(pending
39 before the Legislature as this bill), the excise tax shall be seven
40 percent; and in year two, the tax shall be 10 percent; and in year
41 three, the tax rate shall be 15 percent; and in year four the tax rate
42 shall be 20 percent and in year five and beyond, the tax shall be 25
43 percent.
- 44 b. The division shall regularly review the tax levels established
45 under this section and make recommendations to the Legislature as
46 appropriate regarding adjustments that would further the goals of
47 discouraging use, particularly by those under the age of 21;

1 undercutting illegal market prices; and maximizing taxation
2 revenue.

3 c. Statements as to quantities sold. At such periods to be
4 established by the Department of the Treasury, but no more than
5 once per calendar month, every marijuana producer shall file with
6 the Division of Taxation in the Department of the Treasury a
7 statement of the quantities of marijuana flowers, marijuana leaves,
8 and immature marijuana plants sold by the marijuana producer
9 during the preceding period.

10 d. Estimate by Division of Taxation when statement not filed
11 or false statement filed. If any marijuana producer fails, neglects,
12 or refuses to file a statement required by subsection c. of this
13 section or files a false statement, the Department of the Treasury
14 shall estimate the quantities of marijuana flowers, marijuana leaves,
15 and immature marijuana plants sold by the marijuana producer and
16 assess the taxes thereon. The marijuana producer shall be estopped
17 from complaining of the quantities so estimated.

18 e. Lien created by the tax. The tax required to be paid by this
19 section constitutes a lien upon, and has the effect of an execution
20 duly levied against, any and all property of the marijuana retailer,
21 attaching at the time the marijuana flowers, marijuana leaves, and
22 immature marijuana plants subject to the tax were sold, and
23 remaining until the tax is paid. The lien created by this section is
24 paramount to all private liens or encumbrances.

25 f. The Department of the Treasury shall establish procedures
26 for the collection of all taxes levied.

27 No tax established by this section shall be levied upon marijuana
28 intended for sale at medical marijuana centers pursuant to the “New
29 Jersey Compassionate Use Medical Marijuana Act,” P.L.2009,
30 c.307 (C.24:6I-1 et seq.).

31 g. The tax revenue shall be collected by the Director of the
32 Division of Taxation and shall be deposited by the Director of the
33 Division of Taxation into the nonlapsing fund established pursuant
34 to section 38 of P.L., c. (C.) (pending before the Legislature as
35 this bill), and shall be used to fund the Division of Marijuana
36 Enforcement, except that during the first year the tax is collected
37 one percent shall be allocated to the local governmental entity in
38 which the marijuana establishment is located; during year two, two
39 percent shall be allocated to the local governmental entity in which
40 the marijuana establishment is located; and in year three and each
41 subsequent year thereafter, three percent shall be allocated to the
42 local governmental entity in which the marijuana establishment is
43 located.

44
45 11. (New section) Local governmental entity regulation or
46 ordinance.

47 a. Not later than one year following the effective date of
48 P.L. , c. (C.) (pending before the Legislature as this bill),

1 each local governmental entity shall enact an ordinance or
2 regulation specifying the entity within the local governmental entity
3 that is responsible for processing applications submitted for a
4 license to operate a marijuana establishment within the boundaries
5 of the local governmental entity and for the issuance of such
6 licenses should the issuance by the local governmental entity
7 become necessary because of a failure by the Division to adopt
8 regulations or because of a failure by the Division to process and
9 issue licenses.

10 b. A local governmental entity may enact ordinances or
11 regulations, not in conflict with the provisions of P.L. ,

12 c. (C.) (pending before the Legislature as this bill):

13 (1) governing the time, place, manner, and number of marijuana
14 establishment operations;

15 (2) establishing procedures for the issuance, suspension, and
16 revocation of a license issued by the local governmental entity;

17 (3) establishing a schedule of annual operating, licensing, and
18 application fees for marijuana establishments, provided, the
19 application fee shall only be due if an application is submitted to a
20 local governmental entity in accordance with the provisions section
21 12 of P.L. , c. (C.) (pending before the Legislature as this bill) and
22 a licensing fee shall only be due if a license is issued by a local
23 governmental entity; and

24 (4) establishing civil penalties for violation of an ordinance or
25 regulation governing the time, place, and manner of a marijuana
26 establishment that may operate in such local governmental entity.

27 c. A local governmental entity may prohibit the operation of
28 marijuana cultivation facilities, marijuana product manufacturing
29 facilities, marijuana testing facilities, or marijuana retailers through
30 the enactment of an ordinance. The failure of a local governmental
31 entity to enact an ordinance prohibiting the operation of a marijuana
32 establishment within one year following the effective date of
33 P.L. , c. (C.) (pending before the Legislature as this bill)
34 shall thereby permit the operation of a marijuana retail
35 establishment within the local governmental entity for a period of
36 five years, at the end of which five year period, and every five year
37 period thereafter, the local governmental entity shall again be
38 permitted to prohibit the operation of a marijuana establishment.

39

40 12. (New section) Application. a. Each application for an
41 annual license to operate a marijuana establishment shall be
42 submitted to the division. A separate license shall be required for
43 each location at which a marijuana establishment seeks to operate.
44 Renewal applications may be filed up to 90 days prior to the
45 expiration of the establishment's license. The division shall:

46 (1) begin accepting and processing applications one year
47 following the effective date of P.L. , c. (C.) (pending before
48 the Legislature as this bill);

1 (2) immediately forward a copy of each application to the local
2 governmental entity in which the applicant desires to operate the
3 marijuana establishment;

4 (3) upon the approval of a license application and collection of
5 the annual license fee, issue an annual license to the applicant
6 between 45 and 90 days after receipt of an application unless the
7 division finds the applicant is not in compliance with regulations
8 enacted pursuant to the provisions of section 8 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) or the
10 division is notified by the relevant local governmental entity that
11 the applicant is not in compliance with ordinances and regulations
12 made pursuant to the provisions of section 11 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill) and in
14 effect at the time of application, provided, where a local
15 governmental entity has enacted a numerical limit on the number of
16 marijuana establishments and a greater number of applicants seek
17 licenses, the division shall solicit and consider input from the local
18 governmental entity as to the local governmental entity's preference
19 or preferences for licensure; and

20 (4) upon denial of an application, notify the applicant in writing
21 of the specific reason for its denial.

22 b. If the division does not issue a license to an applicant within
23 90 days of receipt of the completed application filed pursuant to
24 subsection a. of this section, and does not notify the applicant of the
25 specific reason for its denial, in writing and within such time
26 period; or, if the division has adopted regulations pursuant to
27 subsection a. of section 8 of P.L. ,c. , (C.) (pending before
28 the Legislature as this bill) and has accepted applications pursuant
29 to subsection a. of this section but has not issued any licenses 90
30 days after one year following the effective date of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), the
32 applicant may resubmit its application directly to the local
33 governmental entity, and the local governmental entity may issue an
34 annual license to the applicant unless the local governmental entity
35 has enacted an ordinance prohibiting the operation of a marijuana
36 establishment. A local governmental entity issuing a license to an
37 applicant shall do so within 90 days of receipt of the resubmitted
38 application unless the local governmental entity finds and notifies
39 the applicant that the applicant is not in compliance with ordinances
40 and regulations in effect at the time the application is resubmitted.
41 The local governmental entity shall notify the division if an annual
42 license has been issued to the applicant. If an application is
43 submitted to a local governmental entity under this subsection, the
44 division shall forward to the local governmental entity the
45 application fee paid by the applicant to the division upon request by
46 the local governmental entity. A license issued by a local
47 governmental entity in accordance with this subsection shall have
48 the same force and effect as a license issued by the division and the

1 holder of such license shall not be subject to regulation or
2 enforcement by the division during the term of that license. A
3 subsequent or renewed license may be issued under this subsection
4 on an annual basis only upon resubmission to the local
5 governmental entity of a new application submitted to the division.

6 c. If the division does not adopt regulations required by
7 subsection a. of section 8 of P.L. , c. , (C.) (pending before
8 the Legislature as this bill), an applicant may submit an application
9 directly to a local governmental entity one year following the
10 effective date of P.L. , c. , (C.) (pending before the
11 Legislature as this bill), and the local governmental entity may issue
12 an annual license to the applicant. A local governmental entity
13 issuing a license to an applicant shall do so within 90 days of
14 receipt of the application unless it finds and notifies the applicant
15 that the applicant is not in compliance with ordinances and
16 regulations in effect at the time of application and shall notify the
17 division if an annual license has been issued to the applicant. A
18 license issued by a local governmental entity in accordance with
19 this subsection shall have the same force and effect as a license
20 issued by the division and the holder of such license shall not be
21 subject to regulation or enforcement by the division during the term
22 of that license. A subsequent or renewed license may be issued
23 under this subsection on an annual basis if the division has not
24 adopted regulations required by section 8 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill) at least
26 90 days prior to the date upon which such subsequent or renewed
27 license would be effective.

28 d. No employee of the division shall have any interest, directly
29 or indirectly, in the producing, processing, or sale of marijuana,
30 marijuana products, or marijuana paraphernalia, or derive any profit
31 or remuneration from the sale of marijuana, marijuana products, or
32 marijuana paraphernalia, other than the salary or wages payable to
33 him or her in respect of his or her position, or receive any gratuity
34 from any person in connection with the application for a license or
35 the sale of marijuana, marijuana products, or marijuana
36 paraphernalia.

37

38 13. (New section) A marijuana producer must have a Class 1
39 Marijuana Cultivation Facility license (Marijuana Producers
40 license) issued by the division for the premises at which the
41 marijuana is produced. The division shall determine the maximum
42 number of licenses but, providing there exist qualified applicants,
43 shall issue a sufficient number of licenses to meet the production
44 demands that implementation of P.L. , c. (C.) (pending
45 before the Legislature as this bill) requires.

46 A person who has been convicted of a crime involving any
47 controlled dangerous substance or controlled substance analog as
48 set forth in chapter 35 of Title 2C of the New Jersey Statutes except

1 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
2 of the United States or any other state shall not be issued a Class 1
3 Marijuana Cultivation Facility license, unless such conviction
4 occurred after the effective date of P.L. _____,
5 c. (C. _____) (pending before the Legislature as this bill) and
6 was for a violation of federal law relating to possession or sale of
7 marijuana for conduct that is authorized under P.L. _____,
8 c. (C. _____) (pending before the Legislature as this bill).

9 a. To hold a production license under this section, a marijuana
10 producer:

11 (1) Must apply for a license in the manner described in section
12 12 of P.L. _____, c. (C. _____) (pending before the Legislature as
13 this bill);

14 (2) Must provide proof that an applicant listed on an application
15 submitted under section 12 of P.L. _____, c. (C. _____) (pending
16 before the Legislature as this bill), has been a resident of this State
17 for two or more years, and must provide proof that the applicant is
18 21 years of age or older;

19 (3) Must meet the requirements of any rule or regulation
20 adopted by the Division under subsection b. of this section; and

21 (4) Must undergo a criminal history record background check.

22 (a) Pursuant to this provision, the director is authorized to
23 exchange fingerprint data with and receive criminal history record
24 background information from the Division of State Police and the
25 Federal Bureau of Investigation consistent with the provisions of
26 applicable federal and State laws, rules, and regulations. The
27 Division of State Police shall forward criminal history record
28 background information to the director in a timely manner when
29 requested pursuant to the provisions of this section.

30 (b) An applicant shall submit to being fingerprinted in
31 accordance with applicable State and federal laws, rules, and
32 regulations. No check of criminal history record background
33 information shall be performed pursuant to this section unless the
34 applicant has furnished his written consent to that check. An
35 applicant who refuses to consent to, or cooperate in, the securing of
36 a check of criminal history record background information shall not
37 be considered for a production license. An applicant shall bear the
38 cost for the criminal history record background check, including all
39 costs of administering and processing the check.

40 (c) The director shall not approve an applicant for a Class 1
41 Marijuana Cultivation facility license (Marijuana Producers license)
42 if the criminal history record background information of the
43 applicant reveals any disqualifying conviction.

44 (d) Upon receipt of the criminal history record background
45 information from the Division of State Police and the Federal
46 Bureau of Investigation, the director shall provide written
47 notification to the applicant of his qualification for or
48 disqualification for a Class 1 Marijuana Cultivation Facility license.

1 If the applicant is disqualified because of a disqualifying
2 conviction pursuant to the provisions of this section, the conviction
3 that constitutes the basis for the disqualification shall be identified
4 in the written notice.

5 (e) The Division of State Police shall promptly notify the
6 director in the event that an individual who was the subject of a
7 criminal history record background check conducted pursuant to
8 this section is convicted of a crime or offense in this State after the
9 date the background check was performed. Upon receipt of that
10 notification, the director shall make a determination regarding the
11 continued eligibility to hold a Class 1 Marijuana Cultivation
12 Facility license (Marijuana Producers license).

13 b. The division shall adopt rules that:

14 (1) Require a marijuana producer to annually renew a license
15 issued under this section;

16 (2) Establish application, licensure, and renewal of licensure
17 fees for marijuana producers;

18 (3) Require marijuana produced by marijuana producers to be
19 tested in accordance with section 8 of P.L. _____,

20 c. (C. _____) (pending before the Legislature as this bill);

21 (4) Require marijuana producers to submit, at the time of
22 applying for or renewing a license under section 12 of P.L. _____,

23 c. (C. _____) (pending before the Legislature as this bill), a report
24 describing the applicant's or licensee's electrical and water usage;
25 and

26 (5) Require a marijuana producer to meet any public health and
27 safety standards, industry best practices, and all applicable
28 regulations established by the division by rule or regulation related
29 to the production of marijuana; or the propagation of immature
30 marijuana plants and the seeds of the plant Cannabis family
31 Cannabaceae. The division may not limit the number of immature
32 marijuana plants that may be possessed by a marijuana producer
33 licensed under this section; the size of the grow canopy a marijuana
34 producer licensed under this section uses to grow immature
35 marijuana plants; or the weight or size of shipments of immature
36 marijuana plants made by a marijuana producer licensed under this
37 section.

38 c. Fees adopted under subsection b. of this section:

39 (1) Shall be in the form of a schedule that imposes a greater fee
40 for premises with more square footage or on which more mature
41 marijuana plants are grown; and

42 (2) Shall be deposited in the Marijuana Control and Regulation
43 Fund established under section 38 of P.L. _____,

44 c. (C. _____) (pending before the Legislature as this bill).

45 d. The director shall issue a Class 1 Marijuana Cultivation
46 Facility license if it finds that issuing such a license would be
47 consistent with the purposes of P.L. _____, c. (C. _____) (pending
48 before the Legislature as this bill) and the requirements of this

1 section are met and the information contained in the application has
2 been verified. The director shall approve or deny an application
3 within 60 days after receipt of a completed application. The denial
4 of an application shall be considered a final agency decision,
5 subject to review by the Appellate Division of the Superior Court.
6 The director may suspend or revoke a license to operate as a Class 1
7 Marijuana Cultivation Facility for cause, which shall be subject to
8 review by the Appellate Division of the Superior Court.

9 e. A person who has been issued a license pursuant to this
10 section shall display the license at the premises at all times when
11 marijuana is being produced.

12 f. A licensee shall report any change in information to the
13 Director not later than 10 days after such change, or the license
14 shall be deemed null and void.

15

16 14. (New section) a. Subject to subsection b. of this section, the
17 division shall adopt rules or regulations restricting the size of
18 mature marijuana plant grow canopies at premises for which a
19 license has been issued under section 13 of P.L. ,

20 c. (C.) (pending before the Legislature as this bill).

21 b. In adopting rules under this subsection, the division shall:

22 (1) Limit the size of mature marijuana plant grow canopies for
23 premises where marijuana is grown outdoors and for premises
24 where marijuana is grown indoors in a manner calculated to result
25 in premises that produce the same amount of harvested marijuana
26 leaves and harvested marijuana flowers, regardless of whether the
27 marijuana is grown outdoors or indoors.

28 (2) Adopt a tiered system under which the permitted size of a
29 marijuana producer's mature marijuana plant grow canopy increases
30 at the time of licensure renewal, except that the permitted size of a
31 marijuana producer's mature marijuana plant grow canopy may not
32 increase following any year during which the division disciplined
33 the marijuana producer for violating a provision of or a rule adopted
34 under a provision of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 (3) Take into consideration the market demand for marijuana
37 items in this state, the number of persons applying for a license
38 under section 12 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), and to whom a license has been issued
40 under section 13 of P.L. , c. (C.) (pending before the
41 Legislature as this bill), and whether the availability of marijuana
42 items in this State is commensurate with the market demand.

43 c. This section shall not apply to a premises for which a license
44 has been issued under section 13 of P.L. ,

45 c. (C.) (pending before the Legislature as this bill), if the
46 premises is used only to propagate immature marijuana plants.

1 15. (New section) A marijuana processor must have a Class 1
2 Marijuana Product Manufacturing Facility license (Marijuana
3 Processor license) issued by the division for the premises at which
4 the marijuana is produced. The division shall determine the
5 maximum number of licenses but, providing there exist qualified
6 applicants, shall issue a sufficient number of licenses to meet the
7 production demands that implementation of P.L. ,
8 c. (C.) (pending before the Legislature as this bill)
9 requires.

10 A person who has been convicted of a crime involving any
11 controlled dangerous substance or controlled substance analog as
12 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
13 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
14 of the United States or any other state shall not be issued a Class 1
15 Marijuana Product Manufacturing Facility license, unless such
16 conviction occurred after the effective date of P.L. ,
17 c. (C.) (pending before the Legislature as this bill) and was
18 for a violation of federal law relating to possession or sale of
19 marijuana for conduct that is authorized under P.L. ,
20 c. (C.) (pending before the Legislature as this bill).

21 a. To hold a processing license under this section, a marijuana
22 processor:

23 (1) Must apply for a license in the manner described in section
24 12 of P.L. , c. (C.) (pending before the Legislature as
25 this bill);

26 (2) Must provide proof that an applicant listed on an application
27 submitted under section 12 of P.L. , c. (C.) (pending
28 before the Legislature as this bill), has been a resident of this State
29 for two or more years, and must provide proof that the applicant is
30 21 years of age or older;

31 (3) Must meet the requirements of any rule or regulation
32 adopted by the division under subsection b. of this section; and

33 (4) Must undergo a criminal history record background check.

34 (a) Pursuant to this provision, the Director is authorized to
35 exchange fingerprint data with and receive criminal history record
36 background information from the Division of State Police and the
37 Federal Bureau of Investigation consistent with the provisions of
38 applicable federal and State laws, rules, and regulations. The
39 Division of State Police shall forward criminal history record
40 background information to the commissioner in a timely manner
41 when requested pursuant to the provisions of this section.

42 (b) An applicant shall submit to being fingerprinted in
43 accordance with applicable State and federal laws, rules, and
44 regulations. No check of criminal history record background
45 information shall be performed pursuant to this section unless the
46 applicant has furnished his written consent to that check. An
47 applicant who refuses to consent to, or cooperate in, the securing of
48 a check of criminal history record background information shall not

1 be considered for a processing license. An applicant shall bear the
2 cost for the criminal history record background check, including all
3 costs of administering and processing the check.

4 (c) The director shall not approve an applicant for a Class 1
5 Marijuana Product Manufacturing Facility license if the criminal
6 history record background information of the applicant reveals any
7 disqualifying conviction.

8 (d) Upon receipt of the criminal history record background
9 information from the Division of State Police and the Federal
10 Bureau of Investigation, the director shall provide written
11 notification to the applicant of his qualification for or
12 disqualification for a Class 1 Marijuana Product Manufacturing
13 Facility license.

14 If the applicant is disqualified because of a disqualifying
15 conviction pursuant to the provisions of this section, the conviction
16 that constitutes the basis for the disqualification shall be identified
17 in the written notice.

18 (e) The Division of State Police shall promptly notify the
19 director in the event that an individual who was the subject of a
20 criminal history record background check conducted pursuant to
21 this section is convicted of a crime or offense in this State after the
22 date the background check was performed. Upon receipt of that
23 notification, the director shall make a determination regarding the
24 continued eligibility to hold a Class 1 Marijuana Product
25 Manufacturing Facility license (Marijuana Processers license).

26 b. The division shall adopt rules that:

27 (1) Require a marijuana processor to annually renew a license
28 issued under this section;

29 (2) Establish application, licensure, and renewal of licensure
30 fees for marijuana processers;

31 (3) Require marijuana produced by marijuana processers to be
32 tested in accordance with section 8 of P.L. _____ ,

33 c. (C. _____) (pending before the Legislature as this bill);

34 (4) Require marijuana processers to submit, at the time of
35 applying for or renewing a license under section 12 of P.L. _____ ,

36 c. (C. _____) (pending before the Legislature as this bill) a report
37 describing the applicant's or licensee's electrical and water usage;
38 and

39 (5) Require a marijuana processor to meet any public health and
40 safety standards, industry best practices, and all applicable
41 regulations established by the division by rule or regulation related
42 to the processing of marijuana.

43 c. Fees adopted under subsection b. of this section:

44 (1) Shall be in the form of a schedule that imposes a greater fee
45 for premises with more square footage; and

46 (2) Shall be deposited in the Marijuana Control and Regulation
47 Fund established under section 38 of P.L. _____ ,

48 c. (C. _____) (pending before the Legislature as this bill).

1 d. The Director shall issue a Class 1 Marijuana Product
2 Manufacturing Facility license if it finds that issuing such a license
3 would be consistent with the purposes of P.L. ,
4 c. (C.) (pending before the Legislature as this bill) and the
5 requirements of this section are met and the information contained
6 in the application has been verified. The director shall approve or
7 deny an application within 60 days after receipt of a completed
8 application. The denial of an application shall be considered a final
9 agency decision, subject to review by the Appellate Division of the
10 Superior Court. The director may suspend or revoke a license to
11 operate as marijuana production facility for cause, which shall be
12 subject to review by the Appellate Division of the Superior Court.

13 e. A person who has been issued a license pursuant to this
14 section shall display the license at the premises at all times when
15 marijuana is being produced.

16 f. A licensee shall report any change in information to the
17 director not later than 10 days after such change, or the license shall
18 be deemed null and void.

19

20 16. (New section) A marijuana wholesaler must have a Class 2
21 Marijuana Wholesaler license issued by the division for the
22 premises at which the marijuana is warehoused. The division shall
23 determine the maximum number of licenses but, providing there
24 exist qualified applicants, shall issue a sufficient number of licenses
25 to meet the wholesaler demands that implementation of this act
26 requires.

27 A person who has been convicted of a crime involving any
28 controlled dangerous substance or controlled substance analog as
29 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
30 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
31 of the United States or any other state shall not be issued a Class 2
32 Marijuana Wholesaler license, unless such conviction occurred after
33 the effective date of P.L. , c. (C.) (pending before the
34 Legislature as this bill) and was for a violation of federal law
35 relating to possession or sale of marijuana for conduct that is
36 authorized under P.L. , c. (C.) (pending before the
37 Legislature as this bill).

38 a. To hold a Marijuana Wholesaler license under this section, a
39 marijuana wholesaler:

40 (1) Must apply for a license in the manner described in section
41 12 of P.L. , c. (C.) (pending before the Legislature as
42 this bill);

43 (2) Must provide proof that an applicant listed on an application
44 submitted under section 12 of P.L. , c. (C.) (pending
45 before the Legislature as this bill), has been a resident of this State
46 for two or more years, and must provide proof that the applicant is
47 21 years of age or older;

1 (3) Must meet the requirements of any rule or regulation
2 adopted by the Division under subsection b. of this section; and

3 (4) Must undergo a criminal history record background check.

4 (a) Pursuant to this provision, the director is authorized to
5 exchange fingerprint data with and receive criminal history record
6 background information from the Division of State Police and the
7 Federal Bureau of Investigation consistent with the provisions of
8 applicable federal and State laws, rules, and regulations. The
9 Division of State Police shall forward criminal history record
10 background information to the director in a timely manner when
11 requested pursuant to the provisions of this section.

12 (b) An applicant shall submit to being fingerprinted in
13 accordance with applicable State and federal laws, rules, and
14 regulations. No check of criminal history record background
15 information shall be performed pursuant to this section unless the
16 applicant has furnished his written consent to that check. An
17 applicant who refuses to consent to, or cooperate in, the securing of
18 a check of criminal history record background information shall not
19 be considered for a wholesalers license. An applicant shall bear the
20 cost for the criminal history record background check, including all
21 costs of administering and processing the check.

22 (c) The director shall not approve an applicant for a Class 2
23 Marijuana Wholesaler license if the criminal history record
24 background information of the applicant reveals any disqualifying
25 conviction.

26 (d) Upon receipt of the criminal history record background
27 information from the Division of State Police and the Federal
28 Bureau of Investigation, the director shall provide written
29 notification to the applicant of his qualification for or
30 disqualification for a Class 2 Marijuana Wholesaler license.

31 If the applicant is disqualified because of a disqualifying
32 conviction pursuant to the provisions of this section, the conviction
33 that constitutes the basis for the disqualification shall be identified
34 in the written notice.

35 (e) The Division of State Police shall promptly notify the
36 director in the event that an individual who was the subject of a
37 criminal history record background check conducted pursuant to
38 this section is convicted of a crime or offense in this State after the
39 date the background check was performed. Upon receipt of that
40 notification, the Director shall make a determination regarding the
41 continued eligibility to hold a Marijuana Wholesaler license.

42 b. The division shall adopt rules that:

43 (1) Require a marijuana wholesaler to annually renew a license
44 issued under this section;

45 (2) Establish application, licensure, and renewal of licensure
46 fees for marijuana wholesalers;

1 (3) Require marijuana warehoused by marijuana wholesalers to
2 be tested in accordance with section 8 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill);
4 (4) Require marijuana wholesalers to submit, at the time of
5 applying for or renewing a license under section 12 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill), a report
7 describing the applicant's or licensee's electrical and water usage;
8 and
9 (5) Require a marijuana wholesaler to meet any public health
10 and safety standards, industry best practices, and all applicable
11 regulations established by the division by rule or regulation related
12 to the warehousing of marijuana.
13 c. Fees adopted under subsection b. of this section:
14 (1) Shall be in the form of a schedule that imposes a greater fee
15 for premises with more square footage; and
16 (2) Shall be deposited in the Marijuana Control and Regulation
17 Fund established under section 38 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill).
19 d. The director shall issue a Class 2 Marijuana Wholesaler
20 license if it finds that issuing such a license would be consistent
21 with the purposes of this act and the requirements of this section are
22 met and the information contained in the application has been
23 verified. The director shall approve or deny an application within
24 60 days after receipt of a completed application. The denial of an
25 application shall be considered a final agency decision, subject to
26 review by the Appellate Division of the Superior Court. The
27 Director may suspend or revoke a Marijuana Wholesaler license for
28 cause, which shall be subject to review by the Appellate Division of
29 the Superior Court.
30 e. A person who has been issued a license pursuant to this
31 section shall display the license at the premises at all times when
32 marijuana is being warehoused.
33 f. A licensee shall report any change in information to the
34 director not later than 10 days after such change, or the license shall
35 be deemed null and void.
36
37 17. (New section) A marijuana retailer must have a Class 3
38 Marijuana Retailer license issued by the division for the premises at
39 which the marijuana is retailed. The division shall determine the
40 maximum number of licenses but, providing there exist qualified
41 applicants, shall issue a sufficient number of licenses to meet the
42 wholesaler demands that implementation of P.L. ,
43 c. (C.) (pending before the Legislature as this bill)
44 requires.
45 A person who has been convicted of a crime involving any
46 controlled dangerous substance or controlled substance analog as
47 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
48 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law

1 of the United States or any other state shall not be issued a Class 3
2 Marijuana Retailer license, unless such conviction occurred after
3 the effective date of this act and was for a violation of federal law
4 relating to possession or sale of marijuana for conduct that is
5 authorized under P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 a. To hold a retailers license under this section, a marijuana
8 retailer:

9 (1) Must apply for a license in the manner described in section
10 12 of P.L. , c. (C.) (pending before the Legislature as
11 this bill);

12 (2) Must provide proof that an applicant listed on an application
13 submitted under section 12 of P.L. , c. (C.) (pending
14 before the Legislature as this bill), has been a resident of this State
15 for two or more years, and must provide proof that the applicant is
16 21 years of age or older;

17 (3) Must meet the requirements of any rule adopted by the
18 Division under subsection b. of this section; and

19 (4) Must undergo a criminal history record background check.

20 (a) Pursuant to this provision, the director is authorized to
21 exchange fingerprint data with and receive criminal history record
22 background information from the Division of State Police and the
23 Federal Bureau of Investigation consistent with the provisions of
24 applicable federal and State laws, rules, and regulations. The
25 Division of State Police shall forward criminal history record
26 background information to the director in a timely manner when
27 requested pursuant to the provisions of this section.

28 (b) An applicant shall submit to being fingerprinted in
29 accordance with applicable State and federal laws, rules, and
30 regulations. No check of criminal history record background
31 information shall be performed pursuant to this section unless the
32 applicant has furnished his written consent to that check. An
33 applicant who refuses to consent to, or cooperate in, the securing of
34 a check of criminal history record background information shall not
35 be considered for a retailers license. An applicant shall bear the
36 cost for the criminal history record background check, including all
37 costs of administering and processing the check.

38 (c) The director shall not approve an applicant for a Class 3
39 Marijuana Retailer license if the criminal history record background
40 information of the applicant reveals any disqualifying conviction.

41 (d) Upon receipt of the criminal history record background
42 information from the Division of State Police and the Federal
43 Bureau of Investigation, the director shall provide written
44 notification to the applicant of his qualification for or
45 disqualification for a Class 3 Marijuana Retailers license.

46 If the applicant is disqualified because of a disqualifying
47 conviction pursuant to the provisions of this section, the conviction

1 that constitutes the basis for the disqualification shall be identified
2 in the written notice.

3 (e) The Division of State Police shall promptly notify the
4 director in the event that an individual who was the subject of a
5 criminal history record background check conducted pursuant to
6 this section is convicted of a crime or offense in this State after the
7 date the background check was performed. Upon receipt of that
8 notification, the director shall make a determination regarding the
9 continued eligibility to hold a Marijuana Retailers license.

10 b. The division shall adopt rules that:

11 (1) Require a marijuana retailers to annually renew a license
12 issued under this section;

13 (2) Establish application, licensure, and renewal of licensure
14 fees for marijuana retailers;

15 (3) Require marijuana sold by marijuana retailer to be tested in
16 accordance with section 8 of P.L. , c. (C.) (pending
17 before the Legislature as this bill);

18 (4) Require marijuana retailers to submit, at the time of applying
19 for or renewing a license under section 12 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill), a report
21 describing the applicant's or licensee's electrical and water usage;
22 and

23 (5) Require a marijuana retailer to meet any public health and
24 safety standards, industry best practices, and all applicable
25 regulations established by the division by rule related to the sale of
26 marijuana.

27 c. Fees adopted under subsection b. of this section:

28 (1) Shall be in the form of a schedule that imposes a greater fee
29 for premises with more square footage; and

30 (2) Shall be deposited in the Marijuana Control and Regulation
31 Fund established under section 38 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill).

33 d. The director shall issue a Class 3 Marijuana Retailer license
34 if it finds that issuing such a license would be consistent with the
35 purposes of this act and the requirements of this section are met and
36 the information contained in the application has been verified. The
37 director shall approve or deny an application within 60 days after
38 receipt of a completed application. The denial of an application
39 shall be considered a final agency decision, subject to review by the
40 Appellate Division of the Superior Court. The director may
41 suspend or revoke a Marijuana Retailer license for cause, which
42 shall be subject to review by the Appellate Division of the Superior
43 Court.

44 e. A person who has been issued a license pursuant to this
45 section shall display the license at the premises at all times when
46 marijuana is being warehoused.

1 f. A licensee shall report any change in information to the
2 director not later than 10 days after such change, or the license shall
3 be deemed null and void.

4
5 18. (New section) A marijuana transporter must have a Class 4
6 Marijuana Transportation license issued by the division. The
7 division shall determine the maximum number of licenses but,
8 providing there exist qualified applicants, shall issue a sufficient
9 number of licenses to meet the transportation demands that
10 implementation of P.L. , c. (C.) (pending before the
11 Legislature as this bill) requires.

12 A person who has been convicted of a crime involving any
13 controlled dangerous substance or controlled substance analog as
14 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
15 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
16 of the United States or any other state shall not be issued a Class 4
17 Marijuana Transportation license, unless such conviction occurred
18 after the effective date of this act and was for a violation of federal
19 law relating to possession or sale of marijuana for conduct that is
20 authorized under P.L. c. , (C.) (pending before the Legislature as
21 this bill).

22 a. To hold a transportation license under this section, a
23 marijuana transporter:

24 (1) Must apply for a license in the manner described in section
25 12 of P.L. , c. (C.) (pending before the Legislature as
26 this bill);

27 (2) Must provide proof that an applicant listed on an application
28 submitted under section 12 of P.L. , c. (C.) (pending
29 before the Legislature as this bill), has been a resident of this State
30 for two or more years, and must provide proof that the applicant is
31 21 years of age or older;

32 (3) Must meet the requirements of any rule adopted by the
33 division under subsection b. of this section; and

34 (4) Must undergo a criminal history record background check.

35 (a) Pursuant to this provision, the director is authorized to
36 exchange fingerprint data with and receive criminal history record
37 background information from the Division of State Police and the
38 Federal Bureau of Investigation consistent with the provisions of
39 applicable federal and State laws, rules, and regulations. The
40 Division of State Police shall forward criminal history record
41 background information to the director in a timely manner when
42 requested pursuant to the provisions of this section.

43 (b) An applicant shall submit to being fingerprinted in
44 accordance with applicable State and federal laws, rules, and
45 regulations. No check of criminal history record background
46 information shall be performed pursuant to this section unless the
47 applicant has furnished his written consent to that check. An
48 applicant who refuses to consent to, or cooperate in, the securing of

1 a check of criminal history record background information shall not
2 be considered for a transportation license. An applicant shall bear
3 the cost for the criminal history record background check, including
4 all costs of administering and processing the check.

5 (c) The director shall not approve an applicant for a Class 4
6 Marijuana Transportation license if the criminal history record
7 background information of the applicant reveals any disqualifying
8 conviction.

9 (d) Upon receipt of the criminal history record background
10 information from the Division of State Police and the Federal
11 Bureau of Investigation, the director shall provide written
12 notification to the applicant of his qualification for or
13 disqualification for a Class 4 Marijuana Transportation license.

14 If the applicant is disqualified because of a disqualifying
15 conviction pursuant to the provisions of this section, the conviction
16 that constitutes the basis for the disqualification shall be identified
17 in the written notice.

18 (e) The Division of State Police shall promptly notify the
19 director in the event that an individual who was the subject of a
20 criminal history record background check conducted pursuant to
21 this section is convicted of a crime or offense in this State after the
22 date the background check was performed. Upon receipt of that
23 notification, the director shall make a determination regarding the
24 continued eligibility to hold a Marijuana Transportation license.

25 b. The division shall adopt rules that:

26 (1) Require a marijuana transporter to annually renew a license
27 issued under this section;

28 (2) Establish application, licensure, and renewal of licensure
29 fees for marijuana transporters;

30 (3) Require marijuana that is transported by a Marijuana
31 Transportation licensee to be tested in accordance with section 8 of
32 P.L. , c. (C.) (pending before the Legislature as this
33 bill);

34 (4) Require marijuana transporter to submit, at the time of
35 applying for or renewing a license under section 12 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), a report
37 describing the applicant's or licensee's electrical and water usage;
38 and

39 (5) Require a marijuana transporter to meet any public health
40 and safety standards, industry best practices, and all applicable
41 regulations established by the division by rule related to the
42 transporting of marijuana.

43 c. Fees adopted under subsection b. of this section:

44 (1) Shall be in the form of a schedule that imposes a greater fee
45 for premises with more square footage; and

46 (2) Shall be deposited in the Marijuana Control and Regulation
47 Fund established under section 38 of P.L. ,

48 c. (C.) (pending before the Legislature as this bill).

1 d. The director shall issue a Class 4 Marijuana Transportation
2 license if it finds that issuing such a license would be consistent
3 with the purposes of this act and the requirements of this section are
4 met and the information contained in the application has been
5 verified. The director shall approve or deny an application within
6 60 days after receipt of a completed application. The denial of an
7 application shall be considered a final agency decision, subject to
8 review by the Appellate Division of the Superior Court. The
9 director may suspend or revoke a Marijuana Transportation license
10 for cause, which shall be subject to review by the Appellate
11 Division of the Superior Court.

12 e. A person who has been issued a license pursuant to this
13 section shall display the license at the premises at all times when
14 marijuana is being warehoused.

15 f. A licensee shall report any change in information to the
16 director not later than 10 days after such change, or the license shall
17 be deemed null and void.

18

19 19. (New section) Marijuana handlers. a. An individual who
20 performs work for or on behalf of a person who holds a license
21 under P.L. , c. (C.) (pending before the Legislature as
22 this bill) shall have a valid permit issued by the division under this
23 section if the individual participates in:

24 (1) the possession, securing, or selling of marijuana items at the
25 premises for which the license has been issued; or

26 (2) the recording of the possession, securing, or selling of
27 marijuana items at the premises for which the license has been
28 issued.

29 b. A person who holds a license under P.L. ,
30 c. (C.) (pending before the Legislature as this bill) shall
31 verify that an individual has a valid permit issued under this section
32 before allowing the individual to perform any work described in
33 subsection a. of this section at the premises for which the license
34 has been issued.

35 c. The division shall issue permits to qualified applicants to
36 perform work described in this section. The division shall adopt
37 rules and regulations establishing the qualifications for performing
38 work described in this section, the terms of a permit issued under
39 this section; procedures for applying for and renewing a permit
40 issued under this section; and reasonable application, issuance and
41 renewal fees for a permit issued under this section.

42 d. The division may require an individual applying for a permit
43 under this section to successfully complete a course, made available
44 by or through the division, in which the individual receives training
45 on checking identification; detecting intoxication; handling
46 marijuana items; statutory and regulatory provisions relating to
47 marijuana; and any matter deemed necessary by the division to

1 protect the public health and safety. The division or other provider
2 may charge a reasonable fee for the course.

3 The division may not require an individual to successfully
4 complete the course more than once, except that the division may
5 adopt regulations directing continuing education training on a
6 prescribed schedule.

7 As part of a final order suspending a permit issued under this
8 section, the division may require a permit holder to successfully
9 complete the course as a condition of lifting the suspension and as
10 part of a final order revoking a permit issued under this section, the
11 division shall require an individual to successfully complete the
12 course prior to applying for a new permit.

13 e. The division shall conduct a criminal history record
14 background check on an individual applying for a permit under this
15 section.

16 f. The division may suspend, revoke or refuse to issue or
17 renew a permit if the individual who is applying for or who holds
18 the permit violates any provision of P.L. ,

19 c. (C.) (pending before the Legislature as this bill), or any
20 rule or regulation adopted under P.L. , c. (C.) (pending
21 before the Legislature as this bill); or makes a false statement to the
22 division; or refuses to cooperate in any investigation by the
23 division, or, if the individual is convicted of a crime, except that the
24 division may not consider a conviction for the manufacture or
25 delivery of marijuana if the date of the conviction is two or more
26 years before the date of the application or renewal; or if the date of
27 the last criminal conviction is more than ten years before the date of
28 the application or renewal.

29 g. A permit issued under this section is a personal privilege and
30 permits work described under this section only for the individual
31 who holds the permit.

32

33 20. (New section) Marketplace Regulation.

34 a. It shall be unlawful for any owner, part owner, stockholder,
35 officer, or director of any corporation, or any other person
36 interested in any marijuana cultivation facility, marijuana testing
37 facility, or marijuana product manufacturing facility, or any
38 wholesaler of marijuana, to conduct, own either in whole or in part,
39 or be directly or indirectly interested in the retailing of any
40 marijuana in New Jersey, and such interest shall include any
41 payments or delivery of money or property by way of loan or
42 otherwise accompanied by an agreement to sell the product of said
43 marijuana cultivation facility, marijuana testing facility, or
44 marijuana product manufacturing facility, or any wholesaler of
45 marijuana.

46 b. It shall be unlawful for any owner, part owner, stockholder,
47 officer, or director of any corporation, or any other person
48 interested in any retailing of marijuana to conduct, own either

1 whole or in part, or to be a shareholder, officer or director of a
2 corporation or association, directly or indirectly, interested in any
3 marijuana cultivation facility, marijuana testing facility, or
4 marijuana product manufacturing facility, or any wholesaler of
5 marijuana.

6 c. No person, partnership, employee cooperative, association,
7 nonprofit corporation, corporation, or the agents thereof, shall hold
8 more than three marijuana establishment licenses at any time.

9
10 21. (New section) Employers, driving, minors and control of
11 property.

12 a. Nothing in P.L. , c. (C.) (pending before the
13 Legislature as this bill) is intended to require an employer to permit
14 or accommodate the use, consumption, possession, transfer, display,
15 transportation, sale, or growing of marijuana items in the workplace
16 or to affect the ability of employers to have policies prohibiting
17 marijuana use or intoxication by employees during work hours. No
18 employer shall refuse to hire or employ any person or shall
19 discharge from employment or take any adverse action against any
20 employee with respect to compensation, terms, conditions or other
21 privileges of employment because that person does or does not
22 smoke or use marijuana items, unless the employer has a rational
23 basis for doing so which is reasonably related to the employment,
24 including the responsibilities of the employee or prospective
25 employee.

26 b. Nothing in P.L. , c. (C.) (pending before the
27 Legislature as this bill) is intended to allow driving under the
28 influence of marijuana items or driving while impaired by
29 marijuana items or to supersede laws related to driving under the
30 influence of marijuana items or driving while impaired by
31 marijuana items.

32 c. Nothing in P.L. , c. (C.) (pending before the
33 Legislature as this bill) is intended to permit the transfer of
34 marijuana items, with or without remuneration, to a person under
35 the age of 21 or to allow a person under the age of 21 to purchase,
36 possess, use, transport, grow, or consume marijuana items.

37 d. Nothing in P.L. , c. (C.) (pending before the
38 Legislature as this bill) shall prohibit a person, or any other entity
39 that occupies, owns, or controls a property from prohibiting or
40 otherwise regulating the consumption, use, display, transfer,
41 distribution, sale, transportation or growing of marijuana items on
42 or in that property, provided that local government units may not
43 prohibit possession permitted by section 3 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill) on or
45 within a public place.

46 e. Nothing in P.L. , c. (C.) (pending before the
47 Legislature as this bill) is intended to permit any person to possess,
48 consume, use, display, transfer, distribute, sell, transport or grow

1 marijuana items in a school, hospital, detention facility, adult
2 correctional facility, and youth correction facility.

3 f. Nothing in P.L. , c. (C.) (pending before the
4 Legislature as this bill) is intended to permit the smoking of
5 marijuana in any place that any other law prohibits the smoking of
6 tobacco. Any fines that may be assessed for the smoking of tobacco
7 in designated places shall be applicable to the smoking of
8 marijuana.

9

10 22. (New section) Medical marijuana provisions.

11 Nothing in P.L. , c. (C.) (pending before the
12 Legislature as this bill) shall be construed:

13 a. to limit any privileges or rights of a medical marijuana
14 patient, primary caregiver, or licensed entity as provided in the
15 “New Jersey Compassionate Use Medical Marijuana Act,”
16 P.L.2009, c.307 (C.24:6I-1 et seq.);

17 b. to permit a medical marijuana center to distribute marijuana
18 to a person who is not a medical marijuana patient except that a
19 medical marijuana center operating in good standing as of the
20 effective date of P.L. , c. (C.) (pending before the
21 Legislature as this bill) may apply for a retail license to operate
22 immediately. A license issued pursuant to this subsection may be
23 subject to annual renewal until regulations are adopted pursuant to
24 section 8 of P.L. , c. (C.) (pending before the Legislature
25 as this bill);

26 c. to permit a medical marijuana center to purchase marijuana
27 or marijuana products in a manner or from a source not permitted
28 under P.L.2009, c.307 (C.24:6I-1 et seq.);

29 d. to permit any medical marijuana center licensed pursuant to
30 P.L.2009, c.307 (C.24:6I-1 et seq.) to operate on the same premises
31 as a marijuana retailer; or

32 e. to discharge the Department of Health from its duties to
33 regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
34 et seq.

35

36 23. (New section) Expungement. Any person convicted of
37 marijuana possession as defined in paragraph (4) of subsection a. of
38 N.J.S.2C:35-10 prior to the effective date of P.L. ,
39 c. (C.) (pending before the Legislature as this bill) shall,
40 following the enactment of P.L. , c. (C.) (pending before
41 the Legislature as this bill), be eligible to present an application for
42 expungement to the Superior Court pursuant to the provisions of
43 chapter 52 of Title 2C of the New Jersey Statutes.

44

45 24. (New section) Limitations.

46 The provisions of P.L. , c. (C.) (pending before the
47 Legislature as this bill) shall not be construed:

- 1 a. To amend or affect in any way any state or federal law
2 pertaining to employment matters;
- 3 b. To amend or affect in any way any state or federal law
4 pertaining to landlord-tenant matters;
- 5 c. To prohibit a recipient of a federal grant or an applicant for a
6 federal grant from prohibiting the manufacture, delivery,
7 possession, or use of marijuana to the extent necessary to satisfy
8 federal requirements for the grant;
- 9 d. To prohibit a party to a federal contract or a person applying
10 to be a party to a federal contract from prohibiting the manufacture,
11 delivery, possession, or use of marijuana to the extent necessary to
12 comply with the terms and conditions of the contract or to satisfy
13 federal requirements for the contract;
- 14 e. To require a person to violate a federal law;
- 15 f. To exempt a person from a federal law or obstruct the
16 enforcement of a federal law.

17

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

19 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1
20 et seq.), or by P.L. , c. (C.) (pending before the Legislature as this
21 bill), any person who knowingly maintains or operates any
22 premises, place or facility used for the manufacture of
23 methamphetamine, lysergic acid diethylamide, phencyclidine,
24 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
25 greater than five pounds or ten plants or any substance listed in
26 Schedule I or II, or the analog of any such substance, or any person
27 who knowingly aids, promotes, finances or otherwise participates in
28 the maintenance or operations of such premises, place or facility, is
29 guilty of a crime of the first degree and shall, except as provided in
30 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
31 include the imposition of a minimum term which shall be fixed at,
32 or between, one-third and one-half of the sentence imposed, during
33 which the defendant shall be ineligible for parole. Notwithstanding
34 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
35 impose a fine not to exceed \$750,000.00 or five times the street
36 value of all controlled dangerous substances, controlled substance
37 analogs, gamma hydroxybutyrate or flunitrazepam at any time
38 manufactured or stored at such premises, place or facility,
39 whichever is greater.
40 (cf: P.L.1999, c.133, s.2)

41

42 26. (New section) Personal Use of Cannabis Resin.

43 a. Notwithstanding any other provision of law, the following
44 acts are not unlawful and shall not be an offense or a basis for
45 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other
46 applicable law for persons 21 years of age or older:

47 (1) Possessing, using, displaying, purchasing, or transporting
48 five grams or less of resin extracted from any part of the plant

1 Genus Cannabis L. and any compound, manufacture, salt,
2 derivative, mixture, or preparation of such resin, or “Hashish.”
3 (2) Transfer of five grams or less of resin extracted from any
4 part of the Genus Cannabis L. and any compound, manufacture,
5 salt, derivative, mixture, or preparation of such resin without
6 remuneration to a person who is 21 years of age or older, provided
7 that such transfer is for non-promotional, non-business purposes;
8 (3) Consumption of the resin extracted from any part of the
9 plant Genus Cannabis L. and any compound, manufacture, salt,
10 derivative, mixture, or preparation of such resin, provided that
11 nothing in this section shall permit a person to smoke or otherwise
12 consume such resin or its derivatives openly in a public place;
13 (4) Assisting another person who is 21 years of age or older in
14 any of the acts described in subparagraphs (1) through (3) of this
15 subsection.
16 b. It shall be unlawful for a person or persons to manufacture
17 or process resin extracted from any part of the plant Genus
18 Cannabis L. and any compound, manufacture, salt, derivative,
19 mixture, or preparation of such resin, unless licensed to do so under
20 the provisions of P.L. , c. (C.) (pending before the
21 Legislature as this bill).
22
23 27. N.J.S.2C:35-2 is amended to read as follows:
24 2C:35-2. As used in this chapter:
25 "Administer" means the direct application of a controlled
26 dangerous substance or controlled substance analog, whether by
27 injection, inhalation, ingestion, or any other means, to the body of a
28 patient or research subject by: (1) a practitioner (or, in his
29 presence, by his lawfully authorized agent), or (2) the patient or
30 research subject at the lawful direction and in the presence of the
31 practitioner.
32 "Agent" means an authorized person who acts on behalf of or at
33 the direction of a manufacturer, distributor, or dispenser but does
34 not include a common or contract carrier, public warehouseman, or
35 employee thereof.
36 "Controlled dangerous substance" means a drug, substance, or
37 immediate precursor in Schedules I through V, any substance the
38 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
39 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
40 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011,
41 c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-
42 5.3b), and any drug or substance which, when ingested, is
43 metabolized or otherwise becomes a controlled dangerous substance
44 in the human body. When any statute refers to controlled dangerous
45 substances, or to a specific controlled dangerous substance, it shall
46 also be deemed to refer to any drug or substance which, when
47 ingested, is metabolized or otherwise becomes a controlled
48 dangerous substance or the specific controlled dangerous substance,

1 and to any substance that is an immediate precursor of a controlled
2 dangerous substance or the specific controlled dangerous substance.
3 The term shall not include distilled spirits, wine, malt beverages, as
4 those terms are defined or used in R.S.33:1-1 et seq., or tobacco and
5 tobacco products. The term, wherever it appears in any law or
6 administrative regulation of this State, shall include controlled
7 substance analogs.

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

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

26 "Deliver" or "delivery" means the actual, constructive, or
27 attempted transfer from one person to another of a controlled
28 dangerous substance or controlled substance analog, whether or not
29 there is an agency relationship.

30 "Dispense" means to deliver a controlled dangerous substance or
31 controlled substance analog to an ultimate user or research subject
32 by or pursuant to the lawful order of a practitioner, including the
33 prescribing, administering, packaging, labeling, or compounding
34 necessary to prepare the substance for that delivery. "Dispenser"
35 means a practitioner who dispenses.

36 "Distribute" means to deliver other than by administering or
37 dispensing a controlled dangerous substance or controlled substance
38 analog. "Distributor" means a person who distributes.

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

1 "Drug or alcohol dependent person" means a person who as a
2 result of using a controlled dangerous substance or controlled
3 substance analog or alcohol has been in a state of psychic or
4 physical dependence, or both, arising from the use of that controlled
5 dangerous substance or controlled substance analog or alcohol on a
6 continuous or repetitive basis. Drug or alcohol dependence is
7 characterized by behavioral and other responses, including but not
8 limited to a strong compulsion to take the substance on a recurring
9 basis in order to experience its psychic effects, or to avoid the
10 discomfort of its absence.

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

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

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

39 "Narcotic drug" means any of the following, whether produced
40 directly or indirectly by extraction from substances of vegetable
41 origin, or independently by means of chemical synthesis, or by a
42 combination of extraction and chemical synthesis:

- 43 (a) Opium, coca leaves, and opiates;
- 44 (b) A compound, manufacture, salt, derivative, or preparation of
45 opium, coca leaves, or opiates;
- 46 (c) A substance (and any compound, manufacture, salt,
47 derivative, or preparation thereof) which is chemically identical
48 with any of the substances referred to in subsections (a) and (b),

1 except that the words "narcotic drug" as used in this act shall not
2 include decocainized coca leaves or extracts of coca leaves, which
3 extracts do not contain cocaine or ecogine.

4 "Opiate" means any dangerous substance having an addiction-
5 forming or addiction-sustaining liability similar to morphine or
6 being capable of conversion into a drug having such addiction-
7 forming or addiction-sustaining liability. It does not include, unless
8 specifically designated as controlled pursuant to the provisions of
9 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
10 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
11 It does include its racemic and levorotatory forms.

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

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

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

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

21 "Practitioner" means a physician, dentist, veterinarian, scientific
22 investigator, laboratory, pharmacy, hospital, or other person
23 licensed, registered, or otherwise permitted to distribute, dispense,
24 conduct research with respect to, or administer a controlled
25 dangerous substance or controlled substance analog in the course of
26 professional practice or research in this State.

27 (a) "Physician" means a physician authorized by law to practice
28 medicine in this or any other state and any other person authorized
29 by law to treat sick and injured human beings in this or any other
30 state.

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

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

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

40 (e) "Laboratory" means a laboratory to be entrusted with the
41 custody of narcotic drugs and the use of controlled dangerous
42 substances or controlled substance analogs for scientific,
43 experimental, and medical purposes and for purposes of instruction
44 approved by the Department of Health.

45 "Production" includes the manufacture, planting, cultivation,
46 growing, or harvesting of a controlled dangerous substance or
47 controlled substance analog.

1 "Immediate precursor" means a substance which the Division of
2 Consumer Affairs in the Department of Law and Public Safety has
3 found to be and by regulation designates as being the principal
4 compound commonly used or produced primarily for use, and
5 which is an immediate chemical intermediary used or likely to be
6 used in the manufacture of a controlled dangerous substance or
7 controlled substance analog, the control of which is necessary to
8 prevent, curtail, or limit such manufacture.

9 "Residential treatment facility" means any facility licensed and
10 approved by the Department of Human Services and which is
11 approved by any county probation department for the inpatient
12 treatment and rehabilitation of drug or alcohol dependent persons.

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

20 "State" means the State of New Jersey.

21 "Ultimate user" means a person who lawfully possesses a
22 controlled dangerous substance or controlled substance analog for
23 his own use or for the use of a member of his household or for
24 administration to an animal owned by him or by a member of his
25 household.

26 "Prescription legend drug" means any drug which under federal
27 or State law requires dispensing by prescription or order of a
28 licensed physician, veterinarian, or dentist and is required to bear
29 the statement "Rx only" or similar wording indicating that such
30 drug may be sold or dispensed only upon the prescription of a
31 licensed medical practitioner and is not a controlled dangerous
32 substance or stramonium preparation.

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

36 "Stramonium plant" means the plant *Datura Stramonium* Linne,
37 including *Datura Tatula* Linne.

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

39

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

41 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
42 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or
43 P.L. , c. (C.) (pending before the Legislature as this bill), it
44 shall be unlawful for any person knowingly or purposely:

45 (1) To manufacture, distribute or dispense, or to possess or have
46 under his control with intent to manufacture, distribute or dispense,
47 a controlled dangerous substance or controlled substance analog; or

- 1 (2) To create, distribute, or possess or have under his control
2 with intent to distribute, a counterfeit controlled dangerous
3 substance.
- 4 b. Any person who violates subsection a. with respect to:
- 5 (1) Heroin, or its analog, or coca leaves and any salt, compound,
6 derivative, or preparation of coca leaves, and any salt, compound,
7 derivative, or preparation thereof which is chemically equivalent or
8 identical with any of these substances, or analogs, except that the
9 substances shall not include decocainized coca leaves or extractions
10 which do not contain cocaine or ecogine, or 3,4-
11 methylenedioxyamphetamine or 3,4-
12 methylenedioxyamphetamine, in a quantity of five ounces or more
13 including any adulterants or dilutants is guilty of a crime of the first
14 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
15 be sentenced to a term of imprisonment by the court. The term of
16 imprisonment shall include the imposition of a minimum term
17 which shall be fixed at, or between, one-third and one-half of the
18 sentence imposed, during which the defendant shall be ineligible for
19 parole. Notwithstanding the provisions of subsection a. of
20 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;
- 21 (2) A substance referred to in paragraph (1) of this subsection,
22 in a quantity of one-half ounce or more but less than five ounces,
23 including any adulterants or dilutants is guilty of a crime of the
24 second degree;
- 25 (3) A substance referred to paragraph (1) of this subsection in a
26 quantity less than one-half ounce including any adulterants or
27 dilutants is guilty of a crime of the third degree except that,
28 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
29 fine of up to \$75,000.00 may be imposed;
- 30 (4) A substance classified as a narcotic drug in Schedule I or II
31 other than those specifically covered in this section, or the analog of
32 any such substance, in a quantity of one ounce or more including
33 any adulterants or dilutants is guilty of a crime of the second
34 degree;
- 35 (5) A substance classified as a narcotic drug in Schedule I or II
36 other than those specifically covered in this section, or the analog of
37 any such substance, in a quantity of less than one ounce including
38 any adulterants or dilutants is guilty of a crime of the third degree
39 except that, notwithstanding the provisions of subsection b. of
40 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;
- 41 (6) Lysergic acid diethylamide, or its analog, in a quantity of
42 100 milligrams or more including any adulterants or dilutants, or
43 phencyclidine, or its analog, in a quantity of 10 grams or more
44 including any adulterants or dilutants, is guilty of a crime of the
45 first degree. Except as provided in N.J.S.2C:35-12, the court shall
46 impose a term of imprisonment which shall include the imposition
47 of a minimum term, fixed at, or between, one-third and one-half of
48 the sentence imposed by the court, during which the defendant shall

- 1 be ineligible for parole. Notwithstanding the provisions of
2 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be
3 imposed;
- 4 (7) Lysergic acid diethylamide, or its analog, in a quantity of
5 less than 100 milligrams including any adulterants or dilutants, or
6 where the amount is undetermined, or phencyclidine, or its analog,
7 in a quantity of less than 10 grams including any adulterants or
8 dilutants, or where the amount is undetermined, is guilty of a crime
9 of the second degree;
- 10 (8) Methamphetamine, or its analog, or phenyl-2-propanone
11 (P2P), in a quantity of five ounces or more including any
12 adulterants or dilutants is guilty of a crime of the first degree.
13 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
14 fine of up to \$300,000.00 may be imposed;
- 15 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
16 (P2P), in a quantity of one-half ounce or more but less than five
17 ounces including any adulterants or dilutants is guilty of a crime of
18 the second degree;
- 19 (b) Methamphetamine, or its analog, or phenyl-2-propanone
20 (P2P), in a quantity of less than one-half ounce including any
21 adulterants or dilutants is guilty of a crime of the third degree
22 except that notwithstanding the provisions of subsection b. of
23 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;
- 24 (10) (a) Marijuana in a quantity of 25 pounds or more including
25 any adulterants or dilutants, or 50 or more marijuana plants,
26 regardless of weight, or hashish in a quantity of five pounds or
27 more including any adulterants or dilutants, is guilty of a crime of
28 the first degree. Notwithstanding the provisions of subsection a. of
29 N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;
- 30 (b) Marijuana in a quantity of five pounds or more but less than
31 25 pounds including any adulterants or dilutants, or 10 or more but
32 fewer than 50 marijuana plants, regardless of weight, or hashish in a
33 quantity of one pound or more but less than five pounds, including
34 any adulterants and dilutants, is guilty of a crime of the second
35 degree;
- 36 (11) Marijuana in a quantity of one ounce or more but less than
37 five pounds including any adulterants or dilutants, or hashish in a
38 quantity of five grams or more but less than one pound including
39 any adulterants or dilutants, is guilty of a crime of the third degree
40 except that, notwithstanding the provisions of subsection b. of
41 N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;
- 42 (12) **【**Marijuana in a quantity of less than one ounce including
43 any adulterants or dilutants, or hashish in a quantity of less than five
44 grams including any adulterants or dilutants, is guilty of a crime of
45 the fourth degree;**】** (Deleted by amendment, P.L. c.) (pending
46 before the Legislature as this bill)
- 47 (13) Any other controlled dangerous substance classified in
48 Schedule I, II, III or IV, or its analog, is guilty of a crime of the

1 third degree, except that, notwithstanding the provisions of
2 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be
3 imposed; or

4 (14) Any Schedule V substance, or its analog, is guilty of a
5 crime of the fourth degree except that, notwithstanding the
6 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
7 \$25,000.00 may be imposed.

8 c. Where the degree of the offense for violation of this section
9 depends on the quantity of the substance, the quantity involved
10 shall be determined by the trier of fact. Where the indictment or
11 accusation so provides, the quantity involved in individual acts of
12 manufacturing, distribution, dispensing or possessing with intent to
13 distribute may be aggregated in determining the grade of the
14 offense, whether distribution or dispensing is to the same person or
15 several persons, provided that each individual act of manufacturing,
16 distribution, dispensing or possession with intent to distribute was
17 committed within the applicable statute of limitations.

18 (cf: P.L.2000, c.136)

19

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

22 1. Except as authorized by P.L. , c. (C.) (pending before the
23 Legislature as this bill):

24 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
25 distributing, dispensing or possessing with intent to distribute a
26 controlled dangerous substance or controlled substance analog
27 while on any school property used for school purposes which is
28 owned by or leased to any elementary or secondary school or school
29 board, or within 1,000 feet of such school property or a school bus,
30 or while on any school bus, is guilty of a crime of the third degree
31 and shall, except as provided in N.J.S.2C:35-12, be sentenced by
32 the court to a term of imprisonment. Where the violation involves
33 less than one ounce of marijuana, the term of imprisonment shall
34 include the imposition of a minimum term which shall be fixed at,
35 or between, one-third and one-half of the sentence imposed, or one
36 year, whichever is greater, during which the defendant shall be
37 ineligible for parole. In all other cases, the term of imprisonment
38 shall include the imposition of a minimum term which shall be
39 fixed at, or between, one-third and one-half of the sentence
40 imposed, or three years, whichever is greater, during which the
41 defendant shall be ineligible for parole. Notwithstanding the
42 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
43 \$150,000 may also be imposed upon any conviction for a violation
44 of this section.

45 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or
46 subsection a. of this section, the court may waive or reduce the
47 minimum term of parole ineligibility required under subsection a. of
48 this section or place the defendant on probation pursuant to

1 paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this
2 determination, the court shall consider:

3 (a) the extent of the defendant's prior criminal record and the
4 seriousness of the offenses for which the defendant has been
5 convicted;

6 (b) the specific location of the present offense in relation to the
7 school property, including distance from the school and the
8 reasonable likelihood of exposing children to drug-related activities
9 at that location;

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

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

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

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

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

21 If the court at sentencing elects not to impose a minimum term of
22 imprisonment and parole ineligibility pursuant to this subsection,
23 imposes a term of parole ineligibility less than the minimum term
24 prescribed in subsection a. of this section, or places the defendant
25 on probation for a violation of subsection a. of this section, the
26 sentence shall not become final for 10 days in order to permit the
27 prosecution to appeal the court's finding and the sentence imposed.
28 The Attorney General shall develop guidelines to ensure the
29 uniform exercise of discretion in making determinations regarding
30 whether to appeal a decision to waive or reduce the minimum term
31 of parole ineligibility or place the defendant on probation.

32 Nothing in this subsection shall be construed to establish a basis
33 for overcoming a presumption of imprisonment authorized or
34 required by subsection d. of N.J.S.2C:44-1, or a basis for not
35 imposing a term of imprisonment or term of parole ineligibility
36 authorized or required to be imposed pursuant to subsection f. of
37 N.J.S.2C:43-6 or upon conviction for a crime other than the offense
38 set forth in this subsection.

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

44 d. It shall be no defense to a prosecution for a violation of this
45 section that the actor was unaware that the prohibited conduct took
46 place while on or within 1,000 feet of any school property. Nor
47 shall it be a defense to a prosecution under this section, or under
48 any other provision of this title, that no juveniles were present on

1 the school property at the time of the offense or that the school was
2 not in session.

3 e. It is an affirmative defense to prosecution for a violation of
4 this section that the prohibited conduct took place entirely within a
5 private residence, that no person 17 years of age or younger was
6 present in such private residence at any time during the commission
7 of the offense, and that the prohibited conduct did not involve
8 distributing, dispensing or possessing with the intent to distribute or
9 dispense any controlled dangerous substance or controlled
10 substance analog for profit. The affirmative defense established in
11 this section shall be proved by the defendant by a preponderance of
12 the evidence. Nothing herein shall be construed to establish an
13 affirmative defense with respect to a prosecution for an offense
14 defined in any other section of this chapter.

15 f. In a prosecution under this section, a map produced or
16 reproduced by any municipal or county engineer for the purpose of
17 depicting the location and boundaries of the area on or within 1,000
18 feet of any property used for school purposes which is owned by or
19 leased to any elementary or secondary school or school board, or a
20 true copy of such a map, shall, upon proper authentication, be
21 admissible and shall constitute prima facie evidence of the location
22 and boundaries of those areas, provided that the governing body of
23 the municipality or county has adopted a resolution or ordinance
24 approving the map as official finding and record of the location and
25 boundaries of the area or areas on or within 1,000 feet of the school
26 property. Any map approved pursuant to this section may be
27 changed from time to time by the governing body of the
28 municipality or county. The original of every map approved or
29 revised pursuant to this section, or a true copy thereof, shall be filed
30 with the clerk of the municipality or county, and shall be
31 maintained as an official record of the municipality or county.
32 Nothing in this section shall be construed to preclude the
33 prosecution from introducing or relying upon any other evidence or
34 testimony to establish any element of this offense; nor shall this
35 section be construed to preclude the use or admissibility of any map
36 or diagram other than one which has been approved by the
37 governing body of a municipality or county, provided that the map
38 or diagram is otherwise admissible pursuant to the Rules of
39 Evidence.

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

41

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

44 1. Except as authorized by P.L. , c. (C.) (pending before the
45 Legislature as this bill):

46 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
47 distributing, dispensing or possessing with intent to distribute a
48 controlled dangerous substance or controlled substance analog

1 while in, on or within 500 feet of the real property comprising a
2 public housing facility, a public park, or a public building is guilty
3 of a crime of the second degree, except that it is a crime of the third
4 degree if the violation involved less than one ounce of marijuana.

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

9 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
10 provisions of law, a conviction arising under this section shall not
11 merge with a conviction for a violation of subsection a. of
12 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
13 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).
14 Nothing in this section shall be construed to preclude or limit a
15 prosecution or conviction for a violation of N.J.S.2C:35-7 or any
16 other offense defined in this chapter.

17 d. It is an affirmative defense to prosecution for a violation of
18 this section that the prohibited conduct did not involve distributing,
19 dispensing or possessing with the intent to distribute or dispense
20 any controlled dangerous substance or controlled substance analog
21 for profit, and that the prohibited conduct did not involve
22 distribution to a person 17 years of age or younger. The affirmative
23 defense established in this section shall be proved by the defendant
24 by a preponderance of the evidence. Nothing herein shall be
25 construed to establish an affirmative defense with respect to a
26 prosecution for an offense defined in any other section of this
27 chapter.

28 e. In a prosecution under this section, a map produced or
29 reproduced by any municipal or county engineer for the purpose of
30 depicting the location and boundaries of the area on or within 500
31 feet of a public housing facility which is owned by or leased to a
32 housing authority according to the "Local Redevelopment and
33 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or
34 within 500 feet of a public park, or the area in or within 500 feet of
35 a public building, or a true copy of such a map, shall, upon proper
36 authentication, be admissible and shall constitute prima facie
37 evidence of the location and boundaries of those areas, provided
38 that the governing body of the municipality or county has adopted a
39 resolution or ordinance approving the map as official finding and
40 record of the location and boundaries of the area or areas on or
41 within 500 feet of a public housing facility, a public park, or a
42 public building. Any map approved pursuant to this section may be
43 changed from time to time by the governing body of the
44 municipality or county. The original of every map approved or
45 revised pursuant to this section, or a true copy thereof, shall be filed
46 with the clerk of the municipality or county, and shall be
47 maintained as an official record of the municipality or county.
48 Nothing in this section shall be construed to preclude the

1 prosecution from introducing or relying upon any other evidence or
2 testimony to establish any element of this offense; nor shall this
3 section be construed to preclude the use or admissibility of any map
4 or diagram other than one which has been approved by the
5 governing body of a municipality or county, provided that the map
6 or diagram is otherwise admissible pursuant to the Rules of
7 Evidence.

8 f. As used in this act:

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

16 "Public park" means a park, recreation facility or area or
17 playground owned or controlled by a State, county or local
18 government unit.

19 "Public building" means any publicly owned or leased library or
20 museum.

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

22

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

24 2C:35-10. Possession, Use or Being Under the Influence, or
25 Failure to Make Lawful Disposition.

26 a. It is unlawful for any person, knowingly or purposely, to
27 obtain, or to possess, actually or constructively, a controlled
28 dangerous substance or controlled substance analog, unless the
29 substance was obtained directly, or pursuant to a valid prescription
30 or order form from a practitioner, while acting in the course of his
31 professional practice, or except as otherwise authorized by
32 P.L.1970, c.226 (C.24:21-1 et seq.), or except as authorized by
33 P.L. , c. (C.) (pending before the Legislature as this bill).

34 Any person who violates this section with respect to:

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

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

44 (3) Possession of **【more than】** 50 grams or more of marijuana,
45 including any adulterants or dilutants, or more than five grams of
46 hashish is guilty of a crime of the fourth degree, except that,
47 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
48 fine of up to \$25,000.00 may be imposed; or

1 (4) Possession of **【50 grams or less】** more than one ounce
2 (28.38 grams) but less than 50 grams, of marijuana, including any
3 adulterants or dilutants, **【or five grams or less of hashish】** is a
4 disorderly person.

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

9 In a prosecution under this subsection, it shall not be necessary
10 for the State to prove that the accused did use or was under the
11 influence of any specific drug, but it shall be sufficient for a
12 conviction under this subsection for the State to prove that the
13 accused did use or was under the influence of some controlled
14 dangerous substance, counterfeit controlled dangerous substance, or
15 controlled substance analog, by proving that the accused did
16 manifest physical and physiological symptoms or reactions caused
17 by the use of any controlled dangerous substance or controlled
18 substance analog.

19 c. Any person who knowingly obtains or possesses a controlled
20 dangerous substance or controlled substance analog in violation of
21 subsection a. of this section and who fails to voluntarily deliver the
22 substance to the nearest law enforcement officer is guilty of a
23 disorderly persons offense. Nothing in this subsection shall be
24 construed to preclude a prosecution or conviction for any other
25 offense defined in this title or any other statute.

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

27
28 32. N.J.S 2C:36-1 is amended to read as follows:

29 2C:36-1. Drug paraphernalia, defined; determination.

30 **【As】** Except as authorized by P.L. c. (C.) (pending before
31 the Legislature as this bill), as used in this act, "drug paraphernalia"
32 means all equipment, products and materials of any kind which are
33 used or intended for use in planting, propagating, cultivating,
34 growing, harvesting, manufacturing, compounding, converting,
35 producing, processing, preparing, testing, analyzing, packaging,
36 repackaging, storing, containing, concealing, ingesting, inhaling, or
37 otherwise introducing into the human body a controlled dangerous
38 substance, controlled substance analog or toxic chemical in
39 violation of the provisions of chapter 35 of this title. It shall
40 include, but not be limited to: a. kits used or intended for use in
41 planting, propagating, cultivating, growing or harvesting of any
42 species of plant which is a controlled dangerous substance or from
43 which a controlled dangerous substance can be derived; b. kits used
44 or intended for use in manufacturing, compounding, converting,
45 producing, processing, or preparing controlled dangerous
46 substances or controlled substance analogs; c. isomerization devices
47 used or intended for use in increasing the potency of any species of
48 plant which is a controlled dangerous substance; d. testing

1 equipment used or intended for use identifying, or in analyzing the
2 strength, effectiveness or purity of controlled dangerous substances
3 or controlled substance analogs; e. scales and balances used or
4 intended for use in weighing or measuring controlled dangerous
5 substances or controlled substance analogs; f. dilutants and
6 adulterants, such as quinine hydrochloride, mannitol, mannite,
7 dextrose and lactose, used or intended for use in cutting controlled
8 dangerous substances or controlled substance analogs; g.
9 **【**separation gins and sifters used or intended for use in removing
10 twigs and seeds from, or in otherwise cleaning or refining,
11 marihuana;**】** h. blenders, bowls, containers, spoons and mixing
12 devices used or intended for use in compounding controlled
13 dangerous substances or controlled substance analogs; i. capsules,
14 balloons, envelopes and other containers used or intended for use in
15 packaging small quantities of controlled dangerous substances or
16 controlled substance analogs; j. containers and other objects used or
17 intended for use in storing or concealing controlled dangerous
18 substances, controlled substance analogs or toxic chemicals; k.
19 objects used or intended for use in ingesting, inhaling, or otherwise
20 introducing **【**marihuana,**】** cocaine, **【**hashish, hashish oil,**】** nitrous
21 oxide or the fumes of a toxic chemical into the human body, such
22 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
23 with or without screens, permanent screens, **【**hashish heads,**】** or
24 punctured metal bowls; (2) **【**water pipes; (3)**】** carburetion tubes and
25 devices; **【**(4)**】** (3) smoking and carburetion masks; **【**(5)**】** roach clips,
26 meaning objects used to hold burning material, such as a marihuana
27 cigarette, that has become too small or too short to be held in the
28 hand; (6) **【**(4)**】** miniature cocaine spoons, and cocaine vials; **【**(7)**】**
29 (5) chamber pipes; **【**(8)**】** (6) carburetor pipes; **【**(9)**】** (7) electric
30 pipes; **【**(10)**】** (8) air-driven pipes; **【**(11)**】** (9) chillums; **【**(12)**】** (10)
31 bongos; **【**(13)**】** (11) ice pipes or chillers; **【**(14)**】** (12) compressed gas
32 containers, such as tanks, cartridges or canisters, that contain food
33 grade or pharmaceutical grade nitrous oxide as a principal
34 ingredient; **【**(15)**】** (13) chargers or charging bottles, meaning metal,
35 ceramic or plastic devices that contain an interior pin that may be
36 used to expel compressed gas from a cartridge or canister; and
37 **【**(16)**】** (14) tubes, balloons, bags, fabrics, bottles or other containers
38 used to concentrate or hold in suspension a toxic chemical or the
39 fumes of a toxic chemical.

40 In determining whether or not an object is drug paraphernalia,
41 the trier of fact, in addition to or as part of the proofs, may consider
42 the following factors: a. statements by an owner or by anyone in
43 control of the object concerning its use; b. the proximity of the
44 object of illegally possessed controlled dangerous substances,
45 controlled substance analogs or toxic chemicals; c. the existence of
46 any residue of illegally possessed controlled dangerous substances,
47 controlled substance analogs or toxic chemicals on the object; d.

1 direct or circumstantial evidence of the intent of an owner, or of
2 anyone in control of the object, to deliver it to persons whom he
3 knows intend to use the object to facilitate a violation of this act;
4 the innocence of an owner, or of anyone in control of the object, as
5 to a direct violation of this act shall not prevent a finding that the
6 object is intended for use as drug paraphernalia; e. instructions, oral
7 or written, provided with the object concerning its use; f.
8 descriptive materials accompanying the object which explain or
9 depict its use; g. national or local advertising whose purpose the
10 person knows or should know is to promote the sale of objects
11 intended for use as drug paraphernalia; h. the manner in which the
12 object is displayed for sale; i. the existence and scope of legitimate
13 uses for the object in the community; and j. expert testimony
14 concerning its use.

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

16

17 33. Section 1 of P.L. 1964, c.289, (C.39:4-49.1) is amended to
18 read as follows:

19 **【No】** Except as authorized by P.L. , c. (C.) (pending before
20 the Legislature as this bill), no person shall operate a motor vehicle
21 on any highway while knowingly having in his possession or in the
22 motor vehicle any controlled dangerous substance as classified in
23 Schedules I, II, III, IV and V of the "New Jersey Controlled
24 Dangerous Substances Act," P.L. 1970, c. 226 (C. 24:21-1 et seq.)
25 or any prescription legend drug, unless the person has obtained the
26 substance or drug from, or on a valid written prescription of, a duly
27 licensed physician, veterinarian, dentist or other medical
28 practitioner licensed to write prescriptions intended for the
29 treatment or prevention of disease in man or animals or unless the
30 person possesses a controlled dangerous substance pursuant to a
31 lawful order of a practitioner or lawfully possesses a Schedule V
32 substance.

33 A person who violates this section shall be fined not less than
34 **【\$50.00】** \$50 and shall forthwith forfeit his right to operate a motor
35 vehicle for a period of two years from the date of his conviction.

36 (cf: P.L.1985, c. 239, s.1)

37

38 34. (New section) Consumer Protections.

39 a. Individuals and licensed marijuana establishments shall not
40 be subject to arrest, prosecution, or penalty in any manner, or
41 denied any right or privilege, including but not limited to civil
42 liability or disciplinary action by a business, occupational, or
43 professional licensing board or bureau, solely for conduct permitted
44 under this act.

45 b. The presence of cannabinoid metabolites in the bodily fluids
46 of a person engaged in conduct permitted under P.L. ,

47 c. (C.) (pending before the Legislature as this bill) by:

1 (1) a student, employee, or tenant, shall not form the basis for
2 refusal to enroll or employ or lease to or otherwise penalize that
3 person, unless failing to do so would put the school, employer, or
4 landlord in violation of federal law or cause it to lose a federal
5 contract or funding;

6 (2) a patient, shall not constitute the use of an illicit substance
7 resulting in denial of medical care, including organ transplant, and a
8 patient's use of marijuana may only be considered with respect to
9 evidence-based clinical criteria; iii. a parent or legal guardian of a
10 child or newborn infant, or a pregnant woman, shall not form the
11 sole or primary basis for any action or proceeding by the Division
12 of Child Protection and Permanency, or any successor agencies.

13

14 35. (New section) a. Law enforcement agencies in New Jersey
15 shall not cooperate with or provide assistance to the government of
16 the United States or any agency thereof in enforcing the Controlled
17 Substance Act, 21 U.S.C. 801 et seq., solely for actions consistent
18 with P.L. , c. (C.) (pending before the Legislature as this bill),
19 except as pursuant to a valid court order.

20 b. No agency or subdivision of an agency of the State of New
21 Jersey may refuse to perform any duty under P.L. ,
22 c. (C.) (pending before the Legislature as this bill) on the basis
23 that manufacturing, distributing, dispensing, possessing, or using
24 marijuana is prohibited by federal law.

25 c. The division may not revoke or refuse to issue or renew a
26 license P.L. , c. (C.) (pending before the Legislature as this
27 bill) on the basis that manufacturing, distributing, dispensing,
28 possessing, or using marijuana is prohibited by federal law.

29

30 36. (New section) Contract Enforceability.

31 No contract shall be unenforceable on the basis that
32 manufacturing, distributing, dispensing, possessing, or using
33 marijuana is prohibited by federal law. No contract entered into by
34 a licensee, its employees, or its agents as permitted pursuant to a
35 valid license issued by the division, or by those who allow property
36 to be used by a licensee, its employees, or its agents as permitted
37 pursuant to a valid license issued by the division, shall be deemed
38 unenforceable on the basis that the actions or conduct permitted
39 pursuant to the license are prohibited by federal law.

40

41 37. (New section) Criminal Investigation.

42 a. None of the following shall, individually or in combination,
43 constitute reasonable articulable suspicion of a crime:

44 (1) The odor of marijuana or burnt marijuana;

45 (2) The possession of or the suspicion of possession of
46 marijuana without evidence of quantity in excess of one ounce;

1 (3) The possession of marijuana without evidence of quantity in
2 excess of one ounce in proximity to any amount of cash or
3 currency;

4 b. Subsection a. of this section shall not apply when a law
5 enforcement officer is investigating whether a person is driving
6 under the influence of marijuana or driving while impaired by
7 marijuana in violation of R.S.39:4-50.

8

9 38. (New section) All fees and penalties collected by the
10 Director of the Division of Marijuana Enforcement pursuant to the
11 provisions of P.L. c. (C.) (pending before the Legislature as
12 this bill) shall be forwarded to the State Treasurer for deposit in a
13 special nonlapsing fund which shall be known as the Marijuana
14 Control and Regulation Fund. Monies in the fund shall be used
15 exclusively for the operation of the Division of Marijuana
16 Enforcement and for reimbursement of all additional costs of
17 enforcement of the provisions of P.L. c. (C.) (pending before
18 the Legislature as this bill) incurred by the Department of Law and
19 Public Safety.

20

21 39. (New section) Marijuana Regulation Review Commission.

22 a. The Marijuana Regulation Review Commission shall consist
23 of one member appointed by the Governor, one member appointed
24 by the President of the Senate who shall be a member of the Senate,
25 and one member appointed by the Speaker of the General Assembly
26 who shall be a member of the General Assembly. The presiding
27 officer of the commission shall be determined by the members. The
28 members of the commission shall serve without pay in connection
29 with all such duties as are prescribed in P.L. c. (C.) (pending
30 before the Legislature as this bill).

31 b. The commission shall call upon the Department of Law and
32 Public Safety to assist in any staff or clerical functions of the
33 commission.

34 c. Meetings of commission, copies of minutes.

35 All meetings of the commission shall be open to the public and
36 all the business of the commission shall be transacted at public
37 meetings held at such time and place as the commission shall
38 prescribe. The commission shall meet at such times as determined
39 by the chairperson of the commission.

40 The secretary shall transmit to each member of the commission a
41 copy of the minutes of each meeting within twenty-four hours after
42 the adjournment thereof. The minutes of the commission shall be
43 open to inspection by any citizen of the State at all times during
44 business hours.

45 d. Rules. The commission shall formulate and adopt rules of
46 procedure for the commission in exercising its powers and fulfilling
47 its duties under P.L. , c. (C.) (pending before the Legislature
48 as this bill).

1 e. Number of members necessary to act. The concurrence of
2 two of the members of the commission shall be necessary to
3 validate all acts of the commission.

4 f. Annual report to Legislature. The commission shall make an
5 annual detailed report of its actions and operations to the
6 Legislature and render such other reports to the Legislature as it
7 shall from time to time require.

8 g. Powers and duties of commission.

9 The Marijuana Regulation Review Commission shall review and
10 approve regulations developed by the division pursuant to section 8
11 of P.L. , c. (C.) (pending before the Legislature as this bill) and
12 may require regulations as deemed necessary. The commission shall
13 have such other and further powers and perform such other and
14 further duties as may be conferred or imposed upon it from time to
15 time by the Legislature.

16

17 40. (New section) Following the enactment of, but prior to the
18 effective date of, P.L. c. (C.) (pending before the Legislature
19 as this bill), possession of up to 50 grams of marijuana shall
20 constitute a civil violation not subject to arrest, and limited to a fine
21 of up to \$100, notwithstanding the provisions of N.J.S. 2C:35-10.

22

23 41. This act shall take effect on the 360th day following
24 enactment, but the director may take such anticipatory action as
25 may be necessary to effectuate the provisions of this act.

26

27

28

STATEMENT

29

30 This bill would legalize the possession and personal use of small
31 amounts of marijuana for persons age 21 and over.

32 Section 3 of the bill specifies that the following acts are not
33 unlawful and would not be an offense or a basis for seizure or
34 forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable
35 law for persons 21 years of age or older:

- 36 • possessing, using, displaying, purchasing, or transporting
37 marijuana accessories or one ounce or less of marijuana
38 and certain other related products;
- 39 • transfer of one ounce or less of marijuana or other related
40 products to a person who is 21 years of age or older;
- 41 • consumption of marijuana, provided that nothing in the
42 bill would permit consumption that is conducted openly
43 and publicly; or
- 44 • assisting another person who is 21 years of age or older in
45 any of the acts described above.

46 Section 4 of the bill provides that the following acts would also
47 not be unlawful or a basis for seizure or forfeiture of assets for
48 persons 21 years of age or older:

- 1 • manufacture, possession, or purchase of marijuana
2 accessories or the sale of marijuana accessories to a
3 person who is 21 years of age or older;
- 4 • possessing, displaying, or transporting marijuana or
5 marijuana products; purchase of marijuana from a
6 marijuana cultivation facility; purchase of marijuana or
7 marijuana products from a marijuana product
8 manufacturing facility; or sale of marijuana or marijuana
9 products to consumers, if the person conducting the
10 activities has obtained a current, valid license to operate a
11 retail marijuana store or is acting in his capacity as an
12 owner, employee or agent of a licensed retail marijuana
13 store;
- 14 • cultivating, harvesting, processing, packaging,
15 transporting, displaying, or possessing marijuana;
16 delivery or transfer of marijuana to a marijuana testing
17 facility; selling marijuana to a marijuana cultivation
18 facility, a marijuana product manufacturing facility, or a
19 retail marijuana store; or the purchase of marijuana from
20 a marijuana cultivation facility, if the person conducting
21 the activities has obtained a current, valid license to
22 operate a marijuana cultivation facility or is acting in his
23 capacity as an owner, employee, or agent of a licensed
24 marijuana cultivation facility;
- 25 • packaging, processing, transporting, manufacturing,
26 displaying, or possessing marijuana or marijuana
27 products; delivery or transfer of marijuana or marijuana
28 products to a marijuana testing facility; selling marijuana
29 or marijuana products to a retail marijuana store or a
30 marijuana product manufacturing facility; the purchase of
31 marijuana from a marijuana cultivation facility; or the
32 purchase of marijuana or marijuana products from a
33 marijuana product manufacturing facility, if the person
34 conducting the activities has obtained a current, valid
35 license to operate a marijuana product manufacturing
36 facility or is acting in his capacity as an owner, employee,
37 or agent of a licensed marijuana product manufacturing
38 facility;
- 39 • possessing, cultivating, processing, repackaging, storing,
40 transporting, displaying, transferring or delivering
41 marijuana or marijuana products if the person has
42 obtained a current, valid license to operate a marijuana
43 testing facility or is acting in his capacity as an owner,
44 employee, or agent of a licensed marijuana testing
45 facility;
- 46 • leasing or otherwise allowing the use of property owned,
47 occupied or controlled by any person, corporation or
48 other entity for any of the activities conducted lawfully.

1 Sections 7 and 8 describe the powers and duties of the newly
2 created Division of Marijuana Enforcement and the regulation of
3 marijuana generally. The bill provides for the division to adopt
4 rules and regulations necessary for implementation of the bill. The
5 regulations could not prohibit the operation of marijuana
6 establishments, either expressly or through regulations that make
7 their operation unreasonably impracticable. The bill would require
8 regulations to include the following: procedures for the application,
9 issuance, denial, renewal, suspension, and revocation of a license to
10 operate a marijuana establishment; the establishment by the division
11 of license application fees. Additional required regulations must
12 include licensing goals for minority owned and female owned
13 businesses under the act; security requirements for marijuana
14 establishments; requirements to prevent the sale or diversion of
15 marijuana and marijuana products to underage persons; labeling and
16 packaging requirements; health and safety regulations and standards
17 for the manufacture and sale of marijuana products; advertisement
18 restrictions; procedures for the division to conduct unannounced
19 visits to marijuana establishments; a requirement that only
20 marijuana, marijuana based products and paraphernalia be available
21 for sale at a marijuana establishment; and civil penalties for the
22 failure to comply with established regulations.

23 Section 9 mandates that the division develop a system for
24 tracking the transfer of marijuana items between licensed premises
25 capable, at a minimum, of tracking among other categories, the
26 propagation of immature marijuana plants, the processing of
27 marijuana by a processor, the receiving, storing and delivering of
28 marijuana items by a wholesaler, the sale of marijuana items by a
29 marijuana retailer to a consumer; the purchase and sale of marijuana
30 items between licensees, the transfer of marijuana items between
31 licensed premises; and the collection of taxes imposed upon the
32 retail sale of marijuana items.

33 Section 10 of the bill establishes a tax levied upon marijuana
34 sold or otherwise transferred by a marijuana cultivation facility to a
35 marijuana product manufacturing facility or to a retail marijuana
36 store. To encourage early participation in and development of
37 marijuana establishments and to undermine the illegal market, the
38 bill proposes an escalating tax rate of seven percent in the first year;
39 10 percent in year two; 15% in year three; 20% in year four; and
40 25% in year five and beyond. The Department of the Treasury
41 would establish procedures for the collection of all taxes levied.

42 The bill specifies that no tax would be levied upon marijuana
43 intended for sale at medical marijuana centers pursuant to the “New
44 Jersey Compassionate Use Medical Marijuana Act,” P.L.2009,
45 c.307 (C.24:6I-1 et seq.).

46 Section 11 provides for local governmental entity regulations or
47 ordinances. The bill provides that each local governmental entity
48 shall enact an ordinance or regulation specifying the entity within

1 the local governmental entity that is responsible for processing
2 applications submitted for a license to operate a marijuana
3 establishment within the boundaries of the local governmental
4 entity and for the issuance of such licenses, should the issuance by
5 the local governmental entity become necessary because of a failure
6 by the division to adopt regulations or to process and issue licenses.

7 The local governmental entity may enact ordinances or
8 regulations, not in conflict with the provisions of the bill, that
9 address the following:

10 -- governing the time, place, manner and number of marijuana
11 establishment operations;

12 -- establishing procedures for the issuance, suspension, and
13 revocation of a license issued by the local governmental entity;

14 -- establishing a schedule of annual operating, licensing, and
15 application fees for marijuana establishments, provided, the
16 application fee shall only be due if an application is submitted to a
17 local governmental entity in accordance with the provisions of the
18 bill and a licensing fee shall only be due if a license is issued by a
19 local governmental entity; and

20 -- establishing civil penalties for violation of an ordinance or
21 regulation governing the time, place, and manner of a marijuana
22 establishment that may operate in such local governmental entity.

23 The bill provides that a local governmental entity may prohibit
24 the operation of marijuana cultivation facilities, marijuana product
25 manufacturing facilities, marijuana testing facilities, or retail
26 marijuana stores through the enactment of an ordinance. Under the
27 bill, the failure of a local governmental entity to enact an ordinance
28 prohibiting the operation of a marijuana establishment shall thereby
29 permit the operation of a marijuana retail establishment within the
30 local governmental entity for a period of five years, at the end of
31 which five year period, and every five year period thereafter, the
32 local governmental entity shall again be permitted to prohibit the
33 operation of a marijuana establishment.

34 Section 12 establishes the application process. Under the bill,
35 each application for an annual license to operate a marijuana
36 establishment would be submitted to the division. A separate
37 license shall be required for each location at which a marijuana
38 establishment seeks to operate. Renewal applications may be filed
39 up to 90 days prior to the expiration of the establishment's license.

40 Sections 13 through 18 establish the different classes of licenses
41 and the requirements to obtain licensure.

42 A marijuana producer must have a Class 1 Marijuana Cultivation
43 Facility license issued by the division for the premises at which the
44 marijuana is produced.

45 A marijuana processor must have a Class 1 Marijuana Product
46 Manufacturing Facility license issued by the division for the
47 premises at which the marijuana is processed.

1 A marijuana wholesaler must have a Class 2 Marijuana
2 Wholesaler license issued by the division for the premises at which
3 the marijuana is warehoused.

4 A marijuana retailer must have a Class 3 Marijuana Retailer
5 license issued by the division for the premises at which the
6 marijuana is retailed.

7 A marijuana transporter must have a Class 4 Marijuana
8 Transportation license issued by the division.

9 All prospective licensees must complete application
10 requirements, meet residency requirements, and undergo a criminal
11 history record background check.

12 Section 22 provides that a currently operating medical marijuana
13 facility operating in good standing can immediately apply for a
14 license to operate to distribute marijuana to a person who is not a
15 medical marijuana patient.

16 Section 23 permits a person convicted of marijuana possession to
17 present an application for expungement to the Superior Court.

18 Sections 25 through 33 update existing sections of law to reflect
19 the decriminalization of marijuana under the bill.

20 Section 38 establishes that all fees and penalties collected by the
21 Director of the Division of Marijuana Enforcement shall be
22 forwarded to the State Treasurer for deposit in a special nonlapsing
23 fund which shall be known as the Marijuana Control and Regulation
24 Fund. Monies in the fund shall be used exclusively for the
25 operation of the Division of Marijuana Enforcement and for
26 reimbursement of all additional costs of enforcement

27 Section 39 establishes a Marijuana Regulation Review
28 Commission which shall be responsible to review and approve
29 regulations developed by the division. The commission shall
30 consist of three members as follows: one member appointed by the
31 Governor, who shall be the presiding officer, one member
32 appointed by the President of the Senate, who shall be a member of
33 the Senate, and one member appointed by the Speaker of the
34 General Assembly, who shall be a member of the General
35 Assembly. The concurrence of two of the members of the
36 commission shall be necessary to validate all acts of the
37 commission.

38 Section 40 provides that following enactment of the legislation
39 but prior to the effective date, established as one year following
40 enactment, the possession of up to 50 grams of marijuana shall
41 constitute a civil violation not subject to arrest, and limited to a fine
42 of up to \$100.

43 The bill shall take effect on the 360th day following enactment,
44 but the director may take such anticipatory action as may be
45 necessary to effectuate the provisions.