

SENATE, No. 435

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

Senator Greenstein

SYNOPSIS

Changes element of crime of strict liability for drug-induced death so that liability is based on drug being “direct contributing factor” to death.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the crime of strict liability for drug-induced
2 death, and amending N.J.S.2C:35-9.

3

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

6

7 1. N.J.S.2C:35-9 is amended to read as follows:

8 2C:35-9. a. Any person who manufactures, distributes or
9 dispenses methamphetamine, lysergic acid diethylamide,
10 phencyclidine or any other controlled dangerous substance
11 classified in Schedules I or II, or any controlled substance analog
12 thereof, in violation of subsection a. of N.J.S.2C:35-5, is strictly
13 liable for a death which results from the injection, inhalation or
14 ingestion of that substance, and is guilty of a crime of the first
15 degree.

16 b. The provisions of N.J.S.2C:2-3 (governing the causal
17 relationship between conduct and result) shall not apply in a
18 prosecution under this section. For purposes of this offense, the
19 defendant's act of manufacturing, distributing or dispensing a
20 substance is the cause of a death when:

21 (1) The injection, inhalation or ingestion of the substance is **[an**
22 antecedent but for which] a direct contributing factor to the death
23 **[would not have occurred]**; and

24 (2) The death was not:

25 (a) too remote in its occurrence as to have a just bearing on the
26 defendant's liability; or

27 (b) too dependent upon conduct of another person which was
28 unrelated to the injection, inhalation or ingestion of the substance or
29 its effect as to have a just bearing on the defendant's liability.

30 c. It shall not be a defense to a prosecution under this section
31 that the decedent contributed to his own death by his purposeful,
32 knowing, reckless or negligent injection, inhalation or ingestion of
33 the substance, or by his consenting to the administration of the
34 substance by another.

35 d. Nothing in this section shall be construed to preclude or limit
36 any prosecution for homicide. Notwithstanding the provisions of
37 N.J.S.2C:1-8 or any other provision of law, a conviction arising
38 under this section shall not merge with a conviction for leader of
39 narcotics trafficking network, maintaining or operating a controlled
40 dangerous substance production facility, or for unlawfully
41 manufacturing, distributing, dispensing or possessing with intent to
42 manufacture, distribute or dispense the controlled dangerous
43 substance or controlled substance analog which resulted in the
44 death.

45 (cf: N.J.S.2C:35-9)

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.

STATEMENT

The other elements to the strict liability crime would remain unchanged, including proof that the death was (a) not too remote in its occurrence, nor (b) too dependent upon the conduct of another person unrelated to the dead victim's injection, inhalation, or ingestion of the substance to have a just bearing on the defendant's liability.