

# ASSEMBLY, No. 148

## STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Assemblyman WILFREDO CARABALLO**

**District 28 (Essex)**

**SYNOPSIS**

Revises and codifies certain criminal law.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning various criminal offenses and revising and  
2 repealing various sections of the statutory laws.

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:35-2 is amended to read as follows:

8 2C:35-2. Definitions.

9 As used in this chapter:

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

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

20 "Controlled dangerous substance" means a drug, substance, or  
21 immediate precursor in Schedules I through V. The term shall not  
22 include distilled spirits, wine, malt beverages, as those terms are  
23 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco  
24 products. The term, wherever it appears in any law or administrative  
25 regulation of this State, shall include controlled substance analogs.

26 "Controlled substance analog" means a substance that has a  
27 chemical structure substantially similar to that of a controlled  
28 dangerous substance and that was specifically designed to produce an  
29 effect substantially similar to that of a controlled dangerous substance.  
30 The term shall not include a substance manufactured or distributed in  
31 conformance with the provisions of an approved new drug application  
32 or an exemption for investigational use within the meaning of section  
33 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21  
34 U.S.C. {355}).

35 "Counterfeit substance" means a controlled dangerous substance or  
36 controlled substance analog which, or the container or labeling of  
37 which, without authorization, bears the trademark, trade name, or  
38 other identifying mark, imprint, number or device, or any likeness  
39 thereof, of a manufacturer, distributor, or dispenser other than the  
40 person or persons who in fact manufactured, distributed or dispensed  
41 such substance and which thereby falsely purports or is represented to  
42 be the product of, or to have been distributed by, such other  
43 manufacturer, distributor, or dispenser.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 "Deliver" or "delivery" means the actual, constructive, or attempted  
2 transfer from one person to another of a controlled dangerous  
3 substance or controlled substance analog, whether or not there is an  
4 agency relationship.

5 "Dispense" means to deliver a controlled dangerous substance or  
6 controlled substance analog to an ultimate user or research subject by  
7 or pursuant to the lawful order of a practitioner, including the  
8 prescribing, administering, packaging, labeling, or compounding  
9 necessary to prepare the substance for that delivery. "Dispenser"  
10 means a practitioner who dispenses.

11 "Distribute" means to deliver other than by administering or  
12 dispensing a controlled dangerous substance or controlled substance  
13 analog. "Distributor" means a person who distributes.

14 "Drugs" means (a) substances recognized in the official United  
15 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
16 United States, or official National Formulary, or any supplement to  
17 any of them; and (b) substances intended for use in the diagnosis, cure,  
18 mitigation, treatment, or prevention of disease in man or other animals;  
19 and (c) substances (other than food) intended to affect the structure or  
20 any function of the body of man or other animals; and (d) substances  
21 intended for use as a component of any article specified in subsections  
22 (a), (b) and (c) of this section; but does not include devices or their  
23 components, parts or accessories.

24 "Drug dependent person" means a person who is using a controlled  
25 dangerous substance or controlled substance analog and who is in a  
26 state of psychic or physical dependence, or both, arising from the use  
27 of that controlled dangerous substance or controlled substance analog  
28 on a continuous basis. Drug dependence is characterized by behavioral  
29 and other responses, including but not limited to a strong compulsion  
30 to take the substance on a recurring basis in order to experience its  
31 psychic effects, or to avoid the discomfort of its absence.

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

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

1 dangerous substance or controlled substance analog in the course of  
2 his professional practice, or (2) by a practitioner (or under his  
3 supervision) for the purpose of, or as an incident to, research,  
4 teaching, or chemical analysis and not for sale.

5 "Marihuana" means all parts of the plant Genus Cannabis L.,  
6 whether growing or not; the seeds thereof, and every compound,  
7 manufacture, salt, derivative, mixture, or preparation of such plant or  
8 its seeds, except those containing resin extracted from such plant; but  
9 shall not include the mature stalks of such plant, fiber produced from  
10 such stalks, oil or cake made from the seeds of such plant, any other  
11 compound, manufacture, salt, derivative, mixture, or preparation of  
12 such mature stalks, fiber, oil, or cake, or the sterilized seed of such  
13 plant which is incapable of germination.

14 "Narcotic drug" means any of the following, whether produced  
15 directly or indirectly by extraction from substances of vegetable origin,  
16 or independently by means of chemical synthesis, or by a combination  
17 of extraction and chemical synthesis:

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

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

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

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

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

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

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

41 "Practitioner" means a physician, dentist, veterinarian, scientific  
42 investigator, laboratory, pharmacy, hospital or other person licensed,  
43 registered, or otherwise permitted to distribute, dispense, conduct  
44 research with respect to, or administer a controlled dangerous  
45 substance or controlled substance analog in the course of professional  
46 practice or research in this State.

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

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

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

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

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

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

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

29 "Residential treatment facility" means any facility approved by any  
30 county probation department for the inpatient treatment and  
31 rehabilitation of drug dependent persons.

32 "Schedules I, II, III, IV, and V" are the schedules set forth in  
33 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8)  
34 and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any  
35 regulations issued by the Commissioner of Health pursuant to his  
36 authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

37 "State" means the State of New Jersey.

38 "Ultimate user" means a person who lawfully possesses a controlled  
39 dangerous substance or controlled substance analog for his own use  
40 or for the use of a member of his household or for administration to an  
41 animal owned by him or by a member of his household.

42 "Prescription legend drug" means any drug which under Federal or  
43 State law requires dispensing by prescription or order of a licensed  
44 physician, veterinarian or dentist and is required to bear the statement  
45 "Caution: Federal law prohibits dispensing without a prescription" and  
46 is not a controlled dangerous substance or stramonium preparation.

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

4     "Stramonium plant" means the plant Datura Stramonium Linne,  
5 including Datura Tatula Linne.

6 (cf: P.L.1987, c.106, s.1.)

7  
8     2. N.J.S.2C:36-6 is amended to read as follows:

9     2C:36-6. a. Except as [otherwise] authorized by subsections b. c.  
10 or other law, it shall be unlawful for a person to have under his control  
11 or possess with intent to use a hypodermic syringe, hypodermic needle  
12 or any other instrument adapted for the use of a controlled dangerous  
13 substance or a controlled substance analog as defined in chapter 35 of  
14 Title 2C of the New Jersey Statutes or to sell, furnish or give to any  
15 person such syringe, needle or instrument. Any person who violates  
16 this section is guilty of a disorderly persons offense.

17     b. A person is authorized to possess and use a hypodermic needle  
18 or hypodermic syringe if the person obtains the hypodermic syringe or  
19 hypodermic needle by a valid prescription issued by a licensed  
20 physician, dentist or veterinarian and uses it for its authorized purpose.  
21 No prescription for a hypodermic syringe, hypodermic needle or any  
22 other instrument adapted for the use of controlled dangerous  
23 substances by subcutaneous injections shall be valid for more than one  
24 year from the date of issuance.

25     c. Subsection a. does not apply to a duly licensed physician,  
26 dentist, veterinarian, undertaker, nurse, podiatrist, registered  
27 pharmacist, or a hospital, sanitarium, clinical laboratory or any other  
28 medical institution, or a state or a governmental agency, or a regular  
29 dealer in medical, dental or surgical supplies, or a resident physician  
30 or intern of a hospital, sanitarium or other medical institution.

31 (cf: P.L.1987, c.106, s.2.)

32  
33     3. (New section) Sale of cigarettes to minors.

34     A person who sells or gives to a person under the age of 18 tobacco  
35 in any form, including smokeless tobacco, or cigarette papers shall be  
36 punished by a fine as provided for a petty disorderly persons offense.  
37 A person who has been previously punished under this section and  
38 who commits another offense under it may be punishable by a fine of  
39 twice that provided for a petty disorderly persons offense.

40 (Source: 2A:170-51)

41  
42     4. (New section) Sale of motor vehicle on Sunday.

43     A person who engages in the business of buying, selling or  
44 exchanging motor vehicles or who opens a place of business and  
45 attempts to engage in such conduct on a Sunday commits a disorderly  
46 persons offense. The first offense is punishable by a fine not to exceed

1 \$100.00 or imprisonment for a period of not more than 10 days or  
2 both; the second offense is punishable by a fine not exceed \$500 or  
3 imprisonment for a period of not more than 30 days or both; the third  
4 or each subsequent offense is punishable by a fine of \$750.00 or  
5 imprisonment for a period of 6 months or both. If the person is a  
6 licensed dealer in new or used motor vehicles in this State, under the  
7 provisions of chapter 10, Title 39 of the Revised Statutes, the person  
8 shall also be subject to suspension or revocation of his dealer's license  
9 to engage in the business of buying, selling or exchanging in motor  
10 vehicles in this State as provided in Title 39, chapter 10, section 10,  
11 section 20, for violation of this statute.

12 (Source: 2A:171-1.1)

13

14 5. (New section) Consumption of alcohol in restaurants.

15 a. No person who owns or operates a restaurant, dining room or  
16 other public place where food or liquid refreshments are sold or served  
17 to the general public, and for which premises a license or permit  
18 authorizing the sale of alcoholic beverages for on-premises  
19 consumption has not been issued:

20 (1) Shall allow the consumption of alcoholic beverages, other than  
21 wine or a malt alcoholic beverage, in a portion of the premises which  
22 is open to the public; or

23 (2) Shall charge any admission fee or cover, corkage or service  
24 charge or advertise inside or outside of such premises that patrons may  
25 bring and consume their own wine or malt alcoholic beverages in a  
26 portion of the premises which is open to the public.

27 (3) Shall allow the consumption of wine or malt alcoholic  
28 beverages at times or by persons to who the service or consumption  
29 or alcoholic beverages on licensed premises is prohibited by State or  
30 municipal law or regulation.

31 b. Nothing in this act shall restrict the right of a municipality or an  
32 owner or operator of a restaurant, dining room or other public place  
33 where food or liquid refreshments are sold or served to the general  
34 public from prohibiting the consumption of alcoholic beverages on  
35 those premises.

36 c. A person who violates any provision of this act is a disorderly  
37 person, and the court, in addition to the sentence imposed for the  
38 disorderly person violation, may by its judgment bar the owner or  
39 operator from allowing consumption of wine or malt alcoholic  
40 beverages in his premises as authorized by this act.

41 (Source: 2A:170-25.21; 2A:170-25.22; 2A:170-25.23)

42

43 6. (New section) Discarding hypodermic needle or syringe.

44 a. A persons commits a petty disorderly persons offense if:

45 (1) the persons discards, in a place accessible to other persons, a  
46 hypodermic needle or syringe without destroying the hypodermic

1 needle or syringe; or

2 (2) he is the owner, lessee or person in control of real property and,  
3 knowing that needles and syringes in an intact condition have been  
4 discarded or abandoned on his real property, allows them to remain.

5 b. A hypodermic needle is destroyed if the needle is broken from  
6 the hub or mangled. A syringe is destroyed if the nipple of the barrel  
7 is broken from the barrel, or the plunger and barrel are melted.  
8 Alternatively, a hypodermic needle or syringe is destroyed if it is  
9 discarded as a single unit, without recapping, into a rigid container and  
10 the container is destroyed by grinding or crushing in a compactor, or  
11 by burning in an incinerator approved by the Department of  
12 Environmental Protection, or by another method approved by the  
13 Department of Health.

14 (Source: 2A:170-25.17)

15

16 7. (New section) Toxic chemicals.

17 a. As used in this section the term "toxic chemical" means any  
18 chemical having the property of releasing toxic fumes and includes the  
19 following chemicals: acetone, acetate, benzine, butyl alcohol, ethyl  
20 alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl  
21 ethyl ketone, pentachlorophenol, petroleum ether, toluol, or toluene.

22 b. A person commits a disorderly persons offense if the person:

23 (1) inhales the fumes of any toxic chemical for the purpose of  
24 causing a condition of intoxication; or

25 (2) possesses any toxic chemical for the purpose of causing a  
26 condition of intoxication.

27 c. A person commits a fourth degree offense if the persons sells, or  
28 offers to sell, any substance containing a toxic chemical knowing that  
29 the intended use of the product is to cause a condition of intoxication,  
30 or knowing that the product does not include an additive required by  
31 the Commissioner of the State Department of Health to discourage the  
32 inhalation of vapors of toxic chemicals for the purpose of causing a  
33 condition of intoxication. This subsection does not apply to adhesives  
34 manufactured only for industrial application.

35 (Source: 2A:170-25.9 through 2A:170-25.13)

36

37 8. (New section) Prescription legend drugs.

38 a. Except as authorized by sections 9 through 15 of P.L.1970,  
39 c.226 (C.24:21-9 through 24:21-15) a person who knowingly  
40 distributes a prescription legend drug or stramonium preparation  
41 unless lawfully prescribed or administered by a licensed physician,  
42 veterinarian or dentist is a disorderly person.

43 b. A person who uses any prescription legend drug or stramonium  
44 preparation for a purpose other than treatment of sickness or injury as  
45 lawfully prescribed or administered by a licensed physician is a  
46 disorderly person.



1 c. A defendant may be convicted for a violation of subsection b.  
2 if the State proves that the defendant manifested symptoms or  
3 reactions caused by the use of prescription legend drugs or  
4 stramonium preparation. The State need not prove which specific  
5 prescription legend drug or stramonium preparation defendant used.

6 d. A person who obtains or attempts to obtain possession of a  
7 prescription legend drug or stramonium preparation by forgery or  
8 deception is a disorderly person. Nothing in this section shall be  
9 deemed to preclude or limit a prosecution for theft as defined in  
10 chapter 20 of Title 2C of the New Jersey Statutes.

11 (Source: 2A:170-77.8 through 2A:170-77.11)

12

13 9. (New section) Possession of certain prescription drugs.

14 A person who possesses a controlled dangerous substance that was  
15 prescribed or dispensed lawfully may possess it only in the container  
16 in which it was dispensed; except that the person may possess no more  
17 than a 10-day supply in other than the original container if the person  
18 produces, upon the request of a law enforcement officer, the name and  
19 address of the practitioner who prescribed the substance or the  
20 pharmacist who dispensed it. A person who violates this section is a  
21 disorderly person.

22 (Source: 24:21-18.)

23

24 10. (New section) Violation of contract to pay employees.

25 a. An employer who has agreed with an employee or with a  
26 bargaining agent for employees to pay wages, compensation or  
27 benefits to or for the benefit of employees commits a disorderly  
28 persons offense if the employer:

29 (1) fails to pay wages when due; or

30 (2) fails to pay compensation or benefits within 30 days after due.

31 b. If a corporate employer violates subsection a., any officer or  
32 employee of the corporation who is responsible for the violation  
33 commits a disorderly persons offense.

34 (Source: 2A:170-90.2)

35

36 11. (New section) Wrongful discharge of employee.

37 a. An employer who discharges an employee or takes any other  
38 disciplinary action against the employee because the employee's  
39 earnings have been subjected to garnishment commits a disorderly  
40 persons offense.

41 b. An employer who discharges an employee or takes any other  
42 disciplinary action in violation of this section shall re-employ any  
43 employee discharged, and shall compensate any employee for any  
44 damages resulting from the discharge or disciplinary action.

45 c. The term "earnings" means any form of compensation payable  
46 for personal services, regardless of whether the payment is

1 denominated as wages, salary, commission, bonus, income from trust  
2 funds, profits, or otherwise, and includes periodic payments pursuant  
3 to a pension or retirement program.

4 (Source: 2A:170-90.3 through 2A:170-90.5)

5  
6 12. (New section) a. No person shall, for any fee, or other  
7 remuneration, prepare, offer to prepare, cause to be prepared, sell or  
8 offer for sale any term paper, thesis, dissertation, essay, report or  
9 other written, recorded, pictorial, artistic or other assignment  
10 knowing, or under the circumstances having reason to know, that said  
11 assignment is intended for submission either in whole or substantial  
12 part under a student's name in fulfillment of the requirements for a  
13 degree, diploma, certificate, course or courses of study at any  
14 university, college, academy, school or other educational institution.

15 b. Nothing contained in this section shall prevent any person from  
16 providing tutorial assistance, research material, information or other  
17 assistance to persons enrolled in a university, college, academy, school  
18 or other educational institution, which is not intended for submission  
19 directly or in substantial part as an assignment under the student's  
20 name to such educational institution in fulfillment of the requirements  
21 for a degree, diploma, certificate or course of study. Nor shall any  
22 person be prevented by this act from rendering services for a fee which  
23 include the typing, research, assembling, transcription, reproduction  
24 or editing of a manuscript or other assignment which he has not  
25 prepared at the request of or on behalf of the purchaser.

26 c. Anyone convicted of violating any provision of this act shall be  
27 subject to a civil penalty of up to \$1,000.00 which shall be collected  
28 in a summary manner pursuant to "the penalty enforcement law"  
29 (N.J.S.2A:58-1 et seq.) in the Superior Court or any municipal court.  
30 The Superior Court may also grant further relief necessary to enforce  
31 the provisions of this section, including the issuance of an injunction.

32 d. Actions for injunction under the provisions of this act may be  
33 brought in the name of the people of this State upon their own  
34 complaint or upon the complaint of any person, or any public or  
35 private college, university, academy, school or other educational  
36 institution which is chartered, incorporated, licensed, registered or  
37 supervised by this State, acting for the interest of itself, its students,  
38 or the general public.

39 (Source 2A:170-77.16; 2A:170-77.17; 2A:170-77.18).

40

41 13. (New section) a. It shall be unlawful for any person to  
42 purchase or have assigned to him, other than by order of court, any  
43 salary, wages, commissions, pay or other compensation for services,  
44 or any part thereof, due or to become due to any employee and any  
45 purchase or assignment, whenever executed, shall be void. It shall  
46 also be unlawful for any person to withhold or to pay to any other

1 person on the basis of any assignment or purchase prohibited by this  
2 act any salary, wages, commissions, pay or other compensation due to  
3 any employee.

4 b. Any person who violates this act, or attempts to do so, shall be  
5 liable to the employee for the amount of the salary, wages,  
6 commissions, or other compensation for services withheld from the  
7 employee.

8 c. Nothing contained in this act shall be construed to make  
9 unlawful the withholding or diverting of wages by any employer in  
10 accordance with section 4 of P.L.1965, c.173 (C.34:11-4.4).

11 (Source: 2A:150A-1; 2A:150A-2; 2A:150A-3; 2A:150A-4;  
12 2A:150A-5; 2A:150A-6; 34:11-25 and 26)

13

14 14. (New section) a. On Sunday, it shall be unlawful for any  
15 person whether it be at retail, wholesale or by auction, to sell, attempt  
16 to sell or offer to sell or to engage in the business of selling clothing  
17 or wearing apparel, building and lumber supply materials, furniture,  
18 home or business or office furnishings, household, business or office  
19 appliances, except as works of necessity and charity or as isolated  
20 transactions not in the usual course of the business of the participants.

21 b. Any person who violates any provision of this section is a  
22 disorderly person and upon conviction for the first offense, shall pay  
23 a fine of \$250.00; and for the second offense, shall pay a fine of not  
24 less than \$250.00 or more than \$1,000.00 to be fixed by the court; and  
25 for the third offense, shall pay a fine of not less than \$1,000.00 or  
26 more than \$2,000.00 to be fixed by the court or, in the discretion of  
27 the court, may be imprisoned for a period of not more than 30 days,  
28 or both; and for the fourth or each subsequent offense, shall pay a fine  
29 of not less than \$2,000.00 or more than \$5,000.00 to be fixed by the  
30 court, or, in the discretion of the court, may be imprisoned for a  
31 period of not less than 30 days or more than six months, or both. A  
32 single sale of an article of merchandise of the character prohibited to  
33 any one customer, or a single offer to sell an article of such  
34 merchandise to any one prospective customer, shall be a distinct  
35 violation of this act. The directors, officers, managers, agents or  
36 employees of corporations shall be personally liable for these penalties.

37 c. In addition to the penalties provided for conviction under this  
38 section, upon any four convictions for violations of this section, the  
39 premises in or upon which the violation occurred shall be deemed a  
40 nuisance.

41 d. As used in this section:

42 (1) "Clothing and wearing apparel" includes any article or articles  
43 to be worn on the person by man, woman, or child as bodily covering  
44 or protection, including garments of all types, headwear and footwear.

45 (2) "Furniture" includes all articles of furniture used inside or  
46 outside a house or office, including chairs, tables, beds, desks,

1 wardrobes, dressers, bureaus, cupboards, cabinets, bookcases, sofas,  
2 couches, and related items; and materials especially designed and  
3 prepared for assembly into furniture; and all such furniture, whether  
4 finished or unfinished, painted or unpainted.

5 (3) "Home furnishings" includes items of equipment and furnishings  
6 used in a home or office, such as floor coverings, lamps and lighting  
7 fixtures, household linens, drapes, blinds, curtains, mattresses, bed  
8 coverings, mirrors, china, kitchenware and kitchen utensils, silverware,  
9 cutlery.

10 (4) "Household appliances" includes stoves, heating devices,  
11 cooking equipment, refrigerators, air conditioning equipment, electric  
12 fans, clocks, radios, toasters, television sets, washing machines,  
13 dryers, and all such electrical and gas appliances used in the home.

14 (5) "Building and lumber supply materials" includes all items used  
15 in the construction of buildings, whether residential or industrial, and  
16 particularly, but not limited to lumber, cement, building blocks,  
17 sashes, frames, windows, doors and related items.

18 (6) "Sell" means to enter into an agreement whereby the seller  
19 transfers ownership of property in the goods or an interest in the  
20 goods to the purchaser for a consideration, whether or not the transfer  
21 is for immediate or future delivery, and whether or not the transaction  
22 is regarded as absolute, conditional or secured, and whether or not  
23 immediate consideration is paid therefor. The acceptance of a deposit  
24 for future delivery of any such merchandise, or an agreement for future  
25 delivery of any such merchandise, whether or not immediate  
26 consideration is paid therefor, shall also be deemed a sale for purposes  
27 of this act.

28 (7) "Offer to sell" means the acceptance of bids or proposals for the  
29 purchase of goods at a future date or the attempt to induce a sale as  
30 hereinabove defined, or the attempt to induce an immediate transfer of  
31 any such merchandise, but not to include advertising or display of any  
32 such merchandise, which merchandise is not available for purchase on  
33 Sunday.

34 (8) "Engage in selling" means the attempt to sell or to induce an  
35 immediate or future transfer of any such merchandise by describing,  
36 explaining, extolling or identifying any such merchandise while the  
37 seller is in personal contact with the potential purchaser.

38 (Source: 2A:171-5.8; 2A:171-5.9; 2A:171-5.10; 2A:171-5.11)

39

40 15. (New section) a. Section 14 of P.L. , c. (C. )  
41 now pending before the Legislature as this bill) prohibiting Sunday  
42 sales shall not become operative in any county unless the voters of the  
43 county have determined by referendum held pursuant to P.L. , c.  
44 (C. ) (now pending before the Legislature as this bill) or its  
45 predecessor that Sunday sales shall not be permitted in the county.

46 b. A public question as to whether Sunday sales shall be permitted

1 in a county shall be submitted to the voters of the county at a general  
2 election if a petition signed by not less than 2,500 registered voters of  
3 the county requesting that the question be submitted is filed with the  
4 county clerk prior to the 45th day preceding the general election.

5 c. There shall be printed on each official ballot to be used at such  
6 election, the following:

7  
8 If you favor the proposition printed below make a cross (X), plus  
9 (+) or check (√) in the square opposite the word "Yes." If you are  
10 opposed thereto make a cross (X), plus (+) or check (√) in the square  
11 opposite the word "No."

12  
13 YES. Shall Sunday sales be permitted in this county?

14  
15 NO.

16  
17 In any municipality in which voting machines are used, the question  
18 shall be placed upon the official ballots to be used upon the voting  
19 machines without the instructions and shall be voted upon by the use  
20 of such machines.

21 d. If at the election at which the question is submitted, the majority  
22 of all the votes cast are cast against the question, the provisions of  
23 section 14 of P.L. , c. (C. ) (now pending before the  
24 Legislature as this bill) shall be operative in the county on the first  
25 Sunday after the election. If a majority of votes is cast in favor of the  
26 question, the provisions of this act shall remain inoperative in the  
27 county.

28 e. In a county in which there has been a referendum on Sunday  
29 sales provided in this section, a public question as to whether Sunday  
30 sales shall be permitted shall be submitted again to the voters of the  
31 county if three years has elapsed since the last referendum on the  
32 subject and a petition signed by at least 10% of the registered voters  
33 of the county requesting that the question again be submitted is filed  
34 with the county clerk. The election shall be held at the next general  
35 election after the 45th day following the date of the filing of the  
36 petition in the same manner as provided in subsection c.

37 (Source: 2A:171-5.12; 2A:171-5.13; 2A:171-5.14; 2A:171-5.15;  
38 2A:171-5.16; 2A:171-5.17; 2A:171-5.18).

39  
40 16. (New section) a. If in any city of the first class located within  
41 any county in which, by referendum of the voters Sunday sales are  
42 prohibited, a petition is filed with the city clerk signed by not less than  
43 2,500 registered voters of the city requesting that there shall be  
44 submitted to the voters of the city the question of whether the  
45 provisions of Section 17 of P.L. , c. (C. ) (now pending  
46 before the Legislature as this bill) prohibiting Sunday sales shall apply

1 within the city, the question shall be submitted to the voters of the  
2 city at the next general election after the 30th day following the date  
3 of the filing of the petition.

4 b. There shall be printed on each official ballot to be used at the  
5 election authorized by P.L. , c. (C. ) (now pending before the  
6 Legislature as this bill) the following:

7

8 If you favor the proposition printed below make a cross (X), plus  
9 (+) or check (√) in the square opposite the word "Yes." If you are  
10 opposed thereto make a cross (X), plus (+) or check (√) in the square  
11 opposite the word "No."

12

13 YES. Shall Sunday sales be permitted in this city?

14

15 NO.

16

17 In any city in which voting machines are used, the question shall be  
18 placed upon the official ballots to be used upon the voting machines  
19 without the instructions and shall be voted upon by the use of such  
20 machines.

21 c. If at the election at which the question is submitted, the majority  
22 of all the votes cast are cast in favor of the question, the provisions of  
23 section 14 of P.L. , c. (C. ) (now pending before the  
24 Legislature as this bill) prohibiting Sunday sales shall be inoperative in  
25 the city; if a majority of votes is cast against the question, the  
26 provisions shall remain operative in the city.

27 (Source: 2A:171-5.19; 2A:171-5.20; 2A:171-5.21)

28

29 17. (New section) In a county that has approved Sunday sales by  
30 referendum, any municipality in that county which voted to prohibit  
31 Sunday sales at that referendum may by municipal referendum and  
32 pursuant to R.S.40:45-3 submit to the voters of the municipality for  
33 their approval the question of whether Sunday sales shall be permitted  
34 in that municipality.

35 (Source: 2A:171-5.24)

36

37 18. (New section) a. As used in this section:

38 (1) "Fundraising event" means a planned, scheduled activity which  
39 has as its main purpose the generating of money to be used for any  
40 educational purposes benefiting students including, but not limited to,  
41 use for scholarships or educational or athletic equipment. The money  
42 generated as a result of the sponsorship of a fundraising event, the  
43 leasing of space to vendors, and any actual sales by the educational  
44 organization itself must be used in their entirety for educational  
45 purposes. These events shall be conducted on the premises of the  
46 school with which the educational organization is affiliated and may

1 include, but are not limited to, flea markets, auctions, and bazaars.

2 (2) "Educational organizations" means associations of parents of  
3 public or private, nonprofit school students and faculty members of the  
4 public or private, nonprofit school where those students are enrolled,  
5 including teachers and administrators, or student groups consisting of  
6 present or former enrollees of the school or organizations consisting  
7 of some members of both these associations or groups who have  
8 joined together to conduct activities relating to the improvement of the  
9 quality of education. These activities include, meetings devoted to  
10 issues concerning administration or curriculum matters or volunteer  
11 efforts concerning any extracurricular activities or athletic events.

12 b. Notwithstanding any other provisions of law to the contrary, in  
13 a county in which the provisions of section 14 of P.L. , c. (C. )  
14 (now pending before the Legislature as this bill) prohibiting Sunday  
15 sales apply, an educational organization may be authorized by the  
16 appropriate school board of a public school or the appropriate chief  
17 administrative officer of a private, nonprofit school, as the case may  
18 be, in that county to conduct, on the appropriate school premises, no  
19 more than 10 fundraising events on any 10 Sundays in a calendar year.  
20 Each event shall be subject to separate approval by the board of chief  
21 administrative officer, as the case may be. The 10-day limitation  
22 provided for herein shall apply to all educational organizations for  
23 which a fundraising event would be subject to the approval of a single  
24 school district or chief administrative officer, as the case may be.

25 c. The governing body of a municipality may, by ordinance or  
26 resolution, provide that the provisions of this section will not be  
27 applicable in that municipality or may regulate or otherwise limit the  
28 fundraising events permitted by this act.

29 (Source: 2A:171-5.26; 2A:171-5.27; 2A:171-5.28).

30

31 19. (New section) a. All moneys paid to a funeral director,  
32 undertaker, cemetery, any other person, firm or corporation, in  
33 connection with an agreement for the sale of personal property to be  
34 used in connection with a funeral or burial, or for the furnishing of  
35 personal services of a funeral director or undertaker, where the  
36 personal property is not to be delivered or the personal services are  
37 not to be rendered until the death of the person for whose funeral or  
38 burial such property or services are to be furnished, shall be trust funds  
39 in the possession of such funeral director, undertaker, cemetery, or  
40 other person, firm or corporation, and shall be deposited within 30  
41 days after its receipt in a special account maintained exclusively for the  
42 deposit of such money in a federally insured State or federally  
43 chartered bank, savings bank or savings and loan association; or, if the  
44 person paying the moneys requests, in a pooled trust account  
45 established pursuant to P.L.1985, c.147 (C.3B:11-16 et seq.) and  
46 chosen by the person paying the moneys, and shall be held on deposit,

1 together with any interest on it, until the personal property has been  
2 delivered and the personal services have been rendered, unless it is  
3 sooner repaid, in whole or in part. No depository institution shall be  
4 liable for the misuse, misapplication or improper withdrawal by any  
5 such funeral director, undertaker, cemetery or other person, firm or  
6 corporation, of any moneys deposited pursuant to this section.

7 b. The amount of all moneys paid in connection with such an  
8 agreement, with any interest accrued, shall be repaid on demand at  
9 any time prior to the delivery of the personal property or the rendering  
10 of the personal services.

11 c. Any provisions of any agreement where a person waives any  
12 provisions of this section shall be void.

13 d. Any person who receives moneys in connection with such an  
14 agreement and who fails to deposit, keep on deposit, or repay any such  
15 money as provided in this act, shall be guilty of a crime of the fourth  
16 degree.

17 (Source: 2A:102-13; 2A:102-14; 2A:102-15; 2A:102-16).

18

19 20. (New section) a. Notwithstanding the provisions of Section  
20 19 of P.L. , c. (C. ) (now pending before the Legislature as  
21 this bill), an agreement may provide that the trust shall be irrevocable  
22 during the lifetime of the beneficiary, if at the time of the signing of  
23 an agreement, the beneficiary or grantor of the trust is:

24 (1) An aged, blind or disabled applicant for, or recipient of,  
25 benefits pursuant to the Supplemental Security Income Program under  
26 P.L.1973, c.256 (C. 4:7-85 et seq.) or any Medicaid program under  
27 P.L.1968, c.413 (C.30:4D-1 et seq.) utilizing the eligibility criteria of  
28 the Supplemental Security Income Program in regard to burial spaces  
29 and funds set aside for burial expenses; or

30 (2) An aged, blind or disabled person who reasonably anticipates  
31 applying for, or receiving, the benefits provided for in subsection a. of  
32 this section within six months.

33 b. An irrevocable trust established pursuant to this section shall not  
34 affect the selection of funeral goods or services or the selection of the  
35 funeral home. If the beneficiary or grantor of the trust enters into an  
36 agreement, reasonably anticipating that the beneficiary or grantor will  
37 become an applicant for, or recipient of, these programs within six  
38 months from the execution of the agreement, the agreement shall  
39 provide that, in the event the beneficiary or grantor of the trust does  
40 not become an applicant for, or recipient of, any of these programs  
41 within the six month period, the trust shall revert to a revocable trust.

42 c. As used in this section, "agreement" means an agreement for the  
43 sale of personal property to be used in connection with a funeral or  
44 burial, or for the furnishing of personal services of a funeral director  
45 or undertaker, wherein the personal property is not to be delivered or  
46 the personal services are not to be rendered until the occurrence of



1 the death of the person for whose funeral or burial the property or  
2 services are to be furnished.

3 d. A person shall be guilty of a crime of the fourth degree if he  
4 knowingly solicits or induces any person to execute an irrevocable  
5 trust pursuant to this action with an intent to collect or charge more  
6 than the fair market value for funeral goods or services.

7 e. A person shall be guilty of a crime of the fourth degree if the  
8 proceeds of the trust are expended on anything other than the fair  
9 market value of the funeral goods or services.

10 f. This act shall not apply to the sale of lots or graves by a  
11 cemetery.

12 (Source: 2A:102-16.1; 2A:102-16.2; 2A:102-17)

13

14 21. The following sections are repealed:

15 R.S.34:11-25;

16 R.S.34:11-26;

17 N.J.S.2A:170-51;

18 N.J.S.2A:170-77;

19 N.J.S.2A:170-91;

20 P.L.1957, c.182 (C.2A:102-13 through 2A:102-17);

21 Section 1 and 3 of P.L.1991, c.502 (C.2A:102-16.1 and  
22 C.2A:102-16.2);

23 P.L.1952, c.95 (C.2A:108-9);

24 P.L.1971, c.412 (C.2A:150A-1 through 2A:150A-5);

25 P.L.1973, c.354 (C.2A:150A-6);

26 P.L.1952, c.136 (C.2A:170-25.1);

27 P.L.1965, c.41 (C.2A:170-25.9 through 2A:170-25.13);

28 P.L.1972, c.143 (C.2A:170-25.17);

29 Sections 1 through 4 of P.L.1977, c.244 (C.2A:170-25.21 through  
30 2A:170-25.23);

31 P.L. **[955]** 1955, c.48 (C.2A:170-77.2);

32 P.L.1962, c.174 (C.2A:170-77.2a and 2A:170-77.2b);

33 P.L.1962, c.113 (C.2A:170-77.8 through 2A:170-77.11);

34 P.L.1964, c.230 (C.2A:170-77.12 through 2A:170-77.14);

35 Section 7 of P.L.1966, c.314 (C.2A:170-77.15);

36 P.L.1977, c.215 (C.2A:170-77.16 through 2A:170-77.18);

37 P.L.1966, c.121 (C.2A:170-90.2);

38 P.L.1975, c.182 (C.2A:170-90.3 through 2A:170-90.5);

39 P.L.1955, c.254 (C.2A:171-1.1 and 2A:171-1.2);

40 P.L.1959, c.119 (C.2A:171-5.8 through 2A:171-5.18);

41 P.L.1984, c.160 (C.2A:171-5.19 through 2A:171-5.21);

42 Sections 6 and 7 of P.L.1985, c.271 (C.2A:171-5.22 and  
43 2A:171-5.23);

44 P.L.1985, c.417 (C.2A:171-5.24 and 2A:171-5.25);

45 P.L.1988, c.62 (C.2A:171-5.26 through 2A:171-5.28);

46 Section 6 of P.L.1980, c.133 (C.24:21-51);

1 Section 18 of P.L.1970, c.226 (C.24:21-18).

2

3 22. This act shall take effect immediately.

4

5

6

STATEMENT

7

8 The New Jersey Law Revision Commission examined the criminal  
9 statutes still found in Titles 2A and 24 with a view toward completing  
10 the task of codifying all criminal statutes in Title 2C. This bill  
11 implements the Commission's recommendations as provided in the  
12 "Report and Recommendations Relating to Compilation of the  
13 Criminal Law" dated February 15, 1996.

14 Title 2C, the "New Jersey Code of Criminal Justice" enacted in  
15 1979 codified New Jersey's criminal law and established a statutory  
16 framework to regulate crimes. This codification was accomplished  
17 largely through the repeal of many sections of Title 2A. However,  
18 several sections of law setting criminal penalties remain in Title 2A.  
19 Similarly, when the "Comprehensive Drug Reform Act of 1986" was  
20 enacted many sections of Title 24 were repealed and incorporated into  
21 Title 2C. A few drug related offenses, however, remain in Title 24.  
22 The bill incorporates into Title 2C those provisions in Title 2A and  
23 Title 24 with continuing validity that concern criminal offenses.

24 Some Title 2A provisions are repealed and suggested for  
25 reenactment in more appropriate Titles. For example, the bill suggests  
26 that those sections which comprise the New Jersey Sunday closing  
27 laws should be repealed and recompiled in Title 40A, Municipalities  
28 and Counties. In addition, N.J.S.A.2A:102-13 through 2A:102-17,  
29 regulating the payments made to funeral directors, cemetaries and  
30 undertakers, may be incorporated into Title 45 where regulations  
31 concerning the profession of mortuary science are found. Language  
32 of the provisions that are reenacted may have been revised but  
33 generally follows the substantive meaning of existing law. The bill  
34 indicates the source law for the sections which are being repealed but  
35 reenacted for recompilation.

36 Provisions in Title 2A that are obsolete or superseded are repealed  
37 and not reenacted. For example, the bill repeals N.J.S.A.2A:108-9  
38 which criminalizes as a high misdemeanor the act of persuading  
39 another to use a narcotic drug unlawfully. This provision is redundant  
40 with subsection b. of N.J.S.A.2C:35-10 which makes it a disorderly  
41 persons offense to use or be under the influence of a controlled  
42 dangerous substance for a purpose other than the treatment of an  
43 illness or injury as prescribed by a physician. This bill would also  
44 repeal those sections of the law which comprise the New Jersey  
45 flagship statute, 2A:170-77.12 through 2A:170-77.14, which prohibits  
46 the sale of tickets for passage aboard any vessel, or the advertisement

1 of any such tickets, unless the ticket indicates the country in which the  
2 vessel is registered. Other sections which have been repealed are  
3 N.J.S.A.2A:170-77.2, 2A:170-77.2a. and 2A:170-77.2b concerning  
4 unlawful distribution practices.

5 Section 2 of the bill concerning hypodermic needles and syringes  
6 incorporates the provisions of P.L.1996, c.66 which extend the time  
7 for which a prescription for these needles and syringes is valid from  
8 six months to one year.