

SENATE, No. 1977

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MAY 24, 2012

Sponsored by:

Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senators Weinberg and Cunningham

SYNOPSIS

Decriminalizes possession of 50 grams or less of marijuana.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/16/2013)

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1 AN ACT concerning marijuana, amending various parts of the
2 statutory law, and supplementing Title 24 of the Revised
3 Statutes.

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

7
8 1. N.J.S.2C:35-10 is amended to read as follows:

9 2C:35-10. Possession, Use or Being Under the Influence, or
10 Failure to Make Lawful Disposition.

11 a. It is unlawful for any person, knowingly or purposely, to
12 obtain, or to possess, actually or constructively, a controlled
13 dangerous substance or controlled substance analog, unless the
14 substance was obtained directly, or pursuant to a valid prescription
15 or order form from a practitioner, while acting in the course of his
16 professional practice, or except as otherwise authorized by
17 P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this
18 section with respect to:

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

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

28 (3) Possession of more than 50 grams of marijuana, including
29 any adulterants or dilutants, or more than five grams of hashish is
30 guilty of a crime of the fourth degree, except that, notwithstanding
31 the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
32 \$25,000.00 may be imposed; **[or]**

33 (4) Possession of **[50 grams or less of marijuana, including any**
34 **adulterants or dilutants, or]** five grams or less of hashish is a
35 disorderly person; or

36 (5) Possession of 50 grams or less of marijuana, including any
37 adulterants or dilutants, is not a violation of this title, but shall be
38 subject to the penalties set forth in section 5 of P.L. , c. (C.)
39 (pending before the Legislature as this bill).

40 Any person who commits any offense defined in this section,
41 other than possession of 50 grams or less of marijuana as described
42 in paragraph (5) of this subsection, while on any property used for
43 school purposes which is owned by or leased to any elementary or
44 secondary school or school board, or within 1,000 feet of any such
45 school property or a school bus, or while on any school bus, and

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.

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1 who is not sentenced to a term of imprisonment, shall, in addition to
2 any other sentence which the court may impose, be required to
3 perform not less than 100 hours of community service.

4 b. Any person who uses or who is under the influence of any
5 controlled dangerous substance, or its analog, for a purpose other
6 than the treatment of sickness or injury as lawfully prescribed or
7 administered by a physician is a disorderly person.
8 Notwithstanding the provisions of this subsection, it shall not be a
9 violation of this section for a person to be under the influence of
10 marijuana.

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

21 c. Any person who knowingly obtains or possesses a controlled
22 dangerous substance or controlled substance analog in violation of
23 subsection a. of this section and who fails to voluntarily deliver the
24 substance to the nearest law enforcement officer is guilty of a
25 disorderly persons offense. Nothing in this subsection shall be
26 construed to preclude a prosecution or conviction for any other
27 offense defined in this title or any other statute. This subsection
28 shall not apply to possession of 50 grams or less of marijuana,
29 including any adulterants and dilutants.

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

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

33 2C:36-2. Use or possession with intent to use, disorderly persons
34 offense.

35 It shall be unlawful for any person to use, or to possess with
36 intent to use, drug paraphernalia to plant, propagate, cultivate,
37 grow, harvest, manufacture, compound, convert, produce, process,
38 prepare, test, analyze, pack, repack, store, contain, conceal, ingest,
39 inhale, or otherwise introduce into the human body a controlled
40 dangerous substance, controlled substance analog or toxic chemical
41 in violation of the provisions of chapter 35 of this title. Any person
42 who violates this section is guilty of a disorderly persons offense.

43 Use, or possession with intent to use, drug paraphernalia for
44 personal use of 50 grams or less of marijuana, including any
45 adulterants and dilutants, is not a violation of this title but shall be
46 subject to the penalties set forth in section 6 of P.L. _____,
47 c. (C. _____)(pending before the Legislature as this bill).

48 (cf: P.L.2007, c.31, s.3)

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1 3. N.J.S.2B:12-17 is amended to read as follows:

2 2B:12-17. Jurisdiction of specified offenses. A municipal court
3 has jurisdiction over the following cases within the territorial
4 jurisdiction of the court:

5 a. Violations of county or municipal ordinances;

6 b. Violations of the motor vehicle and traffic laws;

7 c. Disorderly persons offenses, petty disorderly persons
8 offenses and other non-indictable offenses except where exclusive
9 jurisdiction is given to the Superior Court;

10 d. Violations of the fish and game laws;

11 e. Proceedings to collect a penalty where jurisdiction is granted
12 by statute;

13 f. Violations of laws regulating boating; **[and]**

14 g. Violations of sections 5 and 6 of P.L. _____, c. _____
15 (pending before the Legislature as this bill); and

16 h. Any other proceedings where jurisdiction is granted by
17 statute.

18 (cf: P.L.1996, c.95, s.12)

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

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

35 A person who violates this section shall be fined not less than
36 \$50.00 and shall forthwith forfeit his right to operate a motor
37 vehicle for a period of two years from the date of his conviction.
38 This section shall not apply to possession of 50 grams or less of
39 marijuana, including any adulterants and dilutants.

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

41

42 5. (New section) a. Any person who possesses 50 grams or
43 less of marijuana as defined in N.J.S.2C:35-2, including any
44 adulterants and dilutants, except as authorized by P.L.2009, c.307
45 (C.24:6I-1 et al.), shall be subject to a \$50 civil penalty. The
46 penalty shall be collected pursuant to the "Penalty Enforcement
47 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
48 proceeding before the municipal court having jurisdiction. A

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1 penalty recovered under the provisions of this section shall be
2 recovered by and in the name of the State by the local municipality.
3 The penalty shall be paid into the treasury of the municipality in
4 which the violation occurred for the general uses of the
5 municipality.

6 b. Any person who is under the age of 18 who commits a
7 violation of this section shall be referred to the Superior Court,
8 Chancery Division, Family Part for an appropriate disposition.

9 c. A violation of this section shall be proved by a
10 preponderance of the evidence.

11

12 6. (New section) a. Any person who possesses drug
13 paraphernalia, as defined in N.J.S.2C:36-1, for personal use of 50
14 grams or less of marijuana as defined in N.J.S.2C:35-2, including
15 any adulterants and dilutants, except as authorized by P.L.2009,
16 c.307 (C.24:6I-1 et al.), shall be subject to a \$100 civil penalty.
17 The penalty shall be collected pursuant to the "Penalty Enforcement
18 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
19 proceeding before the municipal court having jurisdiction. A
20 penalty recovered under the provisions of this section shall be
21 recovered by and in the name of the State by the local municipality.
22 The penalty shall be paid into the treasury of the municipality in
23 which the violation occurred for the general uses of the
24 municipality.

25 b. A violation of this section shall be proved by a
26 preponderance of the evidence.

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28 7. This act shall take effect immediately.

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STATEMENT

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33 This bill would decriminalize possession of 50 grams or less of
34 marijuana. A person who is found to possess 50 grams or less of
35 marijuana would be subject to a \$50 civil penalty. All penalties
36 would be recovered by and in the name of the State by the local
37 municipality and would be paid into the treasury of the municipality
38 in which the violation occurred for the general uses of the
39 municipality. If the violation is committed by a person under the
40 age of 18, the person would be referred to the Family Part of the
41 Chancery Division of the Superior Court for an appropriate
42 disposition.

43 A person who possesses drug paraphernalia for the personal use
44 of 50 grams or less of marijuana would no longer have committed a
45 criminal offense but would be subject to a \$100 civil penalty.

46 Additionally, this bill would establish that it is no longer a
47 disorderly persons offense to be under the influence of marijuana or
48 to fail to voluntarily deliver 50 grams or less of marijuana to the

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1 nearest law enforcement officer. This bill would also eliminate the
2 requirement that a person who operates a motor vehicle while in
3 possession marijuana pay a fine of not less than \$50 and forfeit the
4 right to operate a motor vehicle for a period of two years if the
5 amount of marijuana in the person's possession is 50 grams or less.

6 This bill would not apply to persons who are in compliance with
7 the "New Jersey Compassionate Use Medical Marijuana Act,"
8 P.L.2009, c.307 (C.24:6I-1 et al.)