

# ASSEMBLY, No. 2842

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 10, 2014

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblyman MICHAEL PATRICK CARROLL**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

Legalizes possession of one ounce or less of marijuana, subject to voter approval.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning marijuana possession, subject to voter  
2 approval, and amending N.J.S.2C:35-10 and N.J.S.2C:36-2.

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

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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 more than 28.35 grams but less than 50 grams  
34 **[or less]** of marijuana, including any adulterants or dilutants, or  
35 five grams or less of hashish is a disorderly person.

36 Any person who commits any offense defined in this section  
37 while on any property used for school purposes which is owned by  
38 or leased to any elementary or secondary school or school board, or  
39 within 1,000 feet of any such school property or a school bus, or  
40 while on any school bus, and who is not sentenced to a term of  
41 imprisonment, shall, in addition to any other sentence which the  
42 court may impose, be required to perform not less than 100 hours of  
43 community service.

44 b. Any person who uses or who is under the influence of any  
45 controlled dangerous substance, or its analog, for a purpose other

**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 than the treatment of sickness or injury as lawfully prescribed or  
2 administered by a physician is a disorderly person.  
3 Notwithstanding the provisions of this subsection, it shall not be a  
4 violation of this section for a person to be under the influence of  
5 marijuana.

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

16 c. Any person who knowingly obtains or possesses a controlled  
17 dangerous substance or controlled substance analog in violation of  
18 subsection a. of this section and who fails to voluntarily deliver the  
19 substance to the nearest law enforcement officer is guilty of a  
20 disorderly persons offense. Nothing in this subsection shall be  
21 construed to preclude a prosecution or conviction for any other  
22 offense defined in this title or any other statute. This subsection  
23 shall not apply to possession of 28.35 grams or less of marijuana.

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

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

27 2C:36-2. Use or possession with intent to use, disorderly persons  
28 offense.

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

37 Use, or possession with intent to use, drug paraphernalia for  
38 personal use of 28.35 grams or less of marijuana is not a violation  
39 of this section.

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

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42 3. This act shall be submitted to the people for their approval  
43 or rejection at the next general election to be held at least 70 days  
44 following the date of its enactment for the purpose of complying  
45 with Article II, Section I, paragraph 2 of the New Jersey  
46 Constitution.

1 4. This voter referendum shall be submitted to the people in the  
2 following manner and form:

3 There shall be printed on each official ballot to be used at the  
4 general election, the following:

5 a. In every municipality in which voting machines are not used,  
6 a legend which shall immediately precede the question as follows:

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

11 b. In every municipality the following question:  
12

	YES	<p style="text-align: center;"><b>LEGALIZING POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA</b></p> <p>Do you approve a law passed by the Legislature that legalizes the possession of one ounce or less of marijuana?</p>
	NO	<p style="text-align: center;"><b>INTERPRETIVE STATEMENT</b></p> <p>This question asks if you approve a new law passed by the Legislature that legalizes the possession of one ounce or less of marijuana. One ounce is 28.35 grams.</p> <p>The law will not take effect unless the voters approve it.</p> <p>Under existing law, possessing 50 grams or less of marijuana is a disorderly persons offense, which is punishable by a term of imprisonment of up to six months or a fine of up to \$1,000 or both. If the voters approve the new law, possession of one ounce or 28.35 grams or less of marijuana would be lawful. Possession of more than one ounce or 28.35 grams would remain a criminal offense.</p>

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STATEMENT

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17 This bill legalizes the possession of one ounce or less of  
18 marijuana, subject to voter approval. One ounce is 28.35 grams.  
19 Under current law, set out in N.J.S.2C:35-10, it is a disorderly  
20 persons offense to possess 50 grams or less of marijuana. A  
21 disorderly persons offense is punishable by a term of imprisonment  
22 of up to six months or a fine of up to \$1,000 or both.

23 The bill, if approved by the voters, would also amend  
24 N.J.S.2C:36-2, which provides that the use or possession with intent

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1 to use drug paraphernalia is a disorderly persons offense. Under the  
2 bill, use or possession with intent to use drug paraphernalia for  
3 personal use of one ounce or less of marijuana would not constitute  
4 a violation of the statute.