

ASSEMBLY, No. 3942

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 20, 2016

Sponsored by:

Assemblyman REED GUSCIORA
District 15 (Hunterdon and Mercer)

SYNOPSIS

Places question on ballot allowing Atlantic City to adopt resolution to legalize marijuana in Atlantic City; establishes regulatory scheme for marijuana controlled by State Department of Law and Public Safety; increases penalties for driving under influence of marijuana.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT placing a question on the ballot concerning the legalization
2 and regulation of marijuana in Atlantic City, supplementing Title
3 52 of the Revised Statutes, and amending various sections of
4 statutory law.

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

8
9 1. (New section) Sections 1 through 15 of P.L. _____,
10 c. (C. _____) (pending before the Legislature as this bill) shall be
11 known as the “Providing Opportunities for Tomorrow in Atlantic
12 City Act.”

13
14 2. (New section) The Legislature finds and declares that:

15 a. Atlantic City is in the midst of an extraordinary financial
16 crisis as a result of its unique status as the sole municipality in
17 which casino gaming has been authorized in the State, and the
18 sudden, rapid proliferation of casino gaming in this region of the
19 country which has had a severely destabilizing impact on the
20 finances and economy of Atlantic City.

21 b. Casino gaming was authorized in Atlantic City in 1976,
22 following the adoption by the voters of an amendment to the New
23 Jersey Constitution (Article IV, Section VII, paragraph 2,
24 subparagraph D).

25 c. Over the course of the following decades, casinos grew and
26 profited in Atlantic City, due in large part to the fact that Atlantic
27 City was the only location in the region in which legal casino
28 gaming was available.

29 d. In recent years, however, other states in the region,
30 particularly Pennsylvania and New York, began to authorize more
31 and more casino gaming, which has taken a very substantial portion
32 of the regional casino gaming market away from Atlantic City.

33 e. The property tax base of Atlantic City has declined by more
34 than 50 percent in the past five years, driven almost exclusively by
35 the reductions in casino gaming property values, placing a
36 disastrous strain on Atlantic City’s budget through the greater
37 liabilities for casino gaming property tax appeal refunds and lower
38 property tax revenues generated by casino gaming properties based
39 on current values.

40 f. As the reduced casino gaming property values have resulted
41 in casinos paying less in property taxes, the property tax burden for
42 all other Atlantic City and Atlantic County residents and businesses
43 has increased, placing even greater pressure on a community that is
44 already deeply struggling.

45 g. The economic downturn in Atlantic City has been
46 widespread. The regional competition in casino gaming has had a
47 damaging effect on Atlantic City, resulting in the closure of four
48 casino gaming properties, which represented one-third of the

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 number of casinos operating in Atlantic City in 2013. The sharp
2 decline in the value of the remaining casino gaming properties has
3 led to successful appeals of the assessments on those properties
4 requiring hundreds of millions of dollars in property tax refunds.
5 There has been sharp increase in the local unemployment rate,
6 which remains stubbornly well above the averages of the State, the
7 region, and the United States.

8 h. The Legislature and the executive branch have attempted to
9 repair or fix the finances and economy of Atlantic City through a
10 variety of actions taken in recent years.

11 i. In 2010, Atlantic City was placed under the supervision of
12 the Local Finance Board pursuant to the powers established in the
13 “Local Government Supervision Act (1947),” P.L.1947, c.151
14 (C.52:27BB-1 et seq.). Since 2010, the municipal budget of Atlantic
15 City has been subject to the review and approval by the Local
16 Finance Board.

17 j. In 2011, the Atlantic City Tourism District was established,
18 and the State, through the Casino Reinvestment Development
19 Authority, was provided broad powers within the portion of
20 Atlantic City constituting the tourism district.

21 k. In 2015, the State provided transitional aid to Atlantic City,
22 on the condition that the State would have the authority to impose
23 oversight and operational efficiency measures pursuant to a
24 memorandum of understanding, and the State appointed an
25 emergency monitor to develop a plan for remedying Atlantic City’s
26 finances.

27 l. Atlantic City’s financial crisis has only deepened and
28 presently, Atlantic City is no longer able to meet all of its financial
29 obligations and may need to shut down certain municipal operations
30 and services for extended periods of time.

31 m. While the State possesses additional powers under current
32 law that may be exercised to improve the dire situation in Atlantic
33 City, in light of the extraordinary depth of the financial problems
34 now plaguing Atlantic City, it is apparent that further actions are
35 necessary to resolve the crisis in Atlantic City.

36 n. Washington State and Colorado have, for several years,
37 experienced a financial windfall after establishing a comprehensive
38 system to legalize, regulate, and heavily tax the recreational
39 marijuana.

40 o. In New Jersey, the criminalization of the use of marijuana,
41 and the entire marijuana industry, is archaic and has had a disparate,
42 harmful impact on minority communities throughout the State,
43 including Atlantic City.

44 p. Atlantic City has been the sole host of a casino industry that
45 has provided extensive tax revenue to the local geographic area and
46 the entire State, and the State must plan for a future in Atlantic City
47 that caters to the market it intends to serve for the next 30 years and
48 beyond. A well-designed and heavily regulated marijuana industry
49 would move Atlantic City’s economy into the 21st century and

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1 provide extreme economic benefits to a new generation of Atlantic
2 City residents and business interests, including existing hotels and
3 casinos.

4 q. In recognition of the unique experience Atlantic City has had
5 in handling a large number of tourists each year as the only
6 municipality in the State where casino gaming is authorized, and in
7 addition to having demonstrated its ability to host a heavily
8 regulated industry that was once prohibited under the law, it is
9 appropriate to allow Atlantic City the opportunity to host another
10 unique industry, such as the marijuana industry, to help diversify
11 the city's financial interests.

12 r. Therefore, it is altogether fitting and proper that Atlantic
13 City be considered a class unto itself, as the courts have determined
14 in the past, allowing the Legislature to enact special provisions for
15 the manufacture, sale, consumption, possession, and taxation of
16 marijuana within the boundaries of Atlantic City that would help to
17 bring Atlantic City to a sound financial condition.

18
19 3. (New section) There shall be printed on each official
20 ballot to be used the first general election at least 60 days next after
21 the enactment of P.L. , c. (C.) (pending before the
22 Legislature as this bill), the following:

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

25 If you favor the proposition printed below make a cross (X), plus
26 (+), or check (✓) in the square opposite the word "Yes." If you are
27 opposed thereto make a cross (X), plus (+) or check (✓) in the
28 square opposite the word "No."

29 b. In every municipality the following question:
30

	YES	<p>QUESTION TO AUTHORIZE ATLANTIC CITY TO LEGALIZE AND REGULATE MARIJUANA</p> <p>Do you approve allowing Atlantic City to adopt a resolution to legalize marijuana within the city pursuant to P.L. , c. (C.) (pending before the Legislature as this bill)? Marijuana would be mainly regulated by the State, with certain matters left to local control. The law would permit the commercial growth, sale, possession, consumption, and taxation of marijuana within the boundaries of Atlantic City. If the governing body of Atlantic City does not adopt a resolution approving legalization, the law will not be operational. Use and possession of marijuana would be restricted to persons 21 and older within Atlantic City.</p>
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	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Voting “yes” on this ballot question would allow Atlantic City to legalize the commercial growth, sale, possession, consumption, and taxation of marijuana in Atlantic City. Marijuana in Atlantic City would be mainly regulated by the Department of Law and Public Safety.</p> <p>A tax would be imposed on both the commercial growth and retail sale of marijuana at the rate of 20 percent of the market price. Fifty percent of the tax money collected would be deposited in Atlantic City’s general fund. Thirty percent of the tax money collected would be deposited in the “Special Transportation Fund” to fund transportation projects. Ten percent of the tax money collected would be deposited in the "Drug Enforcement and Demand Reduction Fund." Ten percent of the tax money collected would be dedicated to programs addressing women’s health, family planning, and other public health and safety programs. Use and possession of marijuana would be restricted to persons age 21 and older within Atlantic City. The penalties for operating a vehicle under the influence of marijuana would be increased.</p> <p>Voting “no” on this ballot question would maintain current law in every respect.</p>
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- 1
- 2 c. Each jurisdiction may apply to the Division of Alcoholic
- 3 Beverage and Marijuana Control in the Department of Law and
- 4 Public Safety for the reimbursement of any costs incurred as a
- 5 result of placing the question established in this section on the
- 6 ballot.
- 7 d. If the voters adopt the ballot question pursuant to this
- 8 section, the governing body of Atlantic City may, at any time within
- 9 two years of the adoption of the ballot question, adopt a resolution
- 10 authorizing the legalization and regulation of marijuana. Sections 4
- 11 through 22 of in P.L. , c. (C.) (pending before the
- 12 Legislature as this bill) shall have remain inoperative unless a
- 13 resolution is adopted by the governing body of Atlantic City in
- 14 accordance with this subsection.
- 15
- 16 4. (New section) As used in P.L. , c. (C.) (pending
- 17 before the Legislature as this bill):

1 "Consumer" means a person 21 years of age or older who
2 purchases marijuana or marijuana products for personal use by a
3 person 21 years of age or older, but not for resale to others.

4 "Commercial growth" means the cultivation of marijuana plants
5 in an authorized marijuana cultivation facility for the purpose of
6 distribution to a marijuana product manufacturing facility.

7 "Division" means the Division of Alcoholic Beverage and
8 Marijuana Control in the Department of Law and Public Safety.

9 "Industrial hemp" means the plant of the genus cannabis and any
10 part of such plant, whether growing or not, with a delta-9
11 tetrahydrocannabinol concentration that does not exceed three-
12 tenths percent on a dry weight basis.

13 "Marijuana" means all parts of the plant genus cannabis whether
14 growing or not; the seeds thereof, and every compound,
15 manufacture, salt, derivative, mixture, or preparation of the plant or
16 its seeds, except those containing resin extracted from the plant; but
17 shall not include industrial hemp, the mature stalks of the plant,
18 fiber produced from the stalks, oil, or cake made from the seeds of
19 the plant, any other compound, manufacture, salt, derivative,
20 mixture, or preparation of mature stalks, fiber, oil, or cake, or the
21 sterilized seed of the plant which is incapable of germination, or the
22 weight of any other ingredient combined with marijuana to prepare
23 topical or oral administrations, food, drink, or other product.

24 "Marijuana accessories" means any equipment, products, or
25 materials of any kind which are used, intended for use, or designed
26 for use in planting, propagating, cultivating, growing, harvesting,
27 composting, manufacturing, compounding, converting, producing,
28 processing, preparing, testing, analyzing, packaging, repackaging,
29 storing, vaporizing, or containing marijuana, or for ingesting,
30 inhaling, or otherwise introducing marijuana into the human body.

31 "Marijuana cultivation facility" means an entity licensed to
32 cultivate, prepare, and package marijuana and sell marijuana to
33 retail marijuana stores, to marijuana product manufacturing
34 facilities, and to other marijuana cultivation facilities, but not
35 directly to consumers.

36 "Marijuana establishment" means a marijuana cultivation
37 facility, a marijuana testing facility, a marijuana product
38 manufacturing facility, a retail marijuana store, or any business
39 establishment, or dedicated area within a business establishment,
40 designed specifically for the use of marijuana purchased on the
41 premises.

42 "Marijuana product manufacturing facility" means a business
43 entity licensed to purchase marijuana; manufacture, prepare, and
44 package marijuana products; and sell marijuana and marijuana
45 products to other marijuana product manufacturing facilities and to
46 retail marijuana stores, but not to consumers.

47 "Marijuana products" means items that are comprised of
48 concentrated marijuana and other ingredients and are intended for

1 use or consumption, such as, but not limited to, edible goods,
2 ointments, and tinctures.

3 “Marijuana testing facility” means an entity licensed to analyze
4 and certify the safety and potency of marijuana.

5 “Marijuana wholesaler” means an entity, properly licensed,
6 which sells marijuana, marijuana accessories, or marijuana products
7 for the purpose of resale either to another licensed marijuana
8 wholesaler or to a licensed marijuana retail store.

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

13 “Retail marijuana store” means an entity licensed to purchase
14 marijuana from marijuana cultivation facilities and marijuana and
15 marijuana products from marijuana product manufacturing facilities
16 and to sell marijuana and marijuana products to consumers.

17 “Unreasonably impracticable” means that the measures necessary
18 to comply with the regulations require such a high investment of
19 risk, money, time, or any other resource or asset that the operation
20 of a marijuana establishment in Atlantic City cannot be considered
21 a viable business model.

22

23 5. (New section) Notwithstanding any other provision of law,
24 the following acts, within the boundaries of Atlantic City, are
25 lawful and shall not be treated as an offense or a basis for seizure or
26 forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable
27 law, for persons 21 years of age or older:

28 a. Possessing, using, displaying, purchasing, or transporting
29 marijuana accessories or one ounce or less of marijuana.

30 b. Possessing, growing, processing, or transporting no more
31 than six marijuana plants, with three or fewer being mature,
32 flowering plants, and possessing marijuana produced by the plants
33 on the premises where the plants were grown, provided that the
34 growing takes place in an enclosed, locked space, is not conducted
35 openly or publicly, and is not made available for sale.

36 c. Transferring of one ounce or less of marijuana without
37 remuneration to a person who is 21 years of age or older.

38 d. Consuming marijuana.

39 e. Assisting another person who is 21 years of age or older in
40 any of the acts described in subsections a. through d. of this section.

41

42 6. (New section) Notwithstanding any other provision of law,
43 the following acts, within the boundaries of Atlantic City, are
44 lawful and shall not be an offense or a basis for seizure or forfeiture
45 of assets under N.J.S.2C:64-1 et seq. or other applicable law for
46 persons 21 years of age or older:

47 a. Manufacturing, possessing, or purchasing of marijuana
48 accessories or selling marijuana accessories to a person who is 21
49 years of age or older.

1 b. Possessing, displaying, or transporting marijuana or
2 marijuana products; purchasing of marijuana from a marijuana
3 cultivation facility; purchasing of marijuana or marijuana products
4 from a marijuana product manufacturing facility; or selling
5 marijuana or marijuana products to consumers, if the person
6 conducting the activities described in this subsection has obtained a
7 current, valid license to operate a retail marijuana store or is acting
8 in his or her capacity as an owner, employee, or agent of a licensed
9 retail marijuana store.

10 c. Cultivating, harvesting, processing, packaging, transporting,
11 displaying, or possessing marijuana; delivering or transferring of
12 marijuana to a marijuana testing facility; selling marijuana to a
13 marijuana cultivation facility, a marijuana product manufacturing
14 facility, or a retail marijuana store; or purchasing marijuana from a
15 marijuana cultivation facility, if the person conducting the activities
16 described in this subsection has obtained a current, valid license to
17 operate a marijuana cultivation facility or is acting in his or her
18 capacity as an owner, employee, or agent of a licensed marijuana
19 cultivation facility.

20 d. Packaging, processing, transporting, manufacturing,
21 displaying, or possessing marijuana or marijuana products;
22 delivering or transferring of marijuana or marijuana products to a
23 marijuana testing facility; selling marijuana or marijuana products
24 to a retail marijuana store or a marijuana product manufacturing
25 facility; purchasing marijuana from a marijuana cultivation facility;
26 or purchasing marijuana or marijuana products from a marijuana
27 product manufacturing facility, if the person conducting the
28 activities described in this subsection has obtained a current, valid
29 license to operate a marijuana product manufacturing facility or is
30 acting in his or her capacity as an owner, employee, or agent of a
31 licensed marijuana product manufacturing facility.

32 e. Possessing, cultivating, processing, repackaging, storing,
33 transporting, displaying, transferring or delivering marijuana or
34 marijuana products if the person has obtained a current, valid
35 license to operate a marijuana testing facility or is acting in his or
36 her capacity as an owner, employee, or agent of a licensed
37 marijuana testing facility.

38 f. Leasing or otherwise allowing the use of property owned,
39 occupied, or controlled by any person, corporation or other entity
40 for any of the activities conducted lawfully in accordance with
41 subsections a. through e. of this section.

42

43 7. (New section) a. Not later than six months following the
44 effective date of P.L. , c. (C.) (pending before the
45 Legislature as this bill), the division shall adopt regulations
46 necessary for implementation of this section. Such regulations shall
47 not prohibit the operation of marijuana establishments, either
48 expressly or through regulations that make their operation
49 unreasonably impracticable. Such regulations shall include:

- 1 (1) Procedures for the issuance, renewal, suspension, and
2 revocation of a license to operate a marijuana establishment, with
3 such procedures subject to all requirements of the "Administrative
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);
 - 5 (2) A schedule of application, licensing, and renewal fees,
6 provided application fees shall not exceed \$5,000, with this upper
7 limit adjusted annually for inflation, unless the division determines
8 a greater fee is necessary to carry out its responsibilities under this
9 section, and provided further, an entity that is authorized pursuant
10 to the "New Jersey Compassionate Use Medical Marijuana Act,"
11 P.L.2009, c.307 (C.24:6I-1 et seq.) to cultivate or sell marijuana or
12 to manufacture marijuana products at the time this section takes
13 effect and that chooses to apply for a separate marijuana
14 establishment license shall not be required to pay an application fee
15 greater than \$500 to apply for a license to operate a marijuana
16 establishment in accordance with the provisions of P.L. ,
17 c. (C.) (pending before the Legislature as this bill);
 - 18 (3) Qualifications for licensure that are directly and
19 demonstrably related to the operation of a marijuana establishment;
 - 20 (4) Security requirements for marijuana establishments;
 - 21 (5) Requirements to prevent the sale or diversion of marijuana
22 and marijuana products to persons under the age of 21;
 - 23 (6) Labeling requirements for marijuana and marijuana products
24 sold or distributed by a marijuana establishment;
 - 25 (7) Health and safety regulations and standards for the
26 manufacture of marijuana products and the cultivation of marijuana;
 - 27 (8) Restrictions on the advertising and display of marijuana and
28 marijuana products;
 - 29 (9) A requirement that only marijuana, marijuana products, and
30 marijuana accessories are available for sale at a marijuana
31 establishment; and
 - 32 (10) Civil penalties for the failure to comply with regulations
33 made pursuant to this section.
- 34 b. In order to ensure the most secure, reliable, and accountable
35 system for the production and distribution of marijuana and
36 marijuana products in accordance with this section, in any
37 competitive application process the division shall have as a primary
38 consideration whether an applicant:
 - 39 (1) Has prior experience producing or distributing marijuana or
40 marijuana products pursuant to the "New Jersey Compassionate Use
41 Medical Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et seq.). in the
42 State; and
 - 43 (2) Has, during the experience described in paragraph (1) of this
44 subsection, complied consistently with the "New Jersey
45 Compassionate Use Medical Marijuana Act," P.L.2009, c.307
46 (C.24:6I-1 et seq.) and conforming regulations.
 - 47 c. In order to ensure that individual privacy is protected, the
48 division shall not require a consumer to provide a retail marijuana
49 store with personal information other than government-issued

1 identification to determine the consumer's age, and a retail
2 marijuana store shall not be required to acquire and record personal
3 information about consumers other than information typically
4 acquired in a financial transaction conducted by the holder of a
5 Class C retail license concerning alcoholic beverages as set forth in
6 R.S.33:1-12.

7
8 8. (New section) a. There shall be a tax levied upon
9 marijuana sold or otherwise transferred by a marijuana cultivation
10 facility to a marijuana product manufacturing facility or to a retail
11 marijuana store at a rate of 20 percent of the market price of the
12 sale or transfer. The Department of the Treasury shall establish
13 procedures for the collection of all taxes levied.

14 b. The taxes levied and collected pursuant to this section shall
15 be allocated as follows:

16 (1) 50 percent of all monies collected shall be deposited in the
17 general fund of Atlantic City.

18 (2) 30 percent of all monies collected shall be deposited in the
19 "Special Transportation Fund" created by section 21 of P.L.1984,
20 c.73 (C.27:1B-21).

21 (3) 10 percent of all monies collected shall be dedicated to
22 "Drug Enforcement and Demand Reduction Fund" established
23 pursuant to N.J.S.2C:35-15.

24 c. 10 percent of all monies collected shall be dedicated to
25 programs addressing women's health, family planning, postpartum
26 depression awareness, smoking cessation, and HIV-awareness.

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

31
32 9. (New section) a. Not later than six months following the
33 effective date of P.L. , c. (C.) (pending before the
34 Legislature as this bill), Atlantic City shall adopt an ordinance or
35 regulation specifying the local official within Atlantic City that is
36 responsible for processing applications submitted for a license to
37 operate a marijuana establishment within the boundaries of Atlantic
38 City and for the issuance of such licenses should the issuance by
39 Atlantic City become necessary because of a failure by the division
40 to adopt regulations or because of a failure by the division to
41 process and issue licenses.

42 b. Atlantic City may adopt ordinances or regulations, not in
43 conflict with the provisions of P.L. , c. (C.) (pending
44 before the Legislature as this bill):

45 (1) Governing the time, place, manner, and number of marijuana
46 establishment operations;

47 (2) Establishing procedures for the issuance, suspension, and
48 revocation of a license issued by Atlantic City;

1 (3) Establishing a schedule of annual operating, licensing, and
2 application fees for marijuana establishments, provided, the
3 application fee shall only be due if an application is submitted to
4 Atlantic City in accordance with the provisions of P.L. ,
5 c. (C.) (pending before the Legislature as this bill) and a
6 licensing fee shall only be due if a license is issued by Atlantic
7 City; and

8 (4) Establishing civil penalties for violation of an ordinance or
9 regulation governing the time, place, and manner of a marijuana
10 establishment that may operate in Atlantic City.

11 c. Atlantic City shall not prohibit the operation of marijuana
12 cultivation facilities, marijuana product manufacturing facilities,
13 marijuana testing facilities, or retail marijuana stores through the
14 enactment of an ordinance.

15

16 10. (New section) a. Each application for an annual license to
17 operate a marijuana establishment shall be submitted to the
18 division. The division shall:

19 (1) Begin accepting and processing applications six months
20 following the effective date of P.L. , c. (C.) (pending
21 before the Legislature as this bill);

22 (2) Immediately forward a copy of each application and half of
23 the license application fee to the designated Atlantic City official;

24 (3) Issue an annual license to the applicant between 45 and 90
25 days after receipt of an application unless the division finds the
26 applicant is not in compliance with regulations enacted pursuant to
27 the provisions of section 7 of P.L. , c. (C.) (pending before
28 the Legislature as this bill) or the division is notified by Atlantic
29 City that the applicant is not in compliance with ordinances and
30 regulations made pursuant to the provisions of section 9 of P.L. ,
31 c. (C.) (pending before the Legislature as this bill) and in
32 effect at the time of application, provided, when Atlantic City has
33 enacted a numerical limit on the number of marijuana
34 establishments and a greater number of applicants seek licenses, the
35 division shall solicit and consider input from Atlantic City as to the
36 city's preference or preferences for licensure; and

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

39 b. If the division does not issue a license to an applicant within
40 90 days of receipt of the application filed pursuant to subsection a.
41 of this section, and does not notify the applicant of the specific
42 reason for its denial in writing and within such time period, or, if
43 the division has adopted regulations pursuant to subsection a. of
44 section 7 of P.L. , c. , (C.) (pending before the Legislature
45 as this bill) and has accepted applications pursuant to subsection a.
46 of this section but has not issued any licenses by six months
47 following the effective date of P.L. , c. (C.) (pending
48 before the Legislature as this bill), the applicant may resubmit its
49 application directly to Atlantic City, and the city may issue an

1 annual license to the applicant. Atlantic City, when issuing a license
2 to an applicant, shall do so within 90 days of receipt of the
3 resubmitted application, unless the city finds and notifies the
4 applicant that the applicant is not in compliance with ordinances
5 and regulations in effect at the time the application is resubmitted.
6 Atlantic City shall notify the division if an annual license has been
7 issued to the applicant. If an application is submitted to the city
8 under this subsection, the division shall forward to the city the
9 application fee paid by the applicant to the division upon request by
10 the city. A license issued by Atlantic City in accordance with this
11 subsection shall have the same force and effect as a license issued
12 by the division and the holder of such license shall not be subject to
13 regulation or enforcement by the division during the term of that
14 license. A subsequent or renewed license may be issued under this
15 subsection on an annual basis only upon resubmission to the city of
16 a new application submitted to the division.

17 c. If the division does not adopt regulations required by
18 subsection a. of section 7 of P.L. , c. (C.) (pending before
19 the Legislature as this bill), an applicant may submit an application
20 directly to the city six months following the effective date of
21 P.L. , c. (C.) (pending before the Legislature as this bill),
22 and Atlantic City may issue an annual license to the applicant.
23 Atlantic City, when issuing a license to an applicant shall do so
24 within 90 days of receipt of the application, unless it finds and
25 notifies the applicant that the applicant is not in compliance with
26 ordinances and regulations in effect at the time of the application
27 and shall notify the division if an annual license has been issued to
28 the applicant. A license issued by Atlantic City in accordance with
29 this subsection shall have the same force and effect as a license
30 issued by the division and the holder of such license shall not be
31 subject to regulation or enforcement by the division during the term
32 of that license. A subsequent or renewed license may be issued
33 under this subsection on an annual basis if the division has not
34 adopted regulations required by section 4 of P.L. , c. , (C.)
35 (pending before the Legislature as this bill) at least 90 days prior to
36 the date upon which such subsequent or renewed license would be
37 effective

38
39 11. (New section) Nothing in P.L. , c. (C.) (pending
40 before the Legislature as this bill) is intended to require an
41 employer to permit or accommodate the use, consumption,
42 possession, transfer, display, transportation, sale, or growing of
43 marijuana in the workplace or to affect the ability of employers to
44 have policies restricting the use of marijuana by employees.

45
46 12. (New section) Nothing in P.L. , c. (C.) (pending
47 before the Legislature as this bill) is intended to allow driving under
48 the influence of marijuana or driving while impaired by marijuana

1 or to supersede laws related to driving under the influence of
2 marijuana or driving while impaired by marijuana.

3

4 13. (New section) Nothing in P.L. , c. (C.) (pending
5 before the Legislature as this bill) is intended to permit the transfer
6 of marijuana, with or without remuneration, to a person under the
7 age of 21 or to allow a person under the age of 21 to purchase,
8 possess, use, transport, grow, or consume marijuana.

9

10 14. (New section) Nothing in P.L. , c. (C.) (pending
11 before the Legislature as this bill) shall prohibit a person, employer,
12 school, hospital, detention facility, corporation, or any other entity
13 that occupies, owns or controls a property from prohibiting or
14 otherwise regulating the possession, consumption, use, display,
15 transfer, distribution, sale, transportation, or growing of marijuana
16 on or in that property.

17

18 15. (New section) Nothing in P.L. , c. (C.) (pending
19 before the Legislature as this bill) shall be construed to:

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

24 b. Permit a medical marijuana center to distribute marijuana to
25 a person who is not a medical marijuana patient;

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

29 d. 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 retail marijuana store; or

32 e. 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 16. N.J.S.2C:35-4 is amended to read as follows:

37 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et
38 seq.), or P.L. , c. (C.) (pending before the Legislature as
39 this bill), any person who knowingly maintains or operates any
40 premises, place or facility used for the manufacture of
41 methamphetamine, lysergic acid diethylamide, phencyclidine,
42 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
43 greater than five pounds or ten plants or any substance listed in
44 Schedule I or II, or the analog of any such substance, or any person
45 who knowingly aids, promotes, finances or otherwise participates in
46 the maintenance or operations of such premises, place or facility, is
47 guilty of a crime of the first degree and shall, except as provided in
48 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
49 include the imposition of a minimum term which shall be fixed at,

1 or between, one-third and one-half of the sentence imposed, during
2 which the defendant shall be ineligible for parole. Notwithstanding
3 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
4 impose a fine not to exceed \$750,000.00 or five times the street
5 value of all controlled dangerous substances, controlled substance
6 analogs, gamma hydroxybutyrate or flunitrazepam at any time
7 manufactured or stored at such premises, place or facility,
8 whichever is greater.

9 (cf: P.L.1999, c.133, s.2)

10

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

12 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
13 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or P.L. _____,
14 c. _____ (C. _____) (pending before the Legislature as this bill), it shall
15 be unlawful for any person knowingly or purposely:

16 (1) To manufacture, distribute or dispense, or to possess or have
17 under his control with intent to manufacture, distribute or dispense,
18 a controlled dangerous substance or controlled substance analog; or

19 (2) To create, distribute, or possess or have under his control
20 with intent to distribute, a counterfeit controlled dangerous
21 substance.

22 b. Any person who violates subsection a. with respect to:

23 (1) Heroin, or its analog, or coca leaves and any salt, compound,
24 derivative, or preparation of coca leaves, and any salt, compound,
25 derivative, or preparation thereof which is chemically equivalent or
26 identical with any of these substances, or analogs, except that the
27 substances shall not include decocainized coca leaves or extractions
28 which do not contain cocaine or ecogine, or 3,4-
29 methylenedioxymethamphetamine or 3,4 methylenedioxyamphetam
30 ine, in a quantity of five ounces or more including any adulterants
31 or dilutants is guilty of a crime of the first degree. The defendant
32 shall, except as provided in N.J.S.2C:35-12, be sentenced to a term
33 of imprisonment by the court. 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, during
36 which the defendant shall be ineligible for parole. Notwithstanding
37 the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to
38 \$500,000.00 may be imposed;

39 (2) A substance referred to in paragraph (1) of this subsection,
40 in a quantity of one-half ounce or more but less than five ounces,
41 including any adulterants or dilutants is guilty of a crime of the
42 second degree;

43 (3) A substance referred to paragraph (1) of this subsection in a
44 quantity less than one-half ounce including any adulterants or
45 dilutants is guilty of a crime of the third degree except that,
46 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
47 fine of up to \$75,000.00 may be imposed;

48 (4) A substance classified as a narcotic drug in Schedule I or II
49 other than those specifically covered in this section, or the analog of

1 any such substance, in a quantity of one ounce or more including
2 any adulterants or dilutants is guilty of a crime of the second
3 degree;

4 (5) A substance classified as a narcotic drug in Schedule I or II
5 other than those specifically covered in this section, or the analog of
6 any such substance, in a quantity of less than one ounce including
7 any adulterants or dilutants is guilty of a crime of the third degree
8 except that, notwithstanding the provisions of subsection b. of
9 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

10 (6) Lysergic acid diethylamide, or its analog, in a quantity of
11 100 milligrams or more including any adulterants or dilutants, or
12 phencyclidine, or its analog, in a quantity of 10 grams or more
13 including any adulterants or dilutants, is guilty of a crime of the
14 first degree. Except as provided in N.J.S.2C:35-12, the court shall
15 impose a term of imprisonment which shall include the imposition
16 of a minimum term, fixed at, or between, one-third and one-half of
17 the sentence imposed by the court, during which the defendant shall
18 be ineligible for parole. Notwithstanding the provisions of
19 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be
20 imposed;

21 (7) Lysergic acid diethylamide, or its analog, in a quantity of
22 less than 100 milligrams including any adulterants or dilutants, or
23 where the amount is undetermined, or phencyclidine, or its analog,
24 in a quantity of less than 10 grams including any adulterants or
25 dilutants, or where the amount is undetermined, is guilty of a crime
26 of the second degree;

27 (8) Methamphetamine, or its analog, or phenyl-2-propanone
28 (P2P), in a quantity of five ounces or more including any
29 adulterants or dilutants is guilty of a crime of the first degree.
30 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
31 fine of up to \$300,000.00 may be imposed;

32 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
33 (P2P), in a quantity of one-half ounce or more but less than five
34 ounces including any adulterants or dilutants is guilty of a crime of
35 the second degree;

36 (b) Methamphetamine, or its analog, or phenyl-2-propanone
37 (P2P), in a quantity of less than one-half ounce including any
38 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 (10) (a) Marijuana in a quantity of 25 pounds or more
42 including any adulterants or dilutants, or 50 or more marijuana
43 plants, regardless of weight, or hashish in a quantity of five pounds
44 or more including any adulterants or dilutants, is guilty of a crime
45 of the first degree. Notwithstanding the provisions of subsection a.
46 of N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;

47 (b) Marijuana in a quantity of five pounds or more but less than
48 25 pounds including any adulterants or dilutants, or 10 or more but
49 fewer than 50 marijuana plants, regardless of weight, or hashish in a

1 quantity of one pound or more but less than five pounds, including
2 any adulterants and dilutants, is guilty of a crime of the second
3 degree;

4 (11) Marijuana in a quantity of one ounce or more but less than
5 five pounds including any adulterants or dilutants, or hashish in a
6 quantity of five grams or more but less than one pound including
7 any adulterants or dilutants, is guilty of a crime of the third degree
8 except that, notwithstanding the provisions of subsection b. of
9 N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;

10 (12) Marijuana in a quantity of less than one ounce including
11 any adulterants or dilutants, or hashish in a quantity of less than five
12 grams including any adulterants or dilutants, is guilty of a crime of
13 the fourth degree;

14 (13) Any other controlled dangerous substance classified in
15 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
16 third degree, except that, notwithstanding the provisions of
17 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be
18 imposed; or

19 (14) Any Schedule V substance, or its analog, is guilty of a
20 crime of the fourth degree except that, notwithstanding the
21 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
22 \$25,000.00 may be imposed.

23 c. Where the degree of the offense for violation of this section
24 depends on the quantity of the substance, the quantity involved
25 shall be determined by the trier of fact. Where the indictment or
26 accusation so provides, the quantity involved in individual acts of
27 manufacturing, distribution, dispensing or possessing with intent to
28 distribute may be aggregated in determining the grade of the
29 offense, whether distribution or dispensing is to the same person or
30 several persons, provided that each individual act of manufacturing,
31 distribution, dispensing or possession with intent to distribute was
32 committed within the applicable statute of limitations.

33 (cf: P.L.2000, c.136, s.1)

34

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

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

39 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
40 distributing, dispensing or possessing with intent to distribute a
41 controlled dangerous substance or controlled substance analog
42 while on any school property used for school purposes which is
43 owned by or leased to any elementary or secondary school or school
44 board, or within 1,000 feet of such school property or a school bus,
45 or while on any school bus, is guilty of a crime of the third degree
46 and shall, except as provided in N.J.S.2C:35-12, be sentenced by
47 the court to a term of imprisonment. Where the violation involves
48 less than one ounce of marijuana, the term of imprisonment shall
49 include the imposition of a minimum term which shall be fixed at,

1 or between, one-third and one-half of the sentence imposed, or one
2 year, whichever is greater, during which the defendant shall be
3 ineligible for parole. In all other cases, the term of imprisonment
4 shall include the imposition of a minimum term which shall be
5 fixed at, or between, one-third and one-half of the sentence
6 imposed, or three years, whichever is greater, during which the
7 defendant shall be ineligible for parole. Notwithstanding the
8 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
9 \$150,000 may also be imposed upon any conviction for a violation
10 of this section.

11 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or
12 subsection a. of this section, the court may waive or reduce the
13 minimum term of parole ineligibility required under subsection a. of
14 this section or place the defendant on probation pursuant to
15 paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this
16 determination, the court shall consider:

17 (a) the extent of the defendant's prior criminal record and the
18 seriousness of the offenses for which the defendant has been
19 convicted;

20 (b) the specific location of the present offense in relation to the
21 school property, including distance from the school and the
22 reasonable likelihood of exposing children to drug-related activities
23 at that location;

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

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

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

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

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

35 If the court at sentencing elects not to impose a minimum term of
36 imprisonment and parole ineligibility pursuant to this subsection,
37 imposes a term of parole ineligibility less than the minimum term
38 prescribed in subsection a. of this section, or places the defendant
39 on probation for a violation of subsection a. of this section, the
40 sentence shall not become final for 10 days in order to permit the
41 prosecution to appeal the court's finding and the sentence imposed.
42 The Attorney General shall develop guidelines to ensure the
43 uniform exercise of discretion in making determinations regarding
44 whether to appeal a decision to waive or reduce the minimum term
45 of parole ineligibility or place the defendant on probation.

46 Nothing in this subsection shall be construed to establish a basis
47 for overcoming a presumption of imprisonment authorized or
48 required by subsection d. of N.J.S.2C:44-1, or a basis for not
49 imposing a term of imprisonment or term of parole ineligibility

1 authorized or required to be imposed pursuant to subsection f. of
2 N.J.S.2C:43-6 or upon conviction for a crime other than the offense
3 set forth in this subsection.

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

9 d. It shall be no defense to a prosecution for a violation of this
10 section that the actor was unaware that the prohibited conduct took
11 place while on or within 1,000 feet of any school property. Nor
12 shall it be a defense to a prosecution under this section, or under
13 any other provision of this title, that no juveniles were present on
14 the school property at the time of the offense or that the school was
15 not in session.

16 e. It is an affirmative defense to prosecution for a violation of
17 this section that the prohibited conduct took place entirely within a
18 private residence, that no person 17 years of age or younger was
19 present in such private residence at any time during the commission
20 of the offense, and that the prohibited conduct did not involve
21 distributing, dispensing or possessing with the intent to distribute or
22 dispense any controlled dangerous substance or controlled
23 substance analog for profit. The affirmative defense established in
24 this section shall be proved by the defendant by a preponderance of
25 the evidence. Nothing herein shall be construed to establish an
26 affirmative defense with respect to a prosecution for an offense
27 defined in any other section of this chapter.

28 f. 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 1,000
31 feet of any property used for school purposes which is owned by or
32 leased to any elementary or secondary school or school board, or a
33 true copy of such a map, shall, upon proper authentication, be
34 admissible and shall constitute prima facie evidence of the location
35 and boundaries of those areas, provided that the governing body of
36 the municipality or county has adopted a resolution or ordinance
37 approving the map as official finding and record of the location and
38 boundaries of the area or areas on or within 1,000 feet of the school
39 property. Any map approved pursuant to this section may be
40 changed from time to time by the governing body of the
41 municipality or county. The original of every map approved or
42 revised pursuant to this section, or a true copy thereof, shall be filed
43 with the clerk of the municipality or county, and shall be
44 maintained as an official record of the municipality or county.
45 Nothing in this section shall be construed to preclude the
46 prosecution from introducing or relying upon any other evidence or
47 testimony to establish any element of this offense; nor shall this
48 section be construed to preclude the use or admissibility of any map
49 or diagram other than one which has been approved by the

1 governing body of a municipality or county, provided that the map
2 or diagram is otherwise admissible pursuant to the Rules of
3 Evidence.

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

5

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

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

10 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
11 distributing, dispensing or possessing with intent to distribute a
12 controlled dangerous substance or controlled substance analog
13 while in, on or within 500 feet of the real property comprising a
14 public housing facility, a public park, or a public building is guilty
15 of a crime of the second degree, except that it is a crime of the third
16 degree if the violation involved less than one ounce of marijuana.

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

21 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
22 provisions of law, a conviction arising under this section shall not
23 merge with a conviction for a violation of subsection a. of
24 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
25 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).
26 Nothing in this section shall be construed to preclude or limit a
27 prosecution or conviction for a violation of N.J.S.2C:35-7 or any
28 other offense defined in this chapter.

29 d. It is an affirmative defense to prosecution for a violation of
30 this section that the prohibited conduct did not involve distributing,
31 dispensing or possessing with the intent to distribute or dispense
32 any controlled dangerous substance or controlled substance analog
33 for profit, and that the prohibited conduct did not involve
34 distribution to a person 17 years of age or younger. The affirmative
35 defense established in this section shall be proved by the defendant
36 by a preponderance of the evidence. Nothing herein shall be
37 construed to establish an affirmative defense with respect to a
38 prosecution for an offense defined in any other section of this
39 chapter.

40 e. In a prosecution under this section, a map produced or
41 reproduced by any municipal or county engineer for the purpose of
42 depicting the location and boundaries of the area on or within 500
43 feet of a public housing facility which is owned by or leased to a
44 housing authority according to the "Local Redevelopment and
45 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or
46 within 500 feet of a public park, or the area in or within 500 feet of
47 a public building, or a true copy of such a map, shall, upon proper
48 authentication, be admissible and shall constitute prima facie
49 evidence of the location and boundaries of those areas, provided

1 that the governing body of the municipality or county has adopted a
2 resolution or ordinance approving the map as official finding and
3 record of the location and boundaries of the area or areas on or
4 within 500 feet of a public housing facility, a public park, or a
5 public building. Any map approved pursuant to this section may be
6 changed from time to time by the governing body of the
7 municipality or county. The original of every map approved or
8 revised pursuant to this section, or a true copy thereof, shall be filed
9 with the clerk of the municipality or county, and shall be
10 maintained as an official record of the municipality or county.
11 Nothing in this section shall be construed to preclude the
12 prosecution from introducing or relying upon any other evidence or
13 testimony to establish any element of this offense; nor shall this
14 section be construed to preclude the use or admissibility of any map
15 or diagram other than one which has been approved by the
16 governing body of a municipality or county, provided that the map
17 or diagram is otherwise admissible pursuant to the Rules of
18 Evidence.

19 f. As used in this act:

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

27 "Public park" means a park, recreation facility or area or
28 playground owned or controlled by a State, county or local
29 government unit.

30 "Public building" means any publicly owned or leased library or
31 museum.

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

33

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

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

37 a. It is unlawful for any person, knowingly or purposely, to
38 obtain, or to possess, actually or constructively, a controlled
39 dangerous substance or controlled substance analog, unless the
40 substance was obtained directly, or pursuant to a valid prescription
41 or order form from a practitioner, while acting in the course of his
42 professional practice, or except as otherwise authorized by
43 P.L.1970, c.226 (C.24:21-1 et seq.), or except as authorized by
44 P.L. _____, c. _____ (pending before the Legislature as this bill).

45 Any person who violates this section with respect to:

46 (1) A controlled dangerous substance, or its analog, classified in
47 Schedule I, II, III or IV other than those specifically covered in this
48 section, is guilty of a crime of the third degree except that,

1 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
2 fine of up to \$35,000.00 may be imposed;

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

7 (3) Possession of more than 50 grams of marijuana, including
8 any adulterants or dilutants, or more than five grams of hashish is
9 guilty of a crime of the fourth degree, except that, notwithstanding
10 the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
11 \$25,000.00 may be imposed; or

12 (4) Possession of 50 grams or less of marijuana, including any
13 adulterants or dilutants, or five grams or less of hashish is a
14 disorderly person.

15 Any person who commits any offense defined in this section
16 while on any property used for school purposes which is owned by
17 or leased to any elementary or secondary school or school board, or
18 within 1,000 feet of any such school property or a school bus, or
19 while on any school bus, and who is not sentenced to a term of
20 imprisonment, shall, in addition to any other sentence which the
21 court may impose, be required to perform not less than 100 hours of
22 community service.

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

27 In a prosecution under this subsection, it shall not be necessary
28 for the State to prove that the accused did use or was under the
29 influence of any specific drug, but it shall be sufficient for a
30 conviction under this subsection for the State to prove that the
31 accused did use or was under the influence of some controlled
32 dangerous substance, counterfeit controlled dangerous substance, or
33 controlled substance analog, by proving that the accused did
34 manifest physical and physiological symptoms or reactions caused
35 by the use of any controlled dangerous substance or controlled
36 substance analog.

37 c. Any person who knowingly obtains or possesses a controlled
38 dangerous substance or controlled substance analog in violation of
39 subsection a. of this section and who fails to voluntarily deliver the
40 substance to the nearest law enforcement officer is guilty of a
41 disorderly persons offense. Nothing in this subsection shall be
42 construed to preclude a prosecution or conviction for any other
43 offense defined in this title or any other statute.

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

45

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

48 3. There is hereby established in the Department of Law and
49 Public Safety a Division of Law, a Division of State Police, a

1 Division of Alcoholic Beverage and Marijuana Control, a Division
2 of Motor Vehicles, a Division of Weights and Measures and a
3 Division of Professional Boards.

4 The Attorney General shall have the authority to organize and
5 maintain in his offices an Administrative Division and to assign to
6 employment therein such secretarial, clerical and other assistants in
7 the department as his office and the internal operations of the
8 department shall require.

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

10

11 22. R.S.39:4-50 is amended to read as follows:

12 39:4-50. (a) Except as provided in subsection (g) of this
13 section, a person who operates a motor vehicle while under the
14 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
15 producing drug, or operates a motor vehicle with a blood alcohol
16 concentration of 0.08% or more by weight of alcohol in the
17 defendant's blood or permits another person who is under the
18 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
19 producing drug to operate a motor vehicle owned by him or in his
20 custody or control or permits another to operate a motor vehicle
21 with a blood alcohol concentration of 0.08% or more by weight of
22 alcohol in the defendant's blood shall be subject:

23 (1) For the first offense:

24 (i) if the person's blood alcohol concentration is 0.08% or
25 higher but less than 0.10%, or the person operates a motor vehicle
26 while under the influence of intoxicating liquor, or the person
27 permits another person who is under the influence of intoxicating
28 liquor to operate a motor vehicle owned by him or in his custody or
29 control or permits another person with a blood alcohol
30 concentration of 0.08% or higher but less than 0.10% to operate a
31 motor vehicle, to a fine of not less than \$250 nor more than \$400
32 and a period of detainment of not less than 12 hours nor more than
33 48 hours spent during two consecutive days of not less than six
34 hours each day and served as prescribed by the program
35 requirements of the Intoxicated Driver Resource Centers established
36 under subsection (f) of this section and, in the discretion of the
37 court, a term of imprisonment of not more than 30 days and shall
38 forthwith forfeit his right to operate a motor vehicle over the
39 highways of this State for a period of three months;

40 (ii) if the person's blood alcohol concentration is 0.10% or
41 higher, or the person operates a motor vehicle while under the
42 influence of narcotic, hallucinogenic or habit-producing drug, or the
43 person permits another person who is under the influence of
44 narcotic, hallucinogenic or habit-producing drug to operate a motor
45 vehicle owned by him or in his custody or control, or permits
46 another person with a blood alcohol concentration of 0.10% or more
47 to operate a motor vehicle, to a fine of not less than \$300 nor more
48 than \$500 and a period of detainment of not less than 12 hours nor
49 more than 48 hours spent during two consecutive days of not less

1 than six hours each day and served as prescribed by the program
2 requirements of the Intoxicated Driver Resource Centers established
3 under subsection (f) of this section and, in the discretion of the
4 court, a term of imprisonment of not more than 30 days and shall
5 forthwith forfeit his right to operate a motor vehicle over the
6 highways of this State for a period of not less than seven months
7 nor more than one year;

8 (iii) For a first offense, a person also shall be subject to the
9 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

10 (2) For a second violation, a person shall be subject to a fine of
11 not less than \$500 nor more than \$1,000, and shall be ordered by
12 the court to perform community service for a period of 30 days,
13 which shall be of such form and on such terms as the court shall
14 deem appropriate under the circumstances, and shall be sentenced to
15 imprisonment for a term of not less than 48 consecutive hours,
16 which shall not be suspended or served on probation, nor more than
17 90 days, and shall forfeit his right to operate a motor vehicle over
18 the highways of this State for a period of two years upon
19 conviction, and, after the expiration of said period, he may make
20 application to the Chief Administrator of the New Jersey Motor
21 Vehicle Commission for a license to operate a motor vehicle, which
22 application may be granted at the discretion of the chief
23 administrator, consistent with subsection (b) of this section. For a
24 second violation, a person also shall be required to install an
25 ignition interlock device under the provisions of P.L.1999, c.417
26 (C.39:4-50.16 et al.).

27 (3) For a third or subsequent violation, a person shall be subject
28 to a fine of \$1,000, and shall be sentenced to imprisonment for a
29 term of not less than 180 days in a county jail or workhouse, except
30 that the court may lower such term for each day, not exceeding 90
31 days, served participating in a drug or alcohol inpatient
32 rehabilitation program approved by the Intoxicated Driver Resource
33 Center and shall thereafter forfeit his right to operate a motor
34 vehicle over the highways of this State for 10 years. For a third or
35 subsequent violation, a person also shall be required to install an
36 ignition interlock device under the provisions of P.L.1999, c.417
37 (C.39:4-50.16 et al.).

38 As used in this section, the phrase "narcotic, hallucinogenic or
39 habit-producing drug" includes an inhalant or other substance
40 containing a chemical capable of releasing any toxic vapors or
41 fumes for the purpose of inducing a condition of intoxication, such
42 as any glue, cement or any other substance containing one or more
43 of the following chemical compounds: acetone and acetate, amyl
44 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl
45 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,
46 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or
47 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous
48 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl
49 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or

1 any other chemical substance capable of causing a condition of
2 intoxication, inebriation, excitement, stupefaction or the dulling of
3 the brain or nervous system as a result of the inhalation of the
4 fumes or vapors of such chemical substance.

5 Whenever an operator of a motor vehicle has been involved in an
6 accident resulting in death, bodily injury or property damage, a
7 police officer shall consider that fact along with all other facts and
8 circumstances in determining whether there are reasonable grounds
9 to believe that person was operating a motor vehicle in violation of
10 this section.

11 A conviction of a violation of a law of a substantially similar
12 nature in another jurisdiction, regardless of whether that jurisdiction
13 is a signatory to the Interstate Driver License Compact pursuant to
14 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior
15 conviction under this subsection unless the defendant can
16 demonstrate by clear and convincing evidence that the conviction in
17 the other jurisdiction was based exclusively upon a violation of a
18 proscribed blood alcohol concentration of less than 0.08%.

19 If the driving privilege of any person is under revocation or
20 suspension for a violation of any provision of this Title or Title 2C
21 of the New Jersey Statutes at the time of any conviction for a
22 violation of this section, the revocation or suspension period
23 imposed shall commence as of the date of termination of the
24 existing revocation or suspension period. In the case of any person
25 who at the time of the imposition of sentence is less than 17 years
26 of age, the forfeiture, suspension or revocation of the driving
27 privilege imposed by the court under this section shall commence
28 immediately, run through the offender's seventeenth birthday and
29 continue from that date for the period set by the court pursuant to
30 paragraphs (1) through (3) of this subsection. A court that imposes
31 a term of imprisonment for a first or second offense under this
32 section may sentence the person so convicted to the county jail, to
33 the workhouse of the county wherein the offense was committed, to
34 an inpatient rehabilitation program or to an Intoxicated Driver
35 Resource Center or other facility approved by the chief of the
36 Intoxicated Driving Program Unit in the Department of Health. For
37 a third or subsequent offense a person shall not serve a term of
38 imprisonment at an Intoxicated Driver Resource Center as provided
39 in subsection (f).

40 A person who has been convicted of a previous violation of this
41 section need not be charged as a second or subsequent offender in
42 the complaint made against him in order to render him liable to the
43 punishment imposed by this section on a second or subsequent
44 offender, but if the second offense occurs more than 10 years after
45 the first offense, the court shall treat the second conviction as a first
46 offense for sentencing purposes and if a third offense occurs more
47 than 10 years after the second offense, the court shall treat the third
48 conviction as a second offense for sentencing purposes.

1 (b) A person convicted under this section must satisfy the
2 screening, evaluation, referral, program and fee requirements of the
3 Division of Mental Health and Addiction Services' Intoxicated
4 Driving Program Unit, and of the Intoxicated Driver Resource
5 Centers and a program of alcohol and drug education and highway
6 safety, as prescribed by the chief administrator. The sentencing
7 court shall inform the person convicted that failure to satisfy such
8 requirements shall result in a mandatory two-day term of
9 imprisonment in a county jail and a driver license revocation or
10 suspension and continuation of revocation or suspension until such
11 requirements are satisfied, unless stayed by court order in
12 accordance with the Rules Governing the Courts of the State of
13 New Jersey, or R.S.39:5-22. Upon sentencing, the court shall
14 forward to the Division of Mental Health and Addiction Services'
15 Intoxicated Driving Program Unit a copy of a person's conviction
16 record. A fee of \$100 shall be payable to the Alcohol Education,
17 Rehabilitation and Enforcement Fund established pursuant to
18 section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
19 Intoxicated Driving Program Unit.

20 (c) Upon conviction of a violation of this section, the court shall
21 collect forthwith the New Jersey driver's license or licenses of the
22 person so convicted and forward such license or licenses to the
23 chief administrator. The court shall inform the person convicted that
24 if he is convicted of personally operating a motor vehicle during the
25 period of license suspension imposed pursuant to subsection (a) of
26 this section, he shall, upon conviction, be subject to the penalties
27 established in R.S.39:3-40. The person convicted shall be informed
28 orally and in writing. A person shall be required to acknowledge
29 receipt of that written notice in writing. Failure to receive a written
30 notice or failure to acknowledge in writing the receipt of a written
31 notice shall not be a defense to a subsequent charge of a violation of
32 R.S.39:3-40. In the event that a person convicted under this section
33 is the holder of any out-of-State driver's license, the court shall not
34 collect the license but shall notify forthwith the chief administrator,
35 who shall, in turn, notify appropriate officials in the licensing
36 jurisdiction. The court shall, however, revoke the nonresident's
37 driving privilege to operate a motor vehicle in this State, in
38 accordance with this section. Upon conviction of a violation of this
39 section, the court shall notify the person convicted, orally and in
40 writing, of the penalties for a second, third or subsequent violation
41 of this section. A person shall be required to acknowledge receipt
42 of that written notice in writing. Failure to receive a written notice
43 or failure to acknowledge in writing the receipt of a written notice
44 shall not be a defense to a subsequent charge of a violation of this
45 section.

46 (d) The chief administrator shall promulgate rules and
47 regulations pursuant to the "Administrative Procedure Act,"
48 P.L.1968, c.410 (C.52:14B-1 et seq.) in order to establish a program
49 of alcohol education and highway safety, as prescribed by this act.

1 (e) Any person accused of a violation of this section who is
2 liable to punishment imposed by this section as a second or
3 subsequent offender shall be entitled to the same rights of discovery
4 as allowed defendants pursuant to the Rules Governing the Courts
5 of the State of New Jersey.

6 (f) The counties, in cooperation with the Division of Mental
7 Health and Addiction Services and the commission, but subject to
8 the approval of the Division of Mental Health and Addiction
9 Services, shall designate and establish on a county or regional basis
10 Intoxicated Driver Resource Centers. These centers shall have the
11 capability of serving as community treatment referral centers and as
12 court monitors of a person's compliance with the ordered treatment,
13 service alternative or community service. All centers established
14 pursuant to this subsection shall be administered by a counselor
15 certified by the Alcohol and Drug Counselor Certification Board of
16 New Jersey or other professional with a minimum of five years'
17 experience in the treatment of alcoholism. All centers shall be
18 required to develop individualized treatment plans for all persons
19 attending the centers; provided that the duration of any ordered
20 treatment or referral shall not exceed one year. It shall be the
21 center's responsibility to establish networks with the community
22 alcohol and drug education, treatment and rehabilitation resources
23 and to receive monthly reports from the referral agencies regarding
24 a person's participation and compliance with the program. Nothing
25 in this subsection shall bar these centers from developing their own
26 education and treatment programs; provided that they are approved
27 by the Division of Mental Health and Addiction Services.

28 Upon a person's failure to report to the initial screening or any
29 subsequent ordered referral, the Intoxicated Driver Resource Center
30 shall promptly notify the sentencing court of the person's failure to
31 comply.

32 Required detention periods at the Intoxicated Driver Resource
33 Centers shall be determined according to the individual treatment
34 classification assigned by the Intoxicated Driving Program Unit.
35 Upon attendance at an Intoxicated Driver Resource Center, a person
36 shall be required to pay a per diem fee of \$75 for the first offender
37 program or a per diem fee of \$100 for the second offender program,
38 as appropriate. Any increases in the per diem fees after the first full
39 year shall be determined pursuant to rules and regulations adopted
40 by the Commissioner of Health in consultation with the Governor's
41 Council on Alcoholism and Drug Abuse pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.).

44 The centers shall conduct a program of alcohol and drug
45 education and highway safety, as prescribed by the chief
46 administrator.

47 The Commissioner of Health shall adopt rules and regulations
48 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), in order to effectuate the purposes of this
2 subsection.

3 (g) When a violation of this section occurs while:

4 (1) on any school property used for school purposes which is
5 owned by or leased to any elementary or secondary school or school
6 board, or within 1,000 feet of such school property;

7 (2) driving through a school crossing as defined in R.S.39:1-1 if
8 the municipality, by ordinance or resolution, has designated the
9 school crossing as such; **[or]**

10 (3) driving through a school crossing as defined in R.S.39:1-1
11 knowing that juveniles are present if the municipality has not
12 designated the school crossing as such by ordinance or resolution ;
13 or

14 (4) under the influence of marijuana purchased in Atlantic City
15 in accordance with the provisions of P.L. , c. (C.) (pending
16 before the Legislature as this bill) , the convicted person shall: for a
17 first offense, be fined not less than \$500 or more than \$800, be
18 imprisoned for not more than 60 days and have his license to
19 operate a motor vehicle suspended for a period of not less than one
20 year or more than two years; for a second offense, be fined not less
21 than \$1,000 or more than \$2,000, perform community service for a
22 period of 60 days, be imprisoned for not less than 96 consecutive
23 hours, which shall not be suspended or served on probation, nor
24 more than 180 days, except that the court may lower such term for
25 each day, not exceeding 90 days, served performing community
26 service in such form and on such terms as the court shall deem
27 appropriate under the circumstances and have his license to operate
28 a motor vehicle suspended for a period of four years; and, for a
29 third offense, be fined \$2,000, imprisoned for 180 days in a county
30 jail or workhouse, except that the court may lower such term for
31 each day, not exceeding 90 days, served participating in a drug or
32 alcohol inpatient rehabilitation program approved by the Intoxicated
33 Driver Resource Center, and have his license to operate a motor
34 vehicle suspended for a period of 20 years; the period of license
35 suspension shall commence upon the completion of any prison
36 sentence imposed upon that person.

37 A map or true copy of a map depicting the location and
38 boundaries of the area on or within 1,000 feet of any property used
39 for school purposes which is owned by or leased to any elementary
40 or secondary school or school board produced pursuant to section 1
41 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
42 paragraph (1) of this subsection.

43 It shall not be relevant to the imposition of sentence pursuant to
44 paragraph (1) or (2) of this subsection that the defendant was
45 unaware that the prohibited conduct took place while on or within
46 1,000 feet of any school property or while driving through a school
47 crossing. Nor shall it be relevant to the imposition of sentence that
48 no juveniles were present on the school property or crossing zone at
49 the time of the offense or that the school was not in session.

1 (h) A court also may order a person convicted pursuant to
2 subsection (a) of this section, to participate in a supervised
3 visitation program as either a condition of probation or a form of
4 community service, giving preference to those who were under the
5 age of 21 at the time of the offense. Prior to ordering a person to
6 participate in such a program, the court may consult with any
7 person who may provide useful information on the defendant's
8 physical, emotional and mental suitability for the visit to ensure that
9 it will not cause any injury to the defendant. The court also may
10 order that the defendant participate in a counseling session under
11 the supervision of the Intoxicated Driving Program Unit prior to
12 participating in the supervised visitation program. The supervised
13 visitation program shall be at one or more of the following facilities
14 which have agreed to participate in the program under the
15 supervision of the facility's personnel and the probation department:

16 (1) a trauma center, critical care center or acute care hospital
17 having basic emergency services, which receives victims of motor
18 vehicle accidents for the purpose of observing appropriate victims
19 of drunk drivers and victims who are, themselves, drunk drivers;

20 (2) a facility which cares for advanced alcoholics or drug
21 abusers, to observe persons in the advanced stages of alcoholism or
22 drug abuse; or

23 (3) if approved by a county medical examiner, the office of the
24 county medical examiner or a public morgue to observe appropriate
25 victims of vehicle accidents involving drunk drivers.

26 As used in this section, "appropriate victim" means a victim
27 whose condition is determined by the facility's supervisory
28 personnel and the probation officer to be appropriate for
29 demonstrating the results of accidents involving drunk drivers
30 without being unnecessarily gruesome or traumatic to the
31 defendant.

32 If at any time before or during a visitation the facility's
33 supervisory personnel and the probation officer determine that the
34 visitation may be or is traumatic or otherwise inappropriate for that
35 defendant, the visitation shall be terminated without prejudice to the
36 defendant. The program may include a personal conference after
37 the visitation, which may include the sentencing judge or the judge
38 who coordinates the program for the court, the defendant,
39 defendant's counsel, and, if available, the defendant's parents to
40 discuss the visitation and its effect on the defendant's future
41 conduct. If a personal conference is not practicable because of the
42 defendant's absence from the jurisdiction, conflicting time
43 schedules, or any other reason, the court shall require the defendant
44 to submit a written report concerning the visitation experience and
45 its impact on the defendant. The county, a court, any facility visited
46 pursuant to the program, any agents, employees, or independent
47 contractors of the court, county, or facility visited pursuant to the
48 program, and any person supervising a defendant during the
49 visitation, are not liable for any civil damages resulting from injury

1 to the defendant, or for civil damages associated with the visitation
2 which are caused by the defendant, except for willful or grossly
3 negligent acts intended to, or reasonably expected to result in, that
4 injury or damage.

5 The Supreme Court may adopt court rules or directives to
6 effectuate the purposes of this subsection.

7 (i) In addition to any other fine, fee, or other charge imposed
8 pursuant to law, the court shall assess a person convicted of a
9 violation of the provisions of this section a surcharge of \$125, of
10 which amount \$50 shall be payable to the municipality in which the
11 conviction was obtained, \$50 shall be payable to the Treasurer of
12 the State of New Jersey for deposit into the General Fund, and \$25
13 which shall be payable as follows: in a matter where the summons
14 was issued by a municipality's law enforcement agency, to that
15 municipality to be used for the cost of equipping police vehicles
16 with mobile video recording systems pursuant to the provisions of
17 section 1 of P.L.2014, c.54 (C.40A:14-118.1); in a matter where the
18 summons was issued by a county's law enforcement agency, to that
19 county; and in a matter where the summons was issued by a State
20 law enforcement agency, to the General Fund.
21 (cf: P.L.2014, c.54, s.2).

22
23 23. This act shall take effect immediately, provided, however,
24 that sections 4 through 22 shall become operative only upon the
25 adoption of the ballot question established in section 3 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill) by a
27 majority of the voters of the State voting in the general election and
28 the subsequent approval, by resolution, of the governing body of
29 Atlantic city.

30
31

32 STATEMENT

33

34 This bill, the "Providing Opportunities for Tomorrow in Atlantic
35 City Act," would place a question on the ballot to authorize Atlantic
36 City to legalize the commercial growth, sale, possession,
37 consumption, and taxation of marijuana within the boundaries of
38 Atlantic City.

39 The bill specifies that, if the ballot question is adopted by the
40 voters of the State, and a resolution approving the law is adopted by
41 the governing body of Atlantic City, the commercial growth, sale,
42 possession, consumption, and taxation of marijuana within the
43 boundaries of Atlantic would be legalized and heavily regulated.
44 The Division of Alcoholic Beverage Control in the Department of
45 Law and Public Safety would be renamed the Division of Alcoholic
46 Beverage and Marijuana Control and would be charged with
47 implementing a regulatory scheme with respect to the marijuana
48 industry in Atlantic City.

1 Atlantic City would also be empowered to adopt ordinances or
2 regulations, not in conflict with the provisions of the bill,
3 addressing the following issues:

4 -- governing the time, place, manner and number of marijuana
5 establishment operations;

6 -- establishing procedures for the issuance, suspension, and
7 revocation of a license issued by the city;

8 -- establishing a schedule of annual operating, licensing, and
9 application fees for marijuana establishments, provided, the
10 application fee shall only be due if an application is submitted to
11 the city in accordance with the provisions of the bill and a licensing
12 fee shall only be due if a license is issued by the city; and

13 -- establishing civil penalties for violation of an ordinance or
14 regulation governing the time, place, and manner of a marijuana
15 establishment that may operate in Atlantic City.

16 Under the bill, penalties for driving under the influence of
17 marijuana purchased in Atlantic City would be increased to include
18 a mandatory one year license suspension for a first offense. Use
19 and possession of marijuana would be restricted to persons age 21
20 and older within Atlantic City.

21 The bill establishes a tax levied upon marijuana sold or
22 otherwise transferred by a marijuana cultivation facility to a
23 marijuana product manufacturing facility or to a retail marijuana
24 store at a rate of 20 percent. The Department of the Treasury would
25 establish procedures for the collection of all taxes levied. Monies
26 would be deposited in the general fund of Atlantic City, the State
27 "Special Transportation fund" for the purpose of funding
28 transportation projects, and programs supporting public health
29 initiatives.