

# ASSEMBLY, No. 1465

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

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Assemblywoman Tucker, Assemblymen Caputo, O'Scanlon, Diegnan,  
Assemblywomen Stender, Lampitt, Jasey, Assemblymen Ramos, Coughlin  
and Assemblywoman Casagrande**

**SYNOPSIS**

Decriminalizes possession of 15 grams or less of marijuana.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/22/2012)

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

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

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

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

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

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

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

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

33 (4) Possession of more than 15 grams but less than 50 grams [or  
34 less] of marijuana, including any adulterants or dilutants, or five  
35 grams or less of hashish is a disorderly person.

36 (5) Possession of 15 grams or less of marijuana is not a  
37 violation of this title, but shall be subject to the penalties set forth in  
38 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
39 this bill).

40 Any person who commits any offense defined in this section  
41 while on any property used for school purposes which is owned by  
42 or leased to any elementary or secondary school or school board, or  
43 within 1,000 feet of any such school property or a school bus, or  
44 while on any school bus, and who is not sentenced to a term of

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

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

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

21 c. Any person who knowingly obtains or possesses a controlled  
22 dangerous substance or controlled substance analog in violation of  
23 subsection a. of this section and who fails to voluntarily deliver the  
24 substance to the nearest law enforcement officer is guilty of a  
25 disorderly persons offense. Nothing in this subsection shall be  
26 construed to preclude a prosecution or conviction for any other  
27 offense defined in this title or any other statute. This subsection  
28 shall not apply to possession of 15 grams or less of marijuana.  
29 (cf: P.L.1997, c.181, s.6)

30  
31 2. N.J.S.2C:36-2 is amended to read as follows:

32 2C:36-2. Use or possession with intent to use, disorderly persons  
33 offense.

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

42 Use, or possession with intent to use, drug paraphernalia for  
43 personal use of 15 grams or less of marijuana is not a violation of  
44 this title but shall be subject to the penalties set forth in section 6 of  
45 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)(pending before the Legislature as this bill).  
46 (cf: P.L.2007, c.31, s.3)

1       3. N.J.S.2B:12-17 is amended to read as follows:  
2       2B:12-17. Jurisdiction of specified offenses. A municipal court  
3 has jurisdiction over the following cases within the territorial  
4 jurisdiction of the court:  
5       a. Violations of county or municipal ordinances;  
6       b. Violations of the motor vehicle and traffic laws;  
7       c. Disorderly persons offenses, petty disorderly persons  
8 offenses and other non-indictable offenses except where exclusive  
9 jurisdiction is given to the Superior Court;  
10      d. Violations of the fish and game laws;  
11      e. Proceedings to collect a penalty where jurisdiction is granted  
12 by statute;  
13      f. Violations of laws regulating boating; **[and]**  
14      g. Violations of section 5 and 6 of P.L. , c. (C. ) (pending  
15 before the Legislature as this bill); and  
16      h. Any other proceedings where jurisdiction is granted by  
17 statute.  
18 (cf: P.L.1996, c.95, s.12)

19  
20       4. Section 1 of P.L.1964, c.289 (C.39:4-49.1) is amended to  
21 read as follows:

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

35       A person who violates this section shall be fined not less than  
36 \$50.00 and shall forthwith forfeit his right to operate a motor  
37 vehicle for a period of two years from the date of his conviction.  
38 This section shall not apply to possession of 15 grams or less of  
39 marijuana.  
40 (cf: P.L.1985, c.239, s.1)

41  
42       5. (New section) a. Any person who possesses 15 grams or  
43 less of marijuana, as defined in N.J.S.2C:35-2, except as authorized  
44 by P.L.2009, c.307 (C.24:6I-1 et al.), shall be subject to the  
45 following civil penalties:

- 46       (1) \$150 for a first violation;  
47       (2) \$200 for a second violation;

1 (3) \$500 for a third or subsequent violation.

2 The penalty shall be collected pursuant to the "Penalty  
3 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),  
4 in a summary proceeding before the municipal court having  
5 jurisdiction. A penalty recovered under the provisions of this  
6 section shall be recovered by and in the name of the State by the  
7 local municipality. The penalty shall be paid into the treasury of  
8 the municipality in which the violation occurred for the general uses  
9 of the municipality.

10 b. In addition to any fine imposed, a person who is 21 years of  
11 age or older who commits a third or subsequent violation shall be  
12 referred to a drug education program approved by the Division of  
13 Mental Health and Addiction Services in the Department of Human  
14 Services. The person who committed the violation shall pay any  
15 costs associated with his participation in a drug education program  
16 consistent with the nature and extent of his assets and his ability to  
17 pay.

18 c. In addition to any fine imposed, a person who commits a  
19 violation who is less than 21 years of age at the time of the  
20 violation shall be referred to a drug education program approved by  
21 the Division of Mental Health and Addiction Services in the  
22 Department of Human Services. The person who committed the  
23 violation shall pay any costs associated with his participation in a  
24 drug education program consistent with the nature and extent of his  
25 assets and his ability to pay.

26 d. Any person who is under the age of 18 who commits a  
27 violation of this section shall be referred to the Superior Court,  
28 Chancery Division, Family Part for an appropriate disposition.

29 e. A violation of this section shall be proved by a  
30 preponderance of the evidence.

31

32 6. (New section) Any person who possesses drug  
33 paraphernalia, as defined in N.J.S.2C:36-1, for personal use of 15  
34 grams or less of marijuana, as defined in N.J.S.2C:35-2, except as  
35 authorized by P.L.2009, c.307 (C.24:6I-1 et al.), shall be subject to  
36 a \$100 civil penalty.

37 The penalty shall be collected pursuant to the "Penalty  
38 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),  
39 in a summary proceeding before the municipal court having  
40 jurisdiction. A penalty recovered under the provisions of this  
41 section shall be recovered by and in the name of the State by the  
42 local municipality. The penalty shall be paid into the treasury of  
43 the municipality in which the violation occurred for the general uses  
44 of the municipality.

45 A violation of this section shall be proved by a preponderance of  
46 the evidence.

1 7. (New section) The Commissioner of Human Services shall  
2 adopt rules and regulations pursuant to the “Administrative  
3 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), in order to  
4 effectuate the purposes of section 5 of P.L. , c. (C. ) (pending  
5 before the Legislature as this bill).

6  
7 8. This act shall take effect on the first day of the fourth month  
8 following enactment.

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10  
11 STATEMENT  
12

13 This bill would decriminalize possession of 15 grams or less of  
14 marijuana. A person who is found to possess 15 grams or less of  
15 marijuana would be subject to a \$150 fine for a first violation, a  
16 \$200 fine for a second violation, and a \$500 fine for a third or  
17 subsequent violation. All fines would be recovered by and in the  
18 name of the State by the local municipality and would be paid into  
19 the treasury of the municipality in which the violation occurred for  
20 the general uses of the municipality.

21 In addition, any person who is 21 years of age or older who  
22 commits a third or subsequent violation would be referred to a drug  
23 education program approved by the Division of Mental Health and  
24 Addition Services in the Department of Human Services. A person  
25 who is less than 21 years of age at the time of the violation shall be  
26 referred to an approved drug education program following any  
27 violation. The person would be responsible for paying any costs  
28 associated with his participation in the program, consistent with his  
29 ability to pay. If the violation is committed by a person under the  
30 age of 18, the person would be referred to the Family Part of the  
31 Chancery Division of the Superior Court for an appropriate  
32 disposition.

33 A person who possesses drug paraphernalia for the personal use  
34 of 15 grams or less of marijuana would no longer have committed a  
35 criminal violation but would be subject to a \$100 civil penalty.

36 Additionally, this bill would establish that it is no longer a  
37 disorderly persons offense to be under the influence of marijuana or  
38 to fail to voluntarily deliver 15 grams or less of marijuana to the  
39 nearest law enforcement officer. This bill would also eliminate the  
40 requirement that a person who operates a motor vehicle while in  
41 possession of 15 grams or less of marijuana must pay a \$50 fine and  
42 forfeit the right to operate a motor vehicle for a period of two years.

43 The Commissioner of Human Services would adopt any rules  
44 and regulations necessary to effectuate the purposes of section 5 of  
45 this bill. This bill would not apply to persons who are in  
46 compliance with the “New Jersey Compassionate Use Medical  
47 Marijuana Act,” N.J.S.A.24:6I-1 et al.