Sponsored by:
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District 15 (Hunterdon and Mercer)
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District 25 (Morris and Somerset)

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

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning marijuana possession, subject to voter approval, and amending N.J.S.2C:35-10 and N.J.S.2C:36-2.

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

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

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

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

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

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

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

(4) Possession of more than 28.35 grams but less than 50 grams [or less] of marijuana, including any adulterants or dilutants, or five grams or less of hashish is a disorderly person.

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

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

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

Matter underlined thus is new matter.
than the treatment of sickness or injury as lawfully prescribed or
administered by a physician is a disorderly person.
Notwithstanding the provisions of this subsection, it shall not be a
violation of this section for a person to be under the influence of
marijuana.
   In a prosecution under this subsection, it shall not be necessary
for the State to prove that the accused did use or was under the
influence of any specific drug, but it shall be sufficient for a
conviction under this subsection for the State to prove that the
accused did use or was under the influence of some controlled
dangerous substance, counterfeit controlled dangerous substance, or
controlled substance analog other than marijuana by proving that
the accused did manifest physical and physiological symptoms or
reactions caused by the use of any controlled dangerous
substance or controlled substance analog.
c. Any person who knowingly obtains or possesses a controlled
dangerous substance or controlled substance analog in violation of
subsection a. of this section and who fails to voluntarily deliver the
substance to the nearest law enforcement officer is guilty of a
disorderly persons offense. Nothing in this subsection shall be
construed to preclude a prosecution or conviction for any other
offense defined in this title or any other statute. This subsection
shall not apply to possession of 28.35 grams or less of marijuana.
(cf: P.L.1997, c.181, s.6)

2. N.J.S.2C:36-2 is amended to read as follows:
   2C:36-2. Use or possession with intent to use, disorderly persons
offense.
   It shall be unlawful for any person to use, or to possess with
intent to use, drug paraphernalia to plant, propagate, cultivate,
grow, harvest, manufacture, compound, convert, produce, process,
prepare, test, analyze, pack, repack, store, contain, conceal, ingest,
inhale, or otherwise introduce into the human body a controlled
dangerous substance, controlled substance analog or toxic chemical
in violation of the provisions of chapter 35 of this title. Any person
who violates this section is guilty of a disorderly persons offense.
   Use, or possession with intent to use, drug paraphernalia for
personal use of 28.35 grams or less of marijuana is not a violation
of this section.
(cf: P.L.2007, c.31, s.3)

3. This act shall be submitted to the people for their approval
or rejection at the next general election to be held at least 70 days
following the date of its enactment for the purpose of complying
with Article II, Section I, paragraph 2 of the New Jersey
Constitution.
4. This voter referendum shall be submitted to the people in the following manner and form:

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

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

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

b. In every municipality the following question:

<table>
<thead>
<tr>
<th>YES</th>
<th>LEGALIZING POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Do you approve a law passed by the Legislature that legalizes the possession of one ounce or less of marijuana?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NO</th>
<th>INTERPRETIVE STATEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>This question asks if you approve a new law passed by the Legislature that legalizes the possession of one ounce or less of marijuana. One ounce is 28.35 grams.</td>
</tr>
<tr>
<td></td>
<td>The law will not take effect unless the voters approve it.</td>
</tr>
<tr>
<td></td>
<td>Under existing law, possessing 50 grams or less of marijuana is a disorderly persons offense, which is punishable by a term of imprisonment of up to six months or a fine of up to $1,000 or both. If the voters approve the new law, possession of one ounce or 28.35 grams or less of marijuana would be lawful. Possession of more than one ounce or 28.35 grams would remain a criminal offense.</td>
</tr>
</tbody>
</table>

STATEMENT

This bill legalizes the possession of one ounce or less of marijuana, subject to voter approval. One ounce is 28.35 grams. Under current law, set out in N.J.S.2C:35-10, it is a disorderly persons offense to possess 50 grams or less of marijuana. A disorderly persons offense is punishable by a term of imprisonment of up to six months or a fine of up to $1,000 or both. The bill, if approved by the voters, would also amend N.J.S.2C:36-2, which provides that the use or possession with intent
to use drug paraphernalia is a disorderly persons offense. Under the
bill, use or possession with intent to use drug paraphernalia for
personal use of one ounce or less of marijuana would not constitute
a violation of the statute.