Sponsored by:
Assemblyman MICHAEL PATRICK CARROLL
District 25 (Morris and Somerset)

SYNOPSIS
Legalizes marijuana and provides for records expungement for certain past marijuana offenses; treats marijuana products similar to tobacco products, including use of civil penalties for providing marijuana to persons under 19 years of age.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning marijuana legalization, revising various parts of the statutory law, and supplementing chapter 170 of Title 2A of the New Jersey Statutes and Title 26 of the Revised Statutes.

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

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

"Administer" means the direct application of a controlled dangerous substance or controlled substance analog, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b), and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., [or] tobacco and tobacco products, or marijuana and marijuana products, other than medical marijuana as provided under the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.). The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

“Controlled substance analog” means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce

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.
an effect substantially similar to that of a controlled dangerous
substance. The term shall not include a substance manufactured or
distributed in conformance with the provisions of an approved new
drug application or an exemption for investigational use within the
meaning of section 505 of the "Federal Food, Drug, and Cosmetic

"Counterfeit substance" means a controlled dangerous substance
or controlled substance analog which, or the container or labeling of
which, without authorization, bears the trademark, trade name, or
other identifying mark, imprint, number, or device, or any likeness
thereof, of a manufacturer, distributor, or dispenser other than the
person or persons who in fact manufactured, distributed, or
dispensed the substance and which thereby falsely purports or is
represented to be the product of, or to have been distributed by,
such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or
attempted transfer from one person to another of a controlled
dangerous substance or controlled substance analog, whether or not
there is an agency relationship.

"Dispense" means to deliver a controlled dangerous substance or
controlled substance analog to an ultimate user or research subject
by or pursuant to the lawful order of a practitioner, including the
prescribing, administering, packaging, labeling, or compounding
necessary to prepare the substance for that delivery. "Dispenser"
means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or
dispensing a controlled dangerous substance or controlled substance
analog. "Distributor" means a person who distributes.

"Drugs" means (a) substances recognized in the official United
States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
United States, or official National Formulary, or any supplement to
any of them; and (b) substances intended for use in the diagnosis,
cure, mitigation, treatment, or prevention of disease in man or other
animals; and (c) substances (other than food) intended to affect the
structure or any function of the body of man or other animals; and
(d) substances intended for use as a component of any article
specified in subsections (a), (b), and (c) of this section; but does not
include devices or their components, parts, or accessories.

"Drug or alcohol dependent person" means a person who as a
result of using a controlled dangerous substance or controlled
substance analog or alcohol has been in a state of psychic or
physical dependence, or both, arising from the use of that controlled
dangerous substance or controlled substance analog or alcohol on a
continuous or repetitive basis. Drug or alcohol dependence is
characterized by behavioral and other responses, including but not
limited to a strong compulsion to take the substance on a recurring
basis in order to experience its psychic effects, or to avoid the
discomfort of its absence.
"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance or controlled substance analog by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance or controlled substance analog in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Marijuana" means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, and opiates;

(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled pursuant to the provisions of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity, or one or more individuals.

"Plant" means an organism having leaves and a readily observable root formation, including, but not limited to, a cutting having roots, a rootball or root hairs.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State.

(a) "Physician" means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state.

(b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental, and medical purposes and for purposes of instruction approved by the Department of Health.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the Division of Consumer Affairs in the Department of Law and Public Safety has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility licensed and approved by the Department of Human Services and which is
approved by any county probation department for the inpatient

treatment and rehabilitation of drug or alcohol dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in
sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
by any regulations issued by the Director of the Division of
Consumer Affairs in the Department of Law and Public Safety
pursuant to the director's authority as provided in section 3 of

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a
controlled dangerous substance or controlled substance analog for
his own use or for the use of a member of his household or for
administration to an animal owned by him or by a member of his
household.

"Prescription legend drug" means any drug which under federal
or State law requires dispensing by prescription or order of a
licensed physician, veterinarian, or dentist and is required to bear
the statement "Rx only" or similar wording indicating that such
drug may be sold or dispensed only upon the prescription of a
licensed medical practitioner and is not a controlled dangerous
substance or stramonium preparation.

"Stramonium preparation" means a substance prepared from any
part of the stramonium plant in the form of a powder, pipe mixture,
cigarette, or any other form with or without other ingredients.

"Stramonium plant" means the plant Datura Stramonium Linne,
including Datura Tatula Linne.

(cf: P.L.2013, c.35, s.1)

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

seq.), any person who knowingly maintains or operates any
premises, place or facility used for the manufacture of
methamphetamine, lysergic acid diethylamide, phencyclidine,
gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
greater than five pounds or ten plants or any substance listed in
Schedule I or II, or the analog of any such substance, or any person
who knowingly aids, promotes, finances or otherwise participates in
the maintenance or operations of such premises, place or facility, is
guilty of a crime of the first degree and shall, except as provided in
N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
include the imposition of a minimum term which shall be fixed at,
or between, one-third and one-half of the sentence imposed, during
which the defendant shall be ineligible for parole. Notwithstanding
the provisions of subsection a. of N.J.S.2C:43-3, the court may also
impose a fine not to exceed $750,000.00 or five times the street
value of all controlled dangerous substances, controlled substance
analogs, gamma hydroxybutyrate or flunitrazepam at any time
manufactured or stored at such premises, place or facility, whichever is greater.

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

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

2C:35-5. Manufacturing, Distributing or Dispensing. a. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be unlawful for any person knowingly or purposely:

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

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

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

(1) Heroin, or its analog, or coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, or analogs, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine, or 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxymphetamine, in a quantity of five ounces or more including any adulterants or dilutants is guilty of a crime of the first degree. The defendant shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $500,000.00 may be imposed;

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

(3) A substance referred to in paragraph (1) of this subsection in a quantity less than one-half ounce including any adulterants or dilutants 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 $75,000.00 may be imposed;

(4) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants is guilty of a crime of the second degree;

(5) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of less than one ounce including
any adulterants or dilutants 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 $75,000.00 may be imposed;
(6) Lysergic acid diethylamide, or its analog, in a quantity of
100 milligrams or more including any adulterants or dilutants, or
phencyclidine, or its analog, in a quantity of 10 grams or more
including any adulterants or dilutants, is guilty of a crime of the
first degree. Except as provided in N.J.S.2C:35-12, the court shall
impose a term of imprisonment which shall include the imposition
of a minimum term, fixed at, or between, one-third and one-half of
the sentence imposed by the court, during which the defendant shall
be ineligible for parole. Notwithstanding the provisions of
subsection a. of N.J.S.2C:43-3, a fine of up to $500,000.00 may be
imposed;
(7) Lysergic acid diethylamide, or its analog, in a quantity of less
than 100 milligrams including any adulterants or dilutants, or where
the amount is undetermined, or phencyclidine, or its analog, in a
quantity of less than 10 grams including any adulterants or
dilutants, or where the amount is undetermined, is guilty of a crime
of the second degree;
(8) Methamphetamine, or its analog, or phenyl-2-propanone
(P2P), in a quantity of five ounces or more including any
adulterants or dilutants is guilty of a crime of the first degree.
Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
fine of up to $300,000.00 may be imposed;
(9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
(P2P), in a quantity of one-half ounce or more but less than five
ounces including any adulterants or dilutants is guilty of a crime of
the second degree;
(b) Methamphetamine, or its analog, or phenyl-2-propanone
(P2P), in a quantity of less than one-half ounce including any
adulterants or dilutants 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 $75,000.00 may be imposed;
(10) (a) [Marijuana in a quantity of 25 pounds or more
including any adulterants or dilutants, or 50 or more marijuana
plants, regardless of weight, or hashish] Hashish in a quantity of
five pounds or more including any adulterants or dilutants, is guilty
of a crime of the first degree. Notwithstanding the provisions of
subsection a. of N.J.S.2C:43-3, a fine of up to $300,000.00 may be
imposed;
(b) [Marijuana in a quantity of five pounds or more but less than
25 pounds including any adulterants or dilutants, or 10 or more but
fewer than 50 marijuana plants, regardless of weight, or hashish] Hashish in a quantity of one pound or more but less than five
pounds [.] including any adulterants and dilutants, is guilty of a
crime of the second degree;
(11) [Marijuana in a quantity of one ounce or more but less than five pounds including any adulterants or dilutants, or hashish] [Hashish in a quantity of five grams or more but less than one pound including any adulterants or dilutants, 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 $25,000.00 may be imposed;]

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

(13) Any other controlled dangerous substance classified in Schedule I, II, III or IV, or its analog, 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 $25,000.00 may be imposed; or

(14) Any Schedule V substance, or its analog, 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.

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

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

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

   1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog while on any school 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 such school property or a school bus, or while on any school bus, is guilty of a crime of the third degree and shall, except as provided in N.J.S.2C:35-12, be sentenced by the court to a term of imprisonment. [Where the violation involves less than one ounce of marijuana, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or one year, whichever is greater, during which the defendant shall be ineligible for parole. In all other cases, the] The term of

   2. b. [Marijuana in a quantity of one ounce or more but less than five pounds including any adulterants or dilutants, or hashish] [Hashish in a quantity of five grams or more but less than one pound including any adulterants or dilutants, 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 $25,000.00 may be imposed;]
imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or three years, whichever is greater, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $150,000 may also be imposed upon any conviction for a violation of this section.

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

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

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

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

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

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

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

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

If the court at sentencing elects not to impose a minimum term of imprisonment and parole ineligibility pursuant to this subsection, imposes a term of parole ineligibility less than the minimum term prescribed in subsection a. of this section, or places the defendant on probation for a violation of subsection a. of this section, the sentence shall not become final for 10 days in order to permit the prosecution to appeal the court's finding and the sentence imposed.

The Attorney General shall develop guidelines to ensure the uniform exercise of discretion in making determinations regarding whether to appeal a decision to waive or reduce the minimum term of parole ineligibility or place the defendant on probation.

Nothing in this subsection shall be construed to establish a basis for overcoming a presumption of imprisonment authorized or required by subsection d. of N.J.S.2C:44-1, or a basis for not imposing a term of imprisonment or term of parole ineligibility authorized or required to be imposed pursuant to subsection f. of
N.J.S.2C:43-6 or upon conviction for a crime other than the offense set forth in this subsection.

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

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

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

f. In a prosecution under this section, a map produced or reproduced by any municipal or county engineer for the purpose of depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or a true copy of such a map, shall, upon proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 1,000 feet of the school property. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the
governing body of a municipality or county, provided that the map
or diagram is otherwise admissible pursuant to the Rules of
Evidence.
(cf: P.L.2009, c.192, s.1)

5. Section 1 of P.L.1997, c.327 (C.2C:35-7.1) is amended to
read as follows:
1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by
distributing, dispensing or possessing with intent to distribute a
controlled dangerous substance or controlled substance analog
while in, on or within 500 feet of the real property comprising a
public housing facility, a public park, or a public building is guilty
of a crime of the second degree unless it is a crime of the
degree if the violation involved less than one ounce of
marijuana.

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

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

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

e. In a prosecution under this section, a map produced or
reproduced by any municipal or county engineer for the purpose of
depicting the location and boundaries of the area on or within 500
feet of a public housing facility which is owned by or leased to a
housing authority according to the "Local Redevelopment and
Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or
within 500 feet of a public park, or the area in or within 500 feet of
a public building, or a true copy of such a map, shall, upon proper
authentication, be admissible and shall constitute prima facie
evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 500 feet of a public housing facility, a public park, or a public building. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Rules of Evidence.

f. As used in this act:
"Public housing facility" means any dwelling, complex of dwellings, accommodation, building, structure or facility and real property of any nature appurtenant thereto and used in connection therewith, which is owned by or leased to a local housing authority in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.) for the purpose of providing living accommodations to persons of low income.
"Public park" means a park, recreation facility or area or playground owned or controlled by a State, county or local government unit.
"Public building" means any publicly owned or leased library or museum.

6. 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 [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
than the treatment of sickness or injury as lawfully prescribed or
administered by a physician is a disorderly person.
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, 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] Title or any other statute.
(P.L.1997, c.181, s.6)
7. Section 3 of P.L.2001, c.114 (C.2C:35B-3) is amended to
read as follows:
3. As used in this act:
a. "Marketing of controlled dangerous substances" means the illegal distributing, dispensing, or possessing with intent to distribute, a specified controlled dangerous substance.

b. "Individual user of controlled dangerous substance" means the individual whose illegal use of a specified controlled dangerous substance is the basis of an action brought under this act.

c. "Level 1 offense" means:
   (1) possessing with intent to distribute less than four ounces of a specified controlled dangerous substance as defined in this section; or
   (2) distributing or dispensing less than one ounce of a specified controlled dangerous substance as defined in this section.

   (3) possessing with intent to distribute 25 or more but less than 50 marijuana plants; (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

   (4) possessing with intent to distribute less than four pounds of marijuana, or (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (5) possessing with intent to distribute 25 or more but less than 50 marijuana plants; (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (6) possessing with intent to distribute 28.5 grams of marijuana. (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (7) possessing with intent to distribute 25 or more but less than 50 marijuana plants; (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (8) possessing with intent to distribute four pounds or more but less than eight pounds of marijuana, or (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (9) possessing with intent to distribute more than one pound but less than five pounds of marijuana. (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (10) possessing with intent to distribute eight ounces or more but less than 16 ounces of a specified controlled dangerous substance as defined in this section; or

   (11) distributing or dispensing two ounces or more but less than four ounces of a specified controlled dangerous substance as defined in this section.

   (12) possessing with intent to distribute 75 or more but less than 100 marijuana plants; (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (13) possessing with intent to distribute 25 or more but less than 50 marijuana plants; (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (14) possessing with intent to distribute four pounds or more but less than eight pounds of marijuana, or (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (15) possessing with intent to distribute more than one pound but less than five pounds of marijuana. (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)

   (16) possessing with intent to distribute eight ounces or more but less than 16 ounces of a specified controlled dangerous substance as defined in this section; or

   (17) distributing or dispensing two ounces or more but less than four ounces of a specified controlled dangerous substance as defined in this section.

   (18) possessing with intent to distribute 75 or more but less than 100 marijuana plants; (Deleted by amendment, P.L., c. ) (pending before the Legislature as this bill)
(4) [possessing with intent to distribute eight pounds or more
but less than 16 pounds of marijuana, or] (Deleted by amendment,
P.L., c.) (pending before the Legislature as this bill)

(5) [distributing or dispensing more than five pounds but less
than 10 pounds of marijuana.] (Deleted by amendment, P.L.,
c.) (pending before the Legislature as this bill)

f. “Level 4 offense” means:
(1) possessing with intent to distribute 16 ounces or more of a
specified controlled dangerous substance as defined in this section;

or

(2) distributing or dispensing four ounces or more of a specified
controlled dangerous substance as defined in this section [.] 

(3) [possessing with intent to distribute 100 or more marijuana
plants:] (Deleted by amendment, P.L., c.) (pending before the
Legislature as this bill)

(4) [possessing with intent to distribute 16 pounds or more of
marijuana, or] (Deleted by amendment, P.L., c.) (pending
before the Legislature as this bill)

(5) [distributing or dispensing more than 10 pounds of
marijuana.] (Deleted by amendment, P.L., c.) (pending before
the Legislature as this bill)

(3) “Participate in the illegal marketing of controlled dangerous
substances” means to transport, import into this State, distribute,
dispense, sell, possess with intent to distribute, or offer to distribute
a controlled dangerous substance, in violation of any of the
provisions of chapter 35 of Title 2C of the New Jersey Statutes.

“Participate in the marketing of controlled dangerous substances”
does not include the purchase or receipt of a controlled dangerous
substance for personal use only.

h. “Person” means any natural person, association, partnership,
corporation or other entity.

i. “Period of illegal use” means, in relation to the individual
user of a controlled dangerous substance, the time of the
individual’s first illegal use of a controlled dangerous substance to
the accrual of the cause of action.

j. “Place of illegal activity” means, in relation to the individual
user of a specified controlled dangerous substance, each county in
which the individual illegally possess or uses a specified controlled
dangerous substance.

k. “Place of participation” means, in relation to a defendant in
an action brought under this act, each county in which the defendant
participates in the marketing of controlled dangerous substances.

l. “Specified controlled dangerous substance” means heroin,
ocaine, lysergic acid diethylamide, phencyclidine,
methamphetamine, phenyl-2-propanone (P2P) and any other
controlled dangerous substance specified under the provisions of
N.J.S.2C:35-5 as being unlawful to manufacture, distribute, or
dispense, or to possess or have under a person's control with intent
to manufacture, distribute or dispense.
(cf: P.L.2001, c.114, s.3)

8. N.J.S.2C:36-1 is amended to read as follows:
2C:36-1. Drug paraphernalia, defined; determination.
As used in this act, "drug paraphernalia" means all equipment,
products and materials of any kind which are used or intended for
use in planting, propagating, cultivating, growing, harvesting,
manufacturing, compounding, converting, producing, processing,
preparing, testing, analyzing, packaging, repackaging, storing,
containing, concealing, ingesting, inhaling, or otherwise introducing
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] Title. It shall include, but not be limited
to: a. kits used or intended for use in planting, propagating,
cultivating, growing or harvesting of any species of plant which is a
controlled dangerous substance or from which a controlled
dangerous substance can be derived; b. kits used or intended for use
in manufacturing, compounding, converting, producing, processing,
or preparing controlled dangerous substances or controlled
substance analogs; c. isomerization devices used or intended for use
in increasing the potency of any species of plant which is a
controlled dangerous substance; d. testing equipment used or
intended for use identifying, or in analyzing the strength,
effectiveness or purity of controlled dangerous substances or
controlled substance analogs; e. scales and balances used or
intended for use in weighing or measuring controlled dangerous
substances or controlled substance analogs; f. dilutants and
adulterants, such as quinine hydrochloride, mannitol, mannite,
dextrose and lactose, used or intended for use in cutting controlled
dangerous substances or controlled substance analogs; g.
[separation gins and sifters used or intended for use in removing
twigs and seeds from, or in otherwise cleaning or refining,
marihuana.] (Deleted by amendment, P.L.  , c. ) (pending before
the Legislature as this bill) h. blenders, bowls, containers, spoons
and mixing devices used or intended for use in compounding
controlled dangerous substances or controlled substance analogs; i.
capsules, balloons, envelopes and other containers used or intended
for use in packaging small quantities of controlled dangerous
substances or controlled substance analogs; j. containers and other
objects used or intended for use in storing or concealing controlled
dangerous substances, controlled substance analogs or toxic
chemicals; k. objects used or intended for use in ingesting, inhaling,
or otherwise introducing [marihuana.] cocaine, hashish, hashish
oil, nitrous oxide or the fumes of a toxic chemical into the human
body, such as (1) metal, wooden, acrylic, glass, stone, plastic, or
ceramic pipes with or without screens, permanent screens, hashish
hearts, or punctured metal bowls; (2) water pipes; (3) carburetion tubes and devices; (4) smoking and carburetion masks; (5) roach clips, meaning objects used to hold burning material [such as a marijuana cigarette] that have become too small or too short to be held in the hand; (6) miniature cocaine spoons, and cocaine vials; (7) chamber pipes; (8) carburetor pipes; (9) electric pipes; (10) air-driven pipes; (11) chillums; (12) bongs; (13) ice pipes or chillers; (14) compressed gas containers, such as tanks, cartridges or canisters, that contain food grade or pharmaceutical grade nitrous oxide as a principal ingredient; (15) chargers or charging bottles, meaning metal, ceramic or plastic devices that contain an interior pin that may be used to expel compressed gas from a cartridge or canister; and (16) tubes, balloons, bags, fabrics, bottles or other containers used to concentrate or hold in suspension a toxic chemical or the fumes of a toxic chemical.

In determining whether or not an object is drug paraphernalia, the trier of fact, in addition to or as part of the proofs, may consider the following factors: a. statements by an owner or by anyone in control of the object concerning its use; b. the proximity of the object of illegally possessed controlled dangerous substances, controlled substance analogs or toxic chemicals; c. the existence of any residue of illegally possessed controlled dangerous substances, controlled substance analogs or toxic chemicals on the object; d. direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use as drug paraphernalia; e. instructions, oral or written, provided with the object concerning its use; f. descriptive materials accompanying the object which explain or depict its use; g. national or local advertising whose purpose the person knows or should know is to promote the sale of objects intended for use as drug paraphernalia; h. the manner in which the object is displayed for sale; i. the existence and scope of legitimate uses for the object in the community; and j. expert testimony concerning its use.

(P.L.2007, c.31, s.2)

9. N.J.S.2C:36A-1 is amended to read as follows:

2C:36A-1. Conditional discharge for certain first offenses. a. Whenever any person who has not previously been convicted of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a disorderly persons or petty disorderly persons offense defined in chapter 35 or 36 of this [title] Title or, subsequent to the effective date of this [title] Title, under any law of the United States, this State or any other state relating to [marijuana, or] stimulant, depressant, or hallucinogenic drugs, and who has not previously
participated in a program of supervisory treatment pursuant to N.J.S.2C:43-12 or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.) is charged with or convicted of any disorderly persons offense or petty disorderly persons offense under chapter 35 or 36 of this [title] Title, the court upon notice to the prosecutor and subject to subsection c. of this section, may on motion of the defendant or the court:

1. Suspend further proceedings and with the consent of the person after reference to the State Bureau of Identification criminal history record information files, place him under supervisory treatment upon such reasonable terms and conditions as it may require; or

2. After a plea of guilty or finding of guilty, and without entering a judgment of conviction, and with the consent of the person after proper reference to the State Bureau of Identification criminal history record information files, place him on supervisory treatment upon reasonable terms and conditions as it may require, or as otherwise provided by law.

b. In no event shall the court require as a term or condition of supervisory treatment under this section, referral to any residential treatment facility for a period exceeding the maximum period of confinement prescribed by law for the offense for which the individual has been charged or convicted, nor shall any term of supervisory treatment imposed under this subsection exceed a period of three years. If a person is placed under supervisory treatment under this section after a plea of guilty or finding of guilt, the court as a term and condition of supervisory treatment shall suspend the person's driving privileges for a period to be fixed by the court at not less than six months or more than two years unless the court finds compelling circumstances warranting an exception. For the purposes of this subsection, compelling circumstances warranting an exception exist if the suspension of the person's driving privileges will result in extreme hardship and alternative means of transportation are not available. In the case of a person who at the time of placement under supervisory treatment under this section is less than 17 years of age, the period of suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the person is placed on supervisory treatment and shall run for a period as fixed by the court of not less than six months or more than two years after the day the person reaches the age of 17 years.

If the driving privilege of a person is under revocation, suspension, or postponement for a violation of this [title] Title or Title 39 of the Revised Statutes at the time of the person's placement on supervisory treatment under this section, the revocation, suspension or postponement period imposed herein shall commence as of the date of the termination of the existing revocation, suspension or postponement. The court which places a
person on supervisory treatment under this section shall collect and
forward the person’s driver’s license to the New Jersey Motor
Vehicle Commission and file an appropriate report with the
commission in accordance with the procedure set forth in
N.J.S.2C:35-16. The court shall also inform the person of the
penalties for operating a motor vehicle during the period of license
suspension or postponement as required in N.J.S.2C:35-16.

Upon violation of a term or condition of supervisory treatment
the court may enter a judgment of conviction and proceed as
otherwise provided, or where there has been no plea of guilty or
finding of guilty, resume proceedings. Upon fulfillment of the terms
and conditions of supervisory treatment the court shall terminate the
supervisory treatment and dismiss the proceedings against him.
Termination of supervisory treatment and dismissal under this
section shall be without court adjudication of guilt and shall not be
deemed a conviction for purposes of disqualifications or
disabilities, if any, imposed by law upon conviction of a crime or
disorderly persons offense but shall be reported by the clerk of the
court to the State Bureau of Identification criminal history record
information files. Termination of supervisory treatment and
dismissal under this section may occur only once with respect to
any person. Imposition of supervisory treatment under this section
shall not be deemed a conviction for the purposes of determining
whether a second or subsequent offense has occurred under section
29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this Title or any law of this State.
a. Proceedings under this section shall not be available to any
defendant unless the court in its discretion concludes that:
(1) The defendant's continued presence in the community, or in
a civil treatment center or program, will not pose a danger to the
community; or
(2) That the terms and conditions of supervisory treatment will
be adequate to protect the public and will benefit the defendant by
serving to correct any dependence on or use of controlled
substances which he may manifest; and
(3) The person has not previously received supervisory
N.J.S.2C:43-12, or the provisions of this chapter.
b. A person seeking conditional discharge pursuant to this
section shall pay to the court a fee of $75 which shall be paid to the
Treasurer of the State of New Jersey for deposit in the General
Fund. The defendant shall also be required to pay restitution, costs
and other assessments as provided by law. A person may apply for a
waiver of this fee, by reason of poverty, pursuant to the Rules
Governing the Courts of the State of New Jersey, or the court may
permit the defendant to pay the conditional discharge fee and other
assessments in installments or may order other alternatives pursuant
to section 1 of P.L.2009, c.317 (C.2B:12-23.1).
(cf: P.L.2013, c.158, s.10)
10. N.J.S.2C:41-1 is amended to read as follows:
2C:41-1. For purposes of this section and N.J.S.2C:41-2 through
N.J.S.2C:41-6:
   a. "Racketeering activity" means (1) any of the following
crimes which are crimes under the laws of New Jersey or are
equivalent crimes under the laws of any other jurisdiction:
   (a) murder
   (b) kidnapping
   (c) gambling
   (d) promoting prostitution
   (e) obscenity
   (f) robbery
   (g) bribery
   (h) extortion
   (i) criminal usury
   (j) violations of Title 33 of the Revised Statutes
   (k) violations of Title 54A of the New Jersey Statutes and Title
54 of the Revised Statutes
   (l) arson
   (m) burglary
   (n) theft and all crimes defined in chapter 20 of Title 2C of the
New Jersey Statutes
   (o) forgery and fraudulent practices and all crimes defined in
chapter 21 of Title 2C of the New Jersey Statutes
   (p) fraud in the offering, sale or purchase of securities
   (q) alteration of motor vehicle identification numbers
   (r) unlawful manufacture, purchase, use or transfer of firearms
   (s) unlawful possession or use of destructive devices or
explosives
   (t) violation of sections 112 through 116 inclusive of the
"Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-
116)
   (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
and all crimes involving illegal distribution of a controlled
dangerous substance or controlled substance analog [], except
possession of less than one ounce of marijuana]
   (v) violation of subsection b. of N.J.S.2C:24-4 except for
subparagraph (b) of paragraph (5) of subsection b.
   (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16),
leader of firearms trafficking network
   (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
weapons training for illegal activities
   (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2),
terrorism
(z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human trafficking
(aa) violation of N.J.S.2C:12-1 requiring purposeful or knowing conduct
(bb) violation of N.J.S.2C:12-3, terrorist threats
(cc) violation of section 1 of P.L.2015, c.85 (C.2C:33-31), dog fighting.
(2) any conduct defined as "racketeering activity" under Title 18, U.S.C.s.1961(1)(A), (B) and (D).
b. "Person" includes any individual or entity or enterprise as defined herein holding or capable of holding a legal or beneficial interest in property.
c. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business or charitable trust, association, or other legal entity, any union or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.
d. "Pattern of racketeering activity" requires:
(1) Engaging in at least two incidents of racketeering conduct one of which shall have occurred after the effective date of this act and the last of which shall have occurred within 10 years (excluding any period of imprisonment) after a prior incident of racketeering activity; and
(2) A showing that the incidents of racketeering activity embrace criminal conduct that has either the same or similar purposes, results, participants or victims or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.
e. "Unlawful debt" means a debt:
(1) Which was incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof; or
(2) Which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury.
f. "Documentary material" includes any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic or recording or video tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form or other tangible item.
g. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.
h. "Trade or commerce" shall include all economic activity involving or relating to any commodity or service.

(cf: P.L.2015, c.85, s.3)

11. N.J.S.2C:52-2 is amended to read as follows:

2C:52-2. Indictable Offenses.

a. In all cases, except as herein provided, wherein a person has been convicted of a crime under the laws of this State and who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, and has not been convicted of a disorderly persons or petty disorderly persons offense on more than two occasions may, after the expiration of a period of 10 years from the date of his most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration for that crime or for any disorderly persons or petty disorderly persons offense, whichever is later, present an expungement application to the Superior Court in the county in which the conviction for the crime was adjudged, which contains a duly verified petition as provided in N.J.S.2C:52-7 for the criminal conviction sought to be expunged, and may also contain additional duly verified petitions for no more than two convictions for any disorderly persons or petty disorderly persons offenses, praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be expunged. The petition for each conviction appended to an application shall comply with the requirements set forth in N.J.S.2C:52-1 et seq.

Notwithstanding the provisions of the preceding paragraph, a petition may be filed and presented, and the court may grant an expungement pursuant to this section, although less than 10 years has expired in accordance with the requirements of the preceding paragraph where the court finds:

(1) less than 10 years has expired from the satisfaction of a fine, but the ten-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least five years has expired from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider the amount of the fine or fines imposed, the person's age at the time
of the offense, the person's financial condition and other relevant
circumstances regarding the person's ability to pay.

Although subsequent convictions for no more than two
disorderly or petty disorderly persons offenses shall not be an
absolute bar to relief, the nature of those conviction or convictions
and the circumstances surrounding them shall be considered by the
court and may be a basis for denial of relief if they or either of them
constitute a continuation of the type of unlawful activity embodied
in the criminal conviction for which expungement is sought.

b. Records of conviction pursuant to statutes repealed by this
Code for the crimes of murder, manslaughter, treason, anarchy,
kidnapping, rape, forcible sodomy, arson, perjury, false swearing,
robbery, embracery, or a conspiracy or any attempt to commit any
of the foregoing, or aiding, assisting or concealing persons accused
of the foregoing crimes, shall not be expunged.

Records of conviction for the following crimes specified in the
New Jersey Code of Criminal Justice shall not be subject to
expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except
death by auto as specified in N.J.S.2C:11-5; N.J.S.2C:13-1
(Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or
Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human
Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual
Assault); subsection a. of N.J.S.2C:14-3 (Aggravated Criminal
Sexual Contact); if the victim is a minor, subsection b. of
N.J.S.2C:14-3 (Criminal Sexual Contact); if the victim is a minor
and the offender is not the parent of the victim, N.J.S.2C:13-2
(Criminal Restraint) or N.J.S.2C:13-3 (False Imprisonment);
N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson and Related
Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare
of a child by engaging in sexual conduct which would impair or
debauch the morals of the child, or causing the child other harm);
paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or
filming a child in a prohibited sexual act); paragraph (3) of
subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to
engage in a prohibited sexual act); subparagraph (a) of paragraph
(5) of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with
intent to distribute or using a file-sharing program to store items
depicting the sexual exploitation or abuse of a child); subparagraph
(b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing
or viewing items depicting the sexual exploitation or abuse of a
child); N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2 (False Swearing);
paragraph (4) of subsection b. of N.J.S.2C:34-1 (Knowingly
promoting the prostitution of the actor's child); section 2 of
P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3
of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical
Weapons, Biological Agents or Nuclear or Radiological Devices);
and conspiracies or attempts to commit such crimes.
Records of conviction for any crime committed by a person holding any public office, position or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof and any conspiracy or attempt to commit such a crime shall not be subject to expungement if the crime involved or touched such office, position or employment.

c. In the case of conviction for the possession of marijuana that occurred prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill): a petition may be filed and presented at any time; the provisions of N.J.S.2C:52-9 through N.J.S.2C:52-14 shall not apply to the petition; and the court, upon review of the petition, shall immediately grant the expungement. In the case of conviction for the sale or distribution of a controlled dangerous substance or possession thereof with intent to sell, expungement shall be denied except where the crimes involve:

1. Marijuana, where the total quantity sold, distributed or possessed with intent to sell was 25 grams or less;
2. Hashish, where the total quantity sold, distributed or possessed with intent to sell was five grams or less;
3. Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that expungement is consistent with the public interest, giving due consideration to the nature of the offense and the petitioner's character and conduct since conviction.

d. In the case of a State licensed physician or podiatrist convicted of an offense involving drugs or alcohol or pursuant to section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the court shall notify the State Board of Medical Examiners upon receipt of a petition for expungement of the conviction and records and information pertaining thereto.

(cf: P.L.2015, c.261, s.2)

12. N.J.S.2C:52-3 is amended to read as follows:

2C:52-3. Disorderly persons offenses and petty disorderly persons offenses.

a. Any person convicted of a disorderly persons offense or petty disorderly persons offense under the laws of this State who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, may present an expungement application to the Superior Court pursuant to this section. Any person convicted of a disorderly persons offense or petty disorderly persons offense under the laws of this State who has also been convicted of a prior or subsequent crime shall not be eligible to apply for an expungement pursuant to this section, but may present an expungement application to the Superior Court pursuant to N.J.S.2C:52-2.
b. [Any] In all cases, except as herein provided, any person convicted of a disorderly persons offense or petty disorderly persons offense under the laws of this State who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, or who has not been convicted of a disorderly persons or petty disorderly persons offense on more than two other occasions, may, after the expiration of a period of five years from the date of his most recent conviction, payment of fine, satisfactory completion of probation or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later, present an expungement application to the Superior Court in the county in which the conviction for the most recent disorderly persons or petty disorderly persons offense was adjudged, which contains a duly verified petition as provided in N.J.S.2C:52-7 for the disorderly persons or petty disorderly persons conviction sought to be expunged, and which may also contain additional duly verified petitions for no more than two other convictions for disorderly persons or petty disorderly persons offenses, praying that the conviction, or convictions if applicable, and all records and information pertaining thereto be expunged. The petition for each conviction appended to an application shall comply with the requirements of N.J.S.2C:52-1 et seq.

Notwithstanding the provisions of the preceding paragraph, a petition may be filed and presented, and the court may grant an expungement pursuant to this section, when the court finds:

(1) less than five years has expired from the satisfaction of a fine, but the five-year time requirement is otherwise satisfied, and the court finds that the person substantially complied with any payment plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so due to compelling circumstances affecting his ability to satisfy the fine; or

(2) at least three years have expired from the date of his conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; the person has not been convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense, and the applicant's character and conduct since conviction.

In determining whether compelling circumstances exist for the purposes of paragraph (1) of this subsection, a court may consider the amount of the fine or fines imposed, the person's age at the time of the offense, the person's financial condition and other relevant circumstances regarding the person's ability to pay.

c. In the case of conviction for the possession, use or being under the influence, or failure to make lawful disposition, of marijuana, that occurred prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill): a petition may be filed
and presented at any time; the provisions of N.J.S.2C:52-9 through 2
N.J.S.2C:52-14 shall not apply to the petition; and the court, upon 3
review of the petition, shall immediately grant the expungement. 4
(cf: P.L.2015, c.261, s.3)

13. N.J.S.2C:52-5 is amended to read as follows:
2C:52-5. Expungement of Records of Young Drug Offenders.
Notwithstanding the provisions of sections N.J.S.2C:52-2 and 4
N.J.S.2C:52-3, after a period of not less than one year following 5
conviction, termination of probation or parole or discharge from 6
custody, whichever is later, any person convicted of an offense 7
under chapters 35 or 36 of this Title for the possession or use 8
of a controlled dangerous substance, convicted of violating section 9
3 of P.L.1955, c.277 §3 (C.2A:170-77.5), or convicted of 10
violating section 1 of P.L.1962, c.113 §1 (C.2A:170-77.8), and 11
who at the time of the offense was 21 years of age or younger, may 12
apply to the Superior Court in the county wherein the matter was 13
disposed of for the expungement of such person's conviction and all 14
records pertaining thereto. The relief of expungement under this 15
section shall be granted only if said person has not, prior to the time 16
of hearing, violated any of the conditions of his probation or parole, 17
albeit subsequent to discharge from probation or parole, has not 18
been convicted of any previous or subsequent criminal act or any 19
subsequent or previous violation of chapters 35 or 36 of this Title 20
or of section 3 of P.L.1955, c.277 §3 (C.2A:170-77.5) or section 1 21
of P.L.1962, c.113 §1 (C.2A:170-77.8), or who has not 22
had a prior or subsequent criminal matter dismissed because of 23
acceptance into a supervisory treatment or other diversion program. 24
This section shall not apply to any person who has been 25
convicted of the sale or distribution of a controlled dangerous 26
substance or possession with the intent to sell any controlled 27
dangerous substance except:
(1) [Marihuana, where the total sold, distributed or possessed 28
with intent to sell was 25 grams or less, or] (Deleted by 29
amendment, P.L. , c. ) (pending before the Legislature as this 30
bill)
(2) Hashish, where the total amount sold, distributed or 31
possessed with intent to sell was 5 grams or less.
(cf: P.L.1987, c.106, s.16)

14. Section 8 of P.L.1983, c.392 (C.13:1E-133) is amended to 32
read as follows:
8. The provisions of any law to the contrary notwithstanding, no 33
license shall be approved by the department:
a. Unless the department finds that the applicant, or the 34
permittee, as the case may be, in any prior performance record in 35
the collection, transportation, treatment, storage, transfer or disposal 36
of solid waste or hazardous waste, has exhibited sufficient integrity,
reliability, expertise, and competency to engage in the collection or
transportation of solid waste or hazardous waste, or to operate the
solid waste facility or hazardous waste facility, given the potential
economic consequences for affected counties, municipalities and
ratepayers or significant adverse impacts upon human health and
the environment which could result from the irresponsible
participation therein or operation thereof, or if no prior record
exists, that the applicant or the permittee is likely to exhibit that
integrity, reliability, expertise and competence.

b. If any person required to be listed in the disclosure statement,
or otherwise shown to have a beneficial interest in the business of
the applicant, the permittee or the licensee, has been convicted of
any of the following crimes under the laws of New Jersey or the
equivalent thereof under the laws of any other jurisdiction:

(1) Murder;
(2) Kidnapping;
(3) Gambling;
(4) Robbery;
(5) Bribery;
(6) Extortion;
(7) Criminal usury;
(8) Arson;
(9) Burglary;
(10) Theft and related crimes;
(11) Forgery and fraudulent practices;
(12) Fraud in the offering, sale or purchase of securities;
(13) Alteration of motor vehicle identification numbers;
(14) Unlawful manufacture, purchase, use or transfer of firearms;
(15) Unlawful possession or use of destructive devices or
explosives;
(16) Violation of N.J.S.2C:35-5, except possession of 84 grams
or less of marijuana, or of N.J.S.2C:35-10;
(17) Racketeering, [P.L.1981, c.167 (C.2C:41-1 et seq.)]
N.J.S.2C:41-1 et seq.;
(18) Violation of criminal provisions of the "New Jersey
(19) Any purposeful or reckless violation of the criminal
provisions of any federal or state environmental protection laws,
rules, or regulations, including, but not limited to, solid waste or
hazardous waste management laws, rules, or regulations;
(20) Violation of N.J.S.2C:17-2;
(21) Any offense specified in chapter 28 of Title 2C of the New
Jersey Statutes;
or
(22) Violation of the "Solid Waste Utility Control Act [of
(C.48:13A-6.1).

c. If the Attorney General determines that there is a reasonable
suspicion to believe that a person required to be listed in the
disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, the permittee or the licensee, does not possess a reputation for good character, honesty and integrity, and that person or the applicant, the permittee or the licensee fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

d. With respect to the approval of an initial license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, for any of the crimes enumerated in subsection b. of this section, provided, however, that at the request of the applicant, permittee, or the person charged, the department shall defer decision upon such application during the pendency of such charge.

e. If any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, permittee or the licensee, has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this act would be inimical to the policies of this act. For the purposes of this section, "occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

f. If the Attorney General determines that any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, permittee or the licensee, has been identified by the State Commission of Investigation or the Federal Bureau of Investigation as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel, where such identification, membership or association creates a reasonable belief that the participation of that person in any activity required to be licensed under this act would be inimical to the policies of this act. For the purposes of this section, "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State; and a "career offender cartel" means any group of persons who operate together as career offenders.

A license may be approved by the department for any applicant or permittee if the information contained within the disclosure statement and investigative report, including any determination made by the Attorney General concerning the character, honesty and integrity of any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the
business of the applicant or permittee, would not require
disqualification pursuant to subsection a., b., c., e. or f. of this
section.
A license approved by the department for any applicant or
permittee pursuant to this section is non-transferable and shall be
valid only for the length of time for which it is given.

Any applicant or permittee who is denied an initial license
pursuant to this section shall, upon a written request transmitted to
the department within 30 days of that denial, be afforded the
opportunity for a hearing thereon in the manner provided for
contested cases pursuant to the "Administrative Procedure Act,"
P.L.1968, c.410 (C.52:14B-1 et seq.).
(cf: P.L.1991, c.269, s.6)

15. R.S.24:5-18 is amended to read as follows:
24:5-18. For the purposes of this subtitle a drug or device shall
also be deemed to be misbranded:
a. If its labeling is false or misleading in any particular.
b. If in package form unless it bears a label containing the name
and place of business of the manufacturer, packer, or distributor.
c. If any word, statement or other information required by or
under authority of this subtitle to appear on the label or labeling is
not prominently placed thereon with such conspicuousness (as
compared with other words, statements or designs in the labeling)
and in such terms as to render it likely to be read and understood by
the ordinary individual under customary conditions of purchase and
use.
d. If it is for use by man and contains any quantity of the
narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-
eucaine, bromal, [cannabis,] carbolomal, chloral, coca, cocaine,
codeine, heroin, [marihuana,] morphone, opium, paraldehyde,
peyote, or sulphonmethane; or any chemical derivative of such
substance, which derivative has been by the Department of Health
of the State of New Jersey after investigation found to be, and by
regulations under this subtitle designated as, habit forming; unless
its label bears the name and quantity or proportion of such
substance, or derivative and in juxtaposition therewith, the
statement "Warning--May be habit forming."
e. If it is a drug and is not designated solely by a name
recognized in an official compendium, unless its label bears (1) the
common or usual name of the drug, if such there be; and (2) in case
it is fabricated from 2 or more ingredients, the common or usual
name of each active ingredient, including the kind and quantity or
proportion of any alcohol, and also including, whether active or not,
the name and quantity or proportion of any bromides, ether,
chloroform, acetanilid, acethpanetidin, amidopyrine, antipyrine,
atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis
gluscomes, mercury, ouabain, strophanthin, strychnine, thyroid, or
any derivative or preparation of any such substances, contained
therein; provided, that to the extent that compliance with the
requirements of clause (2) of this paragraph is impracticable,
exemptions may be established by regulations promulgated by the
State department.

f. Unless its labeling bears (1) adequate directions for use; and
(2) such adequate warnings against use in those pathological
conditions or by children where its use may be dangerous to health,
or against unsafe dosage or methods or duration of administration
or application, in such manner and form, as are necessary for the
protection of users; provided, that where any requirement of clause
(1) of this paragraph, as applied to any drug or device, is not
necessary for the protection of the public health, the Department of
Health of the State of New Jersey may promulgate regulations
exempting such drug or device from such requirement.

g. If it purports to be a drug the name of which is recognized in
an official compendium, unless it is packaged and labeled as
prescribed therein; provided, that the method of packing may be
modified with the consent of the State department. Whenever a
drug is recognized in both the United States Pharmacopoeia and the
Homeopathic Pharmacopoeia of the United States it shall be subject
to the requirements of the United States Pharmacopoeia unless it is
labeled and offered for sale as a homeopathic drug, in which case it
shall be subject to the provisions of the Homeopathic
Pharmacopoeia of the United States and not to those of the United
States Pharmacopoeia.

h. If it has been found by the Department of Health of the State
of New Jersey to be a drug liable to deterioration, unless it is
packaged in such form and manner, and its label bears a statement
of such precautions, as the Department of Health of the State of
New Jersey may by regulations require as necessary for the
protection of the public health. No such regulation shall be
established for any drug recognized in an official compendium until
the State department shall have informed the appropriate body
charged with the revision of such compendium of the need for such
packaging or labeling requirements and such body shall have failed
within a reasonable time to prescribe such requirements.

i. (1) If it is a drug and its container is so made, formed or filled
as to be misleading; or (2) if it is an imitation of another drug; or
(3) if it is offered for sale under the name of another drug.

j. If it is dangerous to health when used in the dosage, or with
the frequency or duration prescribed, recommended, or suggested in
the labeling thereof.

k. If it is a depressant or stimulant drug as defined pursuant to
law and not in the possession or control of a person specified by
law as entitled to possession or control of such depressant or
stimulant drug. Any depressant or stimulant drug misbranded under
the preceding sentence shall be deemed dangerous or fraudulent for
purposes of marking and detaining under the provisions of
section R.S.24:4-12 of this Title.
(cf: P.L.1966, c.314, s.8)

16. Section 2 of P.L.2009, c.307 (C.24:6I-2) is amended to read
as follows:
2. The Legislature finds and declares that:

a. Modern medical research has discovered a beneficial use for
marijuana in treating or alleviating the pain or other symptoms
associated with certain debilitating medical conditions, as found by
the National Academy of Sciences’ Institute of Medicine in March
1999;

b. [According to the U.S. Sentencing Commission and the
Federal Bureau of Investigation, 99 out of every 100 marijuana
arrests in the country are made under state law, rather than under
federal law.] Consequently, changing [state] State law will have
the practical effect of [protecting from arrest the vast majority of]benefiting seriously ill people who have a medical need to use
marijuana;

c. Although federal law currently prohibits the use of
marijuana, the laws of [Alaska, California, Colorado, Hawaii,
Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode
Island, Vermont, and Washington] many states permit the use of
marijuana for medical purposes [and in Arizona] or permit
doctors [are permitted] to prescribe marijuana. New Jersey joins
this effort for the health and welfare of its citizens; and
d. States are not required to enforce federal law or prosecute
people for engaging in activities prohibited by federal law;
therefore, compliance with this act does not put the State of New
Jersey in violation of federal law; and

e. [Compassion dictates that a distinction be made between
medical and non-medical uses of marijuana. Hence, the purpose of
this act is to protect from arrest, prosecution, property forfeiture,
and criminal and other penalties, those patients who use marijuana
to alleviate suffering from debilitating medical conditions, as well
as their physicians, primary caregivers, and those who are
authorized to produce marijuana for medical purposes.] (Deleted by
amendment, P.L. , c. ) (pending before the Legislature as this
bill)
(cf: P.L.2009, c.307, s.2)

17. Section 6 of P.L.2009, c.307 (C.24:6I-6) is amended to read
as follows:
6. a. The provisions of N.J.S.2C:35-18 shall apply to any
qualifying patient, primary caregiver, alternative treatment center,
physician, or any other person acting in accordance with the

b. A qualifying patient, primary caregiver, alternative treatment center, physician, or any other person acting in accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.) shall not be subject to any civil or administrative penalty, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a professional licensing board, related to the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

c. Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or the property of the person possessing or applying for the registry identification card, or otherwise subject the person or his property to inspection by any governmental agency.

d. [The provisions of section 2 of P.L.1939, c.248 (C.26:2-82), relating to destruction of marijuana determined to exist by the department, shall not apply if a qualifying patient or primary caregiver has in his possession a registry identification card and no more than the maximum amount of usable marijuana that may be obtained in accordance with section 10 of P.L.2009, c.307 (C.24:6I-10).] (Deleted by amendment, P.L.    , c.   ) (pending before the Legislature as this bill)

e. No person shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for simply being in the presence or vicinity of the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

f. No custodial parent, guardian, or person who has legal custody of a qualifying patient who is a minor shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for assisting the minor in the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

(cf: P.L.2015, c.158, s.4)

18. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read as follows:

2. As used in this act:

"Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does
not include a common or contract carrier, public warehouseman, or employee thereof.

"Commissioner" means the Commissioner of Health.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V of article 2 of P.L.1970, c.226 (C.24:21-1 et seq.). The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products, or marijuana and marijuana products, other than medical marijuana as provided under the "New Jersey Compassionate Use Medical Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et al.).

"Counterfeit substance" means a controlled dangerous substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Dispense" means to deliver a controlled dangerous substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. "Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance. "Distributor" means a person who distributes.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Drug Enforcement Administration" means the Drug Enforcement Administration in the United States Department of Justice.

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article
specified in subsections (a), (b), and (c) of this section; but does not include devices or their components, parts or accessories.

"Drug dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Marijuana" means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled dangerous substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, and opiates;
(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not
include decocainized coca leaves or extracts of coca leaves, which
extracts do not contain cocaine or ecgonine.

"Official written order" means an order written on a form
provided for that purpose by the Attorney General of the United
States or his delegate, under any laws of the United States making
provisions therefor, if such order forms are authorized and required
by the federal law, and if no such form is provided, then on an
official form provided for that purpose by the division. If
authorized by the Attorney General of the United States or the
division, the term shall also include an order transmitted by
electronic means.

"Opiate" means any dangerous substance having an addiction-
forming or addiction-sustaining liability similar to morphine or
being capable of conversion into a drug having such addiction-
forming or addiction-sustaining liability. It does not include, unless
specifically designated as controlled under section 3 of this act, the
dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
salts (dextromethorphan). It does include its racemic and
levorotatory forms.

"Opium poppy" means the plant of the species Papaver
somniferum L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust,
other institution or entity, or one or more individuals.

"Pharmacist" means a registered pharmacist of this State.

"Pharmacy owner" means the owner of a store or other place of
business where controlled dangerous substances are compounded or
dispensed by a registered pharmacist; but nothing in this chapter
contained shall be construed as conferring on a person who is not
registered or licensed as a pharmacist any authority, right, or
privilege that is not granted to him by the pharmacy laws of this
State.

"Poppy straw" means all parts, except the seeds, of the opium
poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific
investigator, laboratory, pharmacy, hospital, or other person
licensed, registered, or otherwise permitted to distribute, dispense,
conduct research with respect to, or administer a controlled
dangerous substance in the course of professional practice or
research in this State.

(a) "Physician" means a physician authorized by law to practice
medicine in this or any other state and any other person authorized
by law to treat sick and injured human beings in this or any other
state.

(b) "Veterinarian" means a veterinarian authorized by law to
practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice
dentistry in this State.
(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances for scientific, experimental, and medical purposes and for purposes of instruction approved by the Department of Health.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

"Immediate precursor" means a substance which the division has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

(cf: P.L.2012, c.17, s.92)

19. Section 5 of P.L.1970, c.226 (C.24:21-5) is amended to read as follows:

5. Schedule I.
   a. Tests. The director shall place a substance in Schedule I if he finds that the substance: (1) has high potential for abuse; and (2) has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.
   b. The controlled dangerous substances listed in this section are included in Schedule I, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.
   c. Any of the following opiates, including their isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:
      (1) Acetylmethadol
      (2) Allylprodine
      (3) Alphacetylmethadol
      (4) Alphameprodine
      (5) Alphamethadol
      (6) Benzethidine
d. Any of the following narcotic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

1. Acetorphine
2. Acetylcodone
3. Acetyldihydrocodeine
4. Benzylmorphine
5. Codeine methylbromide
6. Codeine-N-Oxide
7. Cyprenorphine
8. Desomorphine
(9) Dihydromorphine
(10) Etorphine
(11) Heroin
(12) Hydromorphinol
(13) Methyldesorphine
(14) Methylhydromorphone
(15) Morphine methylbromide
(16) Morphine methylsulfonate
(17) Morphine-N-Oxide
(18) Myrophine
(19) Nicocodeine
(20) Nicomorphine
(21) Normorphine
(22) Phoclodine
(23) Thebacon.

e. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxymethamphetamine
(2) 5-methoxy-3,4-methylenedioxymethamphetamine
(3) 3,4,5-trimethoxy amphetamine
(4) Bufotenine
(5) Diethyltryptamine
(6) Dimethyltryptamine
(7) 4-methyl-2,5-dimethoxylamphetamine
(8) Ibogaine
(9) Lysergic acid diethlamide
(10) [Marihuana] (Deleted by amendment, P.L., c.)
(pending before the Legislature as this bill)
(11) Mescaline
(12) Peyote
(13) N-ethyl-3-piperidyl benzilate
(14) N-methyl-3-piperidyl benzilate
(15) Psilocybin
(16) Psilocyn₂
(17) [Tetrahydrocannabinols.] (Deleted by amendment, P.L.,
c.) (pending before the Legislature as this bill)
(cf: P.L.2007, c.244, s.3)

20. Section 29 of P.L.1970, c.226 (C.24:21-29) is amended to read as follows:
29. Second or subsequent offenses. a. Any person convicted of any offense under this act, if the offense is a second or subsequent offense, shall be punished by a term of imprisonment of up to twice that otherwise authorized, by up to twice the fine otherwise authorized, or by both.
b. For purposes of this section, an offense shall be considered a second or subsequent offense, if, prior to the commission of the offense, the offender has at any time been convicted of an offense or offenses under this act or under any law of the United States or of any state relating to narcotic drugs, [marihuana,] depressant, stimulant, or hallucinogenic drugs.

(cf: P.L.1987, c.106, s.21)

21. (New section) a. A person shall not, either directly or indirectly by an agent or employee, sell, offer for sale, distribute for commercial purpose at no cost or minimal cost or with coupons or rebate offers, give, or furnish, to a person under 19 years of age:

(1) the plant Genus Cannabis L., or any part of the plant; or

(2) any cigarettes made of or containing marijuana which can be smoked, marijuana cigarette paper, or other marijuana product in any form.

b. The establishment of all of the following shall constitute a defense to any action brought pursuant to subsection a. of this section:

(1) that the purchaser or the recipient of the promotional sample falsely represented, by producing either a driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission, a similar card issued pursuant to the laws of another state or the federal government of Canada, or a photographic identification card issued by a county clerk, that the purchaser or recipient was of legal age to make the purchase or receive the sample;

(2) that the appearance of the purchaser or the recipient of the promotional sample was such that an ordinary prudent person would believe the purchaser or recipient to be of legal age to make the purchase or receive the sample; and

(3) that the sale or distribution was made in good faith, relying upon the production of the identification set forth in paragraph (1) of this subsection, the appearance of the purchaser or recipient, and in the reasonable belief that the purchaser or recipient was of legal age to make the purchase or receive the sample.

c. A person who violates the provisions of subsection a. of this section who actually sells or otherwise provides the plant Genus Cannabis L., marijuana, marijuana cigarette paper, or other marijuana product to a person under 19 years of age, shall be liable to a civil penalty of not less than $250 for the first violation, not less than $500 for the second violation, and $1,000 for the third and each subsequent violation. The civil penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that
municipality may issue a summons for a violation of the provisions of subsection a. of this section, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

22. (New section) The Commissioner of Health is authorized to enforce the provisions of section 21 of P.L. , c. (C. ) (pending before the Legislature as this bill) with respect to the prohibition on the sale and commercial distribution of the plant Genus Cannabis L., marijuana, marijuana cigarette paper, or other marijuana product to persons under 19 years of age. The commissioner may delegate the enforcement authority provided in this section to local health agencies, subject to the availability of sufficient funding. The commissioner shall report quarterly to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the enforcement program’s progress, results of enforcement efforts, and other matters the commissioner deems appropriate.

23. N.J.S.2C:33-13 is amended to read as follows:

2C:33-13. Smoking in Public. a. Any person who smokes or carries lighted tobacco in or upon any bus or other public conveyance, except group charter buses, specially marked railroad smoking cars, limousines or livery services, and, when the driver is the only person in the vehicle, autocabs, is a petty disorderly person. Any person who smokes or carries lighted marijuana in or upon any bus or other public conveyance is a petty disorderly person. For the purposes of this section, “bus” includes school buses and other vehicles owned or contracted for by the governing body, board or individual of a nonpublic school, a public or private college, university, or professional training school, or a board of education of a school district, that are used to transport students to and from school and school-related activities; and the prohibition on smoking or carrying lighted tobacco or marijuana shall apply even if students are not present in the vehicle.

b. Any person who smokes or carries lighted tobacco or marijuana in any public place, including but not limited to places of public accommodation, where such smoking is prohibited by municipal ordinance under authority of R.S.40:48-1 and R.S.40:48-2 or by the owner or person responsible for the operation of the public place, and when adequate notice of such prohibition has been conspicuously posted, is guilty of a petty disorderly persons offense. Notwithstanding the provisions of N.J.S.2C:43-3, the
maximum fine which can be imposed for violation of this section is $200.

c. The provisions of this section shall supersede any other statute and any rule or regulation adopted pursuant to law.
(cf: P.L.2003, c.233, s.1)

24. Section 1 of P.L.2010, c.121 (C.18A:39-31) is amended to read as follows:
   1. a. The board of education of any school district may enter into a contract for the sale of advertising space on the exterior sides of school buses owned or leased by the school district, subject to the limitations set forth in this section. Advertisements for tobacco, marijuana, or alcohol products or for political advocacy shall be prohibited, in addition to any other advertisements for products or services or by sponsors that the Commissioner of Education deems inappropriate. All advertisements shall require prior approval by the local board of education.
   b. In the event that a board of education enters into a contract for the sale of advertising space on the exterior sides of school buses pursuant to subsection a. of this section, 50% of any revenue generated by the sale shall be used by the board to offset the fuel costs of providing pupil transportation services, and the remaining 50% of the revenue shall be used to support any programs and services the board may deem appropriate.
   c. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall apply to any contract entered into by a board of education pursuant to this act.
(cf: P.L.2010, c.121, s.1)

25. The title of P.L.1987, c.389 is amended to read as follows:
   AN ACT providing for a comprehensive education program on the nature and effects of drugs, alcohol, tobacco, marijuana, and controlled dangerous substances, supplementing Title 18A of the New Jersey Statutes, revising parts of the statutory law and making an appropriation.
(cf: P.L.1989, c.225, s.1)

26. Section 1 of P.L.1987, c.389 (C.18A:40A-1) is amended to read as follows:
   1. Instructional programs on the nature of drugs, alcohol, anabolic steroids, tobacco, marijuana, and controlled dangerous substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2
of this act, and shall be included in the curriculum for each grade in
such a manner as to provide a thorough and comprehensive
treatment of the subject.
(cf: P.L.1989, c.225, s.2)

27. Section 2 of P.L.1987, c.389 (C.18A:40A-2) is amended to
read as follows:
2. The Commissioner of Education, in consultation with the
Commissioner of Health, shall develop curriculum guidelines for
education programs on drugs, alcohol, anabolic steroids, tobacco,
marijuana, and controlled dangerous substances. These guidelines
shall be reviewed annually, and shall be updated as necessary to
insure that the curriculum reflects the most current information
available on the nature and treatment of drug, alcohol, anabolic
steroids, tobacco, marijuana, and controlled dangerous substance
abuse and treatment. The guidelines shall provide for a sequential
course of study for each grade, K-12, and shall, at a minimum,
include:
a. Detailed, factual information regarding the physiological,
psychological, sociological and legal aspects of substance abuse;
b. Detailed information concerning the availability of help and
assistance for pupils and their families with chemical dependency
problems;
c. Decision making and coping skills; and,
d. The development of activities and attitudes which are
consistent with a healthy life style.
The guidelines shall include model instructional units, shall
define specific behavioral and learning objectives and shall
recommend instructional materials suitable for each grade level.
(cf: P.L.1989, c.225, s.3)

28. Section 3 of P.L.1987, c.389 (C.18A:40A-3) is amended to
read as follows:
3. a. Upon completion of the curriculum guidelines required
pursuant to section 2 of this act, the Commissioner of Education, in
consultation with the Commissioner of Health, shall establish
inservice workshops and training programs to train selected public
school teachers to teach an education program on drugs, alcohol,
anabolic steroids, tobacco, marijuana, and controlled dangerous
substances. The inservice training programs may utilize existing
county or regional offices, or such other institutions, agencies or
persons as the Commissioner of Education deems appropriate. The
programs and workshops shall provide instructional preparation for
the teaching of the drug, alcohol, anabolic steroids, tobacco,
marijuana, and controlled dangerous substances curriculum, and
shall, in addition to the curriculum material, include information on
the history, pharmacology, physiology and psychosocial aspects of
drugs, alcohol, anabolic steroids, tobacco, marijuana, and controlled
dangerous substances, symptomatic behavior associated with
substance abuse, the availability of rehabilitation and treatment
programs, and the legal aspects of substance abuse. Each local
board of education shall provide time for the inservice training
during the usual school schedule in order to insure that appropriate
teaching staff members are prepared to teach the education program
in each grade in each school district.

b. Upon completion of the initial inservice training program, the
Commissioner of Education shall insure that programs and
workshops that reflect the most current information on substance
abuse are prepared and are made available to teaching staff
members at regular intervals.

c. In addition to providing inservice training programs for
teaching staff members who will provide instruction on substance
abuse in the public schools, the Commissioner of Education shall
make these training programs available to such other instructional
and supervisory personnel as he deems necessary and appropriate.
(cf: P.L.1989, c.225, s.4)

29. Section 5 of P.L.1987, c.389 (C.18A:40A-5) is amended to
read as follows:
5. The board of education in each school district in the State in
which a nonpublic school is located shall have the power and duty
to loan to all pupils attending nonpublic schools located within the
district all educational materials developed by the Commissioner of
Education pursuant to this act for the instruction of public school
pupils on the nature and effects of drugs, alcohol, anabolic steroids,
tobacco, marijuana, and controlled dangerous substances. The
Commissioner of Education shall make these materials available so
that the local board of education shall not be required to expend
funds for the loan of these materials.
(cf: P.L.1989, c.225, s.5)

30. The title of P.L.2005, c.383 is amended to read as follows:
An Act concerning smoking and marijuana smoking in indoor
public places and workplaces and revising parts of the statutory
law.
(cf: P.L.2005, c.383, title)

31. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to
read as follows:
3. As used in this act:
"Bar" means a business establishment or any portion of a
nonprofit entity, which is devoted to the selling and serving of
alcoholic beverages for consumption by the public, guests, patrons
or members on the premises and in which the serving of food, if
served at all, is only incidental to the sale or consumption of such
beverages.
"Cigar bar" means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

"Cigar lounge" means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

"Electronic smoking device" means an electronic device that can be used to deliver nicotine or other substances, not including marijuana, to the person inhaling from the device. An electronic smoking device may include, but is not limited to, an electronic cigarette, cigar, cigarillo, or pipe.

"Indoor public place" means a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

“Marijuana smoking” means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted marijuana
cigarette, pipe or any other matter or substance which contains marijuana that can be smoked.

"Person having control of an indoor public place or workplace" means the owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased.

"Smoking" means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, not including marijuana, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

"Tobacco retail establishment" means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

"Workplace" means a structurally enclosed location or portion thereof at which a person performs any type of service or labor.

(cf: P.L.2009, c.182, s.2)

32. Section 4 of P.L.2005, c.383 (C.26:3D-58) is amended to read as follows:

4. a. Smoking is prohibited in an indoor public place or workplace, except as otherwise provided in this act. Marijuana smoking is prohibited in an indoor public place or workplace.

b. Smoking and marijuana smoking are prohibited in any area of any building of, or on the grounds of, any public or nonpublic elementary or secondary school, regardless of whether the area is an indoor public place or is outdoors.

(cf: P.L.2005, c.383, s.4)

33. Section 5 of P.L.2005, c.383 (C.26:3D-59) is amended to read as follows:

5. The provisions of P.L.2005, c.383 (C.26:3D-55 et seq.) shall not apply to private homes, private residences and private automobiles. The provisions of this act P.L.2005, c.383 (C.26:3D-55 et seq.) concerning smoking shall not apply to:

a. any cigar bar or cigar lounge that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if:

(1) in the preceding calendar year, the cigar bar or lounge generated 15% or more if its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (2) the cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004;
b. any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking;

c. any tobacco business when the testing of a cigar or pipe tobacco by heating, burning or smoking is a necessary and integral part of the process of making, manufacturing, importing or distributing cigars or pipe tobacco; and

d. [private homes, private residences and private automobiles; and] (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

e. the area within the perimeter of:

(1) any casino as defined in section 6 of P.L.1977, c.110 (C.5:12-6) approved by the Casino Control Commission that contains at least 150 stand-alone slot machines, 10 table games, or some combination thereof approved by the commission, which machines and games are available to the public for wagering; and

(2) any casino simulcasting facility approved by the Casino Control Commission pursuant to section 4 of P.L.1992, c.19 (C.5:12-194) that contains a simulcast counter and dedicated seating for at least 50 simulcast patrons or a simulcast operation and at least 10 table games, which simulcast facilities and games are available to the public for wagering.

(cf: P.L.2005, c.383, s.5)

34. Section 7 of P.L.2005, c.383 (C.26:3D-61) is amended to read as follows:

7. a. The person having control of an indoor public place or workplace shall place in every public entrance to the indoor public place or workplace a sign or signs, which shall be located so as to be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign or signs, indicating that marijuana smoking is prohibited therein, and smoking is prohibited therein, except in such designated smoking areas as provided pursuant to this act. The sign or signs shall also indicate that violators are subject to a fine. The person having control of the indoor public place or workplace shall post a sign stating "Smoking Permitted" in letters at least one inch in height or marked by the international symbol for "Smoking Permitted" in those areas where smoking is permitted.

b. The provisions of this section shall not be construed to prevent a lessee of the workplace, or space within the building or indoor public place, from enforcing the smoking or marijuana smoking restrictions imposed by the owner or operator of a commercial or other office building or other indoor public place.

(cf: P.L.2005, c.383, s.7)

35. Section 8 of P.L.2005, c.383 (C.26:3D-62) is amended to read as follows:
8. a. The person having control of an indoor public place or workplace shall order any person smoking or marijuana smoking in violation of this act to comply with the provisions of this act. A person, after being so ordered, who smokes or marijuana smokes in violation of this act is subject to a fine of not less than $250 for the first offense, $500 for the second offense and $1,000 for each subsequent offense. A penalty shall be recovered in accordance with the provisions of subsections c. and d. of this section.

b. The Department of Health or the local board of health or the board, body, or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that an indoor public place or workplace covered by the provisions of this act is or may be in violation of the provisions of this act, shall, by written notification, advise the person having control of the place accordingly, and order appropriate action to be taken. A person receiving that notice, who fails or refuses to comply with the order, is subject to a fine of not less than $250 for the first offense, $500 for the second offense, and $1,000 for each subsequent offense. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act.

c. A penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

d. A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this act if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health, or the local board of health, as the case may be, as plaintiff.

e. The penalties provided in subsections a. and b. of this section shall be the only civil remedy for a violation of this act, and there shall be no private right of action against a party for failure to comply with the provisions of this act.

(cf: P.L.2012, c.17, s.331)

36. Section 9 of P.L.2005, c.383 (C.26:3D-63) is amended to read as follows:

9. The provisions of this act shall supersede any other statute, municipal ordinance and rule or regulation adopted pursuant to law
concerning smoking or marijuana smoking in an indoor public place or workplace, except where smoking or marijuana smoking is prohibited by municipal ordinance under authority of R.S.40:48-1 or R.S.40:48-2, or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire or protecting public health, and except for those provisions of a municipal ordinance which provide restrictions on or prohibitions against smoking or marijuana smoking equivalent to, or greater than, those provided under this act.

(cf: P.L.2005, c.383, s.9)

37. Section 3 of P.L.1941, c.308 (C.34:6-136.3) is amended to read as follows:

3. Prohibited homework. The manufacture of any of the following by industrial homework shall be unlawful, and no permit or certificate issued under this act shall be deemed to authorize such manufacture: (1) Articles of food or drink, (2) Articles for use in connection with the serving of food or drink, (3) Toys and dolls, (4) Tobacco and marijuana, (5) Drugs and poisons, (6) Bandages and other sanitary goods, (7) Explosives, fireworks, and articles of like character, (8) Articles of infants' and children's wearing apparel, (9) Articles of women's or men's wearing apparel, (10) Articles, the processing of which requires exposure to substances determined by the commissioner to be hazardous to the health or safety of persons so exposed, (11) the manufacture or distribution of dolls' clothing in any tenement house is hereby prohibited, anything to the contrary herein notwithstanding.

(cf: P.L.1991, c.47, s.1)

38. The following sections are repealed:

Sections 1 and 2 of P.L.1939, c.248 (C.26:81 and 26:82); and Section 46 of P.L.1970, c.226 (C.24:21-44).

39. This act shall take effect on the first day of January that is more than 180 days following enactment, and the Attorney General, Commissioner of Health, and other State department heads may take any anticipatory administrative action in advance of the effective date as necessary for the implementation of this act.

STATEMENT

This bill would legalize marijuana by removing all criminal liability associated with marijuana from the “New Jersey Code of Criminal Justice,” Title 2C of the New Jersey Statutes, as well as its regulation as a controlled dangerous substance under the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et seq.). The manufacturing, distribution, possession,
and use of medical marijuana would remain subject to these acts and the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

With respect to criminal or disorderly persons offense convictions pre-dating marijuana legalization that relate to marijuana possession, use or being under the influence of marijuana, or failure to make lawful disposition of marijuana, these convictions could be expunged in an expedited process. An expungement petition could be filed and presented in Superior Court at any time, notwithstanding the general ten-year waiting period (for crimes) or general five-year waiting period (for disorderly persons offenses) normally applicable. The provisions of N.J.S.2C:52-9 through N.J.S.2C:52-14, concerning law enforcement objections, a required hearing, and grounds for denial, would not apply to the petition; and the court, upon review of the petition, would immediately grant the expungement.

Similar to cigarettes and other tobacco products, the sale or distribution of marijuana, marijuana products, or the marijuana plant Genus Cannabis L. would be prohibited to persons less than 19 years of age. A violation of this prohibition would subject the liable party to a civil penalty of not less than $250 for the first violation, not less than $500 for the second violation, and $1,000 for the third and any subsequent violation. These are the same monetary penalties that apply to the underage sale or distribution of cigarettes and other tobacco products. The Commissioner of Health would be authorized to enforce the prohibition against underage marijuana sales or distribution, or delegate this enforcement authority to local health agencies, and make a quarterly report to the Legislature on prohibition enforcement, just as the commissioner does currently with respect to cigarettes and other tobacco products.

Other ways in which the bill would treat legal marijuana similarly to cigarettes and other tobacco products include:

- Prohibiting marijuana smoking in various indoor or public places pursuant to the “New Jersey Smoke-Free Air Act,” P.L.2005, c.383 (C.26:3D-55 et seq.);
- Prohibiting industrial manufacturing of marijuana for an employer in a home setting;
- Prohibiting advertisements for marijuana on the exterior sides of school buses owned or leased by a school district; and
- Requiring instructional programs in schools on the physiological, psychological, and sociological effects of marijuana on the individual, family, and society.

The bill would repeal three sections of law that are either outdated or would be obviated by marijuana legalization. The outdated section, section 46 of P.L.1970, c.226 (C.24:21-44), dealt with a 1970’s study on penalties concerning the use and possession of marijuana established under the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.).
The sections that would be obviated, sections 1 and 2 of P.L.1939, c.248 (C.26:2-81 and 26:2-82), address the detection and destruction of illegal marijuana.

The bill would take effect on the first day of January that is more than 180 days following enactment, and the Attorney General, Commissioner of Health, and other State department heads would have the authority to take any anticipatory administrative action in advance of the effective date as necessary for the implementation of the bill.