

ASSEMBLY, No. 4193

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2016

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.



A4193 CARROLL

2

1 AN ACT concerning marijuana legalization, revising various parts of
2 the statutory law, and supplementing chapter 170 of Title 2A of
3 the New Jersey Statutes and Title 26 of the Revised Statutes.

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

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

9 2C:35-2. As used in this chapter:

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

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

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

43 "Controlled substance analog" means a substance that has a
44 chemical structure substantially similar to that of a controlled
45 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.

1 an effect substantially similar to that of a controlled dangerous
2 substance. The term shall not include a substance manufactured or
3 distributed in conformance with the provisions of an approved new
4 drug application or an exemption for investigational use within the
5 meaning of section 505 of the "Federal Food, Drug, and Cosmetic
6 Act," 52 Stat. 1052 (21 U.S.C. s.355).

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

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

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

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

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

39 "Drug or alcohol dependent person" means a person who as a
40 result of using a controlled dangerous substance or controlled
41 substance analog or alcohol has been in a state of psychic or
42 physical dependence, or both, arising from the use of that controlled
43 dangerous substance or controlled substance analog or alcohol on a
44 continuous or repetitive basis. Drug or alcohol dependence is
45 characterized by behavioral and other responses, including but not
46 limited to a strong compulsion to take the substance on a recurring
47 basis in order to experience its psychic effects, or to avoid the
48 discomfort of its absence.

A4193 CARROLL

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

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

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

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

33 (a) Opium, coca leaves, and opiates;

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

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

42 "Opiate" means any dangerous substance having an addiction-
43 forming or addiction-sustaining liability similar to morphine or
44 being capable of conversion into a drug having such addiction-
45 forming or addiction-sustaining liability. It does not include, unless
46 specifically designated as controlled pursuant to the provisions of
47 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer

A4193 CARROLL

1 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
2 It does include its racemic and levorotatory forms.

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

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

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

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

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

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

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

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

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

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

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

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

47 "Residential treatment facility" means any facility licensed and
48 approved by the Department of Human Services and which is

1 approved by any county probation department for the inpatient
2 treatment and rehabilitation of drug or alcohol dependent persons.

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

10 "State" means the State of New Jersey.

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

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

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

26 "Stramonium plant" means the plant *Datura Stramonium* Linne,
27 including *Datura Tatula* Linne.

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

29

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

31 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et
32 seq.), any person who knowingly maintains or operates any
33 premises, place or facility used for the manufacture of
34 methamphetamine, lysergic acid diethylamide, phencyclidine,
35 gamma hydroxybutyrate, flunitrazepam, [marijuana in an amount
36 greater than five pounds or ten plants or] any substance listed in
37 Schedule I or II, or the analog of any such substance, or any person
38 who knowingly aids, promotes, finances or otherwise participates in
39 the maintenance or operations of such premises, place or facility, is
40 guilty of a crime of the first degree and shall, except as provided in
41 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
42 include the imposition of a minimum term which shall be fixed at,
43 or between, one-third and one-half of the sentence imposed, during
44 which the defendant shall be ineligible for parole. Notwithstanding
45 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
46 impose a fine not to exceed \$750,000.00 or five times the street
47 value of all controlled dangerous substances, controlled substance
48 analogs, gamma hydroxybutyrate or flunitrazepam at any time

1 manufactured or stored at such premises, place or facility,
2 whichever is greater.

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

4

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

6 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
7 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
8 unlawful for any person knowingly or purposely:

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

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

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

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

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

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

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

46 (5) A substance classified as a narcotic drug in Schedule I or II
47 other than those specifically covered in this section, or the analog of
48 any such substance, in a quantity of less than one ounce including

1 any adulterants or dilutants is guilty of a crime of the third degree
2 except that, notwithstanding the provisions of subsection b. of
3 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

4 (6) Lysergic acid diethylamide, or its analog, in a quantity of
5 100 milligrams or more including any adulterants or dilutants, or
6 phencyclidine, or its analog, in a quantity of 10 grams or more
7 including any adulterants or dilutants, is guilty of a crime of the
8 first degree. Except as provided in N.J.S.2C:35-12, the court shall
9 impose a term of imprisonment which shall include the imposition
10 of a minimum term, fixed at, or between, one-third and one-half of
11 the sentence imposed by the court, during which the defendant shall
12 be ineligible for parole. Notwithstanding the provisions of
13 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be
14 imposed;

15 (7) Lysergic acid diethylamide, or its analog, in a quantity of less
16 than 100 milligrams including any adulterants or dilutants, or where
17 the amount is undetermined, or phencyclidine, or its analog, in a
18 quantity of less than 10 grams including any adulterants or
19 dilutants, or where the amount is undetermined, is guilty of a crime
20 of the second degree;

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

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

30 (b) Methamphetamine, or its analog, or phenyl-2-propanone
31 (P2P), in a quantity of less than one-half ounce including any
32 adulterants or dilutants is guilty of a crime of the third degree
33 except that notwithstanding the provisions of subsection b. of
34 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

35 (10) (a) **【Marijuana in a quantity of 25 pounds or more**
36 **including any adulterants or dilutants, or 50 or more marijuana**
37 **plants, regardless of weight, or hashish】** Hashish in a quantity of
38 five pounds or more including any adulterants or dilutants, is guilty
39 of a crime of the first degree. Notwithstanding the provisions of
40 subsection a. of N.J.S.2C:43-3, a fine of up to \$300,000.00 may be
41 imposed;

42 (b) **【Marijuana in a quantity of five pounds or more but less than**
43 **25 pounds including any adulterants or dilutants, or 10 or more but**
44 **fewer than 50 marijuana plants, regardless of weight, or hashish】**
45 Hashish in a quantity of one pound or more but less than five
46 pounds **【,】** including any adulterants and dilutants, is guilty of a
47 crime of the second degree;

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

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

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

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

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

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

32
33 4. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read
34 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

1 N.J.S.2C:43-6 or upon conviction for a crime other than the offense
2 set forth in this subsection.

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

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

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

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

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

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

5

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

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

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

20 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
21 provisions of law, a conviction arising under this section shall not
22 merge with a conviction for a violation of subsection a. of
23 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
24 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).
25 Nothing in this section shall be construed to preclude or limit a
26 prosecution or conviction for a violation of **【N.J.S.2C:35-7】** section
27 1 of P.L.1987, c.101 (C.2C:35-7) or any other offense defined in
28 this chapter.

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

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

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

20 f. As used in this act:

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

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

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

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

34

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

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

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

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

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

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

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

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

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

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

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

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

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

45

46 7. Section 3 of P.L.2001, c.114 (C.2C:35B-3) is amended to
47 read as follows:

48 3. As used in this act:

A4193 CARROLL

15

- 1 a. "Marketing of controlled dangerous substances" means the
2 illegal distributing, dispensing, or possessing with intent to
3 distribute, a specified controlled dangerous substance.
- 4 b. "Individual user of controlled dangerous substance" means
5 the individual whose illegal use of a specified controlled dangerous
6 substance is the basis of an action brought under this act.
- 7 c. "Level 1 offense" means:
- 8 (1) possessing with intent to distribute less than four ounces of a
9 specified controlled dangerous substance as defined in this section;
10 or
- 11 (2) distributing or dispensing less than one ounce of a specified
12 controlled dangerous substance as defined in this section **【;】**.
- 13 (3) **【possessing with intent to distribute 25 or more but less than**
14 **50 marijuana plants;】** (Deleted by amendment, P.L. , c.)
15 (pending before the Legislature as this bill)
- 16 (4) **【possessing with intent to distribute less than four pounds of**
17 **marijuana, or】** (Deleted by amendment, P.L. , c.) (pending
18 before the Legislature as this bill)
- 19 (5) **【distributing or dispensing more than 28.5 grams of**
20 **marijuana.】** (Deleted by amendment, P.L. , c.) (pending before
21 the Legislature as this bill)
- 22 d. "Level 2 offense" means:
- 23 (1) possessing with intent to distribute four ounces or more but
24 less than eight ounces of a specified controlled dangerous substance
25 as defined in this section; or
- 26 (2) distributing or dispensing one ounce or more but less than
27 two ounces of a specified controlled dangerous substance as defined
28 in this section **【;】**.
- 29 (3) **【possessing with intent to distribute 50 or more but less than**
30 **75 marijuana plants;】** (Deleted by amendment, P.L. , c.)
31 (pending before the Legislature as this bill)
- 32 (4) **【possessing with intent to distribute four pounds or more but**
33 **less than eight pounds of marijuana, or】** (Deleted by amendment,
34 P.L. , c.) (pending before the Legislature as this bill)
- 35 (5) **【distributing or dispensing more than one pound but less**
36 **than five pounds of marijuana.】** (Deleted by amendment, P.L. ,
37 c.) (pending before the Legislature as this bill)
- 38 e. "Level 3 offense" means:
- 39 (1) possessing with intent to distribute eight ounces or more but
40 less than 16 ounces of a specified controlled dangerous substance as
41 defined in this section; or
- 42 (2) distributing or dispensing two ounces or more but less than
43 four ounces of a specified controlled dangerous substance as
44 defined in this section **【;】**.
- 45 (3) **【possessing with intent to distribute 75 or more but less than**
46 **100 marijuana plants;】** (Deleted by amendment, P.L. , c.)
47 (pending before the Legislature as this bill)

1 (4) **【possessing with intent to distribute eight pounds or more**
2 **but less than 16 pounds of marijuana, or】** (Deleted by amendment,
3 P.L. , c.) (pending before the Legislature as this bill)

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

7 f. "Level 4 offense" means:

8 (1) possessing with intent to distribute 16 ounces or more of a
9 specified controlled dangerous substance as defined in this section;
10 or

11 (2) distributing or dispensing four ounces or more of a specified
12 controlled dangerous substance as defined in this section **【;】** .

13 (3) **【possessing with intent to distribute 100 or more marijuana**
14 **plants;】** (Deleted by amendment, P.L. , c.) (pending before the
15 Legislature as this bill)

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

19 (5) **【distributing or dispensing more than 10 pounds of**
20 **marijuana.】** (Deleted by amendment, P.L. , c.) (pending before
21 the Legislature as this bill)

22 g. "Participate in the illegal marketing of controlled dangerous
23 substances" means to transport, import into this State, distribute,
24 dispense, sell, possess with intent to distribute, or offer to distribute
25 a controlled dangerous substance, in violation of any of the
26 provisions of chapter 35 of Title 2C of the New Jersey Statutes.
27 "Participate in the marketing of controlled dangerous substances"
28 does not include the purchase or receipt of a controlled dangerous
29 substance for personal use only.

30 h. "Person" means any natural person, association, partnership,
31 corporation or other entity.

32 i. "Period of illegal use" means, in relation to the individual
33 user of a controlled dangerous substance, the time of the
34 individual's first illegal use of a controlled dangerous substance to
35 the accrual of the cause of action.

36 j. "Place of illegal activity" means, in relation to the individual
37 user of a specified controlled dangerous substance, each county in
38 which the individual illegally possess or uses a specified controlled
39 dangerous substance.

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

43 l. "Specified controlled dangerous substance" means heroin,
44 cocaine, lysergic acid diethylamide, phencyclidine,
45 methamphetamine, phenyl-2-propanone (P2P) and any other
46 controlled dangerous substance specified under the provisions of
47 N.J.S.2C:35-5 as being unlawful to manufacture, distribute, or

1 dispense, or to possess or have under a person's control with intent
2 to manufacture, distribute or dispense.

3 (cf: P.L.2001, c.114, s.3)

4

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

6 2C:36-1. Drug paraphernalia, defined; determination.

7 As used in this act, "drug paraphernalia" means all equipment,
8 products and materials of any kind which are used or intended for
9 use in planting, propagating, cultivating, growing, harvesting,
10 manufacturing, compounding, converting, producing, processing,
11 preparing, testing, analyzing, packaging, repackaging, storing,
12 containing, concealing, ingesting, inhaling, or otherwise introducing
13 into the human body a controlled dangerous substance, controlled
14 substance analog or toxic chemical in violation of the provisions of
15 chapter 35 of this **【title】 Title**. It shall include, but not be limited
16 to: a. kits used or intended for use in planting, propagating,
17 cultivating, growing or harvesting of any species of plant which is a
18 controlled dangerous substance or from which a controlled
19 dangerous substance can be derived; b. kits used or intended for use
20 in manufacturing, compounding, converting, producing, processing,
21 or preparing controlled dangerous substances or controlled
22 substance analogs; c. isomerization devices used or intended for use
23 in increasing the potency of any species of plant which is a
24 controlled dangerous substance; d. testing equipment used or
25 intended for use identifying, or in analyzing the strength,
26 effectiveness or purity of controlled dangerous substances or
27 controlled substance analogs; e. scales and balances used or
28 intended for use in weighing or measuring controlled dangerous
29 substances or controlled substance analogs; f. dilutants and
30 adulterants, such as quinine hydrochloride, mannitol, mannite,
31 dextrose and lactose, used or intended for use in cutting controlled
32 dangerous substances or controlled substance analogs; g.
33 **【separation gins and sifters used or intended for use in removing**
34 **twigs and seeds from, or in otherwise cleaning or refining,**
35 **marihuana;】** (Deleted by amendment, P.L. , c.) (pending before
36 the Legislature as this bill) h. blenders, bowls, containers, spoons
37 and mixing devices used or intended for use in compounding
38 controlled dangerous substances or controlled substance analogs; i.
39 capsules, balloons, envelopes and other containers used or intended
40 for use in packaging small quantities of controlled dangerous
41 substances or controlled substance analogs; j. containers and other
42 objects used or intended for use in storing or concealing controlled
43 dangerous substances, controlled substance analogs or toxic
44 chemicals; k. objects used or intended for use in ingesting, inhaling,
45 or otherwise introducing **【marihuana,】** cocaine, hashish, hashish
46 oil, nitrous oxide or the fumes of a toxic chemical into the human
47 body, such as (1) metal, wooden, acrylic, glass, stone, plastic, or
48 ceramic pipes with or without screens, permanent screens, hashish

1 heads, or punctured metal bowls; (2) water pipes; (3) carburetion
2 tubes and devices; (4) smoking and carburetion masks; (5) roach
3 clips, meaning objects used to hold burning material **【**, such as a
4 marihuana cigarette,**】** that has become too small or too short to be
5 held in the hand; (6) miniature cocaine spoons, and cocaine vials;
6 (7) chamber pipes; (8) carburetor pipes; (9) electric pipes; (10) air-
7 driven pipes; (11) chillums; (12) bongos; (13) ice pipes or chillers;
8 (14) compressed gas containers, such as tanks, cartridges or
9 canisters, that contain food grade or pharmaceutical grade nitrous
10 oxide as a principal ingredient; (15) chargers or charging bottles,
11 meaning metal, ceramic or plastic devices that contain an interior
12 pin that may be used to expel compressed gas from a cartridge or
13 canister; and (16) tubes, balloons, bags, fabrics, bottles or other
14 containers used to concentrate or hold in suspension a toxic
15 chemical or the fumes of a toxic chemical.

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

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

39

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

41 2C:36A-1. Conditional discharge for certain first offenses. a.
42 Whenever any person who has not previously been convicted of any
43 offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a
44 disorderly persons or petty disorderly persons offense defined in
45 chapter 35 or 36 of this **【title】 Title** or, subsequent to the effective
46 date of this **【title】 Title**, under any law of the United States, this
47 State or any other state relating to **【marijuana, or】** stimulant,
48 depressant, or hallucinogenic drugs, and who has not previously

1 participated in a program of supervisory treatment pursuant to
2 N.J.S.2C:43-12 or conditional dismissal pursuant to P.L.2013, c.158
3 (C.2C:43-13.1 et al.) is charged with or convicted of any disorderly
4 persons offense or petty disorderly persons offense under chapter 35
5 or 36 of this **【title】 Title**, the court upon notice to the prosecutor
6 and subject to subsection c. of this section, may on motion of the
7 defendant or the court:

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

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

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

42 If the driving privilege of a person is under revocation,
43 suspension, or postponement for a violation of this **【title】 Title** or
44 Title 39 of the Revised Statutes at the time of the person's
45 placement on supervisory treatment under this section, the
46 revocation, suspension or postponement period imposed herein shall
47 commence as of the date of the termination of the existing
48 revocation, suspension or postponement. The court which places a

1 person on supervisory treatment under this section shall collect and
2 forward the person's driver's license to the New Jersey Motor
3 Vehicle Commission and file an appropriate report with the
4 commission in accordance with the procedure set forth in
5 N.J.S.2C:35-16. The court shall also inform the person of the
6 penalties for operating a motor vehicle during the period of license
7 suspension or postponement as required in N.J.S.2C:35-16.

8 Upon violation of a term or condition of supervisory treatment
9 the court may enter a judgment of conviction and proceed as
10 otherwise provided, or where there has been no plea of guilty or
11 finding of guilty, resume proceedings. Upon fulfillment of the terms
12 and conditions of supervisory treatment the court shall terminate the
13 supervisory treatment and dismiss the proceedings against him.
14 Termination of supervisory treatment and dismissal under this
15 section shall be without court adjudication of guilt and shall not be
16 deemed a conviction for purposes of disqualifications or
17 disabilities, if any, imposed by law upon conviction of a crime or
18 disorderly persons offense but shall be reported by the clerk of the
19 court to the State Bureau of Identification criminal history record
20 information files. Termination of supervisory treatment and
21 dismissal under this section may occur only once with respect to
22 any person. Imposition of supervisory treatment under this section
23 shall not be deemed a conviction for the purposes of determining
24 whether a second or subsequent offense has occurred under section
25 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this **[title]**
26 Title or any law of this State.

27 c. Proceedings under this section shall not be available to any
28 defendant unless the court in its discretion concludes that:

29 (1) The defendant's continued presence in the community, or in
30 a civil treatment center or program, will not pose a danger to the
31 community; or

32 (2) That the terms and conditions of supervisory treatment will
33 be adequate to protect the public and will benefit the defendant by
34 serving to correct any dependence on or use of controlled
35 substances which he may manifest; and

36 (3) The person has not previously received supervisory
37 treatment under section 27 of P.L.1970, c.226 (C.24:21-27),
38 N.J.S.2C:43-12, or the provisions of this chapter.

39 d. A person seeking conditional discharge pursuant to this
40 section shall pay to the court a fee of \$75 which shall be paid to the
41 Treasurer of the State of New Jersey for deposit in the General
42 Fund. The defendant shall also be required to pay restitution, costs
43 and other assessments as provided by law. A person may apply for a
44 waiver of this fee, by reason of poverty, pursuant to the Rules
45 Governing the Courts of the State of New Jersey, or the court may
46 permit the defendant to pay the conditional discharge fee and other
47 assessments in installments or may order other alternatives pursuant

1 to section 1 of P.L.2009, c.317 (C.2B:12-23.1).

2 (cf: P.L.2013, c.158, s.10)

3

4 10. N.J.S.2C:41-1 is amended to read as follows:

5 2C:41-1. For purposes of this section and N.J.S.2C:41-2 through
6 N.J.S.2C:41-6:

7 a. "Racketeering activity" means (1) any of the following
8 crimes which are crimes under the laws of New Jersey or are
9 equivalent crimes under the laws of any other jurisdiction:

10 (a) murder

11 (b) kidnapping

12 (c) gambling

13 (d) promoting prostitution

14 (e) obscenity

15 (f) robbery

16 (g) bribery

17 (h) extortion

18 (i) criminal usury

19 (j) violations of Title 33 of the Revised Statutes

20 (k) violations of Title 54A of the New Jersey Statutes and Title
21 54 of the Revised Statutes

22 (l) arson

23 (m) burglary

24 (n) theft and all crimes defined in chapter 20 of Title 2C of the
25 New Jersey Statutes

26 (o) forgery and fraudulent practices and all crimes defined in
27 chapter 21 of Title 2C of the New Jersey Statutes

28 (p) fraud in the offering, sale or purchase of securities

29 (q) alteration of motor vehicle identification numbers

30 (r) unlawful manufacture, purchase, use or transfer of firearms

31 (s) unlawful possession or use of destructive devices or
32 explosives

33 (t) violation of sections 112 through 116 inclusive of the
34 "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-
35 116)

36 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
37 and all crimes involving illegal distribution of a controlled
38 dangerous substance or controlled substance analog **], except**
39 **possession of less than one ounce of marijuana]**

40 (v) violation of subsection b. of N.J.S.2C:24-4 except for
41 subparagraph (b) of paragraph (5) of subsection b.

42 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16),
43 leader of firearms trafficking network

44 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
45 weapons training for illegal activities

46 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2),
47 terrorism

- 1 (z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human
2 trafficking
- 3 (aa) violation of N.J.S.2C:12-1 requiring purposeful or knowing
4 conduct
- 5 (bb) violation of N.J.S.2C:12-3, terroristic threats
- 6 (cc) violation of section 1 of P.L.2015, c.85 (C.2C:33-31), dog
7 fighting.
- 8 (2) any conduct defined as "racketeering activity" under Title
9 18, U.S.C.s.1961(1)(A), (B) and (D).
- 10 b. "Person" includes any individual or entity or enterprise as
11 defined herein holding or capable of holding a legal or beneficial
12 interest in property.
- 13 c. "Enterprise" includes any individual, sole proprietorship,
14 partnership, corporation, business or charitable trust, association, or
15 other legal entity, any union or group of individuals associated in
16 fact although not a legal entity, and it includes illicit as well as licit
17 enterprises and governmental as well as other entities.
- 18 d. "Pattern of racketeering activity" requires:
- 19 (1) Engaging in at least two incidents of racketeering conduct
20 one of which shall have occurred after the effective date of this act
21 and the last of which shall have occurred within 10 years (excluding
22 any period of imprisonment) after a prior incident of racketeering
23 activity; and
- 24 (2) A showing that the incidents of racketeering activity
25 embrace criminal conduct that has either the same or similar
26 purposes, results, participants or victims or methods of commission
27 or are otherwise interrelated by distinguishing characteristics and
28 are not isolated incidents.
- 29 e. "Unlawful debt" means a debt:
- 30 (1) Which was incurred or contracted in gambling activity
31 which was in violation of the law of the United States, a state or
32 political subdivision thereof; or
- 33 (2) Which is unenforceable under state or federal law in whole
34 or in part as to principal or interest because of the laws relating to
35 usury.
- 36 f. "Documentary material" includes any book, paper,
37 document, writing, drawing, graph, chart, photograph, phonorecord,
38 magnetic or recording or video tape, computer printout, other data
39 compilation from which information can be obtained or from which
40 information can be translated into useable form or other tangible
41 item.
- 42 g. "Attorney General" includes the Attorney General of New
43 Jersey, his assistants and deputies. The term shall also include a
44 county prosecutor or his designated assistant prosecutor if a county
45 prosecutor is expressly authorized in writing by the Attorney
46 General to carry out the powers conferred on the Attorney General
47 by this chapter.

1 h. "Trade or commerce" shall include all economic activity
2 involving or relating to any commodity or service.

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

4
5 11. N.J.S.2C:52-2 is amended to read as follows:

6 2C:52-2. Indictable Offenses.

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

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

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

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

46 In determining whether compelling circumstances exist for the
47 purposes of paragraph (1) of this subsection, a court may consider
48 the amount of the fine or fines imposed, the person's age at the time

1 of the offense, the person's financial condition and other relevant
2 circumstances regarding the person's ability to pay.

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

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

16 Records of conviction for the following crimes specified in the
17 New Jersey Code of Criminal Justice shall not be subject to
18 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except
19 death by auto as specified in N.J.S.2C:11-5; N.J.S.2C:13-1
20 (Kidnapping); section 1 of P.L.1993, c.291 (C.2C:13-6) (Luring or
21 Enticing); section 1 of P.L.2005, c.77 (C.2C:13-8) (Human
22 Trafficking); N.J.S.2C:14-2 (Sexual Assault or Aggravated Sexual
23 Assault); subsection a. of N.J.S.2C:14-3 (Aggravated Criminal
24 Sexual Contact); if the victim is a minor, subsection b. of
25 N.J.S.2C:14-3 (Criminal Sexual Contact); if the victim is a minor
26 and the offender is not the parent of the victim, N.J.S.2C:13-2
27 (Criminal Restraint) or N.J.S.2C:13-3 (False Imprisonment);
28 N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson and Related
29 Offenses); subsection a. of N.J.S.2C:24-4 (Endangering the welfare
30 of a child by engaging in sexual conduct which would impair or
31 debauch the morals of the child, or causing the child other harm);
32 paragraph (4) of subsection b. of N.J.S.2C:24-4 (Photographing or
33 filming a child in a prohibited sexual act); paragraph (3) of
34 subsection b. of N.J.S.2C:24-4 (Causing or permitting a child to
35 engage in a prohibited sexual act); subparagraph (a) of paragraph
36 (5) of subsection b. of N.J.S.2C:24-4 (Distributing, possessing with
37 intent to distribute or using a file-sharing program to store items
38 depicting the sexual exploitation or abuse of a child); subparagraph
39 (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4 (Possessing
40 or viewing items depicting the sexual exploitation or abuse of a
41 child); N.J.S.2C:28-1 (Perjury); N.J.S.2C:28-2 (False Swearing);
42 paragraph (4) of subsection b. of N.J.S.2C:34-1 (Knowingly
43 promoting the prostitution of the actor's child); section 2 of
44 P.L.2002, c.26 (C.2C:38-2) (Terrorism); subsection a. of section 3
45 of P.L.2002, c.26 (C.2C:38-3) (Producing or Possessing Chemical
46 Weapons, Biological Agents or Nuclear or Radiological Devices);
47 and conspiracies or attempts to commit such crimes.

1 Records of conviction for any crime committed by a person
2 holding any public office, position or employment, elective or
3 appointive, under the government of this State or any agency or
4 political subdivision thereof and any conspiracy or attempt to
5 commit such a crime shall not be subject to expungement if the
6 crime involved or touched such office, position or employment.

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

16 (1) **【Marijuana, where the total quantity sold, distributed or**
17 **possessed with intent to sell was 25 grams or less;】** (Deleted by
18 amendment, P.L. , c.) (pending before the Legislature as this
19 bill)

20 (2) Hashish, where the total quantity sold, distributed or
21 possessed with intent to sell was five grams or less; or

22 (3) Any controlled dangerous substance provided that the
23 conviction is of the third or fourth degree, where the court finds that
24 expungement is consistent with the public interest, giving due
25 consideration to the nature of the offense and the petitioner's
26 character and conduct since conviction.

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

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

34
35 12. N.J.S.2C:52-3 is amended to read as follows:

36 2C:52-3. Disorderly persons offenses and petty disorderly
37 persons offenses.

38 a. Any person convicted of a disorderly persons offense or
39 petty disorderly persons offense under the laws of this State who
40 has not been convicted of any prior or subsequent crime, whether
41 within this State or any other jurisdiction, may present an
42 expungement application to the Superior Court pursuant to this
43 section. Any person convicted of a disorderly persons offense or
44 petty disorderly persons offense under the laws of this State who
45 has also been convicted of a prior or subsequent crime shall not be
46 eligible to apply for an expungement pursuant to this section, but
47 may present an expungement application to the Superior Court
48 pursuant to N.J.S.2C:52-2.

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

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

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

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

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

45 c. In the case of conviction for the possession, use or being under
46 the influence, or failure to make lawful disposition, of marijuana,
47 that occurred prior to the effective date of P.L. _____, c. (C. _____)
48 (pending before the Legislature as this bill): a petition may be filed

1 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)

5
6 13. N.J.S.2C:52-5 is amended to read as follows:

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

29 This section shall not apply to any person who has been
30 convicted of the sale or distribution of a controlled dangerous
31 substance or possession with the intent to sell any controlled
32 dangerous substance except:

33 (1) **[Marihuana, where the total sold, distributed or possessed**
34 **with intent to sell was 25 grams or less, or]** (Deleted by
35 amendment, P.L. , c.) (pending before the Legislature as this
36 bill)

37 (2) Hashish, where the total amount sold, distributed or
38 possessed with intent to sell was 5 grams or less.

39 (cf: P.L.1987, c.106, s.16)

40
41 14. Section 8 of P.L.1983, c.392 (C.13:1E-133) is amended to
42 read as follows:

43 8. The provisions of any law to the contrary notwithstanding, no
44 license shall be approved by the department:

45 a. Unless the department finds that the applicant, or the
46 permittee, as the case may be, in any prior performance record in
47 the collection, transportation, treatment, storage, transfer or disposal
48 of solid waste or hazardous waste, has exhibited sufficient integrity,

1 reliability, expertise, and competency to engage in the collection or
2 transportation of solid waste or hazardous waste, or to operate the
3 solid waste facility or hazardous waste facility, given the potential
4 economic consequences for affected counties, municipalities and
5 ratepayers or significant adverse impacts upon human health and
6 the environment which could result from the irresponsible
7 participation therein or operation thereof, or if no prior record
8 exists, that the applicant or the permittee is likely to exhibit that
9 integrity, reliability, expertise and competence.

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

- 15 (1) Murder;
- 16 (2) Kidnapping;
- 17 (3) Gambling;
- 18 (4) Robbery;
- 19 (5) Bribery;
- 20 (6) Extortion;
- 21 (7) Criminal usury;
- 22 (8) Arson;
- 23 (9) Burglary;
- 24 (10) Theft and related crimes;
- 25 (11) Forgery and fraudulent practices;
- 26 (12) Fraud in the offering, sale or purchase of securities;
- 27 (13) Alteration of motor vehicle identification numbers;
- 28 (14) Unlawful manufacture, purchase, use or transfer of firearms;
- 29 (15) Unlawful possession or use of destructive devices or
30 explosives;
- 31 (16) Violation of N.J.S.2C:35-5 **],** except possession of 84 grams
32 or less of marijuana, **]** or of N.J.S.2C:35-10;
- 33 (17) Racketeering, **[P.L.1981, c.167 (C.2C:41-1 et seq.)]**
34 **N.J.S.2C:41-1 et seq.**;
- 35 (18) Violation of criminal provisions of the "New Jersey
36 Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- 37 (19) Any purposeful or reckless violation of the criminal
38 provisions of any federal or state environmental protection laws,
39 rules, or regulations, including, but not limited to, solid waste or
40 hazardous waste management laws, rules, or regulations;
- 41 (20) Violation of N.J.S.2C:17-2;
- 42 (21) Any offense specified in chapter 28 of Title 2C of the New
43 Jersey Statutes; or
- 44 (22) Violation of the "Solid Waste Utility Control Act **[of**
45 **1970],"** P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221
46 (C.48:13A-6.1).

47 c. If the Attorney General determines that there is a reasonable
48 suspicion to believe that a person required to be listed in the

1 disclosure statement, or otherwise shown to have a beneficial
2 interest in the business of the applicant, the permittee or the
3 licensee, does not possess a reputation for good character, honesty
4 and integrity, and that person or the applicant, the permittee or the
5 licensee fails, by clear and convincing evidence, to establish his
6 reputation for good character, honesty and integrity.

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

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

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

43 A license may be approved by the department for any applicant
44 or permittee if the information contained within the disclosure
45 statement and investigative report, including any determination
46 made by the Attorney General concerning the character, honesty
47 and integrity of any person required to be listed in the disclosure
48 statement, or otherwise shown to have a beneficial interest in the

1 business of the applicant or permittee, would not require
2 disqualification pursuant to subsection a., b., c., e. or f. of this
3 section.

4 A license approved by the department for any applicant or
5 permittee pursuant to this section is non-transferable and shall be
6 valid only for the length of time for which it is given.

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

14

15 15. R.S.24:5-18 is amended to read as follows:

16 24:5-18. For the purposes of this subtitle a drug or device shall
17 also be deemed to be misbranded:

18 a. If its labeling is false or misleading in any particular.

19 b. If in package form unless it bears a label containing the name
20 and place of business of the manufacturer, packer, or distributor.

21 c. If any word, statement or other information required by or
22 under authority of this subtitle to appear on the label or labeling is
23 not prominently placed thereon with such conspicuousness (as
24 compared with other words, statements or designs in the labeling)
25 and in such terms as to render it likely to be read and understood by
26 the ordinary individual under customary conditions of purchase and
27 use.

28 d. If it is for use by man and contains any quantity of the
29 narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-
30 eucaine, bromal, **【cannabis,】** carbromal, chloral, coca, cocaine,
31 codeine, heroin, **【marihuana,】** morphine, opium, paraldehyde,
32 peyote, or sulphonmethane; or any chemical derivative of such
33 substance, which derivative has been by the Department of Health
34 of the State of New Jersey after investigation found to be, and by
35 regulations under this subtitle designated as, habit forming; unless
36 its label bears the name and quantity or proportion of such
37 substance, or derivative and in juxtaposition therewith, the
38 statement "Warning--May be habit forming."

39 e. If it is a drug and is not designated solely by a name
40 recognized in an official compendium, unless its label bears (1) the
41 common or usual name of the drug, if such there be; and (2) in case
42 it is fabricated from 2 or more ingredients, the common or usual
43 name of each active ingredient, including the kind and quantity or
44 proportion of any alcohol, and also including, whether active or not,
45 the name and quantity or proportion of any bromides, ether,
46 chloroform, acetanilid, acetphanetidin, amidopyrine, antipyrine,
47 atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis
48 glusocides, mercury, ouabain, strophanthin, strychnine, thyroid, or

1 any derivative or preparation of any such substances, contained
2 therein; provided, that to the extent that compliance with the
3 requirements of clause (2) of this paragraph is impracticable,
4 exemptions may be established by regulations promulgated by the
5 State department.

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

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

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

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

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

44 k. If it is a depressant or stimulant drug as defined pursuant to
45 law and not in the possession or control of a person specified by
46 law as entitled to possession or control of such depressant or
47 stimulant drug. Any depressant or stimulant drug misbranded under
48 the preceding sentence shall be deemed dangerous or fraudulent for

1 purposes of marking and detaining under the provisions of
2 **【section】 R.S.24:4-12 【of this Title】.**

3 (cf: P.L.1966, c.314, s.8)

4

5 16. Section 2 of P.L.2009, c.307 (C.24:6I-2) is amended to read
6 as follows:

7 2. The Legislature finds and declares that:

8 a. Modern medical research has discovered a beneficial use for
9 marijuana in treating or alleviating the pain or other symptoms
10 associated with certain debilitating medical conditions, as found by
11 the National Academy of Sciences' Institute of Medicine in March
12 1999;

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

20 c. Although federal law currently prohibits the use of
21 marijuana, the laws of **【Alaska, California, Colorado, Hawaii,**
22 **Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode**
23 **Island, Vermont, and Washington】** many states permit the use of
24 marijuana for medical purposes **【, and in Arizona】** or permit
25 doctors **【are permitted】** to prescribe marijuana. New Jersey joins
26 this effort for the health and welfare of its citizens; and

27 d. States are not required to enforce federal law or prosecute
28 people for engaging in activities prohibited by federal law;
29 therefore, compliance with this act does not put the State of New
30 Jersey in violation of federal law **【; and】** .

31 e. **【Compassion dictates that a distinction be made between**
32 **medical and non-medical uses of marijuana. Hence, the purpose of**
33 **this act is to protect from arrest, prosecution, property forfeiture,**
34 **and criminal and other penalties, those patients who use marijuana**
35 **to alleviate suffering from debilitating medical conditions, as well**
36 **as their physicians, primary caregivers, and those who are**
37 **authorized to produce marijuana for medical purposes.】** (Deleted by
38 amendment, P.L. , c.) (pending before the Legislature as this
39 bill)

40 (cf: P.L.2009, c.307, s.2)

41

42 17. Section 6 of P.L.2009, c.307 (C.24:6I-6) is amended to read
43 as follows:

44 6. a. The provisions of N.J.S.2C:35-18 shall apply to any
45 qualifying patient, primary caregiver, alternative treatment center,
46 physician, or any other person acting in accordance with the

1 provisions of P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158
2 (C.18A:40-12.22 et al.).

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

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

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

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

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

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

37

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

40 2. As used in this act:

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

47 "Agent" means an authorized person who acts on behalf of or at
48 the direction of a manufacturer, distributor, or dispenser but does

1 not include a common or contract carrier, public warehouseman, or
2 employee thereof.

3 "Commissioner" means the Commissioner of Health.

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

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

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

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

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

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

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

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

40 "Drugs" means (a) substances recognized in the official United
41 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
42 United States, or official National Formulary, or any supplement to
43 any of them; and (b) substances intended for use in the diagnosis,
44 cure, mitigation, treatment, or prevention of disease in man or other
45 animals; and (c) substances (other than food) intended to affect the
46 structure or any function of the body of man or other animals; and
47 (d) substances intended for use as a component of any article

1 specified in subsections (a), (b), and (c) of this section; but does not
2 include devices or their components, parts or accessories.

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

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

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

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

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

- 42 (a) Opium, coca leaves, and opiates;
- 43 (b) A compound, manufacture, salt, derivative, or preparation of
44 opium, coca leaves, or opiates;
- 45 (c) A substance (and any compound, manufacture, salt,
46 derivative, or preparation thereof) which is chemically identical
47 with any of the substances referred to in subsections (a) and (b),
48 except that the words "narcotic drug" as used in this act shall not

1 include decocainized coca leaves or extracts of coca leaves, which
2 extracts do not contain cocaine or ecgonine.

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

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

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

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

24 "Pharmacist" means a registered pharmacist of this State.

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

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

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

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

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

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

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

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

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

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

19 "State" means the State of New Jersey.

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

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

25

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

28 5. Schedule I.

29 a. Tests. The director shall place a substance in Schedule I if he
30 finds that the substance: (1) has high potential for abuse; and (2)
31 has no accepted medical use in treatment in the United States; or
32 lacks accepted safety for use in treatment under medical
33 supervision.

34 b. The controlled dangerous substances listed in this section are
35 included in Schedule I, subject to any revision and republishing by
36 the director pursuant to subsection d. of section 3 of P.L.1970,
37 c.226 (C.24:21-3), and except to the extent provided in any other
38 schedule.

39 c. Any of the following opiates, including their isomers, esters,
40 and ethers, unless specifically excepted, whenever the existence of
41 such isomers, esters, ethers and salts is possible within the specific
42 chemical designation:

- 43 (1) Acetylmethadol
- 44 (2) Allylprodine
- 45 (3) Alphacetylmethadol
- 46 (4) Alphameprodine
- 47 (5) Alphamethadol
- 48 (6) Benzethidine

- 1 (7) Betacetylmethadol
- 2 (8) Betameprodine
- 3 (9) Betamethadol
- 4 (10) Betaprodine
- 5 (11) Clonitazene
- 6 (12) Dextromoramide
- 7 (13) Dextrorphan
- 8 (14) Diampromide
- 9 (15) Diethylthiambutene
- 10 (16) Dimenoxadol
- 11 (17) Dimepheptanol
- 12 (18) Dimethylthiambutene
- 13 (19) Dioxaphetyl butyrate
- 14 (20) Dipipanone
- 15 (21) Ethylmethylthiambutene
- 16 (22) Etonitazene
- 17 (23) Etoxidine
- 18 (24) Furethidine
- 19 (25) Hydroxypethidine
- 20 (26) Ketobemidone
- 21 (27) Levomoramide
- 22 (28) Levophenacymorphan
- 23 (29) Morpheridine
- 24 (30) Noracymethadol
- 25 (31) Norlevorphanol
- 26 (32) Normethadone
- 27 (33) Norpipanone
- 28 (34) Phenadoxone
- 29 (35) Phenampromide
- 30 (36) Phenomorphan
- 31 (37) Phenoperidine
- 32 (38) Piritramide
- 33 (39) Proheptazine
- 34 (40) Properidine
- 35 (41) Racemoramide
- 36 (42) Trimeperidine.
- 37 d. Any of the following narcotic substances, their salts, isomers
- 38 and salts of isomers, unless specifically excepted, whenever the
- 39 existence of such salts, isomers and salts of isomers is possible
- 40 within the specific chemical designation:
- 41 (1) Acetorphine
- 42 (2) Acetylcodone
- 43 (3) Acetyldihydrocodeine
- 44 (4) Benzylmorphine
- 45 (5) Codeine methylbromide
- 46 (6) Codeine-N-Oxide
- 47 (7) Cyprenorphine
- 48 (8) Desomorphine

- 1 (9) Dihydromorphine
- 2 (10) Etorphine
- 3 (11) Heroin
- 4 (12) Hydromorphenol
- 5 (13) Methyldesorphine
- 6 (14) Methylhydromorphine
- 7 (15) Morphine methylbromide
- 8 (16) Morphine methylsulfonate
- 9 (17) Morphine-N-Oxide
- 10 (18) Myrophine
- 11 (19) Nicocodeine
- 12 (20) Nicomorphine
- 13 (21) Normorphine
- 14 (22) Phoclodine
- 15 (23) Thebacon.

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

- 21 (1) 3,4-methylenedioxy amphetamine
- 22 (2) 5-methoxy-3,4-methylenedioxy amphetamine
- 23 (3) 3,4,5-trimethoxy amphetamine
- 24 (4) Bufotenine
- 25 (5) Diethyltryptamine
- 26 (6) Dimethyltryptamine
- 27 (7) 4-methyl-2,5-dimethoxylamphetamine
- 28 (8) Ibogaine
- 29 (9) Lysergic acid diethylamide
- 30 (10) **【Marihuana】** (Deleted by amendment, P.L. _____, c. _____)
- 31 (pending before the Legislature as this bill)
- 32 (11) Mescaline
- 33 (12) Peyote
- 34 (13) N-ethyl-3-piperidyl benzilate
- 35 (14) N-methyl-3-piperidyl benzilate
- 36 (15) Psilocybin
- 37 (16) Psilocyn₂
- 38 (17) **【Tetrahydrocannabinols.】** (Deleted by amendment, P.L. _____,
- 39 c. _____) (pending before the Legislature as this bill)
- 40 (cf: P.L.2007, c.244, s.3)

41

42 20. Section 29 of P.L.1970, c.226 (C.24:21-29) is amended to
 43 read as follows:

44 29. Second or subsequent offenses. a. Any person convicted of
 45 any offense under this act, if the offense is a second or subsequent
 46 offense, shall be punished by a term of imprisonment of up to twice
 47 that otherwise authorized, by up to twice the fine otherwise
 48 authorized, or by both.

1 b. For purposes of this section, an offense shall be considered a
2 second or subsequent offense, if, prior to the commission of the
3 offense, the offender has at any time been convicted of an offense
4 or offenses under this act or under any law of the United States or
5 of any state relating to narcotic drugs, **【marihuana,】** depressant,
6 stimulant, or hallucinogenic drugs.
7 (cf: P.L.1987, c.106, s.21)
8

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

- 13 (1) the plant Genus Cannabis L., or any part of the plant; or
14 (2) any cigarettes made of or containing marijuana which can be
15 smoked, marijuana cigarette paper, or other marijuana product in
16 any form.

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

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

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

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

37 c. A person who violates the provisions of subsection a. of this
38 section who actually sells or otherwise provides the plant Genus
39 Cannabis L., marijuana, marijuana cigarette paper, or other
40 marijuana product to a person under 19 years of age, shall be liable
41 to a civil penalty of not less than \$250 for the first violation, not
42 less than \$500 for the second violation, and \$1,000 for the third and
43 each subsequent violation. The civil penalty shall be collected
44 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
45 c.274 (C.2A:58-10 et seq.), in a summary proceeding before the
46 municipal court having jurisdiction. An official authorized by
47 statute or ordinance to enforce the State or local health codes or a
48 law enforcement officer having enforcement authority in that

1 municipality may issue a summons for a violation of the provisions
2 of subsection a. of this section, and may serve and execute all
3 process with respect to the enforcement of this section consistent
4 with the Rules of Court. A penalty recovered under the provisions
5 of this subsection shall be recovered by and in the name of the State
6 by the local health agency. The penalty shall be paid into the
7 treasury of the municipality in which the violation occurred for the
8 general uses of the municipality.

9
10 22. (New section) The Commissioner of Health is authorized to
11 enforce the provisions of section 21 of P.L. , c. (C.)
12 (pending before the Legislature as this bill) with respect to the
13 prohibition on the sale and commercial distribution of the plant
14 Genus Cannabis L., marijuana, marijuana cigarette paper, or other
15 marijuana product to persons under 19 years of age. The
16 commissioner may delegate the enforcement authority provided in
17 this section to local health agencies, subject to the availability of
18 sufficient funding. The commissioner shall report quarterly to the
19 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
20 19.1), on the enforcement program's progress, results of
21 enforcement efforts, and other matters the commissioner deems
22 appropriate.

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

25 2C:33-13. Smoking in Public. a. Any person who smokes or
26 carries lighted tobacco in or upon any bus or other public
27 conveyance, except group charter buses, specially marked railroad
28 smoking cars, limousines or livery services, and, when the driver is
29 the only person in the vehicle, autocabs, is a petty disorderly
30 person. Any person who smokes or carries lighted marijuana in or
31 upon any bus or other public conveyance is a petty disorderly
32 person. For the purposes of this section, "bus" includes school
33 buses and other vehicles owned or contracted for by the governing
34 body, board or individual of a nonpublic school, a public or private
35 college, university, or professional training school, or a board of
36 education of a school district, that are used to transport students to
37 and from school and school-related activities; and the prohibition
38 on smoking or carrying lighted tobacco or marijuana shall apply
39 even if students are not present in the vehicle.

40 b. Any person who smokes or carries lighted tobacco or
41 marijuana in any public place, including but not limited to places of
42 public accommodation, where such smoking is prohibited by
43 municipal ordinance under authority of R.S.40:48-1 and R.S.40:48-
44 2 or by the owner or person responsible for the operation of the
45 public place, and when adequate notice of such prohibition has been
46 conspicuously posted, is guilty of a petty disorderly persons
47 offense. Notwithstanding the provisions of N.J.S.2C:43-3, the

A4193 CARROLL

42

1 maximum fine which can be imposed for violation of this section is
2 \$200.

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

6
7 24. Section 1 of P.L.2010, c.121 (C.18A:39-31) is amended to
8 read as follows:

9 1. a. The board of education of any school district may enter
10 into a contract for the sale of advertising space on the exterior sides
11 of school buses owned or leased by the school district, subject to
12 the limitations set forth in this section. Advertisements for tobacco,
13 marijuana, or alcohol products or for political advocacy shall be
14 prohibited, in addition to any other advertisements for products or
15 services or by sponsors that the Commissioner of Education deems
16 inappropriate. All advertisements shall require prior approval by the
17 local board of education.

18 b. In the event that a board of education enters into a contract
19 for the sale of advertising space on the exterior sides of school
20 buses pursuant to subsection a. of this section, 50% of any revenue
21 generated by the sale shall be used by the board to offset the fuel
22 costs of providing pupil transportation services, and the remaining
23 50% of the revenue shall be used to support any programs and
24 services the board may deem appropriate.

25 c. The provisions of the "Public School Contracts Law,"
26 N.J.S.18A:18A-1 et seq., shall apply to any contract entered into by
27 a board of education pursuant to this act.
28 (cf: P.L.2010, c.121, s.1)

29

30 25. The title of P.L.1987, c.389 is amended to read as follows:
31 **AN ACT** providing for a comprehensive education program on the
32 nature and effects of drugs, alcohol, tobacco, marijuana, and
33 controlled dangerous substances, supplementing Title 18A of
34 the New Jersey Statutes, revising parts of the statutory law and
35 making an appropriation.

36 (cf: P.L.1989, c.225, s.1)

37

38 26. Section 1 of P.L.1987, c.389 (C.18A:40A-1) is amended to
39 read as follows:

40 1. Instructional programs on the nature of drugs, alcohol,
41 anabolic steroids, tobacco, marijuana, and controlled dangerous
42 substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2),
43 and their physiological, psychological, sociological and legal
44 effects on the individual, the family and society shall be taught in
45 each public school and in each grade from kindergarten through 12
46 in a manner adapted to the age and understanding of the pupils.
47 The programs shall be based upon the curriculum guidelines
48 established by the Commissioner of Education pursuant to section 2

1 of this act, and shall be included in the curriculum for each grade in
2 such a manner as to provide a thorough and comprehensive
3 treatment of the subject.

4 (cf: P.L.1989, c.225, s.2)

5

6 27. Section 2 of P.L.1987, c.389 (C.18A:40A-2) is amended to
7 read as follows:

8 2. The Commissioner of Education, in consultation with the
9 Commissioner of Health, shall develop curriculum guidelines for
10 education programs on drugs, alcohol, anabolic steroids, tobacco,
11 marijuana, and controlled dangerous substances. These guidelines
12 shall be reviewed annually, and shall be updated as necessary to
13 insure that the curriculum reflects the most current information
14 available on the nature and treatment of drug, alcohol, anabolic
15 steroids, tobacco, marijuana, and controlled dangerous substance
16 abuse and treatment. The guidelines shall provide for a sequential
17 course of study for each grade, K-12, and shall, at a minimum,
18 include:

19 a. Detailed, factual information regarding the physiological,
20 psychological, sociological and legal aspects of substance abuse;

21 b. Detailed information concerning the availability of help and
22 assistance for pupils and their families with chemical dependency
23 problems;

24 c. Decision making and coping skills; and,

25 d. The development of activities and attitudes which are
26 consistent with a healthy life style.

27 The guidelines shall include model instructional units, shall
28 define specific behavioral and learning objectives and shall
29 recommend instructional materials suitable for each grade level.

30 (cf: P.L.1989, c.225, s.3)

31

32 28. Section 3 of P.L.1987, c.389 (C.18A:40A-3) is amended to
33 read as follows:

34 3. a. Upon completion of the curriculum guidelines required
35 pursuant to section 2 of this act, the Commissioner of Education, in
36 consultation with the Commissioner of Health, shall establish
37 inservice workshops and training programs to train selected public
38 school teachers to teach an education program on drugs, alcohol,
39 anabolic steroids, tobacco, marijuana, and controlled dangerous
40 substances. The inservice training programs may utilize existing
41 county or regional offices, or such other institutions, agencies or
42 persons as the Commissioner of Education deems appropriate. The
43 programs and workshops shall provide instructional preparation for
44 the teaching of the drug, alcohol, anabolic steroids, tobacco,
45 marijuana, and controlled dangerous substances curriculum, and
46 shall, in addition to the curriculum material, include information on
47 the history, pharmacology, physiology and psychosocial aspects of
48 drugs, alcohol, anabolic steroids, tobacco, marijuana, and controlled

A4193 CARROLL

44

1 dangerous substances, symptomatic behavior associated with
2 substance abuse, the availability of rehabilitation and treatment
3 programs, and the legal aspects of substance abuse. Each local
4 board of education shall provide time for the inservice training
5 during the usual school schedule in order to insure that appropriate
6 teaching staff members are prepared to teach the education program
7 in each grade in each school district.

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

13 c. In addition to providing inservice training programs for
14 teaching staff members who will provide instruction on substance
15 abuse in the public schools, the Commissioner of Education shall
16 make these training programs available to such other instructional
17 and supervisory personnel as he deems necessary and appropriate.

18 (cf: P.L.1989, c.225, s.4)

19

20 29. Section 5 of P.L.1987, c.389 (C.18A:40A-5) is amended to
21 read as follows:

22 5. The board of education in each school district in the State in
23 which a nonpublic school is located shall have the power and duty
24 to loan to all pupils attending nonpublic schools located within the
25 district all educational materials developed by the Commissioner of
26 Education pursuant to this act for the instruction of public school
27 pupils on the nature and effects of drugs, alcohol, anabolic steroids,
28 tobacco, marijuana, and controlled dangerous substances. The
29 Commissioner of Education shall make these materials available so
30 that the local board of education shall not be required to expend
31 funds for the loan of these materials.

32 (cf: P.L.1989, c.225, s.5)

33

34 30. The title of P.L.2005, c.383 is amended to read as follows:

35 **AN ACT** concerning smoking and marijuana smoking in indoor
36 public places and workplaces and revising parts of the statutory
37 law.

38 (cf: P.L.2005, c.383, title)

39

40 31. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to
41 read as follows:

42 3. As used in this act:

43 "Bar" means a business establishment or any portion of a
44 nonprofit entity, which is devoted to the selling and serving of
45 alcoholic beverages for consumption by the public, guests, patrons
46 or members on the premises and in which the serving of food, if
47 served at all, is only incidental to the sale or consumption of such
48 beverages.

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

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

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

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

47 "Marijuana smoking" means the burning of, inhaling from,
48 exhaling the smoke from, or the possession of a lighted marijuana

1 cigarette, pipe or any other matter or substance which contains
2 marijuana that can be smoked.

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

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

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

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

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

19

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

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

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

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

30

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

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

37 a. any cigar bar or cigar lounge that, in the calendar year
38 ending December 31, 2004, generated 15% or more of its total
39 annual gross income from the on-site sale of tobacco products and
40 the rental of on-site humidors, not including any sales from vending
41 machines, and is registered with the local board of health in the
42 municipality in which the bar or lounge is located. The registration
43 shall remain in effect for one year and shall be renewable only if:
44 (1) in the preceding calendar year, the cigar bar or lounge generated
45 15% or more if its total annual gross income from the on-site sale of
46 tobacco products and the rental of on-site humidors, and (2) the
47 cigar bar or cigar lounge has not expanded its size or changed its
48 location since December 31, 2004;

A4193 CARROLL

47

1 b. any tobacco retail establishment, or any area the tobacco
2 retail establishment provides for the purposes of smoking;

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

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

10 e. the area within the perimeter of:

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

16 (2) any casino simulcasting facility approved by the Casino
17 Control Commission pursuant to section 4 of P.L.1992, c.19
18 (C.5:12-194) that contains a simulcast counter and dedicated seating
19 for at least 50 simulcast patrons or a simulcast operation and at least
20 10 table games, which simulcast facilities and games are available
21 to the public for wagering.

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

23

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

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

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

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

45

46 35. Section 8 of P.L.2005, c.383 (C.26:3D-62) is amended to
47 read as follows:

1 8. a. The person having control of an indoor public place or
2 workplace shall order any person smoking or marijuana smoking in
3 violation of this act to comply with the provisions of this act. A
4 person, after being so ordered, who smokes or marijuana smokes in
5 violation of this act is subject to a fine of not less than \$250 for the
6 first offense, \$500 for the second offense and \$1,000 for each
7 subsequent offense. A penalty shall be recovered in accordance
8 with the provisions of subsections c. and d. of this section.

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

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

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

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

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

44

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

47 9. The provisions of this act shall supersede any other statute,
48 municipal ordinance and rule or regulation adopted pursuant to law

A4193 CARROLL

49

1 concerning smoking or marijuana smoking in an indoor public place
2 or workplace, except where smoking or marijuana smoking is
3 prohibited by municipal ordinance under authority of R.S.40:48-1
4 or R.S.40:48-2, or by any other statute or regulation adopted
5 pursuant to law for purposes of protecting life and property from
6 fire or protecting public health, and except for those provisions of a
7 municipal ordinance which provide restrictions on or prohibitions
8 against smoking or marijuana smoking equivalent to, or greater
9 than, those provided under this act.
10 (cf: P.L.2005, c.383, s.9)

11
12 37. Section 3 of P.L.1941, c.308 (C.34:6-136.3) is amended to
13 read as follows:

14 3. Prohibited homework. The manufacture of any of the
15 following by industrial homework shall be unlawful, and no permit
16 or certificate issued under this act shall be deemed to authorize such
17 manufacture: (1) Articles of food or drink, (2) Articles for use in
18 connection with the serving of food or drink, (3) Toys and dolls, (4)
19 Tobacco and marijuana, (5) Drugs and poisons, (6) Bandages and
20 other sanitary goods, (7) Explosives, fireworks, and articles of like
21 character, (8) Articles of infants' and children's wearing apparel, (9)
22 Articles of women's or men's wearing apparel, (10) Articles, the
23 processing of which requires exposure to substances determined by
24 the commissioner to be hazardous to the health or safety of persons
25 so exposed, (11) the manufacture or distribution of dolls' clothing in
26 any tenement house is hereby prohibited, anything to the contrary
27 herein notwithstanding.
28 (cf: P.L.1991, c.47, s.1)

29
30 38. The following sections are repealed:
31 Sections 1 and 2 of P.L.1939, c.248 (C.26:2-81 and 26:2-82); and
32 Section 46 of P.L.1970, c.226 (C.24:21-44).

33
34 39. This act shall take effect on the first day of January that is
35 more than 180 days following enactment, and the Attorney General,
36 Commissioner of Health, and other State department heads may
37 take any anticipatory administrative action in advance of the
38 effective date as necessary for the implementation of this act.

39
40
41 STATEMENT

42
43 This bill would legalize marijuana by removing all criminal
44 liability associated with marijuana from the "New Jersey Code of
45 Criminal Justice," Title 2C of the New Jersey Statutes, as well as its
46 regulation as a controlled dangerous substance under the "New
47 Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
48 (C.24:21-1 et seq.). The manufacturing, distribution, possession,

1 and use of medical marijuana would remain subject to these acts
2 and the “New Jersey Compassionate Use Medical Marijuana Act,”
3 P.L.2009, c.307 (C.24:6I-1 et al.).

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

17 Similar to cigarettes and other tobacco products, the sale or
18 distribution of marijuana, marijuana products, or the marijuana
19 plant Genus Cannabis L. would be prohibited to persons less than
20 19 years of age. A violation of this prohibition would subject the
21 liable party to a civil penalty of not less than \$250 for the first
22 violation, not less than \$500 for the second violation, and \$1,000
23 for the third and any subsequent violation. These are the same
24 monetary penalties that apply to the underage sale or distribution of
25 cigarettes and other tobacco products. The Commissioner of Health
26 would be authorized to enforce the prohibition against underage
27 marijuana sales or distribution, or delegate this enforcement
28 authority to local health agencies, and make a quarterly report to the
29 Legislature on prohibition enforcement, just as the commissioner
30 does currently with respect to cigarettes and other tobacco products.

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

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

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

A4193 CARROLL

51

1 The sections that would be obviated, sections 1 and 2 of P.L.1939,
2 c.248 (C.26:2-81 and 26:2-82), address the detection and
3 destruction of illegal marijuana.

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