

# ASSEMBLY, No. 1348

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblyman TIM EUSTACE**

**District 38 (Bergen and Passaic)**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

Legalizes possession and personal use of small amounts of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning marijuana, amending and supplementing  
2 various parts of the statutory law.

3

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

6

7 1. (New section) Findings.

8 The Legislature finds and declares that:

9 a. It is the intent of the people of New Jersey to adopt a new  
10 approach to our marijuana policies by taxing, controlling and  
11 legalizing marijuana like alcohol for adults;

12 b. It is the intent of the people of New Jersey that the  
13 provisions of this act will prevent the sale or distribution of  
14 marijuana to persons under 21 years of age;

15 c. This act is designed to eliminate the problems caused by the  
16 unregulated manufacture, distribution, and use of marijuana within  
17 New Jersey;

18 d. This act will divert funds from marijuana sales from going to  
19 illegal enterprises, gangs, and cartels;

20 e. New Jersey law enforcement officers made over 24,000 arrests  
21 for marijuana possession in 2012, more than in the previous 20  
22 years;

23 f. In 2012, a person was arrested for marijuana possession in  
24 New Jersey approximately every 22 minutes;

25 g. Black New Jerseyans are nearly three times more likely to be  
26 arrested for marijuana possession than white New Jerseyans, despite  
27 similar usage rates;

28 h. Marijuana possession arrests constituted three out of every  
29 five drug arrests in New Jersey in 2012;

30 i. New Jersey spends approximately \$127 million per year on  
31 marijuana possession enforcement costs;

32 j. Taxing, controlling, and legalizing marijuana for adults like  
33 alcohol will free up precious resources to allow our criminal justice  
34 system to focus on serious crime and public safety issues;

35 k. Taxing, controlling, and legalizing marijuana for adults like  
36 alcohol will strike a blow at the illegal enterprises that profit from  
37 New Jersey's current, unregulated marijuana illegal market;

38 l. New Jersey must strengthen our support for evidence-based,  
39 drug prevention programs that work to educate New Jerseyans,  
40 particularly young New Jerseyans, about the harms of drug abuse;

41 m. New Jersey must enhance State-supported programming that  
42 provides appropriate, evidence-based treatment for those who suffer  
43 from the illness of drug addiction;

**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 n. Controlling and regulating the manufacture, distribution, and  
2 sale of marijuana will strengthen our ability to keep marijuana away  
3 from minors;
- 4 o. A controlled system of marijuana manufacturing, distribution,  
5 and sale must be designed in a way that enhances public health and  
6 minimizes harms to New Jersey communities and families;
- 7 p. The regulated marijuana system in New Jersey must be  
8 regulated so as to prevent persons younger than 21 years of age  
9 from accessing or purchasing marijuana;
- 10 q. A marijuana arrest in New Jersey can have a debilitating  
11 impact on a person's future, including consequences for one's job  
12 prospects, housing access, financial health, familial integrity,  
13 immigration status, and educational opportunities;
- 14 r. The tax revenue generated from a controlled marijuana  
15 manufacture, distribution, and retail sales system in New Jersey will  
16 generate hundreds of millions of dollars to bolster effective,  
17 evidence-based drug treatment and education, and to reinvest in  
18 New Jersey communities;
- 19 s. New Jersey cannot afford to sacrifice its public safety and  
20 civil rights by continuing its ineffective and wasteful marijuana  
21 enforcement policies.

22

23 2. (New section) Definitions.

24 As used in P.L. , c. (C. ) (pending before the Legislature  
25 as this bill), unless the context otherwise requires:

26 "Consumer" means a person 21 years of age or older who  
27 purchases, acquires, owns, holds or uses marijuana or marijuana  
28 products for personal use by a person 21 years of age or older, but  
29 not for resale to others.

30 "Consumption" means the act of ingesting, inhaling, or otherwise  
31 introducing marijuana into the human body.

32 "Director" means the Director of the Division of Marijuana  
33 Enforcement.

34 "Division" means the Division of Marijuana Enforcement in the  
35 Department of Law and Public Safety.

36 "Financial consideration," means value that is given or received  
37 either directly or indirectly through sales, barter, trade, fees,  
38 charges, dues, contributions or donations; but does not include:  
39 homegrown marijuana that is given or received when nothing is  
40 given or received in return; or homegrown marijuana products that  
41 are given or received when nothing is given or received in return.

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

45 "Household" means a housing unit and any place in or around a  
46 housing unit at which the occupants of the housing unit are  
47 producing, processing or storing homegrown marijuana or  
48 homemade marijuana products.

- 1       “Housing unit” means a house, an apartment, a mobile home, a  
2 group of rooms, or a single room that is occupied as separate living  
3 quarters, in which the occupants live and eat separately from any  
4 other persons in the building and which have direct access from the  
5 outside of the building or through a common hall.
- 6       “Immature marijuana plant” means a marijuana plant that is not  
7 flowering.
- 8       “Industrial hemp” means the plant of the genus *cannabis* and any  
9 part of such plant, whether growing or not, with a delta-9  
10 tetrahydrocannabinol concentration that does not exceed three-  
11 tenths percent on a dry weight basis.
- 12       “Licensee” means a person who holds a license issued under this  
13 act that is designated as either a Class 1 Marijuana Cultivation  
14 Facility license, herein also referred to as a Marijuana Producer  
15 license, or a Class 1 Marijuana Product Manufacturing Facility  
16 license; herein also referred to as a Marijuana Processor license, a  
17 Class 2 Marijuana Wholesaler license; a Class 3 Marijuana Retailer  
18 license; or a Class 4 Marijuana Transportation license.
- 19       “Licensee representative” means an owner, director, officer,  
20 manager, employee, agent or other representative of a licensee, to  
21 the extent that the person acts in a representative capacity.
- 22       “Local governmental entity” means a municipality.
- 23       “Marijuana” means all parts of the plant *Genus Cannabis L.*,  
24 whether growing or not; the seeds thereof, and every compound,  
25 manufacture, salt, derivative, mixture, or preparation of the plant or  
26 its seeds, except those containing resin extracted from the plant; but  
27 shall not include the weight of any other ingredient combined with  
28 marijuana to prepare topical or oral administrations, food, drink, or  
29 other product.
- 30       “Marijuana Cultivation Facility” means an entity licensed to  
31 cultivate marijuana and sell marijuana to marijuana producers, to  
32 marijuana product manufacturing facilities, and to other marijuana  
33 cultivation facilities, but not to consumers. This entity shall hold a  
34 Class 1 Marijuana Cultivation Facility license.
- 35       “Marijuana establishment” means a marijuana cultivation  
36 facility, a marijuana testing facility, a marijuana product  
37 manufacturing facility, or a marijuana retailer.
- 38       “Marijuana extract” means a substance obtained by separating  
39 resins from marijuana by: (i) a chemical extraction process using a  
40 hydrocarbon-based solvent, such as butane, hexane or propane; (ii)  
41 a chemical extraction process using the hydrocarbon-based solvent  
42 carbon dioxide, if the process uses high heat or pressure; or (ii) Any  
43 other process identified by the division by rule.
- 44       “Marijuana flowers” means the flowers of the plant genus  
45 *Cannabis* within the plant family *Cannabaceae*.
- 46       “Marijuana items” means marijuana, marijuana products, and  
47 marijuana extracts.

1       “Marijuana leaves” means the leaves of the plant genus Cannabis  
2 within the plant family Cannabaceae.

3       “Marijuana paraphernalia” means any equipment, products, or  
4 materials of any kind which are used, intended for use, or designed  
5 for use in planting, propagating, cultivating, growing, harvesting,  
6 composting, manufacturing, compounding, converting, producing,  
7 processing, preparing, testing, analyzing, packaging, repackaging,  
8 storing, vaporizing, or containing marijuana, or for ingesting,  
9 inhaling, or otherwise introducing marijuana into the human body.

10       “Marijuana processor” means a person who processes marijuana  
11 items in this State.

12       “Marijuana producer” means a person who produces marijuana  
13 in this State.

14       “Marijuana product manufacturing facility” means an entity  
15 licensed to purchase marijuana; manufacture, prepare, and package  
16 marijuana items; and sell items to other marijuana product  
17 manufacturing facilities and to marijuana retailers, but not to  
18 consumers. This entity shall hold a Class 1 Marijuana Product  
19 Manufacturing Facility license.

20       “Marijuana products” means a product containing marijuana or  
21 marijuana extracts and other ingredients intended for human  
22 consumption or use, including a product intended to be applied to  
23 the skin or hair, edible products, ointments, and tinctures.  
24 Marijuana products do not include: (i) marijuana by itself; or (ii)  
25 marijuana extract by itself.

26       “Marijuana retailer” means an entity licensed to purchase  
27 marijuana from marijuana cultivation facilities and marijuana items  
28 from marijuana product manufacturing facilities or marijuana  
29 wholesalers and to sell marijuana and marijuana products to  
30 consumers. This entity shall hold a Class 3 Marijuana Retailer  
31 license.

32       “Marijuana testing facility” means an independent, third-party  
33 entity meeting accreditation requirements established by the  
34 Division that is licensed to analyze and certify the safety and  
35 potency of marijuana items.

36       “Marijuana transporter” means an entity licensed to transport  
37 marijuana through and within the State of New Jersey and to  
38 maintain a warehouse. This entity shall hold a Class 4 Marijuana  
39 Transportation license.

40       “Marijuana wholesaler” means any licensed person or entity who  
41 sells marijuana items or marijuana paraphernalia for the purpose of  
42 resale either to a licensed marijuana wholesaler or to a licensed  
43 marijuana retailer. This entity shall hold a Class 2 Marijuana  
44 Wholesaler license.

45       “Mature marijuana plant” means a marijuana plant that is not an  
46 immature marijuana plant.

47       “Medical marijuana center” means an entity permitted by a State  
48 agency to sell marijuana and marijuana products pursuant to the

1 "New Jersey Compassionate Use Medical Marijuana Act" P.L.2009,  
2 c.307 (C.24:6I-1 et seq.).

3 "Noncommercial" means not dependent or conditioned upon the  
4 provision or receipt of financial consideration.

5 "Premises" or "licensed premises" includes the following areas  
6 of a location licensed under this act: all public and private enclosed  
7 areas at the location that are used in the business operated at the  
8 location, including offices, kitchens, rest rooms and storerooms; all  
9 areas outside a building that the division has specifically licensed  
10 for the production, processing, wholesale sale, or retail sale of  
11 marijuana items; and, for a location that the division has  
12 specifically licensed for the production of marijuana outside a  
13 building, the entire lot or parcel that the licensee owns, leases or has  
14 a right to occupy.

15 "Processes" means the processing, compounding, or conversion  
16 of marijuana into marijuana products or marijuana extracts;  
17 "Processes" does not include packaging or labeling.

18 "Produces" means the manufacture, planting, cultivation,  
19 growing or harvesting of marijuana. "Produces" does not include  
20 the drying of marijuana by a marijuana processor, if the marijuana  
21 processor is not otherwise producing marijuana; or the cultivation  
22 and growing of an immature marijuana plant by a marijuana  
23 processor, marijuana wholesaler or marijuana retailer if the  
24 marijuana processor, marijuana wholesaler, or marijuana retailer  
25 purchased or otherwise received the plant from a licensed marijuana  
26 producer.

27 "Public place" means any place to which the public has access  
28 that is not privately owned; or any place to which the public has  
29 access where alcohol consumption is not allowed, including but not  
30 limited to a public street, road, thoroughfare, sidewalk, bridge,  
31 alley, plaza, park, playground, swimming pool, or shopping area,  
32 public transportation facility, vehicle used for public transportation,  
33 parking lot, public library, or any other public building, structure, or  
34 area.

35 "Radio" means a system for transmitting sound without visual  
36 images, and includes broadcast, cable, on-demand, satellite, or  
37 internet programming. Radio includes any audio programming  
38 downloaded or streamed via the internet.

39 "Television" means a system for transmitting visual images and  
40 sound that are reproduced on screens, and includes broadcast, cable,  
41 on-demand, satellite, or internet programming. Television includes  
42 any video programming downloaded or streamed via the internet.

43 "THC" means Delta-9-tetrahydrocannabinol, the main  
44 psychoactive chemical contained in the cannabis plant.

45 "Unreasonably impracticable" means that the measures necessary  
46 to comply with the regulations require such a high investment of  
47 risk, money, time, or any other resource or asset that the operation

1 of a marijuana establishment is not worthy of being carried out in  
2 practice by a reasonably prudent businessperson.

3

4 3. (New section) Personal use of marijuana.

5 Notwithstanding any other provision of law, the following acts  
6 are not unlawful and shall not be a criminal offense or a basis for  
7 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other  
8 applicable law for persons 21 years of age or older:

9 a. Possessing, using, purchasing, or transporting: marijuana  
10 paraphernalia; one ounce or less of marijuana; 16 ounces or less of  
11 marijuana infused product in solid form; 72 ounces or less in liquid  
12 form; 7 grams or less of marijuana concentrate; and up to 6  
13 immature marijuana plants subject to the provisions of subsection b.  
14 of this this section.

15 b. Transfer of one ounce or less of marijuana; 16 ounces or less  
16 of marijuana infused product in solid form; 72 ounces or less in  
17 liquid form; 7 grams or less of marijuana concentrate; and up to 6  
18 immature plants, without marijuana cultivation facility to a person  
19 who is of or over the legal age for purchasing marijuana items,  
20 provided that such transfer is for non-promotional, non-business  
21 purposes.

22 c. Consumption of marijuana items, provided that nothing in this  
23 section shall permit a person to smoke or otherwise consume  
24 marijuana items openly in a public place.

25 d. Assisting another person who is of or over the legal age for  
26 purchasing marijuana items in any of the acts described in  
27 subsections a. through c. of this section.

28

29 4. (New section) Lawful operation of marijuana establishments.

30 Notwithstanding any other provision of law, the following acts  
31 are not unlawful and shall not be a criminal offense or a basis for  
32 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other  
33 applicable law for persons 21 years of age or older:

34 a. manufacture, possession, or purchase of marijuana  
35 paraphernalia or the sale of marijuana paraphernalia to a person  
36 who is 21 years of age or older.

37 b. possessing, displaying, or transporting marijuana items;  
38 purchase of marijuana from a marijuana cultivation facility;  
39 purchase of marijuana items from a marijuana product  
40 manufacturing facility; or sale of marijuana items to consumers, if  
41 the person conducting the activities described in this subsection has  
42 obtained a current, valid license to operate as a marijuana retailer or  
43 is acting in his capacity as an owner, employee, or agent of a  
44 licensed marijuana retailer.

45 c. cultivating, harvesting, processing, packaging, transporting,  
46 displaying, or possessing marijuana; delivery or transfer of  
47 marijuana to a marijuana testing facility; selling marijuana to a  
48 marijuana cultivation facility, a marijuana product manufacturing

1 facility, or a marijuana retailer; or the purchase of marijuana from a  
2 marijuana cultivation facility, if the person conducting the activities  
3 described in this subsection has obtained a current, valid license to  
4 operate a marijuana cultivation facility or is acting in his capacity as  
5 an owner, employee, or agent of a licensed marijuana cultivation  
6 facility.

7 d. packaging, processing, transporting, manufacturing,  
8 displaying, or possessing marijuana items; delivery or transfer of  
9 marijuana items to a marijuana testing facility; selling marijuana  
10 items to a marijuana retailer or a marijuana product manufacturing  
11 facility; the purchase of marijuana from a marijuana cultivation  
12 facility; or the purchase of marijuana items from a marijuana  
13 product manufacturing facility, if the person conducting the  
14 activities described in this subsection has obtained a current, valid  
15 license to operate a marijuana product manufacturing facility or is  
16 acting in his capacity as an owner, employee, or agent of a licensed  
17 marijuana product manufacturing facility.

18 e. possessing, cultivating, processing, repackaging, storing,  
19 transporting, displaying, transferring, or delivering marijuana items  
20 if the person has obtained a current, valid license to operate a  
21 marijuana testing facility or is acting in his capacity as an owner,  
22 employee, or agent of a licensed marijuana testing facility.

23 f. leasing or otherwise allowing the use of property owned,  
24 occupied, or controlled by any person, corporation or other entity  
25 for any of the activities conducted lawfully in accordance with  
26 subsections a. through e. of this section.

27

28 5. (New section) Prohibition of Persons Under the Legal Age  
29 Purchasing Marijuana.

30 a. No person, either directly or indirectly by an agent or  
31 employee, shall sell, offer for sale, distribute for commercial  
32 purpose at no cost or minimal cost, give, or furnish, to a person  
33 under 21 years of age, any marijuana items.

34 b. Any licensee or employee or agent of a licensee who allows a  
35 person under the age of 21 to procure marijuana items is guilty of a  
36 disorderly persons offense and subject to a civil penalty of not less  
37 than \$250 for the first violation; \$500 for the second violation; and  
38 \$1,000 for the third and each subsequent violation; in addition,  
39 subject to a hearing, a licensee's license may be revoked;

40 c. The establishment of all of the following facts by a licensee,  
41 employee, or agent, allowing any such person under the age of 21 to  
42 procure marijuana items shall constitute a defense to any  
43 prosecution pursuant to the provisions of subsections a. and b. of  
44 this section:

45 (1) That the purchaser of the marijuana or marijuana product  
46 falsely represented, by producing either a United States passport;  
47 driver's license or non-driver identification card issued by the New  
48 Jersey Motor Vehicle Commission; a similar card issued pursuant to



1 the laws of another state; United States military identification card;  
2 or a photographic identification card issued by a county clerk, that  
3 he was of legal age to make the purchase;

4 (2) That the appearance of the purchaser was such that an  
5 ordinary prudent person would believe him to be 21 years of age or  
6 older, of legal age to make the purchase; and

7 (3) That the sale or distribution was made in good faith, relying  
8 upon the production of the identification in paragraph (1) of this  
9 subsection, the minor's appearance, and in the reasonable belief that  
10 the purchaser or recipient was actually of legal age to make the  
11 purchase.

12 d. It shall be unlawful for a person under the age of 21 to  
13 attempt to purchase, or acquire a marijuana item, even if such  
14 marijuana items may be legally purchased by persons at or above  
15 the legal age for purchasing marijuana items.

16 For purposes of this subsection, purchasing a marijuana item  
17 includes accepting a marijuana item, and acquiring a marijuana item  
18 includes consuming a marijuana item.

19 e. It shall be unlawful for a person under the age of 21 to present  
20 or offer to a marijuana establishment or the marijuana  
21 establishment's agent or employee any written or oral evidence of  
22 age that is false, fraudulent, or not actually the person's own, for the  
23 purpose of:

24 (1) Purchasing, attempting to purchase, or otherwise procuring  
25 or attempting to procure marijuana or marijuana products; or

26 (2) Gaining access to a marijuana establishment.

27 f. Except as permitted by the division by rule or regulation, or as  
28 necessary on an emergency basis, a person under legal age for  
29 purchasing marijuana items may not enter or attempt to enter any  
30 portion of a licensed premises that is posted or otherwise identified  
31 as being prohibited to the use of persons under legal age for  
32 purchasing marijuana items, unless accompanied by and supervised  
33 by a parent or legal guardian.

34 g. Any person who shall violate any of the provisions of  
35 subsections d., e., or f. of this section shall be deemed and adjudged  
36 to be a disorderly person, and upon conviction thereof, shall be  
37 punished by a fine of not less than \$500.

38 h. The prohibitions of this section do not apply to a person under  
39 the legal age for purchasing marijuana items who is acting under the  
40 direction of the division or under the direction of State or local law  
41 enforcement agencies for the purpose of investigating possible  
42 violations of the laws prohibiting sale of marijuana items to persons  
43 who are under the legal age for purchasing marijuana items.

44 i. The prohibitions of this section do not apply to a person under  
45 the legal age for purchasing marijuana items who is acting under the  
46 direction of a licensee for the purpose of investigating possible  
47 violations by employees of the licensee of laws prohibiting sales of

1 marijuana items to persons who are under the legal age for  
2 purchasing marijuana items.

3 j. A person under the legal age for purchasing marijuana items is  
4 not in violation of this section, and is immune from prosecution  
5 under this section if:

6 (1) The person contacted emergency medical services or a law  
7 enforcement agency in order to obtain medical assistance for  
8 another person who was in need of medical assistance because that  
9 person consumed a marijuana item and the evidence of the violation  
10 of this section was obtained as a result of the person's having  
11 contacted emergency medical services or a law enforcement  
12 agency; or

13 (2) The person was in need of medical assistance because the  
14 person consumed a marijuana item and the evidence of the violation  
15 of this section was obtained as a result of the person's having  
16 sought or obtained the medical assistance.

17 (3) Paragraph (1) of this subsection does not exclude the use of  
18 evidence obtained as a result of a person's having sought medical  
19 assistance in proceedings for crimes or offenses other than a  
20 violation of this section.

21

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

24 There is hereby established in the Department of Law and Public  
25 Safety a Division of Law, a Division of State Police, a Division of  
26 Alcoholic Beverage Control, **【a Division of Motor Vehicles,】** a  
27 Division of Weights and Measures, a Division of Marijuana  
28 Enforcement and a Division of Professional Boards.

29 The Attorney General shall have the authority to organize and  
30 maintain in his offices an Administrative Division and to assign to  
31 employment therein such secretarial, clerical and other assistants in  
32 the department as his office and the internal operations of the  
33 department shall require.

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

35

36 7. (New section) Powers and duties of the division.

37 a. The Division of Marijuana Enforcement shall have all powers  
38 necessary or proper to enable it to carry out the division's duties,  
39 functions, and powers under this act. The jurisdiction, supervision,  
40 duties, functions, and powers of the division extend to any person  
41 who buys, sells, produces, processes, transports, or delivers any  
42 marijuana items within this State. The division may sue and be  
43 sued.

44 b. The duties, functions and powers of the division include the  
45 following:

46 (1) To regulate the purchase, sale, production, processing,  
47 transportation and delivery of marijuana items in accordance with  
48 the provisions of this act.

1 (2) To grant, refuse, suspend or cancel licenses for the sale,  
2 processing, or production of marijuana items, or other licenses in  
3 regard to marijuana items, and to permit, in the division's  
4 discretion, the transfer of a license between persons.

5 (3) To investigate and aid in the prosecution of every violation  
6 of the statutory laws of this State relating to marijuana items and to  
7 cooperate in the prosecution of offenders before any State court of  
8 competent jurisdiction.

9 (4) To adopt, amend, or repeal regulations as necessary to carry  
10 out the intent and provisions of this act.

11 (5) To exercise all powers incidental, convenient, or necessary  
12 to enable the division to administer or carry out the provisions of  
13 this act, or any other law of this State that charges the division with  
14 a duty, function, or power related to marijuana. Powers described in  
15 this paragraph include, but are not limited to:

16 (a) Issuing subpoenas;

17 (b) Compelling attendance of witnesses;

18 (c) Administering oaths;

19 (d) Certifying official acts;

20 (e) Taking depositions as provided by law;

21 (f) Compelling the production of books, payrolls, accounts,  
22 papers, records, documents and testimony; and

23 (g) Establishing fees in addition to the application, licensing,  
24 and renewal fees, provided that any fee established by the division  
25 is reasonably calculated not to exceed the cost of the activity for  
26 which the fee is charged.

27 (6) To adopt rules regulating and prohibiting marijuana  
28 producers, marijuana processors, marijuana wholesalers, and  
29 marijuana retailers from advertising marijuana items in a manner  
30 that is appealing to minors; that promotes excessive use; that  
31 promotes illegal activity; or that otherwise presents a significant  
32 risk to public health and safety.

33 (7) To regulate the use of marijuana items for scientific,  
34 pharmaceutical, manufacturing, mechanical, industrial, and other  
35 purposes.

36 c. The powers of the division further include the power to  
37 purchase, seize, possess, and dispose of marijuana items.

38 (1) The division may purchase, possess, seize, or dispose of  
39 marijuana items as is necessary to ensure compliance with and  
40 enforcement of the provisions of this act, and any rule adopted  
41 pursuant thereto.

42 (2) Any State officer, board, commission, corporation,  
43 institution, department, or other State body, and any local officer,  
44 board, commission, institution, department, or other local  
45 government body, that is permitted by the statutory laws of this  
46 State to perform a duty, function, or power with respect to a  
47 marijuana item, may purchase, possess, seize, or dispose of the  
48 marijuana item as the State officer, board, commission, corporation,

1 institution, department or other State body, or the local officer,  
2 board, commission, institution, department or other local  
3 government body, considers necessary to ensure compliance with  
4 and enforce the applicable statutory law or any rule adopted under  
5 the applicable statutory law.

6 d. The division shall be under the immediate supervision of a  
7 director. The director of the division shall be appointed by the  
8 Governor, with the advice and consent of the Senate, and shall serve  
9 during the term of office of the Governor appointing him and until  
10 the director's successor is appointed and has qualified.

11

12 8. (New section) Regulation of marijuana.

13 a. Not later than one year following the effective date of P.L. ,  
14 c. (C. ) (pending before the Legislature as this bill), the  
15 division shall adopt, pursuant to the "Administrative Procedure  
16 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
17 necessary for implementation of P.L. , c. (C. ) (pending  
18 before the Legislature as this bill), which shall be consistent with  
19 the intent of this act. Such regulations shall not prohibit the  
20 operation of marijuana establishments, either expressly or through  
21 regulations that make their operation unreasonably impracticable.  
22 The division may create an expert task force to make  
23 recommendations to the Division about the content of such  
24 regulations. Such regulations shall include:

25 (1) Procedures for the application, issuance, denial, renewal,  
26 suspension, and revocation of a license to operate a marijuana  
27 establishment. Such procedures shall include a period of no longer  
28 than 90 days by which the division must provide the applicant with  
29 notice of the division's approval or denial of any fully completed  
30 application for licensure or renewal and a period not to exceed 30  
31 days in which a license shall be issued following approval of an  
32 application.

33 (2) License application and renewal fees shall be established by  
34 the division. The division shall establish licensing goals for New  
35 Jersey residents. The division shall make good faith efforts to meet  
36 these goals.

37 (3) The division shall establish licensing goals for New Jersey  
38 residents. The division shall make good faith efforts to meet these  
39 goals. Qualifications for licensure shall be directly and  
40 demonstrably related to the operation of a marijuana establishment,  
41 provided that the division shall make licenses available to as diverse  
42 a group as possible, including, but not limited to, requirements that  
43 no license of any kind shall be issued to:

44 (a) A person under the legal age to purchase marijuana items;

45 (b) A person doing business as a sole proprietor who has not  
46 lawfully resided in the State for at least two years prior to applying  
47 to receive a license;

1 (c) A partnership, employee cooperative, association, nonprofit  
2 corporation, or corporation unless formed under the laws of this  
3 State, and unless all of the members thereof are qualified to obtain a  
4 license;

5 (d) A person whose place of business is conducted by a manager  
6 or agent, unless the manager or agent possesses the same  
7 qualifications required of the licensee;

8 (e) Should the division choose to establish criteria for licensure  
9 related to an applicant's criminal history, it shall not consider  
10 convictions under paragraphs (3) and (4) of subsection a. of  
11 N.J.S.2C:35-10, paragraphs (11) and (12) of subsection b. of  
12 N.J.S.2C:35-5, subparagraph (b) of paragraph (10) of subsection b.  
13 of N.J.S.2C:35-5, or similar offenses.

14 (4) The division shall establish licensing goals for minority  
15 owned and female owned business as these terms are defined in  
16 section 3 of P.L.1983, c.482 (C.52:32-19). The Division shall  
17 analyze the number of licenses issued in each county and compare  
18 that analysis to the number of qualified minority owned and female  
19 owned businesses that applied in each county. The Division shall  
20 make good faith efforts to meet the goals it establishes for the  
21 licensure of minority owned and female owned businesses;

22 (5) Security requirements for marijuana establishments;

23 (6) Requirements to prevent the sale or diversion of marijuana  
24 and marijuana products to persons under the legal age to purchase  
25 marijuana items, including, but not limited to, requirements that:

26 (a) All licensees and licensee representatives, before selling or  
27 serving marijuana or marijuana products to any person about whom  
28 there is any reasonable doubt of the person's having reached the  
29 legal age to purchase marijuana items, shall require such person to  
30 produce one of the following pieces of identification:

31 (i) The person's passport.

32 (ii) The person's motor vehicle driver's license, whether issued  
33 by New Jersey or by any other state, provided the license displays a  
34 picture of the person.

35 (iii) A New Jersey identification card issued by the New Jersey  
36 Motor Vehicle Commission.

37 (iv) A United States military identification card.

38 (v) A photographic identification card issued by a New Jersey  
39 county clerk.

40 (vi) Any other identification card issued by a state that bears a  
41 picture of the person, the name of the person, the person's date of  
42 birth and a physical description of the person.

43 (b) No marijuana establishment shall employ persons under the  
44 legal age to purchase marijuana items nor shall any marijuana  
45 retailer allow persons under the legal age to purchase marijuana  
46 items from entering or remaining on the premises of a marijuana  
47 retailer unless accompanied by a parent or legal guardian;

- 1 (c) Packaging and branding regulations to prevent marketing of  
2 marijuana items and marijuana paraphernalia to people under the  
3 legal age to purchase marijuana items;
- 4 (7) Labeling and packaging requirements for marijuana items  
5 sold or distributed by a marijuana establishment, including, but not  
6 limited to, requirements that:
- 7 (a) Packaging and branding rules which prevent marketing of  
8 marijuana items and marijuana paraphernalia to people under the  
9 legal age to purchase marijuana items, including, but not limited to,  
10 rules that prohibit any statement, illustration, or image that:
- 11 (i) Includes false statements;
- 12 (ii) Promotes over-consumption;
- 13 (iii) Depicts a child or other person under legal age consuming  
14 marijuana items; or
- 15 (iv) Includes objects, such as toys, characters, or cartoon  
16 characters suggesting the presence of a person under the legal age to  
17 purchase marijuana items, or any other depiction designed in any  
18 manner to be especially appealing to persons under the legal age to  
19 purchase marijuana items;
- 20 (b) Ensure marijuana items are packaged in child-resistant  
21 containers;
- 22 (c) Marijuana items warning labels adequately inform  
23 consumers about safe marijuana use and warn of the consequences  
24 of misuse or overuse;
- 25 (d) Labeling rules that mandate clear identification of health and  
26 safety information, including, but not limited to:
- 27 (i) Net weight;
- 28 (ii) Production date and expiration date;
- 29 (iii) An ingredient list that includes, but is not limited to, all  
30 ingredients used to manufacture the marijuana product and a list of  
31 all potential allergens contained within the product;
- 32 (iv) Strain or type of cannabis, listed by scientific terms, if  
33 available, and generic or “slang” names;
- 34 (v) Whether the product requires refrigeration;
- 35 (vi) Growth method (whether dirt grown, hydroponic, or  
36 otherwise) and an indication whether or not the cannabis was grown  
37 using all-organic materials and a complete list of all nonorganic  
38 pesticides, fungicides and herbicides used during the cultivation of  
39 the cannabis;
- 40 (vii) Serving size, the total number of servings, and a statement  
41 regarding the percentage of THC contained in the marijuana  
42 product and in each serving. For example: “The serving size of  
43 active THC in this product is X mg. This product contains X  
44 servings of marijuana, and the total amount of active THC in this  
45 product is X mg.” Serving sizes are recommended to be  
46 individually wrapped.
- 47 (viii) Warning labels that include, but are not limited to, one or  
48 more of the following:

1 -- "This product contains marijuana."

2 -- "This product is infused with marijuana"

3 -- "This product is intended for use by adults 21 years and older.  
4 Keep out of the reach of children."

5 -- "The intoxicating effects of this product may be delayed by  
6 two or more hours."

7 -- "There may be health risks associated with the consumption of  
8 this product, including for women who are pregnant, breastfeeding,  
9 or planning on becoming pregnant."

10 -- "Do not drive a motor vehicle or operate heavy machinery  
11 while using marijuana."

12 (e) Labeling rules mandate the source of the marijuana items,  
13 including, but not limited to, the license number of the marijuana  
14 cultivation facility where the marijuana used to produce the  
15 marijuana item was grown, the license number of the marijuana  
16 product manufacturing facility that produced the marijuana item;  
17 and the license number of the marijuana retailer that sold the  
18 marijuana item and the production batch and lot numbers of the  
19 marijuana items.

20 (8) Health and safety regulations and standards for the  
21 manufacture and sale of marijuana products and the cultivation of  
22 marijuana, including, but not limited to, requirements that:

23 (a) Establish accreditation and licensure criteria for marijuana  
24 testing facilities;

25 (b) The division issues licenses for a sufficient number of  
26 marijuana testing facilities, if those facilities meet the requirements  
27 for licensure, in order to ensure testing of marijuana items produced  
28 and sold in the State;

29 (c) Every licensed marijuana cultivation facility and marijuana  
30 product manufacturing facility must submit representative samples  
31 of marijuana and marijuana products to marijuana testing facilities  
32 for inspection and testing to certify compliance with health, safety,  
33 and potency standards adopted by the division on a schedule set by  
34 the division. Any sample remaining after testing shall be destroyed  
35 or returned to the licensee;

36 (d) Prescribe methods of producing, processing, and packaging  
37 marijuana items; conditions of sanitation; safe handling  
38 requirements; approved pesticides and pesticide testing  
39 requirements; and standards of ingredients, quality, and identity of  
40 marijuana items produced, processed, packaged, or sold by  
41 marijuana establishments;

42 (e) Establish accreditation and licensing criteria for responsible  
43 marijuana server and seller training and certification programs for  
44 marijuana retailer employees;

45 (f) Provide that no licensed marijuana establishment or  
46 employee of a marijuana establishment shall consume, or allow to  
47 be consumed, any marijuana items on the establishment's premises,  
48 except as otherwise permitted by the division;

1 (g) Set appropriate dosage, potency, and serving size limits for  
2 marijuana and other marijuana products, provided that a  
3 standardized serving of marijuana shall be no more than 10  
4 milligrams of active THC and no individual edible retail product  
5 unit for sale shall contain more than 100 milligrams of active THC,  
6 and that marijuana and marijuana product packaging prevent  
7 children from access;

8 (h) Require that each single standardized serving of marijuana in  
9 a multiple-serving edible marijuana product is physically demarked  
10 in a way that enables a reasonable person to determine how much of  
11 the product constitutes a single serving of active THC, and that each  
12 standardized serving of marijuana must be easily separable to allow  
13 an average person 21 years of age and over to physically separate,  
14 with minimal effort, individual servings of the product;

15 (i) Require that, if it is impracticable to clearly demark every  
16 standardized serving of marijuana or to make each standardized  
17 serving easily separable in an edible marijuana product, the product  
18 must contain no more than 10 milligrams of active THC per unit of  
19 sale;

20 (j) Establish screening, hiring, training and supervising  
21 requirements for retail store employees and others who manufacture  
22 or handle marijuana items;

23 (k) Promote general sanitary requirements for the handling,  
24 storage, and disposal of marijuana items, and the maintenance of  
25 marijuana establishments;

26 (l) Provide for rigorous auditing, inspection, and monitoring of  
27 marijuana establishments for compliance with health and safety  
28 rules and regulations;

29 (m) Require the implementation of security requirements for  
30 retail outlets and premises where marijuana items are produced or  
31 processed, and safety protocols for marijuana establishments and  
32 their employees;

33 (n) Prescribe reasonable restrictions on the manner, methods,  
34 and means by which, licensees shall transport marijuana items  
35 within the State; and

36 (o) Establish procedures for identification, seizure, confiscation,  
37 destruction, or donation to law enforcement for training purposes of  
38 all marijuana or marijuana products produced, processed, sold, or  
39 offered for sale within this State which do not conform in all  
40 respects to the standards prescribed by this chapter or the rules  
41 adopted to implement and enforce these chapters.

42 (9) Restrictions on the advertising and display of marijuana  
43 items and marijuana paraphernalia, including, but not limited to,  
44 requirements that:

45 (a) Restrict advertising of marijuana items and marijuana  
46 paraphernalia in ways that target or are designed to appeal to  
47 individuals under the legal age to purchase marijuana items,  
48 including, but not limited to depictions of a person under 21 years



1 of age consuming marijuana, or, includes objects, such as toys,  
2 characters, or cartoon characters suggesting the presence of a  
3 person under 21 years of age, or any other depiction designed in any  
4 manner to be especially appealing to a person under 21 years of  
5 age;

6 (b) Marijuana retailers shall not display any signage in a  
7 window, on a door, or on the outside of the premises of a marijuana  
8 retailer that is visible to the general public from a public right-of-  
9 way, other than a single sign no larger than one thousand six  
10 hundred square inches identifying the retail outlet by the licensee's  
11 business trade name;

12 (c) No licensed marijuana establishment shall advertise any  
13 marijuana items or marijuana paraphernalia on television, radio or  
14 internet between the hours of 6:00am and 10:00pm.

15 (d) No licensed marijuana establishment shall engage in  
16 advertising unless it has reliable evidence that no more than 20  
17 percent of the audience for the advertisement is reasonably expected  
18 to be under the legal age to purchase marijuana items.

19 (e) No licensed marijuana establishment may engage in  
20 advertising or marketing directed towards location-based devices,  
21 including but not limited to cellular phones, unless the marketing is  
22 a mobile device application installed on the device by the owner of  
23 the device who is 21 years of age or older and includes a permanent  
24 and easy opt-out feature;

25 (f) No licensed marijuana establishment may sponsor a  
26 charitable, sports, musical, artistic, cultural, social, or other similar  
27 event or engage in advertising at or in connection with such an  
28 event unless it has reliable evidence that no more than 20 percent of  
29 the audience at the event is reasonably expected to be under the  
30 legal age to purchase marijuana items;

31 (g) All advertisements must contain warnings, including but not  
32 limited to one or more of the following:

33 (i) "This product contains marijuana;"

34 (ii) "Marijuana can impair concentration, coordination, and  
35 judgment. Do not operate a vehicle or machinery under the  
36 influence of this drug;"

37 (iii) "There may be health risks associated with the consumption  
38 of this product;"

39 (iv) "For use only by adults 21 years of age and older. Keep out  
40 of the reach of children."

41 (v) "This product was produced without regulatory oversight for  
42 health, safety or efficacy."

43 (vi) "The intoxicating effects of this product may be delayed by  
44 two or more hours."

45 (vii) "There may be health risks associated with the  
46 consumption of this product, including for women who are  
47 pregnant, breastfeeding, or planning on becoming pregnant."

1 (viii) No licensed marijuana establishment shall place or  
2 maintain, or cause to be placed or maintained an advertisement of  
3 marijuana items or marijuana paraphernalia in any form or through  
4 any medium whatsoever within 200 feet of an elementary or  
5 secondary school grounds, recreation center or facility, arcade,  
6 child care center, public park, playground, public swimming pool or  
7 library; on or in a public transit vehicle or public transit shelter; on  
8 or in publicly owned or operated property. For the purposes of this  
9 section, a noncommercial message shall not be considered an  
10 advertisement. This section also shall not apply to advertisements  
11 within the premises of a marijuana retailer.

12 (10) A requirement that only marijuana items and marijuana  
13 paraphernalia are available for sale at a marijuana establishment;  
14 and

15 (11) Procedures for the division to conduct announced and  
16 unannounced visits to marijuana establishments to make, or cause to  
17 be made, such investigations as it shall deem proper in the  
18 administration of P.L. ,c. (C. )(pending before the  
19 Legislature as this bill) and any and all other laws which may  
20 hereafter be enacted concerning marijuana, or the manufacture,  
21 distribution or sale thereof, or the collection of taxes thereon,  
22 including the inspection and search of premises for which the  
23 license is sought or has been issued, of any building containing the  
24 same, of licensed buildings, examination of the books, records,  
25 accounts, documents and papers of the licensees or on the licensed  
26 premises;

27 (a) The division shall be authorized, after adequate notice to the  
28 owner or the agent of the owner, to make an examination of the  
29 books and may at any time make an examination of the premises of  
30 any person licensed under P.L. ,c. (C. )(pending before the  
31 Legislature as this bill) for the purpose of determining compliance  
32 with this act and the rules of the division. The division shall not  
33 require the books of any licensee to be maintained on the premises  
34 of the licensee.

35 (b) The division may, at any time, examine the books and  
36 records of any marijuana producer, and may appoint auditors,  
37 investigators and other employees that the division considers  
38 necessary to enforce its powers and perform its duties.

39 (c) During any inspection of a licensed premises, the division  
40 may require proof that a person performing work at the premises is  
41 21 years of age or older. If the person does not provide the division  
42 with acceptable proof of age upon request, the division may require  
43 the person to immediately cease any activity and leave the premises  
44 until the division receives acceptable proof of age.

45 (d) The division shall not be required to obtain a search warrant  
46 to conduct an investigation or search of licensed premises.

47 (12) Record keeping requirements, including but not limited to  
48 the following:

1 (a) (i) the obligation of every marijuana producer to keep a  
2 complete and accurate record of all sales of marijuana flowers,  
3 marijuana leaves, and immature marijuana plants, and a complete  
4 and accurate record of the number of marijuana flowers produced,  
5 the number of ounces of marijuana leaves produced, the number of  
6 immature marijuana plants produced, and the dates of production;  
7 and

8 (ii) the obligation of every marijuana establishment to keep a  
9 complete and accurate record of all sales of marijuana, and a  
10 complete and accurate record of the number of ounces of marijuana  
11 items sold, provided that marijuana retailers shall not retain  
12 personally identifying information about persons 21 years of age  
13 who or older who purchase marijuana or marijuana products in  
14 marijuana retailers. Such records shall be kept and maintained for  
15 two years. The records shall be in such form and contain such other  
16 information as the division may require.

17 (b) The division may, at any time, but with adequate notice,  
18 examine the books and records of any marijuana establishment, and  
19 may appoint auditors, investigators, and other employees that the  
20 division considers necessary to enforce its powers and duties as  
21 described in P.L. , c. (C. ) (pending before the Legislature  
22 as this bill).

23 (13) Procedures for inspecting samples of marijuana items,  
24 including:

25 (a) On a schedule determined by the division, every licensed  
26 marijuana producer and processor must submit representative  
27 samples of marijuana, useable marijuana, or marijuana-infused  
28 products produced or processed by the licensee to an independent,  
29 third-party testing laboratory meeting the accreditation  
30 requirements established by the division, for inspection and testing  
31 to certify compliance with standards adopted by the division. Any  
32 sample remaining after testing shall be destroyed by the laboratory  
33 or returned to the licensee.

34 (b) Licensees must submit the results of this inspection and  
35 testing to the division on a form developed by the division.

36 (c) If a representative sample inspected and tested under this  
37 section does not meet the applicable standards adopted by the  
38 division, the entire lot from which the sample was taken must be  
39 destroyed.

40 (14) Establishing the number of marijuana retailers:

41 (a) Assuming there are sufficient qualified applicants for  
42 licensure, there shall be at least one marijuana retail store per  
43 county.

44 (b) A determination of the maximum number of marijuana  
45 retailers that may be licensed in each local governmental entity,  
46 taking into consideration:

47 (i) population distribution, provided that the division shall  
48 consider seasonal fluctuations in the population of the county and

1 shall ensure that there are adequate licensed premises to serve the  
2 market demands of the county during the peak seasons;

3 (ii) the provision of adequate access to licensed sources of  
4 useable marijuana and marijuana products to discourage purchases  
5 from the illegal market;

6 (15) Civil penalties for the failure to comply with regulations  
7 made pursuant to this section.

8 b. In order to ensure that individual privacy is protected, the  
9 division shall not require a consumer to provide a marijuana retailer  
10 with personal information other than government-issued  
11 identification to determine the consumer's age, and a marijuana  
12 retailer shall not be required to acquire and record personal  
13 information about consumers other than information typically  
14 acquired in a financial transaction conducted by the holder of a  
15 Class C retail license concerning alcoholic beverages as set forth in  
16 R.S.33:1-12.

17 c. Once regulations are adopted pursuant to subsection a. of this  
18 section, but prior to the commencement of the application process,  
19 the division shall conduct a series of information sessions in every  
20 county in New Jersey to educate New Jerseyans about the  
21 responsibilities, opportunities, requirements, obligations, and  
22 processes for application for a license to operate a marijuana  
23 establishment. The division shall conduct an appropriate number of  
24 information sessions in each county considering the population of  
25 each county, but no fewer than two information sessions in each  
26 county. The division shall publicize the day, time, location, and  
27 agenda of these information sessions broadly through television,  
28 radio, internet, print, and through local agencies.

29 d. The division shall:

30 (i) Examine available research, and may conduct or commission  
31 new research or convene an expert task force, to investigate the  
32 influence of marijuana on the ability of a person to drive a vehicle  
33 and on the concentration of delta-9 tetrahydrocannabinol in a  
34 person's blood, in each case taking into account all relevant factors;  
35 and

36 (ii) Present the results of the research to the Legislature and  
37 make recommendations to the Legislature regarding whether any  
38 amendments to the rules and regulations adopted by the division are  
39 appropriate.

40

41 9. (New section) Tracking system. a. The division shall  
42 develop and maintain a system for tracking the transfer of  
43 marijuana items between licensed premises.

44 b. The purposes of the system developed and maintained under  
45 this section include, but are not limited to:

46 (1) Preventing the diversion of marijuana items to criminal  
47 enterprises, gangs, cartels and other states;

- 1 (2) Preventing persons from substituting or tampering with  
2 marijuana items;
- 3 (3) Ensuring an accurate accounting of the production,  
4 processing and sale of marijuana items;
- 5 (4) Ensuring that taxes are collected for the purpose of being  
6 distributed as described in section 10 of P.L. ,  
7 c. (C. )(pending before the Legislature as this bill);
- 8 (5) Ensuring that laboratory testing results are accurately  
9 reported; and
- 10 (6) Ensuring compliance with the rules and regulations adopted  
11 under the provisions of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill), and any other law of this State that charges  
13 the division with a duty, function or power related to marijuana.
- 14 c. The system developed and maintained under this section must  
15 be capable of tracking, at a minimum:
  - 16 (1) The propagation of immature marijuana plants and the  
17 production of marijuana by a marijuana producer;
  - 18 (2) The processing of marijuana by a marijuana processor;
  - 19 (3) The receiving, storing and delivering of marijuana items by a  
20 marijuana wholesaler;
  - 21 (4) The sale of marijuana items by a marijuana retailer to a  
22 consumer;
  - 23 (5) The purchase and sale of marijuana items between licensees;
  - 24 (6) The transfer of marijuana items between licensed premises;
  - 25 (7) The collection of taxes imposed upon the retail sale of  
26 marijuana items and
  - 27 (8) Any other information that the division determines is  
28 reasonably necessary to accomplish the duties, functions and  
29 powers of the division.
- 30
- 31 10. (New section) Taxation.
  - 32 a. There shall be a tax levied upon marijuana or marijuana  
33 products sold or otherwise transferred by a marijuana retailer to a  
34 person 21 years of age or older at a rate of seven percent. To  
35 encourage early participation in and development of marijuana  
36 establishments and to undermine the illegal marketplace, the tax  
37 shall escalate annually over a three year period: such that in year  
38 one following the enactment of P.L. , c. (C. ) (pending  
39 before the Legislature as this bill), the excise tax shall be seven  
40 percent; and in year two, the tax shall be 10 percent; and in year  
41 three, the tax rate shall be 15 percent; and in year four the tax rate  
42 shall be 20 percent and in year five and beyond, the tax shall be 25  
43 percent.
  - 44 b. The division shall regularly review the tax levels established  
45 under this section and make recommendations to the Legislature as  
46 appropriate regarding adjustments that would further the goals of  
47 discouraging use, particularly by those under the age of 21;

1 undercutting illegal market prices; and maximizing taxation  
2 revenue.

3 c. Statements as to quantities sold. At such periods to be  
4 established by the Department of the Treasury, but no more than  
5 once per calendar month, every marijuana producer shall file with  
6 the Division of Taxation in the Department of the Treasury a  
7 statement of the quantities of marijuana flowers, marijuana leaves,  
8 and immature marijuana plants sold by the marijuana producer  
9 during the preceding period.

10 d. Estimate by Division of Taxation when statement not filed or  
11 false statement filed. If any marijuana producer fails, neglects, or  
12 refuses to file a statement required by subsection c. of this section  
13 or files a false statement, the Department of the Treasury shall  
14 estimate the quantities of marijuana flowers, marijuana leaves, and  
15 immature marijuana plants sold by the marijuana producer and  
16 assess the taxes thereon. The marijuana producer shall be estopped  
17 from complaining of the quantities so estimated.

18 e. Lien created by the tax. The tax required to be paid by this  
19 section constitutes a lien upon, and has the effect of an execution  
20 duly levied against, any and all property of the marijuana retailer,  
21 attaching at the time the marijuana flowers, marijuana leaves, and  
22 immature marijuana plants subject to the tax were sold, and  
23 remaining until the tax is paid. The lien created by this section is  
24 paramount to all private liens or encumbrances.

25 f. The Department of the Treasury shall establish procedures for  
26 the collection of all taxes levied.

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

31 g. The tax revenue shall be collected by the Director of the  
32 Division of Taxation and shall be deposited by the Director of the  
33 Division of Taxation into the nonlapsing fund established pursuant  
34 to section 38 of P.L. , c. (C. ) (pending before the  
35 Legislature as this bill), and shall be used to fund the Division of  
36 Marijuana Enforcement, except that during the first year the tax is  
37 collected one percent shall be allocated to the local governmental  
38 entity in which the marijuana establishment is located; during year  
39 two, two percent shall be allocated to the local governmental entity  
40 in which the marijuana establishment is located; and in year three  
41 and each subsequent year thereafter, three percent shall be allocated  
42 to the local governmental entity in which the marijuana  
43 establishment is located.

44  
45 11. (New section) Local governmental entity regulation or  
46 ordinance.

47 a. Not later than one year following the effective date of P.L. ,  
48 c. (C. ) (pending before the Legislature as this bill), each

1 local governmental entity shall enact an ordinance or regulation  
2 specifying the entity within the local governmental entity that is  
3 responsible for processing applications submitted for a license to  
4 operate a marijuana establishment within the boundaries of the local  
5 governmental entity and for the issuance of such licenses should the  
6 issuance by the local governmental entity become necessary  
7 because of a failure by the Division to adopt regulations or because  
8 of a failure by the Division to process and issue licenses.

9 b. A local governmental entity may enact ordinances or  
10 regulations, not in conflict with the provisions of P.L. ,

11 c. (C. ) (pending before the Legislature as this bill):

12 (1) governing the time, place, manner, and number of marijuana  
13 establishment operations;

14 (2) establishing procedures for the issuance, suspension, and  
15 revocation of a license issued by the local governmental entity;

16 (3) establishing a schedule of annual operating, licensing, and  
17 application fees for marijuana establishments, provided, the  
18 application fee shall only be due if an application is submitted to a  
19 local governmental entity in accordance with the provisions section  
20 12 of P.L. , c. (C. ) (pending before the Legislature as this  
21 bill) and a licensing fee shall only be due if a license is issued by a  
22 local governmental entity; and

23 (4) establishing civil penalties for violation of an ordinance or  
24 regulation governing the time, place, and manner of a marijuana  
25 establishment that may operate in such local governmental entity.

26 c. A local governmental entity may prohibit the operation of  
27 marijuana cultivation facilities, marijuana product manufacturing  
28 facilities, marijuana testing facilities, or marijuana retailers through  
29 the enactment of an ordinance. The failure of a local governmental  
30 entity to enact an ordinance prohibiting the operation of a marijuana  
31 establishment within one year following the effective date of  
32 P.L. , c. (C. ) (pending before the Legislature as this bill)  
33 shall thereby permit the operation of a marijuana retail  
34 establishment within the local governmental entity for a period of  
35 five years, at the end of which five year period, and every five year  
36 period thereafter, the local governmental entity shall again be  
37 permitted to prohibit the operation of a marijuana establishment.

38  
39 12. (New section) Application. a. Each application for an  
40 annual license to operate a marijuana establishment shall be  
41 submitted to the division. A separate license shall be required for  
42 each location at which a marijuana establishment seeks to operate.  
43 Renewal applications may be filed up to 90 days prior to the  
44 expiration of the establishment's license. The division shall:

45 (1) begin accepting and processing applications one year  
46 following the effective date of P.L. , c. (C. ) (pending  
47 before the Legislature as this bill);

1 (2) immediately forward a copy of each application to the local  
2 governmental entity in which the applicant desires to operate the  
3 marijuana establishment;

4 (3) upon the approval of a license application and collection of  
5 the annual license fee, issue an annual license to the applicant  
6 between 45 and 90 days after receipt of an application unless the  
7 division finds the applicant is not in compliance with regulations  
8 enacted pursuant to the provisions of section 8 of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill) or the  
10 division is notified by the relevant local governmental entity that  
11 the applicant is not in compliance with ordinances and regulations  
12 made pursuant to the provisions of section 11 of P.L. ,  
13 c. (C. ) (pending before the Legislature as this bill) and in  
14 effect at the time of application, provided, where a local  
15 governmental entity has enacted a numerical limit on the number of  
16 marijuana establishments and a greater number of applicants seek  
17 licenses, the division shall solicit and consider input from the local  
18 governmental entity as to the local governmental entity's preference  
19 or preferences for licensure; and

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

22 b. If the division does not issue a license to an applicant within  
23 90 days of receipt of the completed application filed pursuant to  
24 subsection a. of this section, and does not notify the applicant of the  
25 specific reason for its denial, in writing and within such time  
26 period; or, if the division has adopted regulations pursuant to  
27 subsection a. of section 8 of P.L. ,c. , (C. ) (pending before  
28 the Legislature as this bill) and has accepted applications pursuant  
29 to subsection a. of this section but has not issued any licenses 90  
30 days after one year following the effective date of P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill), the  
32 applicant may resubmit its application directly to the local  
33 governmental entity, and the local governmental entity may issue an  
34 annual license to the applicant unless the local governmental entity  
35 has enacted an ordinance prohibiting the operation of a marijuana  
36 establishment. A local governmental entity issuing a license to an  
37 applicant shall do so within 90 days of receipt of the resubmitted  
38 application unless the local governmental entity finds and notifies  
39 the applicant that the applicant is not in compliance with ordinances  
40 and regulations in effect at the time the application is resubmitted.  
41 The local governmental entity shall notify the division if an annual  
42 license has been issued to the applicant. If an application is  
43 submitted to a local governmental entity under this subsection, the  
44 division shall forward to the local governmental entity the  
45 application fee paid by the applicant to the division upon request by  
46 the local governmental entity. A license issued by a local  
47 governmental entity in accordance with this subsection shall have  
48 the same force and effect as a license issued by the division and the



1 holder of such license shall not be subject to regulation or  
2 enforcement by the division during the term of that license. A  
3 subsequent or renewed license may be issued under this subsection  
4 on an annual basis only upon resubmission to the local  
5 governmental entity of a new application submitted to the division.

6 c. If the division does not adopt regulations required by  
7 subsection a. of section 8 of P.L. , c. (C. ) (pending before  
8 the Legislature as this bill), an applicant may submit an application  
9 directly to a local governmental entity one year following the  
10 effective date of P.L. , c. (C. ) (pending before the  
11 Legislature as this bill), and the local governmental entity may issue  
12 an annual license to the applicant. A local governmental entity  
13 issuing a license to an applicant shall do so within 90 days of  
14 receipt of the application unless it finds and notifies the applicant  
15 that the applicant is not in compliance with ordinances and  
16 regulations in effect at the time of application and shall notify the  
17 division if an annual license has been issued to the applicant. A  
18 license issued by a local governmental entity in accordance with  
19 this subsection shall have the same force and effect as a license  
20 issued by the division and the holder of such license shall not be  
21 subject to regulation or enforcement by the division during the term  
22 of that license. A subsequent or renewed license may be issued  
23 under this subsection on an annual basis if the division has not  
24 adopted regulations required by section 8 of P.L. , c. , (C. )  
25 (pending before the Legislature as this bill) at least 90 days prior to  
26 the date upon which such subsequent or renewed license would be  
27 effective.

28 d. No employee of the division shall have any interest, directly  
29 or indirectly, in the producing, processing, or sale of marijuana,  
30 marijuana products, or marijuana paraphernalia, or derive any profit  
31 or remuneration from the sale of marijuana, marijuana products, or  
32 marijuana paraphernalia, other than the salary or wages payable to  
33 him or her in respect of his or her position, or receive any gratuity  
34 from any person in connection with the application for a license or  
35 the sale of marijuana, marijuana products, or marijuana  
36 paraphernalia.

37

38 13. (New section) A marijuana producer must have a Class 1  
39 Marijuana Cultivation Facility license (Marijuana Producers  
40 license) issued by the division for the premises at which the  
41 marijuana is produced. The division shall determine the maximum  
42 number of licenses but, providing there exist qualified applicants,  
43 shall issue a sufficient number of licenses to meet the production  
44 demands that implementation of P.L. , c. (C. ) (pending  
45 before the Legislature as this bill) requires.

46 A person who has been convicted of a crime involving any  
47 controlled dangerous substance or controlled substance analog as  
48 set forth in chapter 35 of Title 2C of the New Jersey Statutes except

1 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law  
2 of the United States or any other state shall not be issued a Class 1  
3 Marijuana Cultivation Facility license, unless such conviction  
4 occurred after the effective date of P.L. , c. (C. ) (pending  
5 before the Legislature as this bill) and was for a violation of federal  
6 law relating to possession or sale of marijuana for conduct that is  
7 authorized under P.L. , c. (C. ) (pending before the  
8 Legislature as this bill).

9 a. To hold a production license under this section, a marijuana  
10 producer:

11 (1) Must apply for a license in the manner described in section  
12 12 of P.L. , c. (C. ) (pending before the Legislature as this  
13 bill);

14 (2) Must provide proof that an applicant listed on an application  
15 submitted under section 12 of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill), has been a resident of this State  
17 for two or more years, and must provide proof that the applicant is  
18 21 years of age or older;

19 (3) Must meet the requirements of any rule or regulation  
20 adopted by the Division under subsection b. of this section; and

21 (4) Must undergo a criminal history record background check.

22 (a) Pursuant to this provision, the director is authorized to  
23 exchange fingerprint data with and receive criminal history record  
24 background information from the Division of State Police and the  
25 Federal Bureau of Investigation consistent with the provisions of  
26 applicable federal and State laws, rules, and regulations. The  
27 Division of State Police shall forward criminal history record  
28 background information to the director in a timely manner when  
29 requested pursuant to the provisions of this section.

30 (b) An applicant shall submit to being fingerprinted in  
31 accordance with applicable State and federal laws, rules, and  
32 regulations. No check of criminal history record background  
33 information shall be performed pursuant to this section unless the  
34 applicant has furnished his written consent to that check. An  
35 applicant who refuses to consent to, or cooperate in, the securing of  
36 a check of criminal history record background information shall not  
37 be considered for a production license. An applicant shall bear the  
38 cost for the criminal history record background check, including all  
39 costs of administering and processing the check.

40 (c) The director shall not approve an applicant for a Class 1  
41 Marijuana Cultivation facility license (Marijuana Producers license)  
42 if the criminal history record background information of the  
43 applicant reveals any disqualifying conviction.

44 (d) Upon receipt of the criminal history record background  
45 information from the Division of State Police and the Federal  
46 Bureau of Investigation, the director shall provide written  
47 notification to the applicant of his qualification for or  
48 disqualification for a Class 1 Marijuana Cultivation Facility license.

1 If the applicant is disqualified because of a disqualifying  
2 conviction pursuant to the provisions of this section, the conviction  
3 that constitutes the basis for the disqualification shall be identified  
4 in the written notice.

5 (e) The Division of State Police shall promptly notify the  
6 director in the event that an individual who was the subject of a  
7 criminal history record background check conducted pursuant to  
8 this section is convicted of a crime or offense in this State after the  
9 date the background check was performed. Upon receipt of that  
10 notification, the director shall make a determination regarding the  
11 continued eligibility to hold a Class 1 Marijuana Cultivation  
12 Facility license (Marijuana Producers license).

13 b. The division shall adopt rules that:

14 (1) Require a marijuana producer to annually renew a license  
15 issued under this section;

16 (2) Establish application, licensure, and renewal of licensure  
17 fees for marijuana producers;

18 (3) Require marijuana produced by marijuana producers to be  
19 tested in accordance with section 8 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill);

21 (4) Require marijuana producers to submit, at the time of  
22 applying for or renewing a license under section 12 of P.L. , c.  
23 (C. ) (pending before the Legislature as this bill), a report  
24 describing the applicant's or licensee's electrical and water usage;  
25 and

26 (5) Require a marijuana producer to meet any public health and  
27 safety standards, industry best practices, and all applicable  
28 regulations established by the division by rule or regulation related  
29 to the production of marijuana; or the propagation of immature  
30 marijuana plants and the seeds of the plant Cannabis family  
31 Cannabaceae. The division may not limit the number of immature  
32 marijuana plants that may be possessed by a marijuana producer  
33 licensed under this section; the size of the grow canopy a marijuana  
34 producer licensed under this section uses to grow immature  
35 marijuana plants; or the weight or size of shipments of immature  
36 marijuana plants made by a marijuana producer licensed under this  
37 section.

38 c. Fees adopted under subsection b. of this section:

39 (1) Shall be in the form of a schedule that imposes a greater fee  
40 for premises with more square footage or on which more mature  
41 marijuana plants are grown; and

42 (2) Shall be deposited in the Marijuana Control and Regulation  
43 Fund established under section 38 of P.L. , c. (C. ) (pending  
44 before the Legislature as this bill).

45 d. The director shall issue a Class 1 Marijuana Cultivation  
46 Facility license if it finds that issuing such a license would be  
47 consistent with the purposes of P.L. , c. (C. ) (pending  
48 before the Legislature as this bill) and the requirements of this

1 section are met and the information contained in the application has  
2 been verified. The director shall approve or deny an application  
3 within 60 days after receipt of a completed application. The denial  
4 of an application shall be considered a final agency decision,  
5 subject to review by the Appellate Division of the Superior Court.  
6 The director may suspend or revoke a license to operate as a Class 1  
7 Marijuana Cultivation Facility for cause, which shall be subject to  
8 review by the Appellate Division of the Superior Court.

9 e. A person who has been issued a license pursuant to this  
10 section shall display the license at the premises at all times when  
11 marijuana is being produced.

12 f. A licensee shall report any change in information to the  
13 Director not later than 10 days after such change, or the license  
14 shall be deemed null and void.

15

16 14. (New section) a. Subject to subsection b. of this section,  
17 the division shall adopt rules or regulations restricting the size of  
18 mature marijuana plant grow canopies at premises for which a  
19 license has been issued under section 13 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill).

21 b. In adopting rules under this subsection, the division shall:

22 (1) Limit the size of mature marijuana plant grow canopies for  
23 premises where marijuana is grown outdoors and for premises  
24 where marijuana is grown indoors in a manner calculated to result  
25 in premises that produce the same amount of harvested marijuana  
26 leaves and harvested marijuana flowers, regardless of whether the  
27 marijuana is grown outdoors or indoors.

28 (2) Adopt a tiered system under which the permitted size of a  
29 marijuana producer's mature marijuana plant grow canopy increases  
30 at the time of licensure renewal, except that the permitted size of a  
31 marijuana producer's mature marijuana plant grow canopy may not  
32 increase following any year during which the division disciplined  
33 the marijuana producer for violating a provision of or a rule adopted  
34 under a provision of P.L. , c. (C. ) (pending before the  
35 Legislature as this bill).

36 (3) Take into consideration the market demand for marijuana  
37 items in this state, the number of persons applying for a license  
38 under section 12 of P.L. , c. (C. ) (pending before the  
39 Legislature as this bill), and to whom a license has been issued  
40 under section 13 of P.L. , c. (C. ) (pending before the  
41 Legislature as this bill), and whether the availability of marijuana  
42 items in this State is commensurate with the market demand.

43 c. This section shall not apply to a premises for which a license  
44 has been issued under section 13 of P.L. , c. (C. ) (pending  
45 before the Legislature as this bill), if the premises is used only to  
46 propagate immature marijuana plants.

1 15. (New section) A marijuana processor must have a Class 1  
2 Marijuana Product Manufacturing Facility license (Marijuana  
3 Processor license) issued by the division for the premises at which  
4 the marijuana is produced. The division shall determine the  
5 maximum number of licenses but, providing there exist qualified  
6 applicants, shall issue a sufficient number of licenses to meet the  
7 production demands that implementation of P.L. , c. (C. )  
8 (pending before the Legislature as this bill) requires.

9 A person who has been convicted of a crime involving any  
10 controlled dangerous substance or controlled substance analog as  
11 set forth in chapter 35 of Title 2C of the New Jersey Statutes except  
12 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law  
13 of the United States or any other state shall not be issued a Class 1  
14 Marijuana Product Manufacturing Facility license, unless such  
15 conviction occurred after the effective date of P.L. , c. (C. )  
16 (pending before the Legislature as this bill) and was for a violation  
17 of federal law relating to possession or sale of marijuana for  
18 conduct that is authorized under P.L. , c. (C. ) (pending  
19 before the Legislature as this bill).

20 a. To hold a processing license under this section, a marijuana  
21 processor:

22 (1) Must apply for a license in the manner described in section  
23 12 of P.L. , c. (C. ) (pending before the Legislature as this  
24 bill);

25 (2) Must provide proof that an applicant listed on an application  
26 submitted under section 12 of P.L. , c. (C. ) (pending  
27 before the Legislature as this bill), has been a resident of this State  
28 for two or more years, and must provide proof that the applicant is  
29 21 years of age or older;

30 (3) Must meet the requirements of any rule or regulation  
31 adopted by the division under subsection b. of this section; and

32 (4) Must undergo a criminal history record background check.

33 (a) Pursuant to this provision, the Director is authorized to  
34 exchange fingerprint data with and receive criminal history record  
35 background information from the Division of State Police and the  
36 Federal Bureau of Investigation consistent with the provisions of  
37 applicable federal and State laws, rules, and regulations. The  
38 Division of State Police shall forward criminal history record  
39 background information to the commissioner in a timely manner  
40 when requested pursuant to the provisions of this section.

41 (b) An applicant shall submit to being fingerprinted in  
42 accordance with applicable State and federal laws, rules, and  
43 regulations. No check of criminal history record background  
44 information shall be performed pursuant to this section unless the  
45 applicant has furnished his written consent to that check. An  
46 applicant who refuses to consent to, or cooperate in, the securing of  
47 a check of criminal history record background information shall not  
48 be considered for a processing license. An applicant shall bear the

1 cost for the criminal history record background check, including all  
2 costs of administering and processing the check.

3 (c) The director shall not approve an applicant for a Class 1  
4 Marijuana Product Manufacturing Facility license if the criminal  
5 history record background information of the applicant reveals any  
6 disqualifying conviction.

7 (d) Upon receipt of the criminal history record background  
8 information from the Division of State Police and the Federal  
9 Bureau of Investigation, the director shall provide written  
10 notification to the applicant of his qualification for or  
11 disqualification for a Class 1 Marijuana Product Manufacturing  
12 Facility license.

13 If the applicant is disqualified because of a disqualifying  
14 conviction pursuant to the provisions of this section, the conviction  
15 that constitutes the basis for the disqualification shall be identified  
16 in the written notice.

17 (e) The Division of State Police shall promptly notify the  
18 director in the event that an individual who was the subject of a  
19 criminal history record background check conducted pursuant to  
20 this section is convicted of a crime or offense in this State after the  
21 date the background check was performed. Upon receipt of that  
22 notification, the director shall make a determination regarding the  
23 continued eligibility to hold a Class 1 Marijuana Product  
24 Manufacturing Facility license (Marijuana Processors license).

25 b. The division shall adopt rules that:

26 (1) Require a marijuana processor to annually renew a license  
27 issued under this section;

28 (2) Establish application, licensure, and renewal of licensure  
29 fees for marijuana processors;

30 (3) Require marijuana produced by marijuana processors to be  
31 tested in accordance with section 8 of P.L. , c. (C. )  
32 (pending before the Legislature as this bill);

33 (4) Require marijuana processors to submit, at the time of  
34 applying for or renewing a license under section 12 of P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill) a report  
36 describing the applicant's or licensee's electrical and water usage;  
37 and

38 (5) Require a marijuana processor to meet any public health and  
39 safety standards, industry best practices, and all applicable  
40 regulations established by the division by rule or regulation related  
41 to the processing of marijuana.

42 c. Fees adopted under subsection b. of this section:

43 (1) Shall be in the form of a schedule that imposes a greater fee  
44 for premises with more square footage; and

45 (2) Shall be deposited in the Marijuana Control and Regulation  
46 Fund established under section 38 of P.L. , c. (C. ) (pending  
47 before the Legislature as this bill).

1 d. The Director shall issue a Class 1 Marijuana Product  
2 Manufacturing Facility license if it finds that issuing such a license  
3 would be consistent with the purposes of P.L. , c. (C. )  
4 (pending before the Legislature as this bill) and the requirements of  
5 this section are met and the information contained in the application  
6 has been verified. The director shall approve or deny an application  
7 within 60 days after receipt of a completed application. The denial  
8 of an application shall be considered a final agency decision,  
9 subject to review by the Appellate Division of the Superior Court.  
10 The director may suspend or revoke a license to operate as  
11 marijuana production facility for cause, which shall be subject to  
12 review by the Appellate Division of the Superior Court.

13 e. A person who has been issued a license pursuant to this  
14 section shall display the license at the premises at all times when  
15 marijuana is being produced.

16 f. A licensee shall report any change in information to the  
17 director not later than 10 days after such change, or the license shall  
18 be deemed null and void.

19

20 16. (New section) A marijuana wholesaler must have a Class 2  
21 Marijuana Wholesaler license issued by the division for the  
22 premises at which the marijuana is warehoused. The division shall  
23 determine the maximum number of licenses but, providing there  
24 exist qualified applicants, shall issue a sufficient number of licenses  
25 to meet the wholesaler demands that implementation of this act  
26 requires.

27 A person who has been convicted of a crime involving any  
28 controlled dangerous substance or controlled substance analog as  
29 set forth in chapter 35 of Title 2C of the New Jersey Statutes except  
30 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law  
31 of the United States or any other state shall not be issued a Class 2  
32 Marijuana Wholesaler license, unless such conviction occurred after  
33 the effective date of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) and was for a violation of federal law  
35 relating to possession or sale of marijuana for conduct that is  
36 authorized under P.L. , c. (C. ) (pending before the  
37 Legislature as this bill).

38 a. To hold a Marijuana Wholesaler license under this section, a  
39 marijuana wholesaler:

40 (1) Must apply for a license in the manner described in section  
41 12 of P.L. , c. (C. ) (pending before the Legislature as this  
42 bill);

43 (2) Must provide proof that an applicant listed on an application  
44 submitted under section 12 of P.L. , c. (C. ) (pending  
45 before the Legislature as this bill), has been a resident of this State  
46 for two or more years, and must provide proof that the applicant is  
47 21 years of age or older;

- 1       (3) Must meet the requirements of any rule or regulation  
2 adopted by the Division under subsection b. of this section; and
- 3       (4) Must undergo a criminal history record background check.
- 4       (a) Pursuant to this provision, the director is authorized to  
5 exchange fingerprint data with and receive criminal history record  
6 background information from the Division of State Police and the  
7 Federal Bureau of Investigation consistent with the provisions of  
8 applicable federal and State laws, rules, and regulations. The  
9 Division of State Police shall forward criminal history record  
10 background information to the director in a timely manner when  
11 requested pursuant to the provisions of this section.
- 12       (b) An applicant shall submit to being fingerprinted in  
13 accordance with applicable State and federal laws, rules, and  
14 regulations. No check of criminal history record background  
15 information shall be performed pursuant to this section unless the  
16 applicant has furnished his written consent to that check. An  
17 applicant who refuses to consent to, or cooperate in, the securing of  
18 a check of criminal history record background information shall not  
19 be considered for a wholesalers license. An applicant shall bear the  
20 cost for the criminal history record background check, including all  
21 costs of administering and processing the check.
- 22       (c) The director shall not approve an applicant for a Class 2  
23 Marijuana Wholesaler license if the criminal history record  
24 background information of the applicant reveals any disqualifying  
25 conviction.
- 26       (d) Upon receipt of the criminal history record background  
27 information from the Division of State Police and the Federal  
28 Bureau of Investigation, the director shall provide written  
29 notification to the applicant of his qualification for or  
30 disqualification for a Class 2 Marijuana Wholesaler license.
- 31       If the applicant is disqualified because of a disqualifying  
32 conviction pursuant to the provisions of this section, the conviction  
33 that constitutes the basis for the disqualification shall be identified  
34 in the written notice.
- 35       (e) The Division of State Police shall promptly notify the  
36 director in the event that an individual who was the subject of a  
37 criminal history record background check conducted pursuant to  
38 this section is convicted of a crime or offense in this State after the  
39 date the background check was performed. Upon receipt of that  
40 notification, the Director shall make a determination regarding the  
41 continued eligibility to hold a Marijuana Wholesaler license.
- 42       b. The division shall adopt rules that:
- 43       (1) Require a marijuana wholesaler to annually renew a license  
44 issued under this section;
- 45       (2) Establish application, licensure, and renewal of licensure  
46 fees for marijuana wholesalers;



- 1 (3) Require marijuana warehoused by marijuana wholesalers to  
2 be tested in accordance with section 8 of P.L. , c. (C. )  
3 (pending before the Legislature as this bill);
- 4 (4) Require marijuana wholesalers to submit, at the time of  
5 applying for or renewing a license under section 12 of P.L. , c.  
6 (C. ) (pending before the Legislature as this bill), a report  
7 describing the applicant's or licensee's electrical and water usage;  
8 and
- 9 (5) Require a marijuana wholesaler to meet any public health  
10 and safety standards, industry best practices, and all applicable  
11 regulations established by the division by rule or regulation related  
12 to the warehousing of marijuana.
- 13 c. Fees adopted under subsection b. of this section:
- 14 (1) Shall be in the form of a schedule that imposes a greater fee  
15 for premises with more square footage; and
- 16 (2) Shall be deposited in the Marijuana Control and Regulation  
17 Fund established under section 38 of P.L. , c. (C. )  
18 (pending before the Legislature as this bill).
- 19 d. The director shall issue a Class 2 Marijuana Wholesaler  
20 license if it finds that issuing such a license would be consistent  
21 with the purposes of this act and the requirements of this section are  
22 met and the information contained in the application has been  
23 verified. The director shall approve or deny an application within  
24 60 days after receipt of a completed application. The denial of an  
25 application shall be considered a final agency decision, subject to  
26 review by the Appellate Division of the Superior Court. The  
27 Director may suspend or revoke a Marijuana Wholesaler license for  
28 cause, which shall be subject to review by the Appellate Division of  
29 the Superior Court.
- 30 e. A person who has been issued a license pursuant to this  
31 section shall display the license at the premises at all times when  
32 marijuana is being warehoused.
- 33 f. A licensee shall report any change in information to the  
34 director not later than 10 days after such change, or the license shall  
35 be deemed null and void.
- 36
- 37 17. (New section) A marijuana retailer must have a Class 3  
38 Marijuana Retailer license issued by the division for the premises at  
39 which the marijuana is retailed. The division shall determine the  
40 maximum number of licenses but, providing there exist qualified  
41 applicants, shall issue a sufficient number of licenses to meet the  
42 wholesaler demands that implementation of P.L. , c. (C. )  
43 (pending before the Legislature as this bill) requires.
- 44 A person who has been convicted of a crime involving any  
45 controlled dangerous substance or controlled substance analog as  
46 set forth in chapter 35 of Title 2C of the New Jersey Statutes except  
47 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law  
48 of the United States or any other state shall not be issued a Class 3

1 Marijuana Retailer license, unless such conviction occurred after  
2 the effective date of this act and was for a violation of federal law  
3 relating to possession or sale of marijuana for conduct that is  
4 authorized under P.L. , c. (C. ) (pending before the  
5 Legislature as this bill).

6 a. To hold a retailers license under this section, a marijuana  
7 retailer:

8 (1) Must apply for a license in the manner described in section  
9 12 of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill);

11 (2) Must provide proof that an applicant listed on an application  
12 submitted under section 12 of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill), has been a resident of this State  
14 for two or more years, and must provide proof that the applicant is  
15 21 years of age or older;

16 (3) Must meet the requirements of any rule adopted by the  
17 Division under subsection b. of this section; and

18 (4) Must undergo a criminal history record background check.

19 (a) Pursuant to this provision, the director is authorized to  
20 exchange fingerprint data with and receive criminal history record  
21 background information from the Division of State Police and the  
22 Federal Bureau of Investigation consistent with the provisions of  
23 applicable federal and State laws, rules, and regulations. The  
24 Division of State Police shall forward criminal history record  
25 background information to the director in a timely manner when  
26 requested pursuant to the provisions of this section.

27 (b) An applicant shall submit to being fingerprinted in  
28 accordance with applicable State and federal laws, rules, and  
29 regulations. No check of criminal history record background  
30 information shall be performed pursuant to this section unless the  
31 applicant has furnished his written consent to that check. An  
32 applicant who refuses to consent to, or cooperate in, the securing of  
33 a check of criminal history record background information shall not  
34 be considered for a retailers license. An applicant shall bear the  
35 cost for the criminal history record background check, including all  
36 costs of administering and processing the check.

37 (c) The director shall not approve an applicant for a Class 3  
38 Marijuana Retailer license if the criminal history record background  
39 information of the applicant reveals any disqualifying conviction.

40 (d) Upon receipt of the criminal history record background  
41 information from the Division of State Police and the Federal  
42 Bureau of Investigation, the director shall provide written  
43 notification to the applicant of his qualification for or  
44 disqualification for a Class 3 Marijuana Retailers license.

45 If the applicant is disqualified because of a disqualifying  
46 conviction pursuant to the provisions of this section, the conviction  
47 that constitutes the basis for the disqualification shall be identified  
48 in the written notice.

- 1 (e) The Division of State Police shall promptly notify the  
2 director in the event that an individual who was the subject of a  
3 criminal history record background check conducted pursuant to  
4 this section is convicted of a crime or offense in this State after the  
5 date the background check was performed. Upon receipt of that  
6 notification, the director shall make a determination regarding the  
7 continued eligibility to hold a Marijuana Retailers license.
- 8 b. The division shall adopt rules that:
- 9 (1) Require a marijuana retailers to annually renew a license  
10 issued under this section;
- 11 (2) Establish application, licensure, and renewal of licensure  
12 fees for marijuana retailers;
- 13 (3) Require marijuana sold by marijuana retailer to be tested in  
14 accordance with section 8 of P.L. , c. (C. ) (pending before  
15 the Legislature as this bill);
- 16 (4) Require marijuana retailers to submit, at the time of applying  
17 for or renewing a license under section 12 of P.L. , c. (C. )  
18 (pending before the Legislature as this bill), a report describing the  
19 applicant's or licensee's electrical and water usage; and
- 20 (5) Require a marijuana retailer to meet any public health and  
21 safety standards, industry best practices, and all applicable  
22 regulations established by the division by rule related to the sale of  
23 marijuana.
- 24 c. Fees adopted under subsection b. of this section:
- 25 (1) Shall be in the form of a schedule that imposes a greater fee  
26 for premises with more square footage; and
- 27 (2) Shall be deposited in the Marijuana Control and Regulation  
28 Fund established under section 38 of P.L. , c. (C. ) (pending  
29 before the Legislature as this bill).
- 30 d. The director shall issue a Class 3 Marijuana Retailer license  
31 if it finds that issuing such a license would be consistent with the  
32 purposes of this act and the requirements of this section are met and  
33 the information contained in the application has been verified. The  
34 director shall approve or deny an application within 60 days after  
35 receipt of a completed application. The denial of an application  
36 shall be considered a final agency decision, subject to review by the  
37 Appellate Division of the Superior Court. The director may  
38 suspend or revoke a Marijuana Retailer license for cause, which  
39 shall be subject to review by the Appellate Division of the Superior  
40 Court.
- 41 e. A person who has been issued a license pursuant to this  
42 section shall display the license at the premises at all times when  
43 marijuana is being warehoused.
- 44 f. A licensee shall report any change in information to the  
45 director not later than 10 days after such change, or the license shall  
46 be deemed null and void.

1 18. (New section) A marijuana transporter must have a Class 4  
2 Marijuana Transportation license issued by the division. The  
3 division shall determine the maximum number of licenses but,  
4 providing there exist qualified applicants, shall issue a sufficient  
5 number of licenses to meet the transportation demands that  
6 implementation of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill) requires.

8 A person who has been convicted of a crime involving any  
9 controlled dangerous substance or controlled substance analog as  
10 set forth in chapter 35 of Title 2C of the New Jersey Statutes except  
11 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law  
12 of the United States or any other state shall not be issued a Class 4  
13 Marijuana Transportation license, unless such conviction occurred  
14 after the effective date of this act and was for a violation of federal  
15 law relating to possession or sale of marijuana for conduct that is  
16 authorized under P.L. , c. (C. ) (pending before the  
17 Legislature as this bill).

18 a. To hold a transportation license under this section, a  
19 marijuana transporter:

20 (1) Must apply for a license in the manner described in section  
21 12 of P.L. , c. (C. ) (pending before the Legislature as  
22 this bill);

23 (2) Must provide proof that an applicant listed on an application  
24 submitted under section 12 of P.L. , c. (C. ) (pending  
25 before the Legislature as this bill), has been a resident of this State  
26 for two or more years, and must provide proof that the applicant is  
27 21 years of age or older;

28 (3) Must meet the requirements of any rule adopted by the  
29 division under subsection b. of this section; and

30 (4) Must undergo a criminal history record background check.

31 (a) Pursuant to this provision, the director is authorized to  
32 exchange fingerprint data with and receive criminal history record  
33 background information from the Division of State Police and the  
34 Federal Bureau of Investigation consistent with the provisions of  
35 applicable federal and State laws, rules, and regulations. The  
36 Division of State Police shall forward criminal history record  
37 background information to the director in a timely manner when  
38 requested pursuant to the provisions of this section.

39 (b) An applicant shall submit to being fingerprinted in  
40 accordance with applicable State and federal laws, rules, and  
41 regulations. No check of criminal history record background  
42 information shall be performed pursuant to this section unless the  
43 applicant has furnished his written consent to that check. An  
44 applicant who refuses to consent to, or cooperate in, the securing of  
45 a check of criminal history record background information shall not  
46 be considered for a transportation license. An applicant shall bear  
47 the cost for the criminal history record background check, including  
48 all costs of administering and processing the check.

- 1 (c) The director shall not approve an applicant for a Class 4  
2 Marijuana Transportation license if the criminal history record  
3 background information of the applicant reveals any disqualifying  
4 conviction.
- 5 (d) Upon receipt of the criminal history record background  
6 information from the Division of State Police and the Federal  
7 Bureau of Investigation, the director shall provide written  
8 notification to the applicant of his qualification for or  
9 disqualification for a Class 4 Marijuana Transportation license.
- 10 If the applicant is disqualified because of a disqualifying  
11 conviction pursuant to the provisions of this section, the conviction  
12 that constitutes the basis for the disqualification shall be identified  
13 in the written notice.
- 14 (e) The Division of State Police shall promptly notify the  
15 director in the event that an individual who was the subject of a  
16 criminal history record background check conducted pursuant to  
17 this section is convicted of a crime or offense in this State after the  
18 date the background check was performed. Upon receipt of that  
19 notification, the director shall make a determination regarding the  
20 continued eligibility to hold a Marijuana Transportation license.
- 21 b. The division shall adopt rules that:
- 22 (1) Require a marijuana transporter to annually renew a license  
23 issued under this section;
- 24 (2) Establish application, licensure, and renewal of licensure  
25 fees for marijuana transporters;
- 26 (3) Require marijuana that is transported by a Marijuana  
27 Transportation licensee to be tested in accordance with section 8 of  
28 P.L. , c. (C. ) (pending before the Legislature as this bill);
- 29 (4) Require marijuana transporter to submit, at the time of  
30 applying for or renewing a license under section 12 of P.L. , c.  
31 (C. ) (pending before the Legislature as this bill), a report  
32 describing the applicant's or licensee's electrical and water usage;  
33 and
- 34 (5) Require a marijuana transporter to meet any public health  
35 and safety standards, industry best practices, and all applicable  
36 regulations established by the division by rule related to the  
37 transporting of marijuana.
- 38 c. Fees adopted under subsection b. of this section:
- 39 (1) Shall be in the form of a schedule that imposes a greater fee  
40 for premises with more square footage; and
- 41 (2) Shall be deposited in the Marijuana Control and Regulation  
42 Fund established under section 38 of P.L. , c. (C. ) (pending  
43 before the Legislature as this bill).
- 44 d. The director shall issue a Class 4 Marijuana Transportation  
45 license if it finds that issuing such a license would be consistent  
46 with the purposes of this act and the requirements of this section are  
47 met and the information contained in the application has been  
48 verified. The director shall approve or deny an application within

1 60 days after receipt of a completed application. The denial of an  
2 application shall be considered a final agency decision, subject to  
3 review by the Appellate Division of the Superior Court. The  
4 director may suspend or revoke a Marijuana Transportation license  
5 for cause, which shall be subject to review by the Appellate  
6 Division of the Superior Court.

7 e. A person who has been issued a license pursuant to this  
8 section shall display the license at the premises at all times when  
9 marijuana is being warehoused.

10 f. A licensee shall report any change in information to the  
11 director not later than 10 days after such change, or the license shall  
12 be deemed null and void.

13

14 19. (New section) Marijuana handlers. a. An individual who  
15 performs work for or on behalf of a person who holds a license  
16 under P.L. , c. (C. ) (pending before the Legislature as this  
17 bill) shall have a valid permit issued by the division under this  
18 section if the individual participates in:

19 (1) the possession, securing, or selling of marijuana items at the  
20 premises for which the license has been issued; or

21 (2) the recording of the possession, securing, or selling of  
22 marijuana items at the premises for which the license has been  
23 issued.

24 b. A person who holds a license under P.L. , c. (C. )  
25 (pending before the Legislature as this bill) shall verify that an  
26 individual has a valid permit issued under this section before  
27 allowing the individual to perform any work described in subsection  
28 a. of this section at the premises for which the license has been  
29 issued.

30 c. The division shall issue permits to qualified applicants to  
31 perform work described in this section. The division shall adopt  
32 rules and regulations establishing the qualifications for performing  
33 work described in this section, the terms of a permit issued under  
34 this section; procedures for applying for and renewing a permit  
35 issued under this section; and reasonable application, issuance and  
36 renewal fees for a permit issued under this section.

37 d. The division may require an individual applying for a permit  
38 under this section to successfully complete a course, made available  
39 by or through the division, in which the individual receives training  
40 on checking identification; detecting intoxication; handling  
41 marijuana items; statutory and regulatory provisions relating to  
42 marijuana; and any matter deemed necessary by the division to  
43 protect the public health and safety. The division or other provider  
44 may charge a reasonable fee for the course.

45 The division may not require an individual to successfully  
46 complete the course more than once, except that the division may  
47 adopt regulations directing continuing education training on a  
48 prescribed schedule.

1 As part of a final order suspending a permit issued under this  
2 section, the division may require a permit holder to successfully  
3 complete the course as a condition of lifting the suspension and as  
4 part of a final order revoking a permit issued under this section, the  
5 division shall require an individual to successfully complete the  
6 course prior to applying for a new permit.

7 e. The division shall conduct a criminal history record  
8 background check on an individual applying for a permit under this  
9 section.

10 f. The division may suspend, revoke or refuse to issue or renew  
11 a permit if the individual who is applying for or who holds the  
12 permit violates any provision of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill), or any rule or regulation adopted  
14 under P.L. , c. (C. ) (pending before the Legislature as this  
15 bill); or makes a false statement to the division; or refuses to  
16 cooperate in any investigation by the division, or, if the individual  
17 is convicted of a crime, except that the division may not consider a  
18 conviction for the manufacture or delivery of marijuana if the date  
19 of the conviction is two or more years before the date of the  
20 application or renewal; or if the date of the last criminal conviction  
21 is more than ten years before the date of the application or renewal.

22 g. A permit issued under this section is a personal privilege and  
23 permits work described under this section only for the individual  
24 who holds the permit.

25  
26 20. (New section) Marketplace Regulation.

27 a. It shall be unlawful for any owner, part owner, stockholder,  
28 officer, or director of any corporation, or any other person  
29 interested in any marijuana cultivation facility, marijuana testing  
30 facility, or marijuana product manufacturing facility, or any  
31 wholesaler of marijuana, to conduct, own either in whole or in part,  
32 or be directly or indirectly interested in the retailing of any  
33 marijuana in New Jersey, and such interest shall include any  
34 payments or delivery of money or property by way of loan or  
35 otherwise accompanied by an agreement to sell the product of said  
36 marijuana cultivation facility, marijuana testing facility, or  
37 marijuana product manufacturing facility, or any wholesaler of  
38 marijuana.

39 b. It shall be unlawful for any owner, part owner, stockholder,  
40 officer, or director of any corporation, or any other person  
41 interested in any retailing of marijuana to conduct, own either  
42 whole or in part, or to be a shareholder, officer or director of a  
43 corporation or association, directly or indirectly, interested in any  
44 marijuana cultivation facility, marijuana testing facility, or  
45 marijuana product manufacturing facility, or any wholesaler of  
46 marijuana.

1 c. No person, partnership, employee cooperative, association,  
2 nonprofit corporation, corporation, or the agents thereof, shall hold  
3 more than three marijuana establishment licenses at any time.  
4

5 21. (New section) Employers, driving, minors and control of  
6 property.

7 a. Nothing in P.L. , c. (C. ) (pending before the  
8 Legislature as this bill) is intended to require an employer to permit  
9 or accommodate the use, consumption, possession, transfer, display,  
10 transportation, sale, or growing of marijuana items in the workplace  
11 or to affect the ability of employers to have policies prohibiting  
12 marijuana use or intoxication by employees during work hours. No  
13 employer shall refuse to hire or employ any person or shall  
14 discharge from employment or take any adverse action against any  
15 employee with respect to compensation, terms, conditions or other  
16 privileges of employment because that person does or does not  
17 smoke or use marijuana items, unless the employer has a rational  
18 basis for doing so which is reasonably related to the employment,  
19 including the responsibilities of the employee or prospective  
20 employee.

21 b. Nothing in P.L. , c. (C. ) (pending before the  
22 Legislature as this bill) is intended to allow driving under the  
23 influence of marijuana items or driving while impaired by  
24 marijuana items or to supersede laws related to driving under the  
25 influence of marijuana items or driving while impaired by  
26 marijuana items.

27 c. Nothing in P.L. , c. (C. ) (pending before the  
28 Legislature as this bill) is intended to permit the transfer of  
29 marijuana items, with or without remuneration, to a person under  
30 the age of 21 or to allow a person under the age of 21 to purchase,  
31 possess, use, transport, grow, or consume marijuana items.

32 d. Nothing in P.L. , c. (C. ) (pending before the  
33 Legislature as this bill) shall prohibit a person, or any other entity  
34 that occupies, owns, or controls a property from prohibiting or  
35 otherwise regulating the consumption, use, display, transfer,  
36 distribution, sale, transportation or growing of marijuana items on  
37 or in that property, provided that local government units may not  
38 prohibit possession permitted by section 3 of P.L. , c. (C. ) (pending  
39 before the Legislature as this bill) on or within a public place.

40 e. Nothing in P.L. , c. (C. ) (pending before the  
41 Legislature as this bill) is intended to permit any person to possess,  
42 consume, use, display, transfer, distribute, sell, transport or grow  
43 marijuana items in a school, hospital, detention facility, adult  
44 correctional facility, and youth correction facility.

45 f. Nothing in P.L. , c. (C. ) (pending before the  
46 Legislature as this bill) is intended to permit the smoking of  
47 marijuana in any place that any other law prohibits the smoking of  
48 tobacco. Any fines that may be assessed for the smoking of tobacco



1 in designated places shall be applicable to the smoking of  
2 marijuana.

3

4 22. (New section) Medical marijuana provisions.

5 Nothing in P.L. , c. (C. ) (pending before the Legislature  
6 as this bill) shall be construed:

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

11 b. to permit a medical marijuana center to distribute marijuana  
12 to a person who is not a medical marijuana patient except that a  
13 medical marijuana center operating in good standing as of the  
14 effective date of P.L. , c. (C. ) (pending before the  
15 Legislature as this bill) may apply for a retail license to operate  
16 immediately. A license issued pursuant to this subsection may be  
17 subject to annual renewal until regulations are adopted pursuant to  
18 section 8 of P.L. , c. (C. ) (pending before the Legislature  
19 as this bill);

20 c. to permit a medical marijuana center to purchase marijuana or  
21 marijuana products in a manner or from a source not permitted  
22 under P.L.2009, c.307 (C.24:6I-1 et seq.);

23 d. to permit any medical marijuana center licensed pursuant to  
24 P.L.2009, c.307 (C.24:6I-1 et seq.) to operate on the same premises  
25 as a marijuana retailer; or

26 e. to discharge the Department of Health from its duties to  
27 regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1  
28 et seq.

29

30 23. (New section) Expungement. Any person convicted of  
31 marijuana possession as defined in paragraph (4) of subsection a. of  
32 N.J.S.2C:35-10 prior to the effective date of P.L. , c. (C. )  
33 (pending before the Legislature as this bill) shall, following the  
34 enactment of P.L. , c. (C. ) (pending before the Legislature  
35 as this bill), be eligible to present an application for expungement to  
36 the Superior Court pursuant to the provisions of chapter 52 of Title  
37 2C of the New Jersey Statutes.

38

39 24. (New section) Limitations.

40 The provisions of P.L. , c. (C. ) (pending before the  
41 Legislature as this bill) shall not be construed:

42 a. To amend or affect in any way any state or federal law  
43 pertaining to employment matters;

44 b. To amend or affect in any way any state or federal law  
45 pertaining to landlord-tenant matters;

46 c. To prohibit a recipient of a federal grant or an applicant for a  
47 federal grant from prohibiting the manufacture, delivery,

- 1 possession, or use of marijuana to the extent necessary to satisfy  
2 federal requirements for the grant;
- 3 d. To prohibit a party to a federal contract or a person applying  
4 to be a party to a federal contract from prohibiting the manufacture,  
5 delivery, possession, or use of marijuana to the extent necessary to  
6 comply with the terms and conditions of the contract or to satisfy  
7 federal requirements for the contract;
- 8 e. To require a person to violate a federal law;
- 9 f. To exempt a person from a federal law or obstruct the  
10 enforcement of a federal law.

11

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

13 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et  
14 seq.), or by P.L. , c. (C. ) (pending before the Legislature as this  
15 bill), any person who knowingly maintains or operates any  
16 premises, place or facility used for the manufacture of  
17 methamphetamine, lysergic acid diethylamide, phencyclidine,  
18 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount  
19 greater than five pounds or ten plants or any substance listed in  
20 Schedule I or II, or the analog of any such substance, or any person  
21 who knowingly aids, promotes, finances or otherwise participates in  
22 the maintenance or operations of such premises, place or facility, is  
23 guilty of a crime of the first degree and shall, except as provided in  
24 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall  
25 include the imposition of a minimum term which shall be fixed at,  
26 or between, one-third and one-half of the sentence imposed, during  
27 which the defendant shall be ineligible for parole. Notwithstanding  
28 the provisions of subsection a. of N.J.S.2C:43-3, the court may also  
29 impose a fine not to exceed \$750,000.00 or five times the street  
30 value of all controlled dangerous substances, controlled substance  
31 analogs, gamma hydroxybutyrate or flunitrazepam at any time  
32 manufactured or stored at such premises, place or facility,  
33 whichever is greater.  
34 (cf: P.L.1999, c.133, s.2)

35

36 26. (New section) Personal Use of Cannabis Resin.

37 a. Notwithstanding any other provision of law, the following acts  
38 are not unlawful and shall not be an offense or a basis for seizure or  
39 forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable  
40 law for persons 21 years of age or older:

41 (1) Possessing, using, displaying, purchasing, or transporting  
42 five grams or less of resin extracted from any part of the plant  
43 Genus Cannabis L. and any compound, manufacture, salt,  
44 derivative, mixture, or preparation of such resin, or "Hashish."

45 (2) Transfer of five grams or less of resin extracted from any  
46 part of the Genus Cannabis L. and any compound, manufacture,  
47 salt, derivative, mixture, or preparation of such resin without

1 remuneration to a person who is 21 years of age or older, provided  
2 that such transfer is for non-promotional, non-business purposes;

3 (3) Consumption of the resin extracted from any part of the  
4 plant Genus Cannabis L. and any compound, manufacture, salt,  
5 derivative, mixture, or preparation of such resin, provided that  
6 nothing in this section shall permit a person to smoke or otherwise  
7 consume such resin or its derivatives openly in a public place;

8 (4) Assisting another person who is 21 years of age or older in  
9 any of the acts described in subparagraphs (1) through (3) of this  
10 subsection.

11 b. It shall be unlawful for a person or persons to manufacture or  
12 process resin extracted from any part of the plant Genus Cannabis  
13 L. and any compound, manufacture, salt, derivative, mixture, or  
14 preparation of such resin, unless licensed to do so under the  
15 provisions of P.L. , c. (C. ) (pending before the Legislature  
16 as this bill).

17

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

19 2C:35-2. As used in this chapter:

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

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

31 "Controlled dangerous substance" means a drug, substance, or  
32 immediate precursor in Schedules I through V, any substance the  
33 distribution of which is specifically prohibited in N.J.S.2C:35-3, in  
34 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of  
35 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011,  
36 c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-  
37 5.3b), and any drug or substance which, when ingested, is  
38 metabolized or otherwise becomes a controlled dangerous substance  
39 in the human body. When any statute refers to controlled dangerous  
40 substances, or to a specific controlled dangerous substance, it shall  
41 also be deemed to refer to any drug or substance which, when  
42 ingested, is metabolized or otherwise becomes a controlled  
43 dangerous substance or the specific controlled dangerous substance,  
44 and to any substance that is an immediate precursor of a controlled  
45 dangerous substance or the specific controlled dangerous substance.  
46 The term shall not include distilled spirits, wine, malt beverages, as  
47 those terms are defined or used in R.S.33:1-1 et seq., or tobacco and  
48 tobacco products. The term, wherever it appears in any law or

1 administrative regulation of this State, shall include controlled  
2 substance analogs.

3 "Controlled substance analog" means a substance that has a  
4 chemical structure substantially similar to that of a controlled  
5 dangerous substance and that was specifically designed to produce  
6 an effect substantially similar to that of a controlled dangerous  
7 substance. The term shall not include a substance manufactured or  
8 distributed in conformance with the provisions of an approved new  
9 drug application or an exemption for investigational use within the  
10 meaning of section 505 of the "Federal Food, Drug and Cosmetic  
11 Act," 52 Stat. 1052 (21 U.S.C. s.355).

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

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

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

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

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

44 "Drug or alcohol dependent person" means a person who as a  
45 result of using a controlled dangerous substance or controlled  
46 substance analog or alcohol has been in a state of psychic or  
47 physical dependence, or both, arising from the use of that controlled  
48 dangerous substance or controlled substance analog or alcohol on a

1 continuous or repetitive basis. Drug or alcohol dependence is  
2 characterized by behavioral and other responses, including but not  
3 limited to a strong compulsion to take the substance on a recurring  
4 basis in order to experience its psychic effects, or to avoid the  
5 discomfort of its absence.

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

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

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

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

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

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

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

47 "Opiate" means any dangerous substance having an addiction-  
48 forming or addiction-sustaining liability similar to morphine or

1 being capable of conversion into a drug having such addiction-  
2 forming or addiction-sustaining liability. It does not include, unless  
3 specifically designated as controlled pursuant to the provisions of  
4 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer  
5 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
6 It does include its racemic and levorotatory forms.

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

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

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

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

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

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

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

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

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

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

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

43 "Immediate precursor" means a substance which the Division of  
44 Consumer Affairs in the Department of Law and Public Safety has  
45 found to be and by regulation designates as being the principal  
46 compound commonly used or produced primarily for use, and  
47 which is an immediate chemical intermediary used or likely to be  
48 used in the manufacture of a controlled dangerous substance or

1 controlled substance analog, the control of which is necessary to  
2 prevent, curtail, or limit such manufacture.

3 "Residential treatment facility" means any facility licensed and  
4 approved by the Department of Human Services and which is  
5 approved by any county probation department for the inpatient  
6 treatment and rehabilitation of drug or alcohol dependent persons.

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

14 "State" means the State of New Jersey.

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

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

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

30 "Stramonium plant" means the plant *Datura Stramonium* Linne,  
31 including *Datura Tatula* Linne.

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

33

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

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

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

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

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

46 (1) Heroin, or its analog, or coca leaves and any salt, compound,  
47 derivative, or preparation of coca leaves, and any salt, compound,  
48 derivative, or preparation thereof which is chemically equivalent or

1 identical with any of these substances, or analogs, except that the  
2 substances shall not include decocainized coca leaves or extractions  
3 which do not contain cocaine or ecogine, or 3,4-  
4 methylenedioxyamphetamine or 3,4-  
5 methylenedioxyamphetamine, in a quantity of five ounces or more  
6 including any adulterants or dilutants is guilty of a crime of the first  
7 degree. The defendant shall, except as provided in N.J.S.2C:35-12,  
8 be sentenced to a term of imprisonment by the court. The term of  
9 imprisonment shall include the imposition of a minimum term  
10 which shall be fixed at, or between, one-third and one-half of the  
11 sentence imposed, during which the defendant shall be ineligible for  
12 parole. Notwithstanding the provisions of subsection a. of  
13 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

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

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

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

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

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

45 (7) Lysergic acid diethylamide, or its analog, in a quantity of  
46 less than 100 milligrams including any adulterants or dilutants, or  
47 where the amount is undetermined, or phencyclidine, or its analog,  
48 in a quantity of less than 10 grams including any adulterants or



1 dilutants, or where the amount is undetermined, is guilty of a crime  
2 of the second degree;

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

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

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

17 (10) (a) Marijuana in a quantity of 25 pounds or more including  
18 any adulterants or dilutants, or 50 or more marijuana plants,  
19 regardless of weight, or hashish in a quantity of five pounds or  
20 more including any adulterants or dilutants, is guilty of a crime of  
21 the first degree. Notwithstanding the provisions of subsection a. of  
22 N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;

23 (b) Marijuana in a quantity of five pounds or more but less than  
24 25 pounds including any adulterants or dilutants, or 10 or more but  
25 fewer than 50 marijuana plants, regardless of weight, or hashish in a  
26 quantity of one pound or more but less than five pounds, including  
27 any adulterants and dilutants, is guilty of a crime of the second  
28 degree;

29 (11) Marijuana in a quantity of one ounce or more but less than  
30 five pounds including any adulterants or dilutants, or hashish in a  
31 quantity of five grams or more but less than one pound including  
32 any 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 \$25,000.00 may be imposed;

35 (12) **【**Marijuana in a quantity of less than one ounce including  
36 any adulterants or dilutants, or hashish in a quantity of less than five  
37 grams including any adulterants or dilutants, is guilty of a crime of  
38 the fourth degree;**】** (Deleted by amendment, P.L. c. ) (pending  
39 before the Legislature as this bill)

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

45 (14) Any Schedule V substance, or its analog, is guilty of a  
46 crime of the fourth degree except that, notwithstanding the  
47 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
48 \$25,000.00 may be imposed.

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

11 (cf: P.L.2000, c.136)

12

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

15 1. Except as authorized by P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending  
16 before the Legislature as this bill):

17 a. Any person who violates subsection a. of N.J.S.2C:35-5 by  
18 distributing, dispensing or possessing with intent to distribute a  
19 controlled dangerous substance or controlled substance analog  
20 while on any school property used for school purposes which is  
21 owned by or leased to any elementary or secondary school or school  
22 board, or within 1,000 feet of such school property or a school bus,  
23 or while on any school bus, is guilty of a crime of the third degree  
24 and shall, except as provided in N.J.S.2C:35-12, be sentenced by  
25 the court to a term of imprisonment. Where the violation involves  
26 less than one ounce of marijuana, the term of imprisonment shall  
27 include the imposition of a minimum term which shall be fixed at,  
28 or between, one-third and one-half of the sentence imposed, or one  
29 year, whichever is greater, during which the defendant shall be  
30 ineligible for parole. In all other cases, the term of imprisonment  
31 shall include the imposition of a minimum term which shall be  
32 fixed at, or between, one-third and one-half of the sentence  
33 imposed, or three years, whichever is greater, during which the  
34 defendant shall be ineligible for parole. Notwithstanding the  
35 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
36 \$150,000 may also be imposed upon any conviction for a violation  
37 of this section.

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

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

47 (b) the specific location of the present offense in relation to the  
48 school property, including distance from the school and the

1 reasonable likelihood of exposing children to drug-related activities  
2 at that location;

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

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

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

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

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

14 If the court at sentencing elects not to impose a minimum term of  
15 imprisonment and parole ineligibility pursuant to this subsection,  
16 imposes a term of parole ineligibility less than the minimum term  
17 prescribed in subsection a. of this section, or places the defendant  
18 on probation for a violation of subsection a. of this section, the  
19 sentence shall not become final for 10 days in order to permit the  
20 prosecution to appeal the court's finding and the sentence imposed.  
21 The Attorney General shall develop guidelines to ensure the  
22 uniform exercise of discretion in making determinations regarding  
23 whether to appeal a decision to waive or reduce the minimum term  
24 of parole ineligibility or place the defendant on probation.

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

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

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

44 e. It is an affirmative defense to prosecution for a violation of  
45 this section that the prohibited conduct took place entirely within a  
46 private residence, that no person 17 years of age or younger was  
47 present in such private residence at any time during the commission  
48 of the offense, and that the prohibited conduct did not involve

1 distributing, dispensing or possessing with the intent to distribute or  
2 dispense any controlled dangerous substance or controlled  
3 substance analog for profit. The affirmative defense established in  
4 this section shall be proved by the defendant by a preponderance of  
5 the evidence. Nothing herein shall be construed to establish an  
6 affirmative defense with respect to a prosecution for an offense  
7 defined in any other section of this chapter.

8 f. In a prosecution under this section, a map produced or  
9 reproduced by any municipal or county engineer for the purpose of  
10 depicting the location and boundaries of the area on or within 1,000  
11 feet of any property used for school purposes which is owned by or  
12 leased to any elementary or secondary school or school board, or a  
13 true copy of such a map, shall, upon proper authentication, be  
14 admissible and shall constitute prima facie evidence of the location  
15 and boundaries of those areas, provided that the governing body of  
16 the municipality or county has adopted a resolution or ordinance  
17 approving the map as official finding and record of the location and  
18 boundaries of the area or areas on or within 1,000 feet of the school  
19 property. Any map approved pursuant to this section may be  
20 changed from time to time by the governing body of the  
21 municipality or county. The original of every map approved or  
22 revised pursuant to this section, or a true copy thereof, shall be filed  
23 with the clerk of the municipality or county, and shall be  
24 maintained as an official record of the municipality or county.  
25 Nothing in this section shall be construed to preclude the  
26 prosecution from introducing or relying upon any other evidence or  
27 testimony to establish any element of this offense; nor shall this  
28 section be construed to preclude the use or admissibility of any map  
29 or diagram other than one which has been approved by the  
30 governing body of a municipality or county, provided that the map  
31 or diagram is otherwise admissible pursuant to the Rules of  
32 Evidence.

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

34  
35 30. Section 1 of P.L.1997, c.327 (C.2C:35-7.1) is amended to  
36 read as follows:

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

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

46 b. It shall be no defense to a prosecution for violation of this  
47 section that the actor was unaware that the prohibited conduct took

1 place while on or within 500 feet of a public housing facility, a  
2 public park, or a public building.

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 Nothing in this section shall be construed to preclude or limit a  
9 prosecution or conviction for a violation of N.J.S.2C:35-7 or any  
10 other offense defined in this chapter.

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

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

1 or diagram is otherwise admissible pursuant to the Rules of  
2 Evidence.

3 f. As used in this act:

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

11 "Public park" means a park, recreation facility or area or  
12 playground owned or controlled by a State, county or local  
13 government unit.

14 "Public building" means any publicly owned or leased library or  
15 museum.

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

17

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

19 2C:35-10. Possession, Use or Being Under the Influence, or  
20 Failure to Make Lawful Disposition.

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

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

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

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

44 (4) Possession of **【50 grams or less】** more than one ounce  
45 (28.38 grams) but less than 50 grams, of marijuana, including any  
46 adulterants or dilutants, **【or five grams or less of hashish】** is a  
47 disorderly person.

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

5 In a prosecution under this subsection, it shall not be necessary  
6 for the State to prove that the accused did use or was under the  
7 influence of any specific drug, but it shall be sufficient for a  
8 conviction under this subsection for the State to prove that the  
9 accused did use or was under the influence of some controlled  
10 dangerous substance, counterfeit controlled dangerous substance, or  
11 controlled substance analog, by proving that the accused did  
12 manifest physical and physiological symptoms or reactions caused  
13 by the use of any controlled dangerous substance or controlled  
14 substance analog.

15 c. Any person who knowingly obtains or possesses a controlled  
16 dangerous substance or controlled substance analog in violation of  
17 subsection a. of this section and who fails to voluntarily deliver the  
18 substance to the nearest law enforcement officer is guilty of a  
19 disorderly persons offense. Nothing in this subsection shall be  
20 construed to preclude a prosecution or conviction for any other  
21 offense defined in this title or any other statute.

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

23  
24 32. N.J.S 2C:36-1 is amended to read as follows:

25 2C:36-1. Drug paraphernalia, defined; determination.

26 **【As】** Except as authorized by P.L. , c. (C. ) (pending  
27 before the Legislature as this bill), as used in this act, "drug  
28 paraphernalia" means all equipment, products and materials of any  
29 kind which are used or intended for use in planting, propagating,  
30 cultivating, growing, harvesting, manufacturing, compounding,  
31 converting, producing, processing, preparing, testing, analyzing,  
32 packaging, repackaging, storing, containing, concealing, ingesting,  
33 inhaling, or otherwise introducing into the human body a controlled  
34 dangerous substance, controlled substance analog or toxic chemical  
35 in violation of the provisions of chapter 35 of this title. It shall  
36 include, but not be limited to: a. kits used or intended for use in  
37 planting, propagating, cultivating, growing or harvesting of any  
38 species of plant which is a controlled dangerous substance or from  
39 which a controlled dangerous substance can be derived; b. kits used  
40 or intended for use in manufacturing, compounding, converting,  
41 producing, processing, or preparing controlled dangerous  
42 substances or controlled substance analogs; c. isomerization devices  
43 used or intended for use in increasing the potency of any species of  
44 plant which is a controlled dangerous substance; d. testing  
45 equipment used or intended for use identifying, or in analyzing the  
46 strength, effectiveness or purity of controlled dangerous substances  
47 or controlled substance analogs; e. scales and balances used or  
48 intended for use in weighing or measuring controlled dangerous

1 substances or controlled substance analogs; f. dilutants and  
2 adulterants, such as quinine hydrochloride, mannitol, mannite,  
3 dextrose and lactose, used or intended for use in cutting controlled  
4 dangerous substances or controlled substance analogs; g.  
5 **【**separation gins and sifters used or intended for use in removing  
6 twigs and seeds from, or in otherwise cleaning or refining,  
7 marihuana;**】** h. blenders, bowls, containers, spoons and mixing  
8 devices used or intended for use in compounding controlled  
9 dangerous substances or controlled substance analogs; i. capsules,  
10 balloons, envelopes and other containers used or intended for use in  
11 packaging small quantities of controlled dangerous substances or  
12 controlled substance analogs; j. containers and other objects used or  
13 intended for use in storing or concealing controlled dangerous  
14 substances, controlled substance analogs or toxic chemicals; k.  
15 objects used or intended for use in ingesting, inhaling, or otherwise  
16 introducing **【**marihuana,**】** cocaine, **【**hashish, hashish oil,**】** nitrous  
17 oxide or the fumes of a toxic chemical into the human body, such  
18 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes  
19 with or without screens, permanent screens, **【**hashish heads,**】** or  
20 punctured metal bowls; (2) **【**water pipes; (3)**】** carburetion tubes and  
21 devices; **【**(4)**】** (3) smoking and carburetion masks; **【**(5)**】** roach clips,  
22 meaning objects used to hold burning material, such as a marihuana  
23 cigarette, that has become too small or too short to be held in the  
24 hand; (6)**】** (4) miniature cocaine spoons, and cocaine vials; **【**(7)**】**  
25 (5) chamber pipes; **【**(8)**】** (6) carburetor pipes; **【**(9)**】** (7) electric  
26 pipes; **【**(10)**】** (8) air-driven pipes; **【**(11)**】** (9) chillums; **【**(12)**】** (10)  
27 bongs; **【**(13)**】** (11) ice pipes or chillers; **【**(14)**】** (12) compressed gas  
28 containers, such as tanks, cartridges or canisters, that contain food  
29 grade or pharmaceutical grade nitrous oxide as a principal  
30 ingredient; **【**(15)**】** (13) chargers or charging bottles, meaning metal,  
31 ceramic or plastic devices that contain an interior pin that may be  
32 used to expel compressed gas from a cartridge or canister; and  
33 **【**(16)**】** (14) tubes, balloons, bags, fabrics, bottles or other containers  
34 used to concentrate or hold in suspension a toxic chemical or the  
35 fumes of a toxic chemical.

36 In determining whether or not an object is drug paraphernalia,  
37 the trier of fact, in addition to or as part of the proofs, may consider  
38 the following factors: a. statements by an owner or by anyone in  
39 control of the object concerning its use; b. the proximity of the  
40 object of illegally possessed controlled dangerous substances,  
41 controlled substance analogs or toxic chemicals; c. the existence of  
42 any residue of illegally possessed controlled dangerous substances,  
43 controlled substance analogs or toxic chemicals on the object; d.  
44 direct or circumstantial evidence of the intent of an owner, or of  
45 anyone in control of the object, to deliver it to persons whom he  
46 knows intend to use the object to facilitate a violation of this act;  
47 the innocence of an owner, or of anyone in control of the object, as



1 to a direct violation of this act shall not prevent a finding that the  
2 object is intended for use as drug paraphernalia; e. instructions, oral  
3 or written, provided with the object concerning its use; f.  
4 descriptive materials accompanying the object which explain or  
5 depict its use; g. national or local advertising whose purpose the  
6 person knows or should know is to promote the sale of objects  
7 intended for use as drug paraphernalia; h. the manner in which the  
8 object is displayed for sale; i. the existence and scope of legitimate  
9 uses for the object in the community; and j. expert testimony  
10 concerning its use.

11 (cf: P.L. 2007, c.31, s.2)

12

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

15 **【No】** Except as authorized by P.L. , c. (C. ) (pending  
16 before the Legislature as this bill), no person shall operate a motor  
17 vehicle on any highway while knowingly having in his possession  
18 or in the motor vehicle any controlled dangerous substance as  
19 classified in Schedules I, II, III, IV and V of the "New Jersey  
20 Controlled Dangerous Substances Act," P.L.1970, c.226 (C. 24:21-1  
21 et seq.) or any prescription legend drug, unless the person has  
22 obtained the substance or drug from, or on a valid written  
23 prescription of, a duly licensed physician, veterinarian, dentist or  
24 other medical practitioner licensed to write prescriptions intended  
25 for the treatment or prevention of disease in man or animals or  
26 unless the person possesses a controlled dangerous substance  
27 pursuant to a lawful order of a practitioner or lawfully possesses a  
28 Schedule V substance.

29 A person who violates this section shall be fined not less than  
30 **【\$50.00】** \$50 and shall forthwith forfeit his right to operate a motor  
31 vehicle for a period of two years from the date of his conviction.

32 (cf: P.L. 1985, c. 239, s. 1)

33

34 34. (New section) Consumer Protections.

35 a. Individuals and licensed marijuana establishments shall not be  
36 subject to arrest, prosecution, or penalty in any manner, or denied  
37 any right or privilege, including but not limited to civil liability or  
38 disciplinary action by a business, occupational, or professional  
39 licensing board or bureau, solely for conduct permitted under this  
40 act.

41 b. The presence of cannabinoid metabolites in the bodily fluids  
42 of a person engaged in conduct permitted under P.L. ,

43 c. (C. ) (pending before the Legislature as this bill) by:

44 (1) a student, employee, or tenant, shall not form the basis for  
45 refusal to enroll or employ or lease to or otherwise penalize that  
46 person, unless failing to do so would put the school, employer, or  
47 landlord in violation of federal law or cause it to lose a federal  
48 contract or funding;

1 (2) a patient, shall not constitute the use of an illicit substance  
2 resulting in denial of medical care, including organ transplant, and a  
3 patient's use of marijuana may only be considered with respect to  
4 evidence-based clinical criteria; iii. a parent or legal guardian of a  
5 child or newborn infant, or a pregnant woman, shall not form the  
6 sole or primary basis for any action or proceeding by the Division  
7 of Child Protection and Permanency, or any successor agencies.

8  
9 35. (New section) a. Law enforcement agencies in New Jersey  
10 shall not cooperate with or provide assistance to the government of  
11 the United States or any agency thereof in enforcing the Controlled  
12 Substance Act, 21 U.S.C. 801 et seq., solely for actions consistent  
13 with P.L. , c. (C. ) (pending before the Legislature as this  
14 bill), except as pursuant to a valid court order.

15 b. No agency or subdivision of an agency of the State of New  
16 Jersey may refuse to perform any duty under P.L. , c. (C. )  
17 (pending before the Legislature as this bill) on the basis that  
18 manufacturing, distributing, dispensing, possessing, or using  
19 marijuana is prohibited by federal law.

20 c. The division may not revoke or refuse to issue or renew a  
21 license P.L. c. (C. ) (pending before the Legislature as this  
22 bill) on the basis that manufacturing, distributing, dispensing,  
23 possessing, or using marijuana is prohibited by federal law.

24  
25 36. (New section) Contract Enforceability.

26 No contract shall be unenforceable on the basis that  
27 manufacturing, distributing, dispensing, possessing, or using  
28 marijuana is prohibited by federal law. No contract entered into by  
29 a licensee, its employees, or its agents as permitted pursuant to a  
30 valid license issued by the division, or by those who allow property  
31 to be used by a licensee, its employees, or its agents as permitted  
32 pursuant to a valid license issued by the division, shall be deemed  
33 unenforceable on the basis that the actions or conduct permitted  
34 pursuant to the license are prohibited by federal law.

35  
36 37. (New section) Criminal Investigation.

37 a. None of the following shall, individually or in combination,  
38 constitute reasonable articulable suspicion of a crime:

39 (1) The odor of marijuana or burnt marijuana;

40 (2) The possession of or the suspicion of possession of  
41 marijuana without evidence of quantity in excess of one ounce;

42 (3) The possession of marijuana without evidence of quantity in  
43 excess of one ounce in proximity to any amount of cash or  
44 currency;

45 b. Subsection a. of this section shall not apply when a law  
46 enforcement officer is investigating whether a person is driving  
47 under the influence of marijuana or driving while impaired by  
48 marijuana in violation of R.S.39:4-50.

1       38. (New section) All fees and penalties collected by the  
2 Director of the Division of Marijuana Enforcement pursuant to the  
3 provisions of P.L. c. (C. ) (pending before the Legislature as  
4 this bill) shall be forwarded to the State Treasurer for deposit in a  
5 special nonlapsing fund which shall be known as the Marijuana  
6 Control and Regulation Fund. Monies in the fund shall be used  
7 exclusively for the operation of the Division of Marijuana  
8 Enforcement and for reimbursement of all additional costs of  
9 enforcement of the provisions of P.L. c. (C. ) (pending  
10 before the Legislature as this bill) incurred by the Department of  
11 Law and Public Safety.

12  
13       39. (New section) Marijuana Regulation Review Commission.

14       a. The Marijuana Regulation Review Commission shall consist  
15 of one member appointed by the Governor, one member appointed  
16 by the President of the Senate who shall be a member of the Senate,  
17 and one member appointed by the Speaker of the General Assembly  
18 who shall be a member of the General Assembly. The presiding  
19 officer of the commission shall be determined by the members. The  
20 members of the commission shall serve without pay in connection  
21 with all such duties as are prescribed in P.L. , c. (C. )  
22 (pending before the Legislature as this bill).

23       b. The commission shall call upon the Department of Law and  
24 Public Safety to assist in any staff or clerical functions of the  
25 commission.

26       c. Meetings of commission, copies of minutes.

27       All meetings of the commission shall be open to the public and  
28 all the business of the commission shall be transacted at public  
29 meetings held at such time and place as the commission shall  
30 prescribe. The commission shall meet at such times as determined  
31 by the chairperson of the commission.

32       The secretary shall transmit to each member of the commission a  
33 copy of the minutes of each meeting within twenty-four hours after  
34 the adjournment thereof. The minutes of the commission shall be  
35 open to inspection by any citizen of the State at all times during  
36 business hours.

37       d. Rules. The commission shall formulate and adopt rules of  
38 procedure for the commission in exercising its powers and fulfilling  
39 its duties under P.L. , c. (C. ) (pending before the  
40 Legislature as this bill).

41       e. Number of members necessary to act. The concurrence of  
42 two of the members of the commission shall be necessary to  
43 validate all acts of the commission.

44       f. Annual report to Legislature. The commission shall make an  
45 annual detailed report of its actions and operations to the  
46 Legislature and render such other reports to the Legislature as it  
47 shall from time to time require.

48       g. Powers and duties of commission.

1 The Marijuana Regulation Review Commission shall review and  
2 approve regulations developed by the division pursuant to section 8  
3 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
4 and may require regulations as deemed necessary. The commission  
5 shall have such other and further powers and perform such other  
6 and further duties as may be conferred or imposed upon it from time  
7 to time by the Legislature.

8  
9 40. (New section) Following the enactment of, but prior to the  
10 effective date of, P.L. , c. (C. ) (pending before the  
11 Legislature as this bill), possession of up to 50 grams of marijuana  
12 shall constitute a civil violation not subject to arrest, and limited to  
13 a fine of up to \$100, notwithstanding the provisions of N.J.S.2C:35-  
14 10.

15  
16 41. This act shall take effect on the 360th day following  
17 enactment, but the director may take such anticipatory action as  
18 may be necessary to effectuate the provisions of this act.

19  
20  
21 STATEMENT

22  
23 This bill would legalize the possession and personal use of small  
24 amounts of marijuana for persons age 21 and over.

25 Section 3 of the bill specifies that the following acts are not  
26 unlawful and would not be an offense or a basis for seizure or  
27 forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable  
28 law for persons 21 years of age or older:

- 29
- 30 • possessing, using, displaying, purchasing, or transporting  
31 marijuana accessories or one ounce or less of marijuana  
32 and certain other related products;
  - 33 • transfer of one ounce or less of marijuana or other related  
34 products to a person who is 21 years of age or older;
  - 35 • consumption of marijuana, provided that nothing in the  
36 bill would permit consumption that is conducted openly  
37 and publicly; or
  - 38 • assisting another person who is 21 years of age or older in  
39 any of the acts described above.

40 Section 4 of the bill provides that the following acts would also  
41 not be unlawful or a basis for seizure or forfeiture of assets for  
42 persons 21 years of age or older:

- 43
- 44 • manufacture, possession, or purchase of marijuana  
45 accessories or the sale of marijuana accessories to a  
46 person who is 21 years of age or older;
  - 47 • possessing, displaying, or transporting marijuana or  
48 marijuana products; purchase of marijuana from a  
marijuana cultivation facility; purchase of marijuana or  
marijuana products from a marijuana product

- 1 manufacturing facility; or sale of marijuana or marijuana  
2 products to consumers, if the person conducting the  
3 activities has obtained a current, valid license to operate a  
4 retail marijuana store or is acting in his capacity as an  
5 owner, employee or agent of a licensed retail marijuana  
6 store;
- 7 • cultivating, harvesting, processing, packaging,  
8 transporting, displaying, or possessing marijuana;  
9 delivery or transfer of marijuana to a marijuana testing  
10 facility; selling marijuana to a marijuana cultivation  
11 facility, a marijuana product manufacturing facility, or a  
12 retail marijuana store; or the purchase of marijuana from  
13 a marijuana cultivation facility, if the person conducting  
14 the activities has obtained a current, valid license to  
15 operate a marijuana cultivation facility or is acting in his  
16 capacity as an owner, employee, or agent of a licensed  
17 marijuana cultivation facility;
  - 18 • packaging, processing, transporting, manufacturing,  
19 displaying, or possessing marijuana or marijuana  
20 products; delivery or transfer of marijuana or marijuana  
21 products to a marijuana testing facility; selling marijuana  
22 or marijuana products to a retail marijuana store or a  
23 marijuana product manufacturing facility; the purchase of  
24 marijuana from a marijuana cultivation facility; or the  
25 purchase of marijuana or marijuana products from a  
26 marijuana product manufacturing facility, if the person  
27 conducting the activities has obtained a current, valid  
28 license to operate a marijuana product manufacturing  
29 facility or is acting in his capacity as an owner, employee,  
30 or agent of a licensed marijuana product manufacturing  
31 facility;
  - 32 • possessing, cultivating, processing, repackaging, storing,  
33 transporting, displaying, transferring or delivering  
34 marijuana or marijuana products if the person has  
35 obtained a current, valid license to operate a marijuana  
36 testing facility or is acting in his capacity as an owner,  
37 employee, or agent of a licensed marijuana testing  
38 facility;
  - 39 • leasing or otherwise allowing the use of property owned,  
40 occupied or controlled by any person, corporation or  
41 other entity for any of the activities conducted lawfully.

42 Sections 7 and 8 describe the powers and duties of the newly  
43 created Division of Marijuana Enforcement and the regulation of  
44 marijuana generally. The bill provides for the division to adopt  
45 rules and regulations necessary for implementation of the bill. The  
46 regulations could not prohibit the operation of marijuana  
47 establishments, either expressly or through regulations that make  
48 their operation unreasonably impracticable. The bill would require

1 regulations to include the following: procedures for the application,  
2 issuance, denial, renewal, suspension, and revocation of a license to  
3 operate a marijuana establishment; the establishment by the division  
4 of license application fees. Additional required regulations must  
5 include licensing goals for minority owned and female owned  
6 businesses under the act; security requirements for marijuana  
7 establishments; requirements to prevent the sale or diversion of  
8 marijuana and marijuana products to underage persons; labeling and  
9 packaging requirements; health and safety regulations and standards  
10 for the manufacture and sale of marijuana products; advertisement  
11 restrictions; procedures for the division to conduct unannounced  
12 visits to marijuana establishments; a requirement that only  
13 marijuana, marijuana based products and paraphernalia be available  
14 for sale at a marijuana establishment; and civil penalties for the  
15 failure to comply with established regulations.

16 Section 9 mandates that the division develop a system for  
17 tracking the transfer of marijuana items between licensed premises  
18 capable, at a minimum, of tracking among other categories, the  
19 propagation of immature marijuana plants, the processing of  
20 marijuana by a processor, the receiving, storing and delivering of  
21 marijuana items by a wholesaler, the sale of marijuana items by a  
22 marijuana retailer to a consumer; the purchase and sale of marijuana  
23 items between licensees, the transfer of marijuana items between  
24 licensed premises; and the collection of taxes imposed upon the  
25 retail sale of marijuana items.

26 Section 10 of the bill establishes a tax levied upon marijuana  
27 sold or otherwise transferred by a marijuana cultivation facility to a  
28 marijuana product manufacturing facility or to a retail marijuana  
29 store. To encourage early participation in and development of  
30 marijuana establishments and to undermine the illegal market, the  
31 bill proposes an escalating tax rate of seven percent in the first year;  
32 10 percent in year two; 15% in year three; 20% in year four; and  
33 25% in year five and beyond. The Department of the Treasury  
34 would establish procedures for the collection of all taxes levied.

35 The bill specifies that no tax would be levied upon marijuana  
36 intended for sale at medical marijuana centers pursuant to the “New  
37 Jersey Compassionate Use Medical Marijuana Act,” P.L.2009,  
38 c.307 (C.24:6I-1 et seq.).

39 Section 11 provides for local governmental entity regulations or  
40 ordinances. The bill provides that each local governmental entity  
41 shall enact an ordinance or regulation specifying the entity within  
42 the local governmental entity that is responsible for processing  
43 applications submitted for a license to operate a marijuana  
44 establishment within the boundaries of the local governmental  
45 entity and for the issuance of such licenses, should the issuance by  
46 the local governmental entity become necessary because of a failure  
47 by the division to adopt regulations or to process and issue licenses.

1 The local governmental entity may enact ordinances or  
2 regulations, not in conflict with the provisions of the bill, that  
3 address the following:

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

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

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

14 -- establishing civil penalties for violation of an ordinance or  
15 regulation governing the time, place, and manner of a marijuana  
16 establishment that may operate in such local governmental entity.

17 The bill provides that a local governmental entity may prohibit  
18 the operation of marijuana cultivation facilities, marijuana product  
19 manufacturing facilities, marijuana testing facilities, or retail  
20 marijuana stores through the enactment of an ordinance. Under the  
21 bill, the failure of a local governmental entity to enact an ordinance  
22 prohibiting the operation of a marijuana establishment shall thereby  
23 permit the operation of a marijuana retail establishment within the  
24 local governmental entity for a period of five years, at the end of  
25 which five year period, and every five year period thereafter, the  
26 local governmental entity shall again be permitted to prohibit the  
27 operation of a marijuana establishment.

28 Section 12 establishes the application process. Under the bill,  
29 each application for an annual license to operate a marijuana  
30 establishment would be submitted to the division. A separate  
31 license shall be required for each location at which a marijuana  
32 establishment seeks to operate. Renewal applications may be filed  
33 up to 90 days prior to the expiration of the establishment's license.

34 Sections 13 through 18 establish the different classes of licenses  
35 and the requirements to obtain licensure.

36 A marijuana producer must have a Class 1 Marijuana Cultivation  
37 Facility license issued by the division for the premises at which the  
38 marijuana is produced.

39 A marijuana processor must have a Class 1 Marijuana Product  
40 Manufacturing Facility license issued by the division for the  
41 premises at which the marijuana is processed.

42 A marijuana wholesaler must have a Class 2 Marijuana  
43 Wholesaler license issued by the division for the premises at which  
44 the marijuana is warehoused.

45 A marijuana retailer must have a Class 3 Marijuana Retailer  
46 license issued by the division for the premises at which the  
47 marijuana is retailed.

1 A marijuana transporter must have a Class 4 Marijuana  
2 Transportation license issued by the division.

3 All prospective licensees must complete application  
4 requirements, meet residency requirements, and undergo a criminal  
5 history record background check.

6 Section 22 provides that a currently operating medical marijuana  
7 facility operating in good standing can immediately apply for a  
8 license to operate to distribute marijuana to a person who is not a  
9 medical marijuana patient.

10 Section 23 permits a person convicted of marijuana possession to  
11 present an application for expungement to the Superior Court.

12 Sections 25 through 33 update existing sections of law to reflect  
13 the decriminalization of marijuana under the bill.

14 Section 38 establishes that all fees and penalties collected by the  
15 Director of the Division of Marijuana Enforcement shall be  
16 forwarded to the State Treasurer for deposit in a special nonlapsing  
17 fund which shall be known as the Marijuana Control and Regulation  
18 Fund. Monies in the fund shall be used exclusively for the  
19 operation of the Division of Marijuana Enforcement and for  
20 reimbursement of all additional costs of enforcement

21 Section 39 establishes a Marijuana Regulation Review  
22 Commission which shall be responsible to review and approve  
23 regulations developed by the division. The commission shall  
24 consist of three members as follows: one member appointed by the  
25 Governor, who shall be the presiding officer, one member  
26 appointed by the President of the Senate, who shall be a member of  
27 the Senate, and one member appointed by the Speaker of the  
28 General Assembly, who shall be a member of the General  
29 Assembly. The concurrence of two of the members of the  
30 commission shall be necessary to validate all acts of the  
31 commission.

32 Section 40 provides that following enactment of the legislation  
33 but prior to the effective date, established as one year following  
34 enactment, the possession of up to 50 grams of marijuana shall  
35 constitute a civil violation not subject to arrest, and limited to a fine  
36 of up to \$100.

37 The bill shall take effect on the 360<sup>th</sup> day following enactment,  
38 but the director may take such anticipatory action as may be  
39 necessary to effectuate the provisions.