

ASSEMBLY, No. 3581

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 12, 2018

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/23/2018)

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

3

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

6

7 1. This act shall be known and may be cited as “New Jersey
8 Adult Recreational Use Marijuana Law.”

9

10 2. (New Section) Findings. The Legislature finds and declares
11 that:

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

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

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

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

23 e. New Jersey law enforcement officers made over 24,000
24 arrests for marijuana possession in 2012, more than in the previous
25 20 years;

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

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

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

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

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

38 k. Taxing, controlling, and legalizing marijuana for adults like
39 alcohol will strike a blow at the illegal enterprises that profit from
40 New Jersey’s current, unregulated marijuana illegal market;

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

44 m. New Jersey must enhance State-supported programming that
45 provides appropriate, evidence-based treatment for those who suffer

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 from the illness of drug addiction;

2 n. Controlling and regulating the manufacture, distribution, and
3 sale of marijuana will strengthen our ability to keep marijuana away
4 from minors;

5 o. A controlled system of marijuana manufacturing,
6 distribution, and sale must be designed in a way that enhances
7 public health and minimizes harms to New Jersey communities and
8 families;

9 p. The regulated marijuana system in New Jersey must be
10 regulated so as to prevent persons younger than 21 years of age
11 from accessing or purchasing marijuana;

12 q. A marijuana arrest in New Jersey can have a debilitating
13 impact on a person's future, including consequences for one's job
14 prospects, housing access, financial health, familial integrity,
15 immigration status, and educational opportunities;

16 r. The tax revenue generated from a controlled marijuana
17 manufacture, distribution, and retail sales system in New Jersey will
18 generate hundreds of millions of dollars to bolster effective,
19 evidence-based drug treatment and education, and to reinvest in
20 New Jersey communities;

21 s. New Jersey cannot afford to sacrifice its public safety and
22 civil rights by continuing its ineffective and wasteful marijuana
23 enforcement policies.

24

25 3. (New section) Definitions.

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

28 "Common ownership or control" shall mean:

29 Between two for-profit entities, the same individuals or entities
30 own and control over 50% of both entities;

31 Between a nonprofit entity and a for-profit entity, a majority of
32 the directors, trustees, or members of the governing body of the
33 nonprofit entity directly or indirectly own and control over 50% of
34 the for-profit entity;

35 Between two nonprofit entities, the same directors, trustees, or
36 governing body members comprise a majority of the voting
37 directors, trustees, or governing body members of both nonprofits.

38 "Consumer" means a person 21 years of age or older who
39 purchases, acquires, owns, holds or uses marijuana or marijuana
40 products for personal use by a person 21 years of age or older, but
41 not for resale to others.

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

44 "Director" means the Director of the Division of Marijuana
45 Enforcement.

46 "Division" means the Division of Marijuana Enforcement in the
47 Department of Law and Public Safety.

1 “Financial backer” means any owner, principal, officer, director,
2 employee, or other person or entity that is anticipated to or actually
3 loans or invests, directly or indirectly, \$100,000 or more to the
4 applicant.

5 “Financial consideration,” means value that is given or received
6 either directly or indirectly through sales, barter, trade, fees,
7 charges, dues, contributions or donations; but does not include:
8 homegrown marijuana that is given or received when nothing is
9 given or received in return; or homegrown marijuana products that
10 are given or received when nothing is given or received in return.

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

14 “Immature marijuana plant” means a marijuana plant that is not
15 flowering.

16 “Industrial hemp” means the plant of the genus cannabis and any
17 part of such plant, whether growing or not, with a delta-9
18 tetrahydrocannabinol concentration that does not exceed three-
19 tenths percent on a dry weight basis.

20 “Interest holder” means any person or entity that holds a 5%
21 interest in the profits, losses, or ownership of the marijuana
22 establishment.

23 “Licensee” means a person who holds a license issued under this
24 act that is designated as either a Class 1 Marijuana Producer-
25 Processor license, or Class 2 Marijuana Retailer license; or a Class
26 3 Marijuana Transportation license.

27 “Licensee representative” means an owner, director, officer,
28 manager, employee, agent or other representative of a licensee, to
29 the extent that the person acts in a representative capacity.

30 “Local governmental entity” means a municipality.

31 “Marijuana” means all parts of the plant Genus Cannabis L.,
32 whether growing or not; the seeds thereof, and every compound,
33 manufacture, salt, derivative, mixture, or preparation of the plant or
34 its seeds, except those containing resin extracted from the plant; but
35 shall not include the weight of any other ingredient combined with
36 marijuana to prepare topical or oral administrations, food, drink, or
37 other product.

38 “Marijuana cultivation facility” means an entity licensed to
39 cultivate marijuana and sell marijuana to marijuana producers, to
40 marijuana product manufacturing facilities, and to other marijuana
41 cultivation facilities, but not to consumers. This entity shall hold a
42 Class 1 Marijuana Producer-Processor license.

43 “Marijuana establishment” means a marijuana cultivation
44 facility, a marijuana testing facility, a marijuana product
45 manufacturing facility, or a marijuana retailer.

46 “Marijuana extract” means a substance obtained by separating
47 resins from marijuana by: (i) a chemical extraction process using
48 the hydrocarbon-based solvent carbon dioxide, if the process uses

1 high heat or pressure; or (ii) Any other process identified by the
2 division by rule.

3 “Marijuana flowers” means the flowers of the plant Genus
4 Cannabis L. within the plant family Cannabaceae.

5 “Marijuana items” means marijuana, marijuana products, and
6 marijuana extracts.

7 “Marijuana leaves” means the leaves of the plant Genus
8 Cannabis L. within the plant family Cannabaceae.

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

16 “Marijuana processor” means a person who processes marijuana
17 items in this State. This person shall hold a Class 1 Producer-
18 Processor license.”

19 “Marijuana producer” means a person who produces marijuana
20 in this State. This person shall hold a Class 1 Producer-Processor
21 license.”

22 “Marijuana product manufacturing facility” means an entity
23 licensed to purchase marijuana; manufacture, prepare, and package
24 marijuana items; and sell items to other marijuana product
25 manufacturing facilities and to marijuana retailers, but not to
26 consumers. This entity shall hold a Class 1 Marijuana Product
27 Manufacturing Facility license.

28 “Marijuana products” means a product containing marijuana or
29 marijuana extracts and other ingredients intended for human
30 consumption or use, including a product intended to be applied to
31 the skin or hair, edible products, ointments, and tinctures.
32 Marijuana products do not include: (i) marijuana by itself; or (ii)
33 marijuana extract by itself.

34 “Marijuana retailer” means an entity licensed to purchase
35 marijuana from marijuana cultivation facilities and marijuana items
36 from marijuana product manufacturing facilities or marijuana
37 wholesalers and to sell marijuana and marijuana products to
38 consumers. This entity shall hold a Class 2 Marijuana Retailer
39 license.

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

44 “Marijuana transporter” means an entity licensed to transport
45 marijuana through and within the State of New Jersey and to
46 maintain a warehouse. This entity shall hold a Class 3 Marijuana
47 Transportation license.

1 “Mature marijuana plant” means a marijuana plant that is not an
2 immature marijuana plant.

3 “Medical marijuana alternative treatment center” means an entity
4 permitted by a State agency to sell marijuana and marijuana
5 products pursuant to the “New Jersey Compassionate Use Medical
6 Marijuana Act” P.L.2009, c.307 (C.24:6I-1 et seq.).

7 “Noncommercial” means not dependent or conditioned upon the
8 provision or receipt of financial consideration.

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

19 “Processes” means the processing, compounding, or conversion
20 of marijuana into marijuana products or marijuana extracts;
21 “Processes” does not include packaging or labeling.

22 “Produces” means the manufacture, planting, cultivation,
23 growing or harvesting of marijuana. “Produces” does not include
24 the drying of marijuana by a marijuana processor, if the marijuana
25 processor is not otherwise producing marijuana; or the cultivation
26 and growing of an immature marijuana plant by a marijuana
27 processor, marijuana wholesaler or marijuana retailer if the
28 marijuana processor, marijuana wholesaler, or marijuana retailer
29 purchased or otherwise received the plant from a licensed marijuana
30 producer.

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

39 “Radio” means a system for transmitting sound without visual
40 images, and includes broadcast, cable, on-demand, satellite, or
41 internet programming. Radio includes any audio programming
42 downloaded or streamed via the Internet.

43 “Substantially involved person” means a person or entity that is:
44 in a sole proprietorship, the proprietor; in a partnership, limited
45 partnership, limited liability partnership, or limited liability
46 company, a natural person or natural persons among its partnership
47 or membership who in the aggregate individually own or owns,
48 directly or indirectly through business entities, a twenty percent or

1 greater interest in the company; in a nonpublic corporation, a
2 natural person or natural persons among its shareholders who in the
3 aggregate individually own or owns, directly or indirectly, at least
4 twenty percent of the corporation's total outstanding shares; in a
5 publicly traded corporation or a majority-owned subsidiary of a
6 publically trades corporation, natural persons who in the aggregate
7 comprise at least twenty percent of the board of directors or
8 governing body if the publicly traded parent corporation; or in a
9 nonprofit corporation, employee cooperative, or association, natural
10 persons who in the aggregate comprise at least twenty percent of the
11 board of directors or governing body as constituted under the New
12 Jersey Nonprofit Corporation Act.

13 "Television" means a system for transmitting visual images and
14 sound that are reproduced on screens, and includes broadcast, cable,
15 on-demand, satellite, or internet programming. Television includes
16 any video programming downloaded or streamed via the Internet.

17 "THC" means delta-9-tetrahydrocannabinol, the main
18 psychoactive chemical contained in the cannabis plant.

19 "Unreasonably impracticable" means that the measures necessary
20 to comply with the regulations require such a high investment of
21 risk, money, time, or any other resource or asset that the operation
22 of a marijuana establishment is not worthy of being carried out in
23 practice by a reasonably prudent businessperson.

24

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

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

30 a. Possessing, using, purchasing, or transporting: marijuana
31 paraphernalia; one ounce or less of marijuana; 16 ounces or less of
32 marijuana infused product in solid form; 72 ounces or less in liquid
33 form; 7 grams or less of marijuana concentrate; and up to 6
34 immature marijuana plants subject to the provisions of subsection b.
35 of this section.

36 b. Transfer of one ounce or less of marijuana; 16 ounces or less
37 of marijuana infused product in solid form; 72 ounces or less in
38 liquid form; 7 grams or less of marijuana concentrate; and up to 6
39 immature plants, without financial consideration to a person who is
40 of or over the legal age for purchasing marijuana items, provided
41 that such transfer is for non-promotional, non-business purposes.

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

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

1 e. Home grow of marijuana. (1) Except as provided in
2 paragraph (2), possessing, growing, or processing, no more than six
3 marijuana plants within a house or rental unit that constitutes such
4 person's principal residence, with three or fewer being mature,
5 flowering plants, and possession of the marijuana produced by the
6 plants on the premises where the plants were grown, provided that
7 the cultivation takes place in an enclosed, locked space, is not
8 conducted openly in a public place, and provided further that all
9 persons residing within a single house or rental unit may not
10 possess, grow, process, or transport, in the aggregate, more than
11 twelve marijuana plants, with six or fewer being mature, flowering
12 plants; and provided further that marijuana cultivation may only
13 occur on property lawfully in possession of the cultivator or with
14 consent of the person in lawful possession of the property. This
15 shall not include cooperative grow operations in which an
16 individual allows another to grow their allotment on their behalf.

17 (2) A local governmental unit shall be may adopt an ordinance
18 prohibiting the home grow of marijuana.

19

20 5. (New section) Lawful operation of marijuana
21 establishments.

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

26 a. manufacture, possession, or purchase of marijuana
27 paraphernalia or the sale of marijuana paraphernalia to a person
28 who is 21 years of age or older.

29 b. possessing, displaying, or transporting marijuana items;
30 purchase of marijuana from a marijuana cultivation facility;
31 purchase of marijuana items from a marijuana product
32 manufacturing facility; or sale of marijuana items to consumers, if
33 the person conducting the activities described in this subsection has
34 obtained a current, valid license to operate as a marijuana retailer or
35 is acting in his capacity as an owner, employee, or agent of a
36 licensed marijuana retailer.

37 c. cultivating, harvesting, processing, packaging, transporting,
38 displaying, or possessing marijuana; delivery or transfer of
39 marijuana to a marijuana testing facility; selling marijuana to a
40 marijuana cultivation facility, a marijuana product manufacturing
41 facility, or a marijuana retailer; or the purchase of marijuana from a
42 marijuana cultivation facility, if the person conducting the activities
43 described in this subsection has obtained a current, valid license to
44 operate a marijuana cultivation facility or is acting in his capacity as
45 an owner, employee, or agent of a licensed marijuana cultivation
46 facility.

47 d. packaging, processing, transporting, manufacturing,
48 displaying, or possessing marijuana items; delivery or transfer of

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

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

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

19

20 6. (New section) Prohibition of Persons Under the Legal Age
21 Purchasing Marijuana.

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

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

32 c. The establishment of all of the following facts by a licensee,
33 employee, or agent, allowing any such person under the age of 21 to
34 procure marijuana items shall constitute a defense to any
35 prosecution pursuant to the provisions of subsections a. and b. of
36 this section:

37 (1) That the purchaser of the marijuana or marijuana product
38 falsely represented, by producing either a United States passport;
39 driver's license or non-driver identification card issued by the New
40 Jersey Motor Vehicle Commission; a similar card issued pursuant to
41 the laws of another state; United States military identification card;
42 or a photographic identification card issued by a county clerk, that
43 he was of legal age to make the purchase;

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

47 (3) That the sale or distribution was made in good faith, relying
48 upon the production of the identification in paragraph (1) of this

1 subsection, the minor's appearance, and in the reasonable belief that
2 the purchaser or recipient was actually of legal age to make the
3 purchase.

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

8 For purposes of this subsection, purchasing a marijuana item
9 includes accepting a marijuana item, and acquiring a marijuana item
10 includes consuming a marijuana item.

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

16 (1) Purchasing, attempting to purchase, or otherwise procuring
17 or attempting to procure marijuana or marijuana products; or

18 (2) Gaining access to a marijuana establishment.

19 f. Except as permitted by the division by rule or regulation, or
20 as necessary on an emergency basis, a person under legal age for
21 purchasing marijuana items may not enter or attempt to enter any
22 portion of a licensed premises that is posted or otherwise identified
23 as being prohibited to the use of persons under legal age for
24 purchasing marijuana items, unless accompanied by and supervised
25 by a parent or legal guardian.

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

30 h. The prohibitions of this section do not apply to a person
31 under the legal age for purchasing marijuana items who is acting
32 under the direction of the division or under the direction of State or
33 local law enforcement agencies for the purpose of investigating
34 possible violations of the laws prohibiting sale of marijuana items
35 to persons who are under the legal age for purchasing marijuana
36 items.

37 i. The prohibitions of this section do not apply to a person
38 under the legal age for purchasing marijuana items who is acting
39 under the direction of a licensee for the purpose of investigating
40 possible violations by employees of the licensee of laws prohibiting
41 sales of marijuana items to persons who are under the legal age for
42 purchasing marijuana items.

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

46 (1) The person contacted emergency medical services or a law
47 enforcement agency in order to obtain medical assistance for
48 another person who was in need of medical assistance because that

1 person consumed a marijuana item and the evidence of the violation
2 of this section was obtained as a result of the person's having
3 contacted emergency medical services or a law enforcement
4 agency; or

5 (2) The person was in need of medical assistance because the
6 person consumed a marijuana item and the evidence of the violation
7 of this section was obtained as a result of the person's having
8 sought or obtained the medical assistance.

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

13

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

16 There is hereby established in the Department of Law and Public
17 Safety a Division of Law, a Division of State Police, a Division of
18 Alcoholic Beverage Control, **[a Division of Motor Vehicles,]** a
19 Division of Weights and Measures, a Division of Marijuana
20 Enforcement and a Division of Professional Boards.

21 The Attorney General shall have the authority to organize and
22 maintain in his offices an Administrative Division and to assign to
23 employment therein such secretarial, clerical and other assistants in
24 the department as his office and the internal operations of the
25 department shall require.

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

27

28 8. (New section) Powers and duties of the division.

29 a. The Division of Marijuana Enforcement shall have all
30 powers necessary or proper to enable it to carry out the division's
31 duties, functions, and powers under P.L. , c. (C.) (pending
32 before the Legislature as this bill). The jurisdiction, supervision,
33 duties, functions, and powers of the division extend to any person
34 who buys, sells, produces, processes, transports, or delivers any
35 marijuana items within this State. The division may sue and be
36 sued.

37 b. The duties, functions and powers of the division include the
38 following:

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

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

46 (3) To investigate and aid in the prosecution of every violation
47 of the statutory laws of this State relating to marijuana items and to

1 cooperate in the prosecution of offenders before any State court of
2 competent jurisdiction.

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

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

10 (a) Issuing subpoenas;

11 (b) Compelling attendance of witnesses;

12 (c) Administering oaths;

13 (d) Certifying official acts;

14 (e) Taking depositions as provided by law;

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

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

21 (6) To adopt rules regulating and prohibiting marijuana
22 producers, marijuana processors, marijuana wholesalers, and
23 marijuana retailers from advertising marijuana items in a manner
24 that is appealing to minors; that promotes excessive use; that
25 promotes illegal activity; or that otherwise presents a significant
26 risk to public health and safety.

27 (7) To regulate the use of marijuana items for scientific,
28 pharmaceutical, manufacturing, mechanical, industrial, and other
29 purposes.

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

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

36 (2) Any State officer, board, commission, corporation,
37 institution, department, or other State body, and any local officer,
38 board, commission, institution, department, or other local
39 government body, that is permitted by the statutory laws of this
40 State to perform a duty, function, or power with respect to a
41 marijuana item, may purchase, possess, seize, or dispose of the
42 marijuana item as the State officer, board, commission, corporation,
43 institution, department or other State body, or the local officer,
44 board, commission, institution, department or other local
45 government body, considers necessary to ensure compliance with
46 and enforce the applicable statutory law or any rule adopted under
47 the applicable statutory law.

1 d. The division shall be under the immediate supervision of a
2 director. The director of the division shall be appointed by the
3 Governor, with the advice and consent of the Senate, and shall serve
4 during the term of office of the Governor appointing him and until
5 the director's successor is appointed and has qualified.

6
7 9. (New section) Regulation of marijuana.

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

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

28 (2) License application and renewal fees shall be established by
29 the division as follows:

30 (a) Class 1 Marijuana Producer-Processor: \$50,000 one-time
31 nonrefundable application fee; \$150,000 license fee due with the
32 application, which is refunded to the applicant if unsuccessful, for
33 an initial three-year license term; \$40,000 license fee thereafter for
34 each biannual renewal term

35 (b) Class 2 Marijuana Retailer: \$10,000 one-time nonrefundable
36 application fee (per location); \$22,500 license fee due with the
37 application, which is refunded to the applicant if unsuccessful, for
38 an initial three-year license term; \$10,000 license fee thereafter for
39 each biannual renewal term

40 (c) Class 3 Marijuana Transportation: \$2,500 one-time
41 nonrefundable application fee; \$7,500 nonrefundable license fee if
42 the application is successful, for an initial three-year license term;
43 \$5,000 license fee thereafter for each biannual renewal term.

44 (3) (a) The division shall establish licensing goals for New
45 Jersey residents. The division shall make good faith efforts to meet
46 these goals. Qualifications for licensure shall be directly and
47 demonstrably related to the operation of a marijuana establishment,
48 provided that the division shall make licenses available to as diverse

1 a group as possible, including, but not limited to, requirements that
2 no license of any kind shall be issued to a person under the legal
3 age to purchase marijuana items. An applicant shall have a
4 substantially involved person or persons lawfully residing in the
5 State for at least two years as of the date of application to receive a
6 license.

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

10 (c) A partnership, employee cooperative, association, nonprofit
11 corporation, or corporation unless formed under the laws of this
12 State, and unless all of the members thereof are qualified to obtain a
13 license;

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

17 (4) To ensure the participation of diverse and historically
18 disadvantaged groups in the ownership and operation of licensed
19 marijuana facilities, assuming sufficiently qualified diverse groups
20 make application, the division shall ensure that not less than fifteen
21 percent of the total number of Class 1 Marijuana Producer-
22 Processor licenses and not less than fifteen percent of the total
23 number of Class 2 Marijuana Retailer licenses throughout the State
24 are issued to established diverse group-owned applicants, meaning
25 the applicant must have been certified by the New Jersey
26 Department of the Treasury as a minority business enterprise,
27 women business enterprise pursuant to P.L.1986, c.195 (C.52:27H-
28 21.17 et seq.), or registered as a veteran-owned business pursuant to
29 P.L.2011, c.147 (C.52:32-49 et seq.), at least one year prior to the
30 date the application is submitted, or is a registered disabled veteran-
31 owned business pursuant to P.L.2015, c. 116 (C.52:32-31.1 et seq.),
32 as of the date the application is submitted. While selecting from the
33 pool of sufficiently qualified minority-owned, women-owned, or
34 veteran-owned businesses applying for licenses, the division shall
35 grant a higher preference to those applicants with up to two diverse
36 groups in its ownership composition.

37 (5) Security requirements for marijuana establishments;

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

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

46 (i) The person's passport.

- 1 (ii) The person's motor vehicle driver's license, whether issued
2 by New Jersey or by any other state, provided the license displays a
3 picture of the person.
- 4 (iii) A New Jersey identification card issued by the New Jersey
5 Motor Vehicle Commission.
- 6 (iv) A United States military identification card.
- 7 (v) A photographic identification card issued by a New Jersey
8 county clerk.
- 9 (vi) Any other identification card issued by a state that bears a
10 picture of the person, the name of the person, the person's date of
11 birth and a physical description of the person.
- 12 (b) No marijuana establishment shall employ persons under the
13 legal age to purchase marijuana items nor shall any marijuana
14 retailer allow persons under the legal age to purchase marijuana
15 items from entering or remaining on the premises of a marijuana
16 retailer unless accompanied by a parent or legal guardian;
- 17 (c) Packaging and branding regulations to prevent marketing of
18 marijuana items and marijuana paraphernalia to people under the
19 legal age to purchase marijuana items;
- 20 (7) Labeling and packaging requirements for marijuana items
21 sold or distributed by a marijuana establishment, including, but not
22 limited to, requirements that:
- 23 (a) Packaging and branding rules which prevent marketing of
24 marijuana items and marijuana paraphernalia to people under the
25 legal age to purchase marijuana items, including, but not limited to,
26 rules that prohibit any statement, illustration, or image that:
- 27 (i) Includes false statements;
- 28 (ii) Promotes over-consumption;
- 29 (iii) Depicts a child or other person under legal age consuming
30 marijuana items; or
- 31 (iv) Includes objects, such as toys, characters, or cartoon
32 characters suggesting the presence of a person under the legal age to
33 purchase marijuana items, or any other depiction designed in any
34 manner to be especially appealing to persons under the legal age to
35 purchase marijuana items;
- 36 (b) Ensure marijuana items are packaged in child-resistant
37 containers;
- 38 (c) Marijuana items warning labels adequately inform
39 consumers about safe marijuana use and warn of the consequences
40 of misuse or overuse;
- 41 (d) Labeling rules that mandate clear identification of health and
42 safety information, including, but not limited to:
- 43 (i) Net weight;
- 44 (ii) Production date and expiration date;
- 45 (iii) An ingredient list that includes, but is not limited to, all
46 ingredients used to manufacture the marijuana product and a list of
47 all potential allergens contained within the product;

- 1 (iv) Strain or type of cannabis, listed by scientific terms, if
2 available, and generic or “slang” names;
- 3 (v) Whether the product requires refrigeration;
- 4 (vi) Growth method (whether dirt grown, hydroponic, or
5 otherwise) and an indication whether or not the cannabis was grown
6 using all-organic materials and a complete list of all nonorganic
7 pesticides, fungicides and herbicides used during the cultivation of
8 the cannabis;
- 9 (vii) Serving size, the total number of servings, and a statement
10 regarding the percentage of THC contained in the marijuana
11 product and in each serving. For example: “The serving size of
12 active THC in this product is X mg. This product contains X
13 servings of marijuana, and the total amount of active THC in this
14 product is X mg.” Serving sizes are recommended to be
15 individually wrapped.
- 16 (viii) Warning labels that include, but are not limited to, one or
17 more of the following:
- 18 -- “This product contains marijuana.”
19 -- “This product is infused with marijuana”
20 -- “This product is intended for use by adults 21 years and older.
21 Keep out of the reach of children.”
22 -- “The intoxicating effects of this product may be delayed by
23 two or more hours.”
24 -- “There may be health risks associated with the consumption of
25 this product, including for women who are pregnant, breastfeeding,
26 or planning on becoming pregnant.”
27 -- “Do not drive a motor vehicle or operate heavy machinery
28 while using marijuana.”
- 29 (e) Labeling rules mandate the source of the marijuana items,
30 including, but not limited to, the license number of the marijuana
31 cultivation facility where the marijuana used to produce the
32 marijuana item was grown, the license number of the marijuana
33 product manufacturing facility that produced the marijuana item;
34 and the license number of the marijuana retailer that sold the
35 marijuana item and the production batch and lot numbers of the
36 marijuana items.
- 37 (8) Health and safety regulations and standards for the
38 manufacture and sale of marijuana products and the cultivation of
39 marijuana, including, but not limited to, requirements that:
- 40 (a) Establish accreditation and licensure criteria for marijuana
41 testing facilities;
- 42 (b) The division issues licenses for a sufficient number of
43 marijuana testing facilities, if those facilities meet the requirements
44 for licensure, in order to ensure testing of marijuana items produced
45 and sold in the State;
- 46 (c) Every licensed marijuana cultivation facility and marijuana
47 product manufacturing facility shall submit representative samples
48 of marijuana and marijuana products to marijuana testing facilities

1 for inspection and testing to certify compliance with health, safety,
2 and potency standards adopted by the division on a schedule set by
3 the division. Any sample remaining after testing shall be destroyed
4 or returned to the licensee;

5 (d) Prescribe methods of producing, processing, and packaging
6 marijuana items; conditions of sanitation; safe handling
7 requirements; approved pesticides and pesticide testing
8 requirements; and standards of ingredients, quality, and identity of
9 marijuana items produced, processed, packaged, or sold by
10 marijuana establishments;

11 (e) Establish accreditation and licensing criteria for responsible
12 marijuana server and seller training and certification programs for
13 marijuana retailer employees;

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

18 (g) Set appropriate dosage, potency, and serving size limits for
19 marijuana and other marijuana products, provided that a
20 standardized serving of marijuana shall be no more than 10
21 milligrams of active THC and no individual edible retail product
22 unit for sale shall contain more than 100 milligrams of active THC,
23 and that marijuana and marijuana product packaging prevent
24 children from access;

25 (h) Require that each single standardized serving of marijuana
26 in a multiple-serving edible marijuana product is physically
27 demarked in a way that enables a reasonable person to determine
28 how much of the product constitutes a single serving of active THC,
29 and that each standardized serving of marijuana shall be easily
30 separable to allow an average person 21 years of age and over to
31 physically separate, with minimal effort, individual servings of the
32 product;

33 (i) Require that, if it is impracticable to clearly demark every
34 standardized serving of marijuana or to make each standardized
35 serving easily separable in an edible marijuana product, the product
36 shall contain no more than 10 milligrams of active THC per unit of
37 sale;

38 (j) Establish screening, hiring, training and supervising
39 requirements for retail store employees and others who manufacture
40 or handle marijuana items;

41 (k) Promote general sanitary requirements for the handling,
42 storage, and disposal of marijuana items, and the maintenance of
43 marijuana establishments;

44 (l) Provide for rigorous auditing, inspection, and monitoring of
45 marijuana establishments for compliance with health and safety
46 rules and regulations;

47 (m) Require the implementation of security requirements for
48 retail outlets and premises where marijuana items are produced or

1 processed, and safety protocols for marijuana establishments and
2 their employees;

3 (n) Prescribe reasonable restrictions on the manner, methods,
4 and means by which, licensees shall transport marijuana items
5 within the State; and

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

12 (9) Restrictions on the advertising and display of marijuana
13 items and marijuana paraphernalia, including, but not limited to,
14 requirements that:

15 (a) Restrict advertising of marijuana items and marijuana
16 paraphernalia in ways that target or are designed to appeal to
17 individuals under the legal age to purchase marijuana items,
18 including, but not limited to depictions of a person under 21 years
19 of age consuming marijuana, or, includes objects, such as toys,
20 characters, or cartoon characters suggesting the presence of a
21 person under 21 years of age, or any other depiction designed in any
22 manner to be especially appealing to a person under 21 years of
23 age;

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

30 (c) No licensed marijuana establishment shall advertise any
31 marijuana items or marijuana paraphernalia on television, radio or
32 the Internet between the hours of 6:00am and 10:00pm.

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

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

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

- 1 (g) All advertisements must contain warnings, including but not
2 limited to one or more of the following:
- 3 (i) “This product contains marijuana;”
4 (ii) “Marijuana can impair concentration, coordination, and
5 judgment. Do not operate a vehicle or machinery under the
6 influence of this drug;”
7 (iii) “There may be health risks associated with the consumption
8 of this product;”
9 (iv) “For use only by adults 21 years of age and older. Keep out
10 of the reach of children.”
11 (v) “This product was produced without regulatory oversight for
12 health, safety or efficacy.”
13 (vi) “The intoxicating effects of this product may be delayed by
14 two or more hours.”
15 (vii) “There may be health risks associated with the
16 consumption of this product, including for women who are
17 pregnant, breastfeeding, or planning on becoming pregnant.”
18 (viii) No licensed marijuana establishment shall place or
19 maintain, or cause to be placed or maintained an advertisement of
20 marijuana items or marijuana paraphernalia in any form or through
21 any medium whatsoever within 200 feet of an elementary or
22 secondary school grounds, recreation center or facility, arcade,
23 child care center, public park, playground, public swimming pool or
24 library; on or in a public transit vehicle or public transit shelter; on
25 or in publicly owned or operated property. For the purposes of this
26 section, a noncommercial message shall not be considered an
27 advertisement. This section also shall not apply to advertisements
28 within the premises of a marijuana retailer.
- 29 (10) Rules and regulations permitting the sale of marijuana items
30 and marijuana paraphernalia at a marijuana establishment.
- 31 (11) Procedures for the division to conduct announced and
32 unannounced visits to marijuana establishments to make, or cause to
33 be made, such investigations as it shall deem proper in the
34 administration of P.L. ,c. (C.)(pending before the
35 Legislature as this bill) and any and all other laws which may
36 hereafter be enacted concerning marijuana, or the manufacture,
37 distribution or sale thereof, or the collection of taxes thereon,
38 including the inspection and search of premises for which the
39 license is sought or has been issued, of any building containing the
40 same, of licensed buildings, examination of the books, records,
41 accounts, documents and papers of the licensees or on the licensed
42 premises;
- 43 (a) The division shall be authorized, after adequate notice to the
44 owner or the agent of the owner, to make an examination of the
45 books and may at any time make an examination of the premises of
46 any person licensed under P.L. ,c. (C.)(pending before the
47 Legislature as this bill) for the purpose of determining compliance
48 with this act and the rules of the division. The division shall not

1 require the books of any licensee to be maintained on the premises
2 of the licensee.

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

7 (c) During any inspection of a licensed premises, the division
8 may require proof that a person performing work at the premises is
9 21 years of age or older. If the person does not provide the division
10 with acceptable proof of age upon request, the division may require
11 the person to immediately cease any activity and leave the premises
12 until the division receives acceptable proof of age.

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

15 (12) Record keeping requirements, including but not limited to
16 the following:

17 (a) (i) the obligation of every marijuana producer to keep a
18 complete and accurate record of all sales of marijuana flowers,
19 marijuana leaves, and immature marijuana plants, and a complete
20 and accurate record of the number of marijuana flowers produced,
21 the number of ounces of marijuana leaves produced, the number of
22 immature marijuana plants produced, and the dates of production;
23 and

24 (ii) the obligation of every marijuana establishment to keep a
25 complete and accurate record of all sales of marijuana, and a
26 complete and accurate record of the number of ounces of marijuana
27 items sold, provided that marijuana retailers shall not retain
28 personally identifying information about persons 21 years of age
29 who or older who purchase marijuana or marijuana products in
30 marijuana retailers. Such records shall be kept and maintained for
31 two years. The records shall be in such form and contain such other
32 information as the division may require.

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

39 (13) Procedures for inspecting samples of marijuana items,
40 including:

41 (a) On a schedule determined by the division, every licensed
42 marijuana producer and processor shall submit representative
43 samples of marijuana, useable marijuana, or marijuana-infused
44 products produced or processed by the licensee to an independent,
45 third-party testing laboratory meeting the accreditation
46 requirements established by the division, for inspection and testing
47 to certify compliance with standards adopted by the division. Any

1 sample remaining after testing shall be destroyed by the laboratory
2 or returned to the licensee.

3 (b) Licensees shall submit the results of this inspection and
4 testing to the division on a form developed by the division.

5 (c) If a representative sample inspected and tested under this
6 section does not meet the applicable standards adopted by the
7 division, the entire lot from which the sample was taken shall be
8 destroyed.

9 (14) Establishing the maximum number of marijuana retailers at
10 10 per legislative district, plus one marijuana retail license for each
11 medical marijuana alternative treatment center that applies.
12 However the other types of licenses shall remain at two per
13 legislative district, for a total of 80. Assuming there are sufficient
14 qualified applicants for licensure, there shall be at least two
15 marijuana retail store per legislative district, as the districts are
16 constituted at the time of application.

17 (15) Establishing the maximum number of marijuana producer-
18 processors at 15 divided evenly in three regions of the State,
19 northern region, the central region and the southern region. Two
20 years after the initial producer-processors are licensed, an additional
21 10 producer-processors will be licensed.

22 (16) Civil penalties for the failure to comply with regulations
23 made pursuant to this section.

24 b. In order to ensure that individual privacy is protected, the
25 division shall not require a consumer to provide a marijuana retailer
26 with personal information other than government-issued
27 identification to determine the consumer's age, and a marijuana
28 retailer shall not be required to acquire and record personal
29 information about consumers other than information typically
30 acquired in a financial transaction conducted by the holder of a
31 Class C retail license concerning alcoholic beverages as set forth in
32 R.S.33:1-12.

33 c. Once regulations are adopted pursuant to subsection a. of
34 this section, but prior to the commencement of the application
35 process, the division shall conduct a series of information sessions
36 in every county in New Jersey to educate New Jerseyans about the
37 responsibilities, opportunities, requirements, obligations, and
38 processes for application for a license to operate a marijuana
39 establishment. The division shall conduct an appropriate number of
40 information sessions in each county considering the population of
41 each county, but no fewer than two information sessions in each
42 county. The division shall publicize the day, time, location, and
43 agenda of these information sessions broadly through television,
44 radio, Internet, print, and through local agencies.

45 d. The division shall:

46 (i) Examine available research, and may conduct or commission
47 new research or convene an expert task force, to investigate the
48 influence of marijuana on the ability of a person to drive a vehicle

1 and on the concentration of delta-9-tetrahydrocannabinol in a
2 person's blood, in each case taking into account all relevant factors;
3 and

4 (ii) Present the results of the research to the Legislature and
5 make recommendations to the Legislature regarding whether any
6 amendments to the rules and regulations adopted by the division are
7 appropriate.

8

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

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

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

16 (2) Preventing persons from substituting or tampering with
17 marijuana items;

18 (3) Ensuring an accurate accounting of the production,
19 processing and sale of marijuana items;

20 (4) Ensuring that taxes are collected for the purpose of being
21 distributed as described in section 11 of P.L. ,

22 c. (C.)(pending before the Legislature as this bill);

23 (5) Ensuring that laboratory testing results are accurately
24 reported; and

25 (6) Ensuring compliance with the rules and regulations adopted
26 under the provisions of P.L. , c. (C.)(pending before the
27 Legislature as this bill), and any other law of this State that charges
28 the division with a duty, function or power related to marijuana.

29 c. The system developed and maintained under this section
30 shall be capable of tracking, at a minimum:

31 (1) The propagation of immature marijuana plants and the
32 production of marijuana by a marijuana producer;

33 (2) The processing of marijuana by a marijuana processor;

34 (3) The receiving, storing and delivering of marijuana items by
35 a marijuana wholesaler;

36 (4) The sale of marijuana items by a marijuana retailer to a
37 consumer;

38 (5) The purchase and sale of marijuana items between licensees;

39 (6) The transfer of marijuana items between licensed premises;

40 (7) The collection of taxes imposed upon the retail sale of
41 marijuana items and

42 (8) Any other information that the division determines is
43 reasonably necessary to accomplish the duties, functions and
44 powers of the division.

45

46 11. (New section) Taxation.

47 a. There shall be a tax levied upon marijuana or marijuana
48 products sold or otherwise transferred by a marijuana retailer to a

1 person 21 years of age or older at a rate of seven percent. To
2 encourage early participation in and development of marijuana
3 establishments and to undermine the illegal marketplace, the tax
4 shall escalate annually over a five year period: such that in year one
5 following the enactment of P.L. , c. (C.)(pending before
6 the Legislature as this bill), the excise tax shall be seven percent;
7 and in year three, the tax shall be 10 percent; and in year five and
8 beyond, the tax rate shall be 15 percent.

9 b. The division shall regularly review the tax levels established
10 under this section and make recommendations to the Legislature as
11 appropriate regarding adjustments that would further the goals of
12 discouraging use, particularly by those under the age of 21;
13 undercutting illegal market prices; and maximizing taxation
14 revenue.

15 c. Statements as to quantities sold. At such periods to be
16 established by the Department of the Treasury, but no more than
17 once per calendar month, every marijuana producer shall file with
18 the Division of Taxation in the Department of the Treasury a
19 statement of the quantities of marijuana flowers, marijuana leaves,
20 and immature marijuana plants sold by the marijuana producer
21 during the preceding period.

22 d. Estimate by Division of Taxation when statement not filed
23 or false statement filed. If any marijuana producer fails, neglects,
24 or refuses to file a statement required by subsection c. of this
25 section or files a false statement, the Department of the Treasury
26 shall estimate the quantities of marijuana flowers, marijuana leaves,
27 and immature marijuana plants sold by the marijuana producer and
28 assess the taxes thereon. The marijuana producer shall be estopped
29 from complaining of the quantities so estimated.

30 e. Lien created by the tax. The tax required to be paid by this
31 section constitutes a lien upon, and has the effect of an execution
32 duly levied against, any and all property of the marijuana retailer,
33 attaching at the time the marijuana flowers, marijuana leaves, and
34 immature marijuana plants subject to the tax were sold, and
35 remaining until the tax is paid. The lien created by this section is
36 paramount to all private liens or encumbrances.

37 f. The Department of the Treasury shall establish procedures
38 for the collection of all taxes levied.

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

43 g. The tax revenue shall be collected by the Director of the
44 Division of Taxation and shall be deposited by the Director of the
45 Division of Taxation into the nonlapsing fund established pursuant
46 to section 39 of P.L., c. (C.) (pending before the Legislature as
47 this bill), and shall be used to fund the Division of Marijuana
48 Enforcement, except that during the first and second year the tax is

1 collected one percent shall be allocated to the local governmental
2 entity in which the marijuana establishment is located; during year
3 three and four, two percent shall be allocated to the local
4 governmental entity in which the marijuana establishment is
5 located; and in year five and each subsequent year thereafter, three
6 percent shall be allocated to the local governmental entity in which
7 the marijuana establishment is located.

8

9 12. (New section) Local governmental entity regulation or
10 ordinance.

11 a. A local governmental entity may enact ordinances or
12 regulations, not in conflict with the provisions of P.L. , c. (C.)
13 (pending before the Legislature as this bill):

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

16 (2) establishing local government registration fees for marijuana
17 establishments not to exceed \$10,000;

18 (3) establishing civil penalties for violation of an ordinance or
19 regulation governing the time, place, and manner of a marijuana
20 establishment that may operate in such local governmental entity.

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

33 c. (1) A marijuana establishment that complies with the
34 provisions of an ordinance or regulation enacted pursuant to
35 paragraph (1) of subsection a. of this section shall be a permitted
36 use.

37 (2) If a local governmental entity fails to enact an ordinance
38 prohibiting the operation of a type of marijuana establishment
39 pursuant to subsection b. of this section within one year following
40 the effective date of P.L. , c. (C.) (pending before the
41 Legislature as this bill), that type of marijuana establishment shall
42 be a permitted use in all agricultural, commercial, and industrial
43 districts of a municipality.

44 (3) If a local governmental entity does not enact an ordinance or
45 regulation pursuant to paragraph (1) of subsection a. of this section,
46 but enacts an ordinance pursuant to subsection b. of this section
47 within one year following the effective date of P.L. , c. (C.)
48 (pending before the Legislature as this bill) prohibiting the

1 operation of one or more but not all types of marijuana
2 establishment, the type or types of marijuana establishment not
3 prohibited shall be permitted uses in all agricultural, commercial,
4 and industrial districts of a municipality.

5
6 13. (New section) Application. a. Each application for an
7 initial three year license to operate a marijuana establishment, and
8 for each subsequent two year renewal license to operate a marijuana
9 establishment shall be submitted to the division. A separate license
10 shall be required for each location at which a marijuana
11 establishment seeks to operate. Renewal applications may be filed
12 up to 90 days prior to the expiration of the establishment's license.
13 The initial license applications shall only be scored and reviewed
14 based upon a 100 point scale established by the division. The
15 division shall:

16 (1) begin accepting and processing applications 18 months
17 following the effective date of P.L. , c. (C.) (pending before
18 the Legislature as this bill);

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

22 (3) upon the approval of a license application and collection of
23 the annual license fee, issue an annual license to the applicant
24 between 45 and 90 days after receipt of an application unless the
25 division finds the applicant is not in compliance with regulations
26 enacted pursuant to the provisions of section 9 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill) or the
28 division is notified by the relevant local governmental entity that
29 the applicant is not in compliance with ordinances and regulations
30 made pursuant to the provisions of section 12 of P.L. ,
31 c. (C.) (pending before the Legislature as this bill) and in
32 effect at the time of application.

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

41 c. Unless otherwise solicited by the division in a specific
42 application question, only the experience and qualifications of the
43 applicant business entity itself, entities with common ownership or
44 control, or interest holders, officers, directors, and actual full-time
45 existing employees of the applicant business entity may be
46 considered by the division in evaluating submissions. The
47 following factors shall be relevant in evaluating applications for
48 licensure for a Class 1 and Class 2 license, and Class 3 applications

1 if in the discretion of the director a competitive process is necessary
2 for a Class 3 Transportation license:

3 (1) Summary of operating plan and safety and security plan –
4 25%.

5 (a) The applicant shall certify that all individuals whose
6 qualifications or experience is furnished are owners or bona fide
7 full-time employees of the applicant or an entity with common
8 ownership or control as of the date of submission.

9 (b) In evaluating the operating plan summaries, each of which
10 subsections should not exceed 1,000 words, the Division will
11 consider the applicant's qualifications, experience, and knowledge
12 in the following areas:

13 (i) For Class 1 Producer-Processor applicants: qualifications or
14 experience in horticulture or agriculture, familiarity with good
15 agricultural practices, and any relevant certifications or degrees;
16 qualifications or experience in State-licensed cannabis cultivation;
17 qualifications or experience in pharmaceutical manufacturing or
18 analytical chemistry and familiarity with good manufacturing
19 practices and good laboratory practices; qualifications or experience
20 in cannabis extractions and product manufacture using CO2 or other
21 methods, excluding butane hash oil or propane, which shall not be
22 permitted under this law for safety reasons; strain variety or plant
23 genetics; water management plan; recall plan; packaging and
24 labeling;. inventory control system and tracking of marijuana
25 throughout cultivation and experience and familiarity with
26 marijuana seed-to-sale software or systems; pest and disease
27 management; description of plans for pesticide, nutrient, and
28 additive use; compliance with applicable laws and regulations.

29 (ii) For Class 2 Retailer applicants: qualifications or experience
30 with State-licensed cannabis dispensation; product evaluation
31 procedures; inventory control and experience and familiarity with
32 marijuana point-of-sale software or systems; familiarity with
33 cannabis routes of administration, strains, varieties, and
34 cannabinoid profiles.

35 (iii) For Class 1 and Class 2 applications: Odor mitigation
36 practices; onsite and offsite recordkeeping; employee education and
37 training; reporting of adverse events; waste disposal plan;
38 environmental impact.

39 (2) Summary of safety and security plans and procedures. Plans
40 for use of security personnel and experience or qualifications of
41 existing security personnel; description of security and surveillance
42 features, including alarm systems, video surveillance, and access
43 and visitor management systems, and including drawings indicating
44 cameras and security features at the proposed facility; storage of
45 marijuana and marijuana products, including safes, vaults, and
46 climate control; diversion prevention; emergency management plan;
47 employee screening, monitoring, and background check procedures;
48 cybersecurity procedures, data collection and handling, and

1 familiarity with privacy laws; workplace safety and familiarity with
2 OSHA regulations; history of workers compensation claims or
3 safety assessments; and sanitation practices.

4 (3) Business experience – 15%.

5 (a) Experience operating businesses in highly regulated
6 industries, such as liquor licenses or regulated healthcare
7 organizations. The history of the applicant, controlling owners of
8 the applicant, or entities with common ownership or control will be
9 weighted most heavily, followed by the experience of substantially
10 involved persons; followed by the experience of interest holders;
11 followed by officers or directors with less than an interest in the
12 applicant and actual full-time existing employees of the applicant.
13 This section shall constitute seven and one half percent (7.5%) of
14 the total application score.

15 (b) Experience operating State-authorized marijuana businesses.
16 The history of the applicant, controlling owners of the applicant, or
17 entities with common ownership or control shall be weighted most
18 heavily, followed by the experience of substantially involved
19 persons; followed by the experience of interest holders; followed by
20 officers or directors with less than an interest in the applicant and
21 actual full-time existing employees of the applicant. This section
22 shall constitute seven and one half percent (7.5%) of the total
23 application score.

24 (c) Not required but will be a scored criterion or factor that adds
25 five percent (5%) to the total application score as bonus points –
26 Any applicant that can demonstrate that one or more substantially
27 involved persons has previously submitted and been approved with
28 a Personal History Disclosure by the New Jersey Department of
29 Health Medicinal Marijuana Program and has served as an officer,
30 director, principal, or key employee of a medical marijuana
31 alternative treatment center for at least two years prior to the
32 submission of the application.

33 (4) Location and zoning. – 15%

34 (a) The proposed sites for a marijuana producer, processor or
35 retailer must be identified by the applicant at the time of
36 application. The applicant shall submit with the application to
37 avoid disqualification a definitive lease agreement, contract for
38 sale, title, or deed that demonstrates the applicant will have final
39 site control of the premises upon licensure. If leasing, a
40 certification from the landlord that the landlord is aware that
41 tenant's use will involve the cultivation, manufacture, or
42 distribution of cannabis and cannabis-infused or derived products at
43 the property.

44 (b) A description of the proposed location, surrounding area,
45 and suitability or advantages, together with floor plan and
46 renderings and optional architectural and engineering plans. This
47 section will constitute seven percent (7%) of the total application
48 score.

1 (c) Not required but will be a scored criterion or factor that adds
2 four percent (4%) to the score – Zoning approvals for the proposed
3 location which shall consist of a letter or affidavit from the
4 appropriate municipal officials that the location being purchased or
5 leased will conform to municipal zoning requirements to allow the
6 cultivation, manufacture, or distribution of cannabis and cannabis-
7 infused or derived products.

8 (d) Not required but will be a scored criterion or factor that adds
9 four percent (4%) to the score – Local support for the suitability of
10 the location such as a letter from the municipality’s highest ranking
11 official or a resolution by the municipality’s elected governing body
12 indicating that the intended property is appropriately located or
13 otherwise suitable for the cultivation, manufacture, or distribution
14 of cannabis and cannabis-infused or derived products.

15 (5) Community impact or record of social responsibility. – 15%

16 (a) Applicants can submit information on their record of social
17 responsibility, philanthropy, support of substance abuse addiction
18 treatment, prevention and recovery activities, and ties to the
19 proposed host community. The history of the applicant, controlling
20 owners of the applicant, or entities with common ownership or
21 control will be weighted most heavily, followed by the experience
22 of substantially involved persons; followed by the experience of
23 interest holders; followed by officers or directors with less than an
24 interest in the applicant and actual full-time existing employees of
25 the applicant. This section will constitute five percent (5%) of the
26 total application score.

27 (b) Applicants can submit information on any past research and
28 development conducted by them on medical efficacy or adverse
29 effects of marijuana; participation in or support of marijuana-related
30 research; and involvement in substance abuse prevention, recovery,
31 and treatment in connection with the applicant’s marijuana-related
32 businesses. The history of the applicant, controlling owners of the
33 applicant, or entities with common ownership or control will be
34 weighted most heavily, followed by the experience of substantially
35 involved persons; followed by the experience of interest holders;
36 followed by officers or directors with less than an interest in the
37 applicant and actual full-time existing employees of the applicant.
38 This section will constitute ten percent (10%) of the total
39 application score.

40 (6) Workforce development and job creation plan – 15%

41 The points awarded in this criterion will be awarded in the
42 following order of priority: Applicants, or entities with common
43 control and ownership, that submit executed collective bargaining
44 agreements in the cannabis industry in effect for at least one year as
45 of the date of submission will receive the most weight, followed by
46 consideration of employer experience with collective bargaining
47 units in other industries or in the cannabis industry if in effect for
48 less than one year, followed by applicants that have executed a

1 labor peace agreement or card check and neutrality agreement with
2 a collective bargaining unit for their proposed New Jersey producer,
3 processor or retailer establishment which should be submitted with
4 the application, followed by consideration of an applicant's
5 workforce development and job creation.

6 (7) Business and financial plan. 15%

7 (a) An executive summary of the Applicant's business plan, not
8 to exceed 1,500 words. This section will constitute five percent
9 (5%) of the total application score.

10 (b) Demonstration of the Applicant's financial ability to
11 implement its business plan, not to exceed ten pages including all
12 attachments, which may include without limitation the applicant's
13 or its owners' bank statements, business or individual financial
14 statements, net worth statements, or debt and equity financing
15 statements. While not required, Class 1 producer-processor
16 applicants that demonstrate the availability of \$2,000,000 in a bank
17 account in the applicants name at the time of submission, and Class
18 2 retailer applicants that demonstrate the availability of \$500,000 in
19 a bank account in the applicants name at the time of submission will
20 receive full points for this subsection. This section will constitute
21 five percent (5%) of the total application score.

22 (c) Applicant's ability to demonstrate knowledge and
23 experience complying with marijuana-related Financial Crimes
24 Enforcement Network guidance under the federal Bank Secrecy Act
25 by submitting letters regarding its banking history from banks or
26 credit unions that state they are aware of the business activities of
27 applicant (or entities with common ownership or control) in this
28 state or other states where the applicant has operated marijuana-
29 related businesses. Only references involving accounts in the
30 applicant's name or entities with common ownership or control will
31 be considered. This section will constitute five percent (5%) of the
32 total application score.

33

34 14. (New section) A marijuana producer must have a Class 1
35 Marijuana Producer-Processor license issued by the division for the
36 premises at which the marijuana is produced.

37 A person who has been convicted of a crime involving any
38 controlled dangerous substance or controlled substance analog as
39 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
40 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
41 of the United States or any other state shall not be issued a Class 1
42 Marijuana Producer-Processor license, unless such conviction
43 occurred after the effective date of P.L. , c. (C.) (pending
44 before the Legislature as this bill) and was for a violation of
45 federal law relating to possession or sale of marijuana for conduct
46 that is authorized under P.L. , c. (C.) (pending before the
47 Legislature as this bill).

- 1 a. To hold a producer-processor license under this section, a
2 marijuana producer:
- 3 (1) Must apply for a license in the manner described in section
4 13 of P.L. , c. (C.) (pending before the Legislature as
5 this bill);
- 6 (2) Must provide proof that an applicant listed on an application
7 submitted under section 13 of P.L. , c. (C.) (pending
8 before the Legislature as this bill), has been a resident of this State
9 for two or more years, and must provide proof that the applicant is
10 21 years of age or older;
- 11 (3) Must meet the requirements of any rule or regulation
12 adopted by the Division under subsection b. of this section; and
- 13 (4) Must undergo a criminal history record background check.
- 14 (a) Pursuant to this provision, the director is authorized to
15 exchange fingerprint data with and receive criminal history record
16 background information from the Division of State Police and the
17 Federal Bureau of Investigation consistent with the provisions of
18 applicable federal and State laws, rules, and regulations. The
19 Division of State Police shall forward criminal history record
20 background information to the director in a timely manner when
21 requested pursuant to the provisions of this section.
- 22 (b) An applicant shall submit to being fingerprinted in
23 accordance with applicable State and federal laws, rules, and
24 regulations. No check of criminal history record background
25 information shall be performed pursuant to this section unless the
26 applicant has furnished his written consent to that check. An
27 applicant who refuses to consent to, or cooperate in, the securing of
28 a check of criminal history record background information shall not
29 be considered for a production license. An applicant shall bear the
30 cost for the criminal history record background check, including all
31 costs of administering and processing the check.
- 32 (c) The director shall not approve an applicant for a Class 1
33 Marijuana Producer-Processor license if the criminal history record
34 background information of the applicant reveals any disqualifying
35 conviction.
- 36 (d) Upon receipt of the criminal history record background
37 information from the Division of State Police and the Federal
38 Bureau of Investigation, the director shall provide written
39 notification to the applicant of his qualification for or
40 disqualification for a Class 1 Marijuana Producer-Processor license.
- 41 If the applicant is disqualified because of a disqualifying
42 conviction pursuant to the provisions of this section, the conviction
43 that constitutes the basis for the disqualification shall be identified
44 in the written notice.
- 45 (e) The Division of State Police shall promptly notify the
46 director in the event that an individual who was the subject of a
47 criminal history record background check conducted pursuant to
48 this section is convicted of a crime or offense in this State after the

1 date the background check was performed. Upon receipt of that
2 notification, the director shall make a determination regarding the
3 continued eligibility to hold a Class 1 Marijuana Producer-
4 Processor license.

5 (5) Should the division choose to establish additional
6 disqualifying licensure criteria related to an applicant's criminal
7 history by regulation, it shall not consider convictions under
8 paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10,
9 paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5,
10 subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-
11 5, or similar offenses, nor shall the division consider up to one
12 conviction for a disorderly persons offense under the laws of New
13 Jersey or up to one misdemeanor offense under the laws of the
14 United States or analogous offense in another state. In addition, if
15 an applicant can demonstrate evidence of rehabilitation, the division
16 shall not consider up to one conviction for a nonviolent crime, or up
17 to three disorderly persons or misdemeanor offenses.

18 In determining rehabilitation and present character and fitness
19 the division shall consider the nature and responsibility of the
20 position the licensee would hold, has held or currently holds, as the
21 case may be; the nature and seriousness of the offense the
22 circumstances under which the offense occurred; the date of the
23 offense; the age of the applicant when the offense was committed;
24 whether the offense was an isolated or repeated incident; any social
25 conditions that may have contributed to the offense; and any
26 evidence of rehabilitation, including good conduct in prison or in
27 the community, counseling or psychiatric treatment received,
28 acquisition of additional academic or vocational schooling,
29 successful participation in correctional work-release programs, or
30 the recommendation of those who have had the applicant under
31 their supervision.

32 b. The division shall adopt rules that:

33 (1) Require a marijuana producer to renew a license issued
34 under this section every two years following the initial three year
35 license period;

36 (2) Establish application, licensure, and renewal of licensure
37 fees for marijuana producers;

38 (3) Require marijuana produced by marijuana producers to be
39 tested in accordance with section 9 of P.L. _____,

40 c. (C. _____) (pending before the Legislature as this bill);

41 (4) Require marijuana producers to submit, at the time of
42 applying for or renewing a license under section 13 of P.L. _____,

43 c. (C. _____) (pending before the Legislature as this bill), a report
44 describing the applicant's or licensee's electrical and water usage;
45 and

46 (5) Require a marijuana producer to meet any public health and
47 safety standards, industry best practices, and all applicable
48 regulations established by the division by rule or regulation related

1 to the production of marijuana or the propagation of immature
2 marijuana plants and the seeds of the plant Cannabis family
3 Cannabaceae. The division may not limit the number of immature
4 marijuana plants that may be possessed by a marijuana producer
5 licensed under this section; the size of the grow canopy a marijuana
6 producer licensed under this section uses to grow immature
7 marijuana plants; or the weight or size of shipments of immature
8 marijuana plants made by a marijuana producer licensed under this
9 section.

10 c. Fees adopted under subsection b. of this section shall be
11 deposited in the “Marijuana Control and Regulation Fund”
12 established under section 39 of P.L. , c. (C.) (pending
13 before the Legislature as this bill).

14 d. The director shall issue a Class 1 Marijuana Producer-
15 Processor license if it finds that issuing such a license would be
16 consistent with the purposes of P.L. , c. (C.) (pending
17 before the Legislature as this bill) and the requirements of this
18 section are met and the information contained in the application has
19 been verified. The director shall approve or deny an application
20 within 60 days after receipt of a completed application. The denial
21 of an application shall be considered a final agency decision,
22 subject to review by the Appellate Division of the Superior Court.
23 The director may suspend or revoke a license to operate as a Class 1
24 Marijuana Producer-Processor for cause, which shall be subject to
25 review by the Appellate Division of the Superior Court.

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

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

32

33 15. (New section) a. Subject to subsection b. of this section, the
34 division shall adopt rules or regulations restricting the size of
35 mature marijuana plant grow canopies at premises for which a
36 license has been issued under section 13 of P.L. , c. (C.)
37 (pending before the Legislature as this bill).

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

39 (1) Limit the size of mature marijuana plant grow canopies for
40 premises where marijuana is grown outdoors and for premises
41 where marijuana is grown indoors in a manner calculated to result
42 in premises that produce the same amount of harvested marijuana
43 leaves and harvested marijuana flowers, regardless of whether the
44 marijuana is grown outdoors or indoors.

45 (2) Adopt a tiered system under which the permitted size of a
46 marijuana producer’s mature marijuana plant grow canopy increases
47 at the time of licensure renewal, except that the permitted size of a
48 marijuana producer’s mature marijuana plant grow canopy may not

1 increase following any year during which the division disciplined
2 the marijuana producer for violating a provision of or a rule adopted
3 under a provision of P.L. , c. (C.) (pending before the
4 Legislature as this bill).

5 (3) Take into consideration the market demand for marijuana
6 items in this State, the number of persons applying for a license
7 under section 13 of P.L. , c. (C.) (pending before the
8 Legislature as this bill), and to whom a license has been issued
9 under section 13 of P.L. , c. (C.) (pending before the
10 Legislature as this bill), and whether the availability of marijuana
11 items in this State is commensurate with the market demand.

12 c. This section shall not apply to a premises for which a license
13 has been issued under section 13 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), if the
15 premises is used only to propagate immature marijuana plants.
16

17 16. (New section) A marijuana processor must have a Class 1
18 Marijuana Producer-Processor license issued by the division for the
19 premises at which the marijuana is processed.

20 A person who has been convicted of a crime involving any
21 controlled dangerous substance or controlled substance analog as
22 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
23 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
24 of the United States or any other state shall not be issued a Class 1
25 Marijuana Producer-Processor license, unless such conviction
26 occurred after the effective date of P.L. ,
27 c. (C.) (pending before the Legislature as this bill) and was
28 for a violation of federal law relating to possession or sale of
29 marijuana for conduct that is authorized under P.L. ,
30 c. (C.) (pending before the Legislature as this bill).

31 a. To hold a producer-processing license under this section, a
32 marijuana processor:

33 (1) Must apply for a license in the manner described in section
34 13 of P.L. , c. (C.) (pending before the Legislature as
35 this bill);

36 (2) Must provide proof that an applicant listed on an application
37 submitted under section 13 of P.L. , c. (C.) (pending
38 before the Legislature as this bill), has been a resident of this State
39 for two or more years, and must provide proof that the applicant is
40 21 years of age or older;

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

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

44 (a) Pursuant to this provision, the director is authorized to
45 exchange fingerprint data with and receive criminal history record
46 background information from the Division of State Police and the
47 Federal Bureau of Investigation consistent with the provisions of
48 applicable federal and State laws, rules, and regulations. The

1 Division of State Police shall forward criminal history record
2 background information to the commissioner in a timely manner
3 when requested pursuant to the provisions of this section.

4 (b) An applicant shall submit to being fingerprinted in
5 accordance with applicable State and federal laws, rules, and
6 regulations. No check of criminal history record background
7 information shall be performed pursuant to this section unless the
8 applicant has furnished his written consent to that check. An
9 applicant who refuses to consent to, or cooperate in, the securing of
10 a check of criminal history record background information shall not
11 be considered for a processing license. An applicant shall bear the
12 cost for the criminal history record background check, including all
13 costs of administering and processing the check.

14 (c) The director shall not approve an applicant for a Class 1
15 Marijuana Producer-Processor license if the criminal history record
16 background information of the applicant reveals any disqualifying
17 conviction.

18 (d) Upon receipt of the criminal history record background
19 information from the Division of State Police and the Federal
20 Bureau of Investigation, the director shall provide written
21 notification to the applicant of his qualification for or
22 disqualification for a Class 1 Marijuana Producer-Processor license.

23 If the applicant is disqualified because of a disqualifying
24 conviction pursuant to the provisions of this section, the conviction
25 that constitutes the basis for the disqualification shall be identified
26 in the written notice.

27 (e) The Division of State Police shall promptly notify the
28 director in the event that an individual who was the subject of a
29 criminal history record background check conducted pursuant to
30 this section is convicted of a crime or offense in this State after the
31 date the background check was performed. Upon receipt of that
32 notification, the director shall make a determination regarding the
33 continued eligibility to hold a Class 1 Marijuana Producer-
34 Processor license.

35 (5) Should the division choose to establish additional
36 disqualifying licensure criteria related to an applicant's criminal
37 history by regulation, it shall not consider convictions under
38 paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10,
39 paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5,
40 subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-
41 5, or similar offenses, nor shall the division consider up to one
42 conviction for a disorderly persons offense under the laws of New
43 Jersey or up to one misdemeanor offense under the laws of the
44 United States or analogous offense in another state. In addition, if
45 an applicant can demonstrate evidence of rehabilitation, the division
46 shall not consider up to one conviction for a nonviolent crime, or up
47 to three disorderly persons or misdemeanor offenses.

1 In determining rehabilitation and present character and fitness
2 the division shall consider the nature and responsibility of the
3 position the licensee would hold, has held or currently holds, as the
4 case may be; the nature and seriousness of the offense the
5 circumstances under which the offense occurred; the date of the
6 offense; the age of the applicant when the offense was committed;
7 whether the offense was an isolated or repeated incident; any social
8 conditions that may have contributed to the offense; and any
9 evidence of rehabilitation, including good conduct in prison or in
10 the community, counseling or psychiatric treatment received,
11 acquisition of additional academic or vocational schooling,
12 successful participation in correctional work-release programs, or
13 the recommendation of those who have had the applicant under
14 their supervision.

15 (6) In addition to the criminal history background checks
16 required of owners, interest holders, and employees, the division
17 shall, in its discretion, be authorized to request personal history
18 disclosures from and conduct additional financial due diligence
19 upon any financial backer of a prospective Class 1 producer-
20 processor or Class 2 retailer.

21 b. The division shall adopt rules that:

22 (1) Require a marijuana processor to renew a license issued
23 under this section every two years following the initial three year
24 license period;

25 (2) Establish application, licensure, and renewal of licensure
26 fees for marijuana processors;

27 (3) Require marijuana produced by marijuana processors to be
28 tested in accordance with section 9 of P.L. _____,

29 c. (C. _____) (pending before the Legislature as this bill);

30 (4) Require marijuana processors to submit, at the time of
31 applying for or renewing a license under section 13 of P.L. _____,

32 c. (C. _____) (pending before the Legislature as this bill) a report
33 describing the applicant's or licensee's electrical and water usage;
34 and

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

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

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

42 (2) Shall be deposited in the "Marijuana Control and Regulation
43 Fund" established under section 39 of P.L. _____,

44 c. (C. _____) (pending before the Legislature as this bill).

45 d. The director shall issue a Class 1 Marijuana Producer-
46 Processor 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
7 marijuana production 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 shall
14 be deemed null and void.

15

16 17. (New section) A marijuana retailer must have a Class 2
17 Marijuana Retailer license issued by the division for the premises at
18 which the marijuana is retailed.

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

29 a. To hold a retailers license under this section, a marijuana
30 retailer:

31 (1) Must apply for a license in the manner described in section
32 13 of P.L. , c. (C.) (pending before the Legislature as
33 this bill);

34 (2) Must provide proof that an applicant listed on an application
35 submitted under section 13 of P.L. , c. (C.) (pending
36 before the Legislature as this bill), has been a resident of this State
37 for two or more years, and must provide proof that the applicant is
38 21 years of age or older;

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

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

42 (a) Pursuant to this provision, the director is authorized to
43 exchange fingerprint data with and receive criminal history record
44 background information from the Division of State Police and the
45 Federal Bureau of Investigation consistent with the provisions of
46 applicable federal and State laws, rules, and regulations. The
47 Division of State Police shall forward criminal history record

1 background information to the director in a timely manner when
2 requested pursuant to the provisions of this section.

3 (b) An applicant shall submit to being fingerprinted in
4 accordance with applicable State and federal laws, rules, and
5 regulations. No check of criminal history record background
6 information shall be performed pursuant to this section unless the
7 applicant has furnished his written consent to that check. An
8 applicant who refuses to consent to, or cooperate in, the securing of
9 a check of criminal history record background information shall not
10 be considered for a retailers license. An applicant shall bear the
11 cost for the criminal history record background check, including all
12 costs of administering and processing the check.

13 (c) The director shall not approve an applicant for a Class 2
14 Marijuana Retailer license if the criminal history record background
15 information of the applicant reveals any disqualifying conviction.

16 (d) Upon receipt of the criminal history record background
17 information from the Division of State Police and the Federal
18 Bureau of Investigation, the director shall provide written
19 notification to the applicant of his qualification for or
20 disqualification for a Class 2 Marijuana Retailers license.

21 If the applicant is disqualified because of a disqualifying
22 conviction pursuant to the provisions of this section, the conviction
23 that constitutes the basis for the disqualification shall be identified
24 in the written notice.

25 (e) The Division of State Police shall promptly notify the
26 director in the event that an individual who was the subject of a
27 criminal history record background check conducted pursuant to
28 this section is convicted of a crime or offense in this State after the
29 date the background check was performed. Upon receipt of that
30 notification, the director shall make a determination regarding the
31 continued eligibility to hold a Marijuana Retailers license.

32 (5) Should the division choose to establish additional
33 disqualifying licensure criteria related to an applicant's criminal
34 history by regulation, it shall not consider convictions under
35 paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10,
36 paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5,
37 subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-
38 5, or similar offenses, nor shall the division consider up to one
39 conviction for a disorderly persons offense under the laws of New
40 Jersey or up to one misdemeanor offense under the laws of the
41 United States or analogous offense in another state. In addition, if
42 an applicant can demonstrate evidence of rehabilitation, the division
43 shall not consider up to one conviction for a nonviolent crime, or up
44 to three disorderly persons or misdemeanor offenses.

45 In determining rehabilitation and present character and fitness
46 the division shall consider the nature and responsibility of the
47 position the licensee would hold, has held or currently holds, as the
48 case may be; the nature and seriousness of the offense the

1 circumstances under which the offense occurred; the date of the
2 offense; the age of the applicant when the offense was committed;
3 whether the offense was an isolated or repeated incident; any social
4 conditions that may have contributed to the offense; and any
5 evidence of rehabilitation, including good conduct in prison or in
6 the community, counseling or psychiatric treatment received,
7 acquisition of additional academic or vocational schooling,
8 successful participation in correctional work-release programs, or
9 the recommendation of those who have had the applicant under
10 their supervision.

11 (6) In addition to the criminal history background checks
12 required of owners, interest holders, and employees, the division
13 shall, in its discretion, be authorized to request personal history
14 disclosures from and conduct additional financial due diligence
15 upon any financial backer of a prospective Class 1 producer-
16 processor or Class 2 retailer.

17 b. The division shall adopt rules that:

18 (1) Require a marijuana retailers to renew a license issued under
19 this section every two years following the initial three year license
20 period; ;

21 (2) Establish application, licensure, and renewal of licensure
22 fees for marijuana retailers;

23 (3) Require marijuana sold by marijuana retailer to be tested in
24 accordance with section 9 of P.L. , c. (C.) (pending
25 before the Legislature as this bill);

26 (4) Require marijuana retailers to submit, at the time of applying
27 for or renewing a license under section 13 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), a report
29 describing the applicant's or licensee's electrical and water usage;
30 and

31 (5) Require a marijuana retailer to meet any public health and
32 safety standards, industry best practices, and all applicable
33 regulations established by the division by rule related to the sale of
34 marijuana.

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

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

38 (2) Shall be deposited in the "Marijuana Control and Regulation
39 Fund" established under section 39 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).

41 d. The director shall issue a Class 2 Marijuana Retailer license
42 if it finds that issuing such a license would be consistent with the
43 purposes of this act and the requirements of this section are met and
44 the information contained in the application has been verified. The
45 director shall approve or deny an application within 60 days after
46 receipt of a completed application. The denial of an application
47 shall be considered a final agency decision, subject to review by the
48 Appellate Division of the Superior Court. The director may

1 suspend or revoke a Marijuana Retailer license for cause, which
2 shall be subject to review by the Appellate Division of the Superior
3 Court.

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

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

10

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

18 A person who has been convicted of a crime involving any
19 controlled dangerous substance or controlled substance analog as
20 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
21 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
22 of the United States or any other state shall not be issued a Class 3
23 Marijuana Transportation license, unless such conviction occurred
24 after the effective date of this act and was for a violation of federal
25 law relating to possession or sale of marijuana for conduct that is
26 authorized under P.L. c. , (C.) (pending before the Legislature as
27 this bill).

28 a. To hold a transportation license under this section, a
29 marijuana transporter:

30 (1) Must apply for a license in the manner described in section
31 13 of P.L. , c. (C.) (pending before the Legislature as
32 this bill);

33 (2) Must provide proof that an applicant listed on an application
34 submitted under section 13 of P.L. , c. (C.) (pending
35 before the Legislature as this bill), has been a resident of this State
36 for two or more years, and must provide proof that the applicant is
37 21 years of age or older;

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

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

41 (a) Pursuant to this provision, the director is authorized to
42 exchange fingerprint data with and receive criminal history record
43 background information from the Division of State Police and the
44 Federal Bureau of Investigation consistent with the provisions of
45 applicable federal and State laws, rules, and regulations. The
46 Division of State Police shall forward criminal history record
47 background information to the director in a timely manner when
48 requested pursuant to the provisions of this section.

1 (b) An applicant shall submit to being fingerprinted in
2 accordance with applicable State and federal laws, rules, and
3 regulations. No check of criminal history record background
4 information shall be performed pursuant to this section unless the
5 applicant has furnished his written consent to that check. An
6 applicant who refuses to consent to, or cooperate in, the securing of
7 a check of criminal history record background information shall not
8 be considered for a transportation license. An applicant shall bear
9 the cost for the criminal history record background check, including
10 all costs of administering and processing the check.

11 (c) The director shall not approve an applicant for a Class 3
12 Marijuana Transportation license if the criminal history record
13 background information of the applicant reveals any disqualifying
14 conviction.

15 (d) Upon receipt of the criminal history record background
16 information from the Division of State Police and the Federal
17 Bureau of Investigation, the director shall provide written
18 notification to the applicant of his qualification for or
19 disqualification for a Class 3 Marijuana Transportation license.

20 If the applicant is disqualified because of a disqualifying
21 conviction pursuant to the provisions of this section, the conviction
22 that constitutes the basis for the disqualification shall be identified
23 in the written notice.

24 (e) The Division of State Police shall promptly notify the
25 director in the event that an individual who was the subject of a
26 criminal history record background check conducted pursuant to
27 this section is convicted of a crime or offense in this State after the
28 date the background check was performed. Upon receipt of that
29 notification, the director shall make a determination regarding the
30 continued eligibility to hold a Marijuana Transportation license.

31 (5) Should the division choose to establish additional
32 disqualifying licensure criteria related to an applicant's criminal
33 history by regulation, it shall not consider convictions under
34 paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10,
35 paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5,
36 subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-
37 5, or similar offenses, nor shall the division consider up to one
38 conviction for a disorderly persons offense under the laws of New
39 Jersey or up to one misdemeanor offense under the laws of the
40 United States or analogous offense in another state. In addition, if
41 an applicant can demonstrate evidence of rehabilitation, the division
42 shall not consider up to one conviction for a nonviolent crime, or up
43 to three disorderly persons or misdemeanor offenses.

44 In determining rehabilitation and present character and fitness
45 the division shall consider the nature and responsibility of the
46 position the licensee would hold, has held or currently holds, as the
47 case may be; the nature and seriousness of the offense the
48 circumstances under which the offense occurred; the date of the

1 offense; the age of the applicant when the offense was committed;
2 whether the offense was an isolated or repeated incident; any social
3 conditions that may have contributed to the offense; and any
4 evidence of rehabilitation, including good conduct in prison or in
5 the community, counseling or psychiatric treatment received,
6 acquisition of additional academic or vocational schooling,
7 successful participation in correctional work-release programs, or
8 the recommendation of those who have had the applicant under
9 their supervision.

10 (6) In addition to the criminal history background checks
11 required of owners, interest holders, and employees, the division
12 shall, in its discretion, be authorized to request personal history
13 disclosures from and conduct additional financial due diligence
14 upon any financial backer of a prospective Class 1 producer-
15 processor or Class 2 retailer.

16 b. The division shall adopt rules that:

17 (1) Require a marijuana transporter to renew a license issued
18 under this section every two years following the initial three year
19 license period; ;

20 (2) Establish application, licensure, and renewal of licensure
21 fees for marijuana transporters;

22 (3) Require marijuana that is transported by a Marijuana
23 Transportation licensee to be tested in accordance with section 9 of
24 P.L. , c. (C.) (pending before the Legislature as this
25 bill);

26 (4) Require marijuana transporter to submit, at the time of
27 applying for or renewing a license under section 13 of P.L. , c.
28 (C.) (pending before the Legislature as this bill), a report
29 describing the applicant's or licensee's electrical and water usage;
30 and

31 (5) Require a marijuana transporter to meet any public health
32 and safety standards, industry best practices, and all applicable
33 regulations established by the division by rule related to the
34 transporting of marijuana.

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

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

38 (2) Shall be deposited in the "Marijuana Control and Regulation
39 Fund" established under section 39 of P.L. , c. (C.) (pending
40 before the Legislature as this bill).

41 d. The director shall issue a Class 4 Marijuana Transportation
42 license if it finds that issuing such a license would be consistent
43 with the purposes of this act and the requirements of this section are
44 met and the information contained in the application has been
45 verified. The director shall approve or deny an application within
46 60 days after receipt of a completed application. The denial of an
47 application shall be considered a final agency decision, subject to
48 review by the Appellate Division of the Superior Court. The

1 director may suspend or revoke a Marijuana Transportation license
2 for cause, which shall be subject to review by the Appellate
3 Division of the Superior Court.

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

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

10

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

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

18 (2) the recording of the possession, securing, or selling of
19 marijuana items at the premises for which the license has been
20 issued.

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

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

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

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

46 As part of a final order suspending a permit issued under this
47 section, the division may require a permit holder to successfully
48 complete the course as a condition of lifting the suspension and as

1 part of a final order revoking a permit issued under this section, the
2 division shall require an individual to successfully complete the
3 course prior to applying for a new permit.

4 e. The division shall conduct a criminal history record
5 background check on an individual applying for a permit under this
6 section. Should the division choose to establish criteria for
7 approval as a marijuana handler related to an applicant's criminal
8 history, it shall not consider convictions under paragraphs (3) and
9 (4) of subsection a. of N.J.S.2C:35-10, paragraphs (11) and (12) of
10 subsection b. of N.J.S.2C:35-5, subparagraph (b) of paragraph (10)
11 of subsection b. of N.J.S.2C:35-5, or similar offenses, nor shall the
12 division consider up to one conviction for a disorderly persons
13 offense under the laws of New Jersey or up to one misdemeanor
14 offense under the laws of the United States or analogous offense in
15 another state. In addition, if an applicant can demonstrate evidence
16 of rehabilitation, the division shall not consider up to one
17 conviction for a nonviolent crime under the laws of New Jersey or
18 its felony equivalent in another jurisdiction, or up to three
19 disorderly persons or misdemeanor offenses. In determining
20 rehabilitation and present character and fitness, the division shall
21 consider the nature and responsibility of the position the licensee
22 would hold, has held or currently holds, as the case may be; the
23 nature and seriousness of the offense the circumstances under which
24 the offense occurred; the date of the offense; the age of the
25 applicant when the offense was committed; whether the offense was
26 an isolated or repeated incident; any social conditions that may have
27 contributed to the offense; and any evidence of rehabilitation,
28 including good conduct in prison or in the community, counseling
29 or psychiatric treatment received, acquisition of additional
30 academic or vocational schooling, successful participation in
31 correctional work-release programs, or the recommendation of
32 those who have had the applicant under their supervision.

33 f. The division may suspend, revoke or refuse to issue or
34 renew a permit if the individual who is applying for or who holds
35 the permit violates any provision of P.L. _____,
36 c. (C. _____) (pending before the Legislature as this bill), or any
37 rule or regulation adopted under P.L. _____, c. (C. _____) (pending
38 before the Legislature as this bill); or makes a false statement to the
39 division; or refuses to cooperate in any investigation by the
40 division, or, if the individual is or was convicted of a disqualifying
41 criminal offense pursuant to the subsection e. of this section..

42 g. A permit issued under this section is a personal privilege and
43 permits work described under this section only for the individual
44 who holds the permit.

45

46 20. (New section) Marketplace Regulation.

47 a. It shall be unlawful for any direct or indirect owner, part
48 owner, investor, interest holder, lender, stockholder, officer,

1 director, partner, or member of any corporation, partnership, limited
2 liability company, limited liability partnership, employee
3 cooperative, association, nonprofit corporation, business entity, or
4 any other person with a direct ownership interest or indirect interest
5 through intermediary business entities or other structures in any
6 Class 1 producer-processor or marijuana testing facility to conduct,
7 own either in whole or in part, or be directly or indirectly interested
8 in the retailing of any marijuana in New Jersey, and such interest
9 shall include any payments or delivery of money or property by
10 way of loan or otherwise accompanied by an agreement to sell the
11 product of said marijuana producer-processor or marijuana testing
12 facility. The foregoing shall not apply to Class 1 and Class 2
13 licenses issued to a medical marijuana alternative treatment center
14 or an entity with common ownership or control with a medical
15 marijuana alternative treatment center.

16 b. It shall be unlawful for any direct or indirect owner, part
17 owner, investor, interest holder, lender, stockholder, officer,
18 director, partner, or member of any corporation, partnership, limited
19 liability company, limited liability partnership, employee
20 cooperative, association, nonprofit corporation, business entity, or
21 any other person with a direct ownership interest or indirect interest
22 through intermediary business entities or other structures in any
23 Class 2 retailer to conduct, own either in whole or in part, or be
24 directly or indirectly interested in any Class 1 producer-processor or
25 marijuana testing facility. The foregoing shall not apply to Class 1
26 and Class 2 licenses issued to a medical marijuana alternative
27 treatment center or an entity with common ownership or control
28 with a medical marijuana alternative treatment center.

29 c. No person, corporation, partnership, limited liability
30 company, limited liability partnership, employee cooperative,
31 association, nonprofit corporation, or other business entity, or the
32 agents thereof, shall hold more than one Class 1 producer-processor
33 license, or more than three Class 2 retailer licenses, at any time. No
34 natural person, corporation, partnership, limited liability company,
35 limited liability partnership, employee cooperative, association,
36 nonprofit corporation, or other business entity, or the agents
37 thereof, shall hold a direct partial interest or indirect partial interest
38 through intermediary business entities or other structures in more
39 than five Class 2 retailer licenses at any time. If an applicant for
40 Class 1 producer-processor licenses or Class 2 retailer licenses
41 scores sufficiently high on its applications as to be awarded an
42 impermissibly excessive number of licenses, such applicant must
43 notify the Division of Marijuana Enforcement of its desired
44 locations in order of preference within seven business days of its
45 receipt of the notice of award. The division will then award such
46 applicant the permissible number of licenses and award the licenses
47 in the remaining geographic regions to the next highest scoring
48 applicant.

1 d. An ownership of stock by a person of less than one percent
2 of the capitalization of a publicly traded company in which the
3 person is not an officer, director, or employee shall not be construed
4 to implicate the prohibitions on vertical integration in the foregoing
5 paragraphs.

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

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

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

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

34 d. Nothing in P.L. , c. (C.) (pending before the
35 Legislature as this bill) shall prohibit a person, or any other entity
36 that occupies, owns, or controls a property from prohibiting or
37 otherwise regulating the consumption, use, display, transfer,
38 distribution, sale, transportation or growing of marijuana items on
39 or in that property, provided that local government units may not
40 prohibit possession permitted by section 4 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill) on or
42 within a public place.

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

1 f. Nothing in P.L. , c. (C.) (pending before the
2 Legislature as this bill) is intended to permit the smoking of
3 marijuana in any place that any other law prohibits the smoking of
4 tobacco. Any fines that may be assessed for the smoking of tobacco
5 in designated places shall be applicable to the smoking of
6 marijuana.

7
8 22. (New section) Medical marijuana provisions.

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

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

15 b. except as provided in section 23 of P.L. , c. (C.)
16 (pending before the Legislature as this bill), to permit a medical
17 marijuana alternative treatment center to distribute marijuana to a
18 person who is not a medical marijuana patient. A license issued
19 pursuant to this subsection may be subject to annual renewal until
20 regulations are adopted pursuant to section 9 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill);

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

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

28 e. to discharge the Department of Health from its duties to
29 regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
30 et seq.), except that the division will assume the enforcement,
31 inspection and monitoring functions related to medical marijuana
32 alternative treatment centers on behalf of the Department of Health.

33
34 23. (New section) An existing medical marijuana alternative
35 treatment center, or an entity with common ownership or control
36 with an alternative treatment center, shall be automatically eligible
37 to receive a Class 1 Marijuana Producer-Processor License, and a
38 Class 2 Marijuana Retailer License, and the prohibition on vertical
39 integration shall not apply to licenses being issued to an alternative
40 treatment center, an entity with common ownership or control, or its
41 owners, officers, directors, or interest holders by virtue of their role
42 in a medical marijuana alternative treatment center, as long as the
43 owners incorporate the marijuana business established pursuant to
44 this act as a legally distinct entity from the medical marijuana
45 business, and the two share common ownership. The provisions of
46 Administrative Procedures Act," P.L.1968, c.410 (C. 52:14B-1 et
47 seq.), shall be waived to permit the Department of Health Medicinal
48 Marijuana Program to promulgate temporary emergent rules within

1 90 days of enactment of P.L. , c. (C.) (pending before the
2 Legislature as this bill) and issue Class 1, Class 2, or vertically
3 integrated retail marijuana licenses to medical marijuana alternative
4 treatment centers within six months of enactment of P.L. , c. (C.)
5 (pending before the Legislature as this bill). The Medicinal
6 Marijuana Program will oversee the Class 1, Class 2, or vertically
7 integrated retail marijuana operations of alternative treatment
8 centers until the division is established, operational, and
9 promulgates its own regulations. Medical marijuana alternative
10 treatment centers shall not be limited by region in its location of a
11 Class 1 producer-processor facility. A Class 2 retailer license
12 automatically granted to a medical marijuana alternative treatment
13 center or an entity with common ownership or control shall only
14 permit a location in the region in which the alternative treatment
15 center was issued a permit to dispense medical marijuana. Nothing
16 in this section shall be construed to prohibit a medical marijuana
17 alternative treatment center or an entity with common ownership or
18 control from submitting applications in a competitive process and
19 receiving up to two additional Class 2 retailer licenses, subject to
20 the limitations imposed by section 20 of P.L. , c. (C.) (pending
21 before the Legislature as this bill), in a different region. The
22 Department of Health shall ensure in its temporary emergent
23 regulation that patient needs are met and alternative treatment
24 centers prioritize the cultivation and sale of medical marijuana
25 above retail marijuana.

26

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

35

36 25. (New section) Limitations.

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

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

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

43 c. To prohibit a recipient of a federal grant or an applicant for a
44 federal grant from prohibiting the manufacture, delivery,
45 possession, or use of marijuana to the extent necessary to satisfy
46 federal requirements for the grant;

47 d. To prohibit a party to a federal contract or a person applying
48 to be a party to a federal contract from prohibiting the manufacture,

1 delivery, possession, or use of marijuana to the extent necessary to
2 comply with the terms and conditions of the contract or to satisfy
3 federal requirements for the contract;

4 e. To require a person to violate a federal law;

5 f. To exempt a person from a federal law or obstruct the
6 enforcement of a federal law.

7

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

9 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1
10 et seq.), or by P.L. , c. (C.) (pending before the Legislature as this
11 bill), any person who knowingly maintains or operates any
12 premises, place or facility used for the manufacture of
13 methamphetamine, lysergic acid diethylamide, phencyclidine,
14 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
15 greater than five pounds or ten plants or any substance listed in
16 Schedule I or II, or the analog of any such substance, or any person
17 who knowingly aids, promotes, finances or otherwise participates in
18 the maintenance or operations of such premises, place or facility, is
19 guilty of a crime of the first degree and shall, except as provided in
20 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
21 include the imposition of a minimum term which shall be fixed at,
22 or between, one-third and one-half of the sentence imposed, during
23 which the defendant shall be ineligible for parole. Notwithstanding
24 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
25 impose a fine not to exceed \$750,000.00 or five times the street
26 value of all controlled dangerous substances, controlled substance
27 analogs, gamma hydroxybutyrate or flunitrazepam at any time
28 manufactured or stored at such premises, place or facility,
29 whichever is greater.

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

31

32 27. (New section) Personal Use of Cannabis Resin.

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

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

41 (2) Transfer of five grams or less of resin extracted from any
42 part of the Genus Cannabis L. and any compound, manufacture,
43 salt, derivative, mixture, or preparation of such resin without
44 remuneration to a person who is 21 years of age or older, provided
45 that such transfer is for non-promotional, non-business purposes;

46 (3) Consumption of the resin extracted from any part of the
47 plant Genus Cannabis L. and any compound, manufacture, salt,
48 derivative, mixture, or preparation of such resin, provided that

1 nothing in this section shall permit a person to smoke or otherwise
2 consume such resin or its derivatives openly in a public place;

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

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

12

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

14 2C:35-2. As used in this chapter:

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

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

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

46 "Controlled substance analog" means a substance that has a
47 chemical structure substantially similar to that of a controlled
48 dangerous substance and that was specifically designed to produce

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 "State" means the State of New Jersey.

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

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

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

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

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

29

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

31 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
32 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or
33 P.L. , c. (C.) (pending before the Legislature as this bill), it
34 shall be unlawful for any person knowingly or purposely:

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

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

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

42 (1) Heroin, or its analog, or coca leaves and any salt, compound,
43 derivative, or preparation of coca leaves, and any salt, compound,
44 derivative, or preparation thereof which is chemically equivalent or
45 identical with any of these substances, or analogs, except that the
46 substances shall not include decocainized coca leaves or extractions
47 which do not contain cocaine or ecogine, or 3,4-
48 methylenedioxyamphetamine or 3,4-

1 methylenedioxyamphetamine, in a quantity of five ounces or more
2 including any adulterants or dilutants is guilty of a crime of the first
3 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
4 be sentenced to a term of imprisonment by the court. The term of
5 imprisonment shall include the imposition of a minimum term
6 which shall be fixed at, or between, one-third and one-half of the
7 sentence imposed, during which the defendant shall be ineligible for
8 parole. Notwithstanding the provisions of subsection a. of
9 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

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

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

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

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

30 (6) Lysergic acid diethylamide, or its analog, in a quantity of
31 100 milligrams or more including any adulterants or dilutants, or
32 phencyclidine, or its analog, in a quantity of 10 grams or more
33 including any adulterants or dilutants, is guilty of a crime of the
34 first degree. Except as provided in N.J.S.2C:35-12, the court shall
35 impose a term of imprisonment which shall include the imposition
36 of a minimum term, fixed at, or between, one-third and one-half of
37 the sentence imposed by the court, during which the defendant shall
38 be ineligible for parole. Notwithstanding the provisions of
39 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be
40 imposed;

41 (7) Lysergic acid diethylamide, or its analog, in a quantity of
42 less than 100 milligrams including any adulterants or dilutants, or
43 where the amount is undetermined, or phencyclidine, or its analog,
44 in a quantity of less than 10 grams including any adulterants or
45 dilutants, or where the amount is undetermined, is guilty of a crime
46 of the second degree;

47 (8) Methamphetamine, or its analog, or phenyl-2-propanone
48 (P2P), in a quantity of five ounces or more including any

1 adulterants or dilutants is guilty of a crime of the first degree.
2 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
3 fine of up to \$300,000.00 may be imposed;

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

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

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

19 (b) Marijuana in a quantity of five pounds or more but less than
20 25 pounds including any adulterants or dilutants, or 10 or more but
21 fewer than 50 marijuana plants, regardless of weight, or hashish in a
22 quantity of one pound or more but less than five pounds, including
23 any adulterants and dilutants, is guilty of a crime of the second
24 degree;

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

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

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

41 (14) Any Schedule V substance, or its analog, is guilty of a crime
42 of the fourth 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.

45 c. Where the degree of the offense for violation of this section
46 depends on the quantity of the substance, the quantity involved
47 shall be determined by the trier of fact. Where the indictment or
48 accusation so provides, the quantity involved in individual acts of

1 manufacturing, distribution, dispensing or possessing with intent to
2 distribute may be aggregated in determining the grade of the
3 offense, whether distribution or dispensing is to the same person or
4 several persons, provided that each individual act of manufacturing,
5 distribution, dispensing or possession with intent to distribute was
6 committed within the applicable statute of limitations.
7 (cf: P.L.2000, c.136)

8
9 30. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read
10 as follows:

11 1. Except as authorized by P.L. , c. (C.) (pending before the
12 Legislature as this bill):

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

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

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

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

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

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

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

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

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

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

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

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

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

41 e. It is an affirmative defense to prosecution for a violation of
42 this section that the prohibited conduct took place entirely within a
43 private residence, that no person 17 years of age or younger was
44 present in such private residence at any time during the commission
45 of the offense, and that the prohibited conduct did not involve
46 distributing, dispensing or possessing with the intent to distribute or
47 dispense any controlled dangerous substance or controlled
48 substance analog for profit. The affirmative defense established in

1 this section shall be proved by the defendant by a preponderance of
2 the evidence. Nothing herein shall be construed to establish an
3 affirmative defense with respect to a prosecution for an offense
4 defined in any other section of this chapter.

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

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

31

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

34 1. Except as authorized by P.L. , c. (C.) (pending before the
35 Legislature as this bill):

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

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

47 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
48 provisions of law, a conviction arising under this section shall not

1 merge with a conviction for a violation of subsection a. of
2 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
3 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).
4 Nothing in this section shall be construed to preclude or limit a
5 prosecution or conviction for a violation of N.J.S.2C:35-7 or any
6 other offense defined in this chapter.

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

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

46 f. As used in this act:

47 "Public housing facility" means any dwelling, complex of
48 dwellings, accommodation, building, structure or facility and real

1 property of any nature appurtenant thereto and used in connection
2 therewith, which is owned by or leased to a local housing authority
3 in accordance with the "Local Redevelopment and Housing Law,"
4 P.L.1992, c.79 (C.40A:12A-1 et seq.) for the purpose of providing
5 living accommodations to persons of low income.

6 "Public park" means a park, recreation facility or area or
7 playground owned or controlled by a State, county or local
8 government unit.

9 "Public building" means any publicly owned or leased library or
10 museum.

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

12

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

14 2C:35-10. Possession, Use or Being Under the Influence, or
15 Failure to Make Lawful Disposition.

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

24 Any person who violates this section with respect to:

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

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

34 (3) Possession of **more than** 50 grams or more of marijuana,
35 including any adulterants or dilutants, or more than five grams of
36 hashish 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 \$25,000.00 may be imposed; or

39 (4) Possession of **50 grams or less** more than one ounce
40 (28.38 grams) but less than 50 grams, of marijuana, including any
41 adulterants or dilutants, **or five grams or less of hashish** is a
42 disorderly person.

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

47 In a prosecution under this subsection, it shall not be necessary
48 for the State to prove that the accused did use or was under the

1 influence of any specific drug, but it shall be sufficient for a
2 conviction under this subsection for the State to prove that the
3 accused did use or was under the influence of some controlled
4 dangerous substance, counterfeit controlled dangerous substance, or
5 controlled substance analog, by proving that the accused did
6 manifest physical and physiological symptoms or reactions caused
7 by the use of any controlled dangerous substance or controlled
8 substance analog.

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

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

17

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

19 2C:36-1. Drug paraphernalia, defined; determination.

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

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

30 In determining whether or not an object is drug paraphernalia,
31 the trier of fact, in addition to or as part of the proofs, may consider
32 the following factors: a. statements by an owner or by anyone in
33 control of the object concerning its use; b. the proximity of the
34 object of illegally possessed controlled dangerous substances,
35 controlled substance analogs or toxic chemicals; c. the existence of
36 any residue of illegally possessed controlled dangerous substances,
37 controlled substance analogs or toxic chemicals on the object; d.
38 direct or circumstantial evidence of the intent of an owner, or of
39 anyone in control of the object, to deliver it to persons whom he
40 knows intend to use the object to facilitate a violation of this act;
41 the innocence of an owner, or of anyone in control of the object, as
42 to a direct violation of this act shall not prevent a finding that the
43 object is intended for use as drug paraphernalia; e. instructions, oral
44 or written, provided with the object concerning its use; f.
45 descriptive materials accompanying the object which explain or
46 depict its use; g. national or local advertising whose purpose the
47 person knows or should know is to promote the sale of objects

1 intended for use as drug paraphernalia; h. the manner in which the
2 object is displayed for sale; i. the existence and scope of legitimate
3 uses for the object in the community; and j. expert testimony
4 concerning its use.

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

6

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

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

23 A person who violates this section shall be fined not less than
24 ~~【\$50.00】~~ \$50 and shall forthwith forfeit his right to operate a motor
25 vehicle for a period of two years from the date of his conviction.

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

27

28 35. (New section) Consumer Protections.

29 a. Individuals and licensed marijuana establishments shall not
30 be subject to arrest, prosecution, or penalty in any manner, or
31 denied any right or privilege, including but not limited to civil
32 liability or disciplinary action by a business, occupational, or
33 professional licensing board or bureau, solely for conduct permitted
34 under this act.

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

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

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

43 (2) a patient, shall not constitute the use of an illicit substance
44 resulting in denial of medical care, including organ transplant, and a
45 patient's use of marijuana may only be considered with respect to
46 evidence-based clinical criteria;

47 (3) a parent or legal guardian of a child or newborn infant, or a
48 pregnant woman, shall not form the sole or primary basis for any

1 action or proceeding by the Division of Child Protection and
2 Permanency, or any successor agencies.

3

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

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

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

19

20 37. (New section) Contract Enforceability.

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

30

31 38. (New section) Criminal Investigation.

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

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

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

37 (3) The possession of marijuana without evidence of quantity in
38 excess of one ounce in proximity to any amount of cash or
39 currency;

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

44

45 39. (New section) All fees and penalties collected by the
46 Director of the Division of Marijuana Enforcement pursuant to the
47 provisions of P.L. c. (C.) (pending before the Legislature as
48 this bill) shall be forwarded to the State Treasurer for deposit in a

1 special nonlapsing fund which shall be known as the “Marijuana
2 Control and Regulation Fund.” Monies in the fund shall be used
3 exclusively for the operation of the Division of Marijuana
4 Enforcement and for reimbursement of all additional costs of
5 enforcement of the provisions of P.L. c. (C.) (pending before
6 the Legislature as this bill) incurred by the Department of Law and
7 Public Safety.

8

9 40. (New section) Marijuana Regulation Review Commission.

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

19 b. The commission shall call upon the Department of Law and
20 Public Safety to assist in any staff or clerical functions of the
21 commission.

22 c. Meetings of commission, copies of minutes.

23 All meetings of the commission shall be governed by the
24 provisions of the "Open Public Meetings Act," P.L.1975, c.231
25 (C.10:4-6 et seq.), open to the public and all the business of the
26 commission shall be transacted at public meetings held at such time
27 and place as the commission shall prescribe. The commission shall
28 meet at such times as determined by the chairperson of the
29 commission.

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

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

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

42 f. Annual report to Legislature. The commission shall make a
43 biannual detailed report of its actions and operations to the
44 Legislature and render such other reports to the Legislature as it
45 shall from time to time require.

46 g. Powers and duties of commission.

47 The Marijuana Regulation Review Commission, in lieu of the
48 Attorney General, shall review and approve regulations developed

1 by the division pursuant to section 9 of P.L. , c. (C.) (pending
2 before the Legislature as this bill), shall review and approve all
3 actions of the division related to the selection of licensees and the
4 grant, suspension, or revocation of licenses pursuant to section 13
5 of P.L. , c. (C.) (pending before the Legislature as this bill), and
6 may author and require regulations as deemed necessary. The
7 commission shall have such other and further powers and perform
8 such other and further duties as may be conferred or imposed upon
9 it from time to time by the Legislature.

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

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

20 21 22 STATEMENT

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

26 Section 1 of the bill contains the title, “New Jersey Adult Use
27 Marijuana Law.”

28 Section 2 of the bill contains findings and declarations including
29 reversal of the existing state policy which criminalizes distribution
30 and possession of marijuana. The bill declares the adoption of a
31 new approach to the marijuana policy for New Jersey which
32 includes the taxing, controlling and legalization of marijuana for
33 adults and the intention to prevent the sale or distribution of the
34 substance to persons under 21 years of age.

35 Section 3 of the bill contains key definitions to aid in the
36 implementation of the policy change, including the newly created
37 Division of Marijuana Enforcement in the Department of Law and
38 Public Safety, and defining the categories of persons who will be
39 licensed under the act.

40 Section 4 specifies that the following acts are not unlawful and
41 would not be an offense or a basis for seizure or forfeiture of assets
42 under N.J.S.2C:64-1 et seq. or other applicable law for persons 21
43 years of age or older:

- 44 • possessing, using, displaying, purchasing, or transporting
45 marijuana accessories or one ounce or less of marijuana
46 and certain other related products;
- 47 • transfer of one ounce or less of marijuana or other related
48 products to a person who is 21 years of age or older;

- 1 • consumption of marijuana, provided that nothing in the
2 bill would permit consumption that is conducted openly
3 and publicly;
- 4 • assisting another person who is 21 years of age or older in
5 any of the acts described above; or
- 6 • home grow of marijuana – possessing, growing or
7 processing no more than six marijuana plants in house or
8 rental unit; local government may prohibit home grow.

9 Section 5 of the bill provides that the following acts would also
10 not be unlawful or a basis for seizure or forfeiture of assets for
11 persons 21 years of age or older:

- 12 • manufacture, possession, or purchase of marijuana
13 accessories or the sale of marijuana accessories to a
14 person who is 21 years of age or older;
- 15 • possessing, displaying, or transporting marijuana or
16 marijuana products; purchase of marijuana from a
17 marijuana cultivation facility; purchase of marijuana or
18 marijuana products from a marijuana product
19 manufacturing facility; or sale of marijuana or marijuana
20 products to consumers, if the person conducting the
21 activities has obtained a current, valid license to operate a
22 retail marijuana store or is acting in his capacity as an
23 owner, employee or agent of a licensed retail marijuana
24 store;
- 25 • cultivating, harvesting, processing, packaging,
26 transporting, displaying, or possessing marijuana;
27 delivery or transfer of marijuana to a marijuana testing
28 facility; selling marijuana to a marijuana cultivation
29 facility, a marijuana product manufacturing facility, or a
30 retail marijuana store; or the purchase of marijuana from
31 a marijuana cultivation facility, if the person conducting
32 the activities has obtained a current, valid license to
33 operate a marijuana cultivation facility or is acting in his
34 capacity as an owner, employee, or agent of a licensed
35 marijuana cultivation facility;
- 36 • packaging, processing, transporting, manufacturing,
37 displaying, or possessing marijuana or marijuana
38 products; delivery or transfer of marijuana or marijuana
39 products to a marijuana testing facility; selling marijuana
40 or marijuana products to a retail marijuana store or a
41 marijuana product manufacturing facility; the purchase of
42 marijuana from a marijuana cultivation facility; or the
43 purchase of marijuana or marijuana products from a
44 marijuana product manufacturing facility, if the person
45 conducting the activities has obtained a current, valid
46 license to operate a marijuana product manufacturing
47 facility or is acting in his capacity as an owner, employee,

1 or agent of a licensed marijuana product manufacturing
2 facility;

- 3 • possessing, cultivating, processing, repackaging, storing,
4 transporting, displaying, transferring or delivering
5 marijuana or marijuana products if the person has
6 obtained a current, valid license to operate a marijuana
7 testing facility or is acting in his capacity as an owner,
8 employee, or agent of a licensed marijuana testing
9 facility;
- 10 • leasing or otherwise allowing the use of property owned,
11 occupied or controlled by any person, corporation or
12 other entity for any of the activities conducted lawfully.

13 Sections 6 establishes the penalties for a person to “sell, offer
14 for sale, distribute for commercial purpose at no cost or minimal
15 cost, give, or furnish, to a person under 21 years of age.” Further,
16 the section establishes penalties for a person under 21 to attempt to
17 purchase, or acquire a marijuana item, offer “written or oral
18 evidence of age that is false, fraudulent, or not actually the person’s
19 own,” or to enter or attempt to enter any portion of a licensed
20 marijuana premises. The prohibited act, in each instance,
21 constitutes a disorderly persons offense. Additionally, a fine or a
22 civil penalty may be imposed. A disorderly persons offense is
23 punishable by up to six months imprisonment, a fine of up to
24 \$1,000, or both.

25 Section 7 establishes in the Department of Law and Public Safety
26 a Division of Marijuana Enforcement.

27 Sections 8 and 9 describe the powers and duties of the newly
28 created Division of Marijuana Enforcement and the regulation of
29 marijuana generally. The bill provides for the division to adopt
30 rules and regulations necessary for implementation of the bill. The
31 regulations could not prohibit the operation of marijuana
32 establishments, either expressly or through regulations that make
33 their operation unreasonably impracticable. The bill would require
34 regulations to include the following: procedures for the application,
35 issuance, denial, renewal, suspension, and revocation of a license to
36 operate a marijuana establishment; the establishment by the division
37 of license application fees. Additional required regulations must
38 include licensing goals for minority owned and female owned
39 businesses under the act; security requirements for marijuana
40 establishments; requirements to prevent the sale or diversion of
41 marijuana and marijuana products to underage persons; labeling and
42 packaging requirements; health and safety regulations and standards
43 for the manufacture and sale of marijuana products; advertisement
44 restrictions; procedures for the division to conduct unannounced
45 visits to marijuana establishments; a requirement that only
46 marijuana, marijuana based products and paraphernalia be available
47 for sale at a marijuana establishment; and civil penalties for the
48 failure to comply with established regulations.

1 Section 10 mandates that the division develop a system for
2 tracking the transfer of marijuana items between licensed premises
3 capable, at a minimum, of tracking among other categories, the
4 propagation of immature marijuana plants, the processing of
5 marijuana by a processor, the receiving, storing and delivering of
6 marijuana items by a wholesaler, the sale of marijuana items by a
7 marijuana retailer to a consumer; the purchase and sale of marijuana
8 items between licensees, the transfer of marijuana items between
9 licensed premises; and the collection of taxes imposed upon the
10 retail sale of marijuana items.

11 Section 11 of the bill establishes a tax levied upon marijuana
12 sold or otherwise transferred by a marijuana cultivation facility to a
13 marijuana product manufacturing facility or to a retail marijuana
14 store. To encourage early participation in and development of
15 marijuana establishments and to undermine the illegal market, the
16 bill proposes the tax shall escalate over a five year period such that
17 in year one following the excise tax shall be seven percent; and in
18 year three, the tax shall be 10 percent; and in year five and beyond,
19 the tax rate shall be 15 percent. The Department of the Treasury
20 would establish procedures for the collection of all taxes levied.

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

25 Under the bill, tax revenue shall be collected by the Director of
26 the Division of Taxation and shall be deposited by the Director of
27 the Division of Taxation into the nonlapsing fund established
28 pursuant to section 37 of P.L., c. (C.) (pending before the
29 Legislature as this bill), and shall be used to fund the Division of
30 Marijuana Enforcement, except that during the first and second year
31 the tax is collected one percent shall be allocated to the local
32 governmental entity in which the marijuana establishment is
33 located; during year three and four, two percent shall be allocated to
34 the local governmental entity in which the marijuana establishment
35 is located; and in year five and each subsequent year thereafter,
36 three percent shall be allocated to the local governmental entity in
37 which the marijuana establishment is located.

38 Section 12 provides for local governmental entity regulations or
39 ordinances. The local governmental entity may enact ordinances or
40 regulations, not in conflict with the provisions of the bill, that
41 address the following:

42 -- governing the time, place, manner and number of marijuana
43 establishment operations;

44 -- establishing local government registration fees for marijuana
45 establishments not to exceed \$10,000; and

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

1 The bill provides that a local governmental entity may prohibit
2 the operation of marijuana cultivation facilities, marijuana product
3 manufacturing facilities, marijuana testing facilities, or retail
4 marijuana stores through the enactment of an ordinance. Under the
5 bill, the failure of a local governmental entity to enact an ordinance
6 prohibiting the operation of a marijuana establishment within one
7 year of the effective date shall thereby permit the operation of a
8 marijuana retail establishment within the local governmental entity
9 for a period of five years, at the end of which five year period, and
10 every five year period thereafter, the local governmental entity shall
11 again be permitted to prohibit the operation of a marijuana
12 establishment.

13 Section 13 establishes the application process. Under the bill,
14 each application for an initial three year license and each
15 subsequent two year renewal license to operate a marijuana
16 establishment would be submitted to the division. A separate
17 license shall be required for each location at which a marijuana
18 establishment seeks to operate. Renewal applications may be filed
19 up to 90 days prior to the expiration of the establishment's license.
20 The initial license application only shall be based upon a 100 point
21 scale. The Division shall begin processing applications 18 months
22 following enactment.

23 Sections 14 through 18 establish the different classes of licenses
24 and the requirements to obtain licensure.

25 A marijuana producer or processor must have a Class 1
26 Marijuana Producer-Processor license issued by the division for the
27 premises at which the marijuana is produced or processed.

28 A marijuana retailer must have a Class 2 Marijuana Retailer
29 license issued by the division for the premises at which the
30 marijuana is retailed.

31 A marijuana transporter must have a Class 3 Marijuana
32 Transportation license issued by the division.

33 All prospective licensees must complete application
34 requirements, meet residency requirements, and undergo a criminal
35 history record background check.

36 Section 19 concerns the permitting of marijuana handlers, a
37 person who performs work for a licensee.

38 Section 20, concerning marketplace regulation, bars producer-
39 processor from conducting or owning retail marijuana
40 establishment; bars retail marijuana from conducting or owning a
41 producer-processor marijuana establishment and places limits on
42 number of licenses which can be held per license class.

43 Section 21 regulates employment policies related to marijuana.

44 Section 22 concerning a currently operating medical marijuana
45 facility, known as an alternative treatment center, operating in good
46 standing can immediately apply for a license to operate to distribute
47 marijuana to a person who is not a medical marijuana patient, as
48 long as the owners incorporate the marijuana business established

1 pursuant to this act as a legally distinct entity from the medical
2 marijuana business, and the two share common.

3 Section 23 provides that an existing medical marijuana
4 alternative treatment center, or an entity with common ownership or
5 control with an alternative treatment center, shall be automatically
6 eligible to receive a Class 1 Marijuana Producer-Processor License,
7 and a Class 2 Marijuana Retail License, and the prohibition on
8 vertical integration shall not apply

9 Section 24 permits a person with a previous conviction for
10 marijuana possession to present an application for expungement to
11 the Superior Court.

12 Sections 25 concerns limitations as relates to federal law.

13 Sections 26, and 28 through 34 update existing sections of law to
14 reflect the decriminalization of marijuana under the bill.

15 Section 27 concerns personal use of cannabis resin.

16 Section 35 establishes consumer protections barring medical
17 marijuana arrest, prosecution, or penalty for conduct permitted
18 under the act.

19 Section 36 provides that New Jersey law enforcement agencies
20 “shall not cooperate with or provide assistance to the government of
21 the United States or any agency thereof in enforcing the Controlled
22 Substance Act, 21 U.S.C. 801 et seq., solely for actions consistent
23 with” conduct legalized by S-3195, “except pursuant to a valid
24 court order.” Nor shall an agency refuse to renew a license, or, to
25 perform any duty under the bill on the basis that manufacturing,
26 distributing, dispensing, possessing, or using marijuana is
27 prohibited by federal law.

28 Section 37 concerns contract enforcement and bars
29 unenforceability on the grounds that conduct is prohibited by
30 federal law.

31 Section 38 concerns criminal investigations and establishes that
32 certain conduct shall not constitute “articulable suspicion,”
33 including the odor of marijuana or burnt marijuana, the possession
34 of or the suspicion of possession of marijuana without evidence of
35 quantity in excess of one ounce, and the possession of marijuana
36 without evidence of quantity in excess of one ounce in proximity to
37 any amount of cash or currency.

38 Section 39 establishes that all fees and penalties collected by the
39 Director of the Division of Marijuana Enforcement shall be
40 forwarded to the State Treasurer for deposit in a special nonlapsing
41 fund which shall be known as the “Marijuana Control and
42 Regulation Fund.” Monies in the fund shall be used exclusively for
43 the operation of the Division of Marijuana Enforcement and for
44 reimbursement of all additional costs of enforcement

45 Section 40 establishes a Marijuana Regulation Review
46 Commission which shall be responsible to review and approve
47 regulations developed by the division. The commission shall
48 consist of three members as follows: one member appointed by the

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1 Governor, who shall be the presiding officer, one member
2 appointed by the President of the Senate, who shall be a member of
3 the Senate, and one member appointed by the Speaker of the
4 General Assembly, who shall be a member of the General
5 Assembly. The concurrence of two of the members of the
6 commission shall be necessary to validate all acts of the
7 commission.

8 Section 41 provides that following enactment of the legislation
9 but prior to the effective date, established as one year following
10 enactment, the possession of up to 50 grams of marijuana shall
11 constitute a civil violation not subject to arrest, and limited to a fine
12 of up to \$100.

13 Section 42 provides that the bill shall take effect on the 360th day
14 following enactment, but the director may take such anticipatory
15 action as may be necessary to effectuate the provisions.