[First Reprint]

ASSEMBLY, No. 5322

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:
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SYNOPSIS

Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 20, 2019, with amendments.

(Sponsorship Updated As Of: 6/11/2019)

AN ACT concerning the cultivation, handling, processing, transport, and sale of hemp, supplementing Title 4 and 24 of the Revised Statutes, amending various parts of the statutory law, and repealing P.L.2018, c.139.

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

1. (New section) Sections 1 through 9 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "New Jersey Hemp Farming Act."

2. (New section) The Legislature finds and declares that hemp is a viable agricultural crop and a potentially valuable agricultural commodity in the State, and that hemp should be cultivated, handled, processed, transported, and sold in the State to the maximum extent permitted by federal law. It is the purpose of P.L. , c. (C.) (pending before the Legislature as this bill) to: promote the cultivation and processing of hemp; develop new commercial markets for farmers and businesses through the sale of hemp products; promote the expansion of the State's hemp industry to the maximum extent permitted by federal law; allow farmers and businesses to cultivate, handle, and process hemp, and to sell hemp products for commercial purposes; and to move the State and its citizens to the forefront of the hemp industry.

3. (New section) As used in sections 1 through 9 of P.L. , c. (C.) (pending before the Legislature as this bill), unless the context otherwise requires:

"Agent" means an employee or contractor of a hemp producer.

"Applicant" means a person, or for a business entity, any person authorized to act on behalf of the business entity, who applies to the department to be a hemp producer in the State.

"Commercial sale" means the sale of a product in the stream of commerce at retail, at wholesale, or on the Internet.

"Cultivate" means to plant, water, grow, or harvest a plant or crop.

"Department" means the New Jersey Department of Agriculture.

"Federally defined THC level for hemp" means a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis for hemp or in a hemp product.

"Handle" means to possess or store a hemp plant on premises owned, operated, or controlled by a hemp producer for any period of time or in a vehicle for any period of time other than during the actual transport of the plant between premises owned, operated, or

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AAP committee amendments adopted May 20, 2019.

controlled by hemp producers or persons or entities authorized to produce hemp pursuant to 7 U.S.C. s.1639o et seq. and any state law or rule or regulation adopted pursuant thereto. "Handle" does not mean possession or storage of finished hemp products.

"Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Hemp and hemp-derived cannabinoids, including cannabidiol, shall be considered an agricultural commodity and not a controlled substance.

"Hemp producer" means a person or business entity authorized by the department to cultivate, handle, or process hemp in the State.

"Hemp product" means a finished product with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale. The term includes cosmetics, personal care products, food intended for human or animal consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids such as cannabidiol. Hemp products shall not be considered controlled substances.

"Process" means to convert hemp into a marketable form.

"Secretary" means the Secretary of the New Jersey Department of Agriculture.

"Transport" means the movement or shipment of hemp by a hemp producer, a person or entity authorized to produce hemp pursuant to 7 U.S.C. s.1639o et seq. and any state law or rule or regulation adopted pursuant thereto, or a hemp producer's or authorized entity's third-party carrier or agent. "Transport" shall not mean the movement or shipment of hemp products.

4. (New section) a. Notwithstanding any other provision of law, or rule or regulation adopted pursuant thereto to the contrary, it is lawful for a hemp producer or its agent to cultivate, handle, or process hemp or hemp products in the State. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) authorizes any person to violate a federal or State law, or rule or regulation adopted pursuant thereto. Notwithstanding any other provision of law, or rule or regulation adopted pursuant thereto to the contrary, it is lawful to possess, transport, sell, and purchase legally-produced hemp products in the State.

b. It is unlawful for a person or entity that is not a hemp producer or an agent of a hemp producer to cultivate, handle, or process living hemp plants or viable seeds, leaf materials, or floral materials derived from hemp. A person or entity that is not a hemp producer or an agent of a hemp producer, but who cultivates, handles, or processes living hemp plants or viable seeds, leaf

materials, or floral materials derived from hemp, shall be subject to the same penalties as those related to marijuana.

5. (New section) a. Pursuant to 7 U.S.C. s.1639p, and to designate itself as the primary regulatory authority over the production of hemp in the State, the department, in consultation with the Governor and the Attorney General, shall promulgate regulations for submission, along with P.L. , c. (C.) (pending before the Legislature as this bill), to the Secretary of the United States Department of Agriculture, as a plan under which the State monitors and regulates hemp production.

b. No later than 90 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the department, after consultation with the Governor and Attorney General shall, immediately upon filing proper notice with the Office of Administrative Law, adopt interim rules and regulations to implement P.L. , c. (C.) (pending before the Legislature as this bill) and to meet the requirements for federal approval as a state plan pursuant to 7 U.S.C. s.1639o et seq. The regulations shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be in effect for a period not to exceed 18 months, and shall, thereafter, be amended, adopted, or readopted by the department in accordance with the provisions of the "Administrative Procedure Act." The rules and regulations adopted pursuant to this section shall include the following:

(1) a procedure to maintain relevant information regarding land, fields, greenhouses, or any other location where hemp is produced in the State, including a legal description of the land and global positioning system coordinates, for a period of at least three calendar years;

(2) a procedure for testing, including by third parties, using post-decarboxylation or another similarly reliable method, that the delta-9 tetrahydrocannabinol concentration of hemp produced in the State does not exceed the federally defined THC level for hemp, and that hemp products do not exceed the federally defined THC level for hemp when made available to the public [1][. A hemp producer shall begin harvesting any hemp within 30 days of sampling]1 ;

(3) 1provisions that permit a hemp producer to begin harvest of mature hemp plants within 30 days after the date of sampling, provided that the department may require any plant that is not harvested within 30 days after sampling to undergo retesting;

(4) provisions that allow a hemp producer to have testing performed by a third-party laboratory to demonstrate compliance with the federally defined THC level for hemp, provided the laboratory:

(a) is registered and accredited in accordance with State and federal law;

(b) is registered with the State hemp program;

(c) agrees to comply with the department's approved testing procedures;

(d) transmits laboratory results directly to the department; and

(e) submits to random quality assurance testing by the department to validate the accuracy of testing results;

(5) provisions that allow a hemp producer to test its own hemp for the purposes of providing information about hemp's delta-9 tetrahydrocannabinol levels and to certify label statements for a hemp product, as long as the producer's laboratory meets the requirements in paragraph (4) of this subsection;

(6) provisions that require the department to certify that hemp and hemp products produced pursuant to the State hemp program comply with federal law, and any rule or regulation adopted pursuant thereto;

(7)[1] a procedure for the effective disposal of hemp plants, whether growing or not, that are produced in violation of 7 U.S.C. s.1639o et seq., and products derived from those plants;

[1][(4)] (8)[1] a procedure to comply with the enforcement procedures in section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), pursuant to 7 U.S.C. s.1639p, and to provide due process for hemp producers;

[1][(5)] (9)[1] a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of 7 U.S.C. s.1639o et seq.;

[1][(6)] (10)[1] a procedure for submitting the information described in 7 U.S.C. s.1639q, as applicable, to the Secretary of the United States Department of Agriculture not later than 30 days after the date the information is received; and

c. Upon adoption of rules and regulations pursuant to subsection b. of this section, subsection c. of section 6, and subsection c. of section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), the department, after consultation with the Governor and the Attorney General, shall submit the rules and regulations, along with P.L. , c. (C.) (pending before the Legislature as this bill), for approval to the Secretary of the United States Department of Agriculture as a state plan for monitoring and regulating the production of hemp in the State pursuant to 7 U.S.C. s.1639o et seq.

d. (1) If the plan submitted by the department is disapproved by the Secretary of the United States Department of Agriculture, the department, after consultation with the Governor and the Attorney General, shall amend the rules promulgated pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) as needed to obtain approval and shall thereafter submit an amended plan.

(2) The department shall, as necessary, consult with and seek technical assistance from the Secretary of the United States Department of Agriculture in crafting a satisfactory state plan pursuant to 7 U.S.C. s.1639o et seq.

(3) If a plan submitted by the department is disapproved by the Secretary of the United States Department of Agriculture, nothing in P.L. , c. (C.) (pending before the Legislature as this bill) shall prohibit the production of hemp in the State pursuant to 7 U.S.C. s1639q or any other federal law, or rule or regulation adopted pursuant thereto, if the production of hemp is not otherwise prohibited by the State.

(4) As part of the State plan adopted pursuant to subsection b. of this section, the department shall also submit a certification that the State has the resources and personnel to implement the practices and procedures as provided in P.L. , c. (C.) (pending before the Legislature as this bill), pursuant to 7 U.S.C. s.1639p.

6. (New section) a. Except as otherwise provided, P.L. , c. (C.) (pending before the Legislature as this bill) does not apply to the possession, transportation, or sale of hemp products or extracts, including those containing one or more hemp-derived cannabinoids, including cannabidiol.

b. In adopting rules and regulations pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the department [1]**[**shall**]** may[1] consult with relevant public agencies as well as private, nonprofit associations in the hemp industry that promote standards, best practices, and self-regulation in the production of hemp.

c. In addition to the rules and regulations required for a state plan consistent with the requirements of 7 U.S.C. s.1639o et seq. and section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), no later than 90 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the department, after consultation with the Governor and Attorney General, shall immediately upon filing proper notice with the Office of Administrative Law, adopt interim rules and regulations to promote the cultivating and processing of hemp and the commercial sale of hemp products, while regulating hemp production in the State pursuant to 7 U.S.C. s.1639o et seq. and P.L. , c. (C.) (pending before the Legislature as this bill). The rules and regulations shall be effective immediately upon filing with the Office of Administrative Law and shall be in effect for a period not to exceed 18 months, and shall, thereafter, be amended, adopted, or readopted by the department in accordance with the provisions of the "Administrative Procedure Act." The rules and regulations shall:

(1) establish requirements by which the department authorizes an applicant to be a hemp producer to cultivate, handle, or process or any combination thereof, hemp;

(2) provide due process, including an appeal process with retesting, to ensure that hemp producers are not subject to the consequences of inaccurate test results;

(3) establish procedures for the department, not more than 30 days after receiving and compiling the following information, to provide the information to the United States Secretary of Agriculture: (a) the hemp producer's name, telephone number, email address, residential address, mailing address, or another form of contact information; (b) the legal description and global positioning system coordinates for each field, facility, or other place where hemp is to be cultivated, processed, or handled; and (c) whether the hemp producer is in compliance with the rules and regulations for the production of hemp in the State. The department shall provide updates to this information as needed;

(4) **[1]**[**[**define classes or categories of hemp products that are eligible for sale, transfer, or distribution to members of the public;

(5)**]**[1] establish non-refundable application, licensure, and renewal fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the State hemp program, which shall be deposited in the State hemp program account pursuant to section 8 of P.L. , c. (C.) (pending before the Legislature as this bill); and

[1][**[**(6)**]** (5)[1] establish procedures governing hemp shipment within the State and across state lines by third-party transporters who are not authorized hemp producers. The regulations shall include a requirement that all shipments need only be accompanied by a proof of authorization to engage in the commercial sale of hemp, either under a state plan pursuant to 7 U.S.C. s.1639p or the United States Department of Agriculture plan pursuant to 7 U.S.C. 1639q in a state where a state plan has not been approved from the producer of hemp, as well as a travel manifest that lists the origin, destination, product description, and date of transport. In no case shall the department require third-party carriers to be authorized hemp producers in order to transport hemp.

d. Except as provided by section 9 of P.L. , c. (C.) (pending before the Legislature as this bill), a person or business entity may not cultivate, handle, or process hemp, or cause an agent to cultivate, handle or process, in this State or transport, or cause an agent to transport, hemp outside of this State unless that person or business entity is authorized by the department to participate in the State hemp program as a hemp producer. All applicants must apply to the department on a form and in the manner prescribed by the department as described in P.L. , c. (C.) (pending before the Legislature as this bill). Upon approval of the State plan by the United States Department of Agriculture, the department shall begin authorizing participation in the State hemp program established

pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

(1) In addition to any other information deemed necessary by the department, an application shall include:

(a) a legal description and the global positioning system coordinates for each location where an applicant intends to cultivate or process hemp;

(b) written consent allowing the department, the Department of Law and Public Safety, and any other State or local law enforcement agency to enter onto all premises where hemp is cultivated, handled, or processed to conduct a physical inspection or to ensure compliance with P.L. , c. (C.) (pending before the Legislature as this bill) and rules and regulation adopted pursuant [1][to P.L. , c. (C.) (pending before the Legislature as this bill)] thereto[1] ;

(c) the payment of any fees required by the department;

(d) a criminal history record background check on all applicants at the applicant's expense; and

(e) any other information required pursuant to rules and regulations adopted by the department.

(2) If the department determines that an applicant meets the State hemp program participation requirements, the department shall authorize the applicant to participate in the program as a hemp producer.

(3) An applicant who materially falsifies any information contained in an application submitted to the department may not participate in the State hemp program as a hemp producer.

7. (New section) a. If the department determines that a hemp producer negligently violated P.L. , c. (C.) (pending before the Legislature as this bill) or any rule or regulation adopted pursuant thereto, the department shall enforce the violation in the manner provided by 7 U.S.C. s.1639p [1][as follows][1] :

(1) The hemp producer shall not be subject to a [1][civil or][1] criminal penalty under subsection a. of this section. A hemp producer shall be required to implement a corrective action plan if the department determines that the person or business entity negligently violated State hemp laws or regulations, including by negligently:

(a) Failing to disclose, or provide required information about, a site where hemp is cultivated, handled, or processed;

(b) Failing to obtain a necessary license from the department or a necessary authorization from the State or a federal agency other than those required to be a hemp producer; or

(c) Producing Cannabis sativa L. with more than the federally defined THC level for hemp.

(2) A corrective action plan required pursuant to paragraph (1) of this subsection shall include:

(a) A reasonable date by which a hemp producer shall correct the negligent violation; and

(b) A requirement for periodic reports from the hemp producer to the department about the hemp producer's compliance with the corrective action plan, statutes, and any rules or regulations adopted pursuant thereto, for a period of at least two years from the date of the corrective action plan.

(3) A hemp producer that negligently violates any law [1],[1] or any rule or regulation adopted pursuant thereto, governing that person's or business entity's participation in the hemp program shall not be subject to a criminal or civil enforcement action by the State or a local government other than an enforcement action authorized pursuant to this section.

(4) A person or business entity found by the department to have negligently violated any law, or rule or regulation governing the person's or business entity's participation in the hemp program three times in a five year period shall be ineligible to participate in the State hemp program as a hemp producer for a period of five years beginning on the date of the third violation.

b. If the department determines that a hemp producer has violated P.L. , c. (C.) (pending before the Legislature as this bill) or a rule or regulation adopted pursuant thereto with a culpable mental state greater than negligence, subsection a. of this section shall not apply and the department shall report the hemp producer immediately to the United States Attorney General and the Attorney General of the State, who may, on behalf of the department, investigate the violation and institute proceedings for injunctive or other appropriate relief or report the matter to an appropriate law enforcement agency.

c. In addition to the rules and regulations adopted pursuant to sections 5 and 6 of P.L. , c. (C.) (pending before the Legislature as this bill), no later than 90 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the department, after consulting with the Governor and the Attorney General, shall immediately upon filing proper notice with the Office of Administrative Law, adopt interim rules and regulations establishing a schedule of [1]civil administrative[1] penalties for violations of P.L. , c. (C.) (pending before the Legislature as this bill) or a rule or regulation adopted pursuant thereto that do not conflict with 7 U.S.C. s.1639o et seq. [1]and provide notice and appeals processes for hemp producers.[1] The regulations shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be in effect for a period not to exceed 18 months, and shall, thereafter, be amended, adopted, or readopted by the department in accordance with the provisions of the "Administrative Procedure Act." Any penalty

collected pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall be deposited in the "New Jersey Hemp Farming Fund" established pursuant to section 8 P.L. , c. (C.) (pending before the Legislature as this bill).

d. A person who is or has been convicted of an offense relating to a controlled substance under State or federal law may not participate in the State hemp program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) or produce hemp in the State under any other law for a period of at least 10 years following the date of the person's conviction. This prohibition shall not apply to any person growing hemp lawfully with a license, registration, or authorization under a [1]**[**pilot**]**[1] program authorized pursuant to 7 U.S.C. s.5940 before the date of enactment of P.L. , c. (C.) (pending before the Legislature as this bill).

8. (New section) a. There is established in the Department of Agriculture a special nonlapsing fund to be known as the "New Jersey Hemp Farming Fund." Moneys in the fund shall be used for the administration and enforcement of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The fund shall be credited with:

(1) penalties and fees collected by the department pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

(2) moneys as are appropriated by the Legislature;

(3) moneys made available to the department for the purposes of P.L. , c. (C.) (pending before the Legislature as this bill), including federal funds; and

(4) any return on investment of moneys deposited in the fund.

9. (New section) a. A State agency may not prohibit a person or business entity that processes or manufactures a product regulated by the agency from applying for or obtaining a permit or other authorization to process or manufacture the product solely on the basis that the person or business entity intends to process or manufacture the product with hemp.

b. Notwithstanding any other law, or rule or regulation adopted pursuant thereto to the contrary, derivatives of hemp, including hemp-derived cannabidiol, may be added to cosmetics, personal care products, and products intended for human or animal consumption to the maximum extent permitted by federal law.

c. The provisions of P.L. , c. (C.) (pending before the Legislature as this bill) applicable to hemp producers shall not apply to the possession, handling, transport, or sale of hemp products, including those containing one or more hemp-derived cannabinoids, including cannabidiol. Notwithstanding any other law, a person or business entity may possess, transport, sell, and purchase legally produced hemp products in this State. As part of the rules and regulations adopted pursuant to P.L. , c. (C.)

(pending before the Legislature as this bill), the Department of Agriculture shall provide to a retailer of hemp products notice of a potential violation concerning hemp products sold by the retailer and shall provide an opportunity to cure a violation committed unintentionally or negligently.

d. The Department of Agriculture, in consultation with the Department of Health, may adopt rules and regulations only to regulate the sale of hemp products that provide that:

(1) hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants; and

(2) products containing one or more hemp-derived cannabinoids, such as cannabidiol, intended for ingestion are to be considered foods, not controlled substances or adulterated products to the maximum extent permitted by federal law.

e. Retail sales of hemp products processed outside the State may be conducted in the State when the products and the hemp used in the products were processed and cultivated legally in another state or jurisdiction that has the same or substantially similar requirements for processing hemp products or cultivating hemp as provided by P.L. , c. (C.) (pending before the Legislature as this bill).

f. Hemp products may be legally transported across State lines and exported to foreign countries in a manner that is consistent with federal law and the laws of respective foreign countries.

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

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

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

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

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b), and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is

metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

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

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

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

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

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

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

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

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

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin. "Hashish" shall not mean **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, or sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .

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

"Marijuana" means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Marijuana" shall not mean **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, or sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139

(C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .

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

(a) Opium, coca leaves, and opiates;

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

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

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

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

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

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

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

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

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

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

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

(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be

entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

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

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

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

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

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

"State" means the State of New Jersey.

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

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

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

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

(cf: P.L.2018, c.139, s.6)

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

2. As used in **[**this act**]** P.L.1970, c.226 (C.24:21-1 et seq.) :

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

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

"Commissioner" means the Commissioner of Health.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V of article 2 of P.L.1970, c.226 (C.24:21-1 et seq.). The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products.

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

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

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

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

"Dispenser" means a practitioner who dispenses.

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

"Distributor" means a person who distributes.

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

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

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b), and (c) of this section; but does not include devices or their components, parts or accessories. "Drugs" shall not mean **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, or sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .

"Hashish" means the resin extracted from any part of the plant genus Cannabis and any compound, manufacture, salt, derivative, mixture, or preparation of such resin. "Hashish" shall not mean **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, or sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .

"Marihuana" means all parts of the plant genus Cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Marihuana" shall not mean **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, or sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled dangerous substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to the practitioner's

administering or dispensing of a controlled dangerous substance in the course of the practitioner's professional practice, or (2) by a practitioner (or under the practitioner's supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

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

(a) Opium, coca leaves, and opiates;

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

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in **[**this act**]** P.L.1970, c.226 (C.24:21-1 et seq.) shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

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

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 3 of **[**this act**]** P.L.1970, c.226 (C.24:21-1 et seq.) , the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

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

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

"Pharmacist" means a registered pharmacist of this State.

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

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

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

(a) "Physician" means a physician authorized by law to practice medicine in this or any other state.

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

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

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

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

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

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

"Substance use disorder involving drugs" means taking or using a drug or controlled dangerous substance, as defined in this chapter, in association with a state of psychic or physical dependence, or both, arising from the use of that drug or controlled dangerous substance on a continuous basis. A substance use disorder is characterized by behavioral and other responses, including, but not limited to, a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

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

(cf: P.L.2018, c.138, s.7)

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

5. Schedule I.

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

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

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

(1) Acetylmethadol
(2) Allylprodine
(3) Alphacetylmethadol
(4) Alphameprodine
(5) Alphamethadol
(6) Benzethidine
(7) Betacetylmethadol
(8) Betameprodine
(9) Betamethadol
(10) Betaprodine
(11) Clonitazene
(12) Dextromoramide
(13) Dextrorphan
(14) Diampromide
(15) Diethylthiambutene
(16) Dimenoxadol
(17) Dimepheptanol
(18) Dimethylthiambutene
(19) Dioxaphetyl butyrate
(20) Dipipanone
(21) Ethylmethylthiambutene
(22) Etonitazene
(23) Etoxeridine
(24) Furethidine
(25) Hydroxypethidine
(26) Ketobemidone
(27) Levomoramide
(28) Levophenacylmorphan
(29) Morpheridine
(30) Noracymethadol
(31) Norlevorphanol
(32) Normethadone

(33) Norpipanone
(34) Phenadoxone
(35) Phenampromide
(36) Phenomorphan
(37) Phenoperidine
(38) Piritramide
(39) Proheptazine
(40) Properidine
(41) Racemoramide
(42) Trimeperidine.

d. Any of the following narcotic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

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

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

(1) 3,4-methylenedioxy amphetamine
(2) 5-methoxy-3,4-methylenedioxy amphetamine
(3) 3,4,5-trimethoxy amphetamine
(4) Bufotenine
(5) Diethyltryptamine
(6) Dimethyltryptamine
(7) 4-methyl-2,5-dimethoxylamphetamine

(8) Ibogaine
(9) Lysergic acid diethylamide
(10) Marihuana
(11) Mescaline
(12) Peyote
(13) N-ethyl-3-piperidyl benzilate
(14) N-methyl-3-piperidyl benzilate
(15) Psilocybin
(16) Psilocyn
(17) Tetrahydrocannabinols, except when found in **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, or sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .
(cf: P.L.2018, c.139, s.8)

13. Section 1 of P.L.1939, c.248 (C.26:2-81) is amended to read as follows:

1. In order to protect the health, morals and welfare of the State of New Jersey, whenever the county prosecutor of any county of the State of New Jersey receives credible information that wild, cultivated , or hidden growth or beds of alleged Marihuana weed are located anywhere within the county, the county prosecutor shall immediately communicate such information to the Department of Health. The Department of Health, upon receipt of such information, shall immediately dispatch one of its agents to the location who shall make an examination and determination of the alleged Marihuana weed so as to determine the existence or nonexistence of Marihuana weed at the location, and the Department of Health shall immediately communicate by writing its determination to the aforesaid county prosecutor and the Department of Agriculture . "Marihuana" shall not mean **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, or sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .
(cf: P.L.2018, c.139, s.9)

14. Section 2 of P.L.1939, c.248 (C.26:2-82) is amended to read as follows:

2. Upon certification by the Department of Health of the existence of Marihuana weed at the location examined by the Department of Health, then the county prosecutor is hereby empowered to dispatch one of the prosecutor's agents to the location so certified and the agent shall destroy the Marihuana weed and the county prosecutor or the agent shall not be civilly

responsible in any manner whatsoever for destruction of the Marihuana weed. "Marihuana" shall not mean **[**industrial**]** hemp or a hemp product cultivated , handled, processed, transported, and sold pursuant to the **[**New Jersey Industrial Hemp Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**]** "New Jersey Hemp Farming Act," P.L. , c. (C.) (pending before the Legislature as this bill) .
(cf: P.L.2018, c.139, s.10)

15. Sections 1 through 5 of P.L.2018, c.139 (C.4:28-1 through C.4:28-5) are repealed.

16. This act shall take effect immediately.