SENATE, No. 1926

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 22, 2018

Senator RONALD L. RICE
District 28 (Essex)
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)

Co-Sponsored by:
Senators Codey, Cryan, Gill and Van Drew

SYNOPSIS
Decriminalizes possession of 10 grams or less of marijuana and personal-use amount of regulated marijuana-infused products; requires substance abuse treatment under certain circumstances.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 2/23/2018)
AN ACT concerning marijuana, amending various parts of the statutory law, and supplementing Title 2C of the New Jersey Statutes.

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

1. N.J.S.2B:12-17 is amended to read as follows:

2B:12-17. Jurisdiction of specified offenses. A municipal court has jurisdiction over the following cases within the territorial jurisdiction of the court:

a. Violations of county or municipal ordinances;

b. Violations of the motor vehicle and traffic laws;

c. Disorderly persons offenses, petty disorderly persons offenses and other non-indictable offenses except where exclusive jurisdiction is given to the Superior Court;

d. Violations of the fish and game laws;

e. Proceedings to collect a penalty where jurisdiction is granted by statute;

f. Violations of laws regulating boating; [and]

g. Violations of sections 10 and 11 of P.L. , c. (C. ) (pending before the Legislature as this bill); and

h. Any other proceedings where jurisdiction is granted by statute.

(cf: P.L.1996, c.95, s.12)

2. 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),

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.
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.

"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 concentrate” means a product consisting wholly or in part of the resin extracted from any part of the plant Genus
Cannabis L. and having a tetrahydrocannabinol concentration greater than 2.5 percent.

"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.

“Personal-use amount of a regulated marijuana-infused product” means one or more products, containing a total of no more than 100 milligrams of tetrahydrocannabinol, comprised of marijuana, marijuana extracts, or marijuana resins and other ingredients and intended for personal use or consumption, including but not limited to edible products, ointments, and tinctures, lawfully obtained from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, in its original, child-resistant, labeled packaging when stored.

"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.2013, c.35, s.1)

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

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

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

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

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

(3) Possession of: (a) more than 50 grams of marijuana,
including any adulterants or dilutants [ , or ]; (b) more than five
grams of hashish or marijuana concentrate; or (c) more than two
times a personal-use amount of a regulated marijuana-infused
product as defined in N.J.S.2C:35-2 , is guilty of a crime of the
fourth degree, except that, notwithstanding the provisions of
subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be
imposed; [or ]

(4) Possession of : (a) more than 10 grams but less than 50
grams of marijuana, including any adulterants or dilutants; (b) more
than a personal-use amount of a regulated marijuana-infused
product but less than two times a personal-use amount of a
regulated marijuana-infused product; or (c) more than one gram but
less than five grams of hashish or marijuana concentrate [or less of
marijuana, including any adulterants or dilutants ], or five grams or
less of hashish is a disorderly person; or
(5) Possession of: (a) 10 grams or less of marijuana, including any adulterants or dilutants; (b) a personal-use amount of a regulated marijuana-infused product; or (c) one gram or less of hashish or marijuana concentrate is not a violation of this title, but shall be subject to the penalties set forth in section 10 of P.L. ___, c. (C. ___) (pending before the Legislature as this bill).

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

b. Any person who uses or who is under the influence of any controlled dangerous substance, or its analog, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician is a disorderly person. It is not a violation of this subsection if a person is under the influence of marijuana.

In a prosecution under this subsection, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug, but it shall be sufficient for a conviction under this subsection for the State to prove that the accused did use or was under the influence of some controlled dangerous substance, counterfeit controlled dangerous substance, or controlled substance analog, other than marijuana, by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any controlled dangerous substance or controlled substance analog.

c. Any person who knowingly obtains or possesses a controlled dangerous substance or controlled substance analog in violation of subsection a. of this section and who fails to voluntarily deliver the substance to the nearest law enforcement officer is guilty of a disorderly persons offense. Nothing in this subsection shall be construed to preclude a prosecution or conviction for any other offense defined in this title or any other statute. It is not a violation of this subsection if the substance is 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate.

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

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

pursuant to the provisions of paragraph (5) of subsection a. of N.J.S.2C:35-10, that authorization or decriminalization shall, subject to the provisions of this section, constitute an exemption from criminal liability under this chapter or chapter 36, and the absence of such authorization or decriminalization shall not be construed to be an element of any offense in this chapter or chapter 36. It is an affirmative defense to any criminal action arising under this chapter or chapter 36 that the defendant is the authorized holder of an appropriate registration, permit or order form or is otherwise exempted or excepted from criminal liability by virtue of any provision of P.L.1970, c.226 (C.24:21-1 et seq.), P.L.2009, c.307 (C.24:61-1 et al.), or P.L.2015, c.158 (C.18A:40-12.22 et al.) or the provisions of paragraph (5) of subsection a. of N.J.S.2C:35-10.

The affirmative defense established herein shall be proved by the defendant by a preponderance of the evidence. It shall not be necessary for the State to negate any exemption set forth in this act or in any provision of Title 24 of the Revised Statutes in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under this act.

b. No liability shall be imposed by virtue of this chapter or chapter 36 upon any duly authorized State officer, engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances or controlled substance analogs.

(cf: P.L.2015, c.158, s.3)

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

2C:36-2. Use or possession with intent to use drug paraphernalia, disorderly persons offense.

It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title. Any person who violates this section is guilty of a disorderly persons offense.

Use, or possession with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the human body 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate is not a violation of this section but shall be subject to the penalties set forth in section 11 of P.L.____, c.____ (pending before the Legislature as this bill).

(cf: P.L.2007, c.31, s.3)
N.J.S.2C:36A-1 is amended to read as follows:


a. Whenever any person who has not previously been convicted of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a disorderly persons or petty disorderly persons offense defined in chapter 35 or 36 of this title or, subsequent to the effective date of this title, under any law of the United States, this State or any other state relating to marijuana, or stimulant, depressant, or hallucinogenic drugs, and who has not previously participated in a program of supervisory treatment pursuant to N.J.S.2C:43-12 or conditional dismissal pursuant to P.L.2013, c.158 (C.2C:43-13.1 et al.), or a Veterans Diversion Program pursuant to P.L.2017, c.42 (C.2C:43-23 et al.), is charged with or convicted of any disorderly persons offense or petty disorderly persons offense under chapter 35 or 36 of this title, the court [upon notice to the prosecutor and], subject to subsection c. of this section, [may on motion of the defendant or the court] shall:

(1) Suspend further proceedings and with the consent of the person after reference to the State Bureau of Identification criminal history record information files, place him under supervisory treatment upon such reasonable terms and conditions as it may require, including the terms and conditions set forth in subsection b.

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

b. The court shall order the person to undergo a diagnostic assessment by a professional licensed or certified by the Division of Mental Health and Addiction Services in the Department of Health to perform such assessments to determine if and to what extent the person is drug dependent and would benefit from treatment.

(1) If the person is determined to not be drug dependent he shall complete a two-hour education program on marijuana and other controlled dangerous substances, according to a curriculum developed by the Division of Mental Health and Addiction Services in the Department of Health. The curriculum shall include written materials. If the professional determines that the person is not drug dependent, the professional shall report to the court that no further action is needed, and the records of the violation shall be expunged as set forth in subparagraph (b) of paragraph (2) of this subsection.

(2) If the person is determined to be drug dependent within the meaning of N.J.S.2C:35-2 and substance abuse treatment and monitoring will serve to benefit the person by addressing his drug dependency, the court shall order the person to undergo treatment
for drug dependency at a suitable treatment facility licensed and
approved by the Department of Health and to comply with the
requirements of the course of treatment. The person shall be
required to submit to periodic testing to determine compliance with
treatment program goals. The treatment provider shall promptly
report to the court any significant failures by the person to comply
with any court-imposed term or condition of treatment or any
requirements of the course of treatment, including but not limited to
a positive drug or alcohol test or the unexcused failure to attend any
session or activity.
A person may apply for a waiver of the cost of the substance
abuse assessment and substance abuse treatment by reason of
extreme financial hardship. Costs of the substance abuse assessment
may be reimbursed from the Drug Education Program Fund
established in section 13 of P.L. , c. (C. ) (pending before
the Legislature as this bill).
(a) Upon completion of treatment, the agency designated by the
court to monitor or supervise the person’s treatment shall report to
the court as to the person’s progress in treatment and compliance
with court-imposed terms and conditions.
(b) After the expiration of a period six months following the
court’s entry of the order of dismissal, the records of the person’s
arrest shall be expunged pursuant to N.J.S.2C:52-6. Expungement
shall not require any action by the person or the payment of any fee.
In no event shall the court require as a term or condition of
supervisory treatment under this section, referral to any residential
treatment facility for a period exceeding the maximum period of
confinement prescribed by law for the offense for which the
individual has been charged or convicted, nor shall any term of
supervisory treatment imposed under this subsection exceed a
period of three years. [If a person is placed under supervisory
treatment under this section after a plea of guilty or finding of guilt,
the court as a term and condition of supervisory treatment shall
suspend the person's driving privileges for a period to be fixed by
the court at not less than six months or more than two years unless
the court finds compelling circumstances warranting an exception.
For the purposes of this subsection, compelling circumstances
warranting an exception exist if the suspension of the person's
driving privileges will result in extreme hardship and alternative
means of transportation are not available. In the case of a person
who at the time of placement under supervisory treatment under this
section is less than 17 years of age, the period of suspension of
driving privileges authorized herein, including a suspension of the
privilege of operating a motorized bicycle, shall commence on the
day the person is placed on supervisory treatment and shall run for a
period as fixed by the court of not less than six months or more than
two years after the day the person reaches the age of 17 years.
If the driving privilege of a person is under revocation, suspension, or postponement for a violation of this title or Title 39 of the Revised Statutes at the time of the person's placement on supervisory treatment under this section, the revocation, suspension or postponement period imposed herein shall commence as of the date of the termination of the existing revocation, suspension or postponement. The court which places a person on supervisory treatment under this section shall collect and forward the person's driver's license to the New Jersey Motor Vehicle Commission and file an appropriate report with the commission in accordance with the procedure set forth in N.J.S.2C:35-16. The court shall also inform the person of the penalties for operating a motor vehicle during the period of license suspension or postponement as required in N.J.S.2C:35-16.

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

c. Proceedings under this section shall be available to every defendant unless the court in its discretion concludes that:

(1) The defendant's continued presence in the community, or in a civil treatment center or program, will pose a danger to the community; or

(2) The terms and conditions of supervisory treatment will be inadequate to protect the public and will not benefit the defendant by serving to correct any dependence on or use of controlled substances which he may manifest; or

(3) The person has previously received supervisory treatment under section 27 of P.L.1970, c.226 (C.24:21-27), N.J.S.2C:43-12, or the provisions of this chapter.
d. A person seeking conditional discharge pursuant to this section shall pay to the court a fee of $75 which shall be paid to the Treasurer of the State of New Jersey for deposit in the General Fund. The defendant shall also be required to pay restitution, costs and other assessments as provided by law. A person may apply for a waiver of this fee, by reason of poverty, pursuant to the Rules Governing the Courts of the State of New Jersey, or the court may permit the defendant to pay the conditional discharge fee and other assessments in installments or may order other alternatives pursuant to section 1 of P.L.2009, c.317 (C.2B:12-23.1).

(cf: P.L.2017, c.42, s.9)

7. N.J.S.2C:52-1 is amended to read as follows:

2C:52-1. Definition of Expungement.

a. Except as otherwise provided in this chapter, expungement shall mean the extraction and isolation of all records on file within any court, detention or correctional facility, law enforcement or criminal justice agency concerning a person’s detection, apprehension, arrest, detention, trial or disposition of: an offense within the criminal justice system, or a violation of section 10 or 11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. Expunged records shall include complaints, warrants, arrests, commitments, processing records, fingerprints, photographs, index cards, “rap sheets” and judicial docket records.

(cf: P.L.1979, c.178, s.108)

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

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

a. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any crime, whether within this State or any other jurisdiction, may present an expungement application to the Superior Court pursuant to this section. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has also been convicted of one or more crimes shall not be eligible to apply for an expungement pursuant to this section, but may present an expungement application to the Superior Court pursuant to N.J.S.2C:52-2.

b. Any person who has been convicted of one or more disorderly persons or petty disorderly persons offenses under the laws of this State who has not been convicted of any crime, whether within this State or any other jurisdiction, may present an expungement application to the Superior Court pursuant to this section if:
the person has been convicted, under the laws of this State, on
the same or separate occasions of no more than four disorderly
persons offenses, no more than four petty disorderly persons
offenses, or a combination of no more than four disorderly persons
and petty disorderly persons offenses, and the person does not
otherwise have any prior or subsequent conviction for a disorderly
persons or petty disorderly persons offense, whether within this
State or any other jurisdiction, such that the total number of
convictions for disorderly persons and petty disorderly persons
offenses would exceed four; or

the person has been convicted of multiple disorderly persons
offenses or multiple petty disorderly persons offenses under the
laws of this State, or a combination of multiple disorderly persons
and petty disorderly persons offenses under the laws of this State,
which convictions were entered on the same day, and does not
otherwise have any prior or subsequent conviction for another
offense in addition to those convictions included in the
expungement application, whether any such conviction was within
this State or any other jurisdiction; or

the person has been convicted of multiple disorderly persons
offenses or multiple petty disorderly persons offenses under the
laws of this State, or a combination of multiple disorderly persons
and petty disorderly persons offenses under the laws of this State,
which offenses or combination of offenses were interdependent or
closely related in circumstances and were committed as part of a
sequence of events that took place within a comparatively short
period of time, regardless of the date of conviction or sentencing for
each individual offense, and the person does not otherwise have any
prior or subsequent conviction for another offense in addition to
those convictions included in the expungement application, whether
within this State or any other jurisdiction.

The person, if eligible, may present the expungement application
after the expiration of a period of five years from the date of his
most recent conviction, payment of fine, satisfactory completion of
probation or release from incarceration, whichever is later. The
term "fine" as used herein and throughout this section means and
includes any fine, restitution, and other court-ordered financial
assessment imposed by the court as part of the sentence for the
conviction, for which payment of restitution takes precedence in
accordance with chapter 46 of Title 2C of the New Jersey Statutes.
The person shall submit the expungement application to the
Superior Court in the county in which the most recent conviction
for a disorderly persons or petty disorderly persons offense was
adjudged, which contains a separate, duly verified petition as
provided in N.J.S.2C:52-7 for each conviction sought to be
expunged, praying that the conviction, or convictions if applicable,
and all records and information pertaining thereto be expunged.
The petition for each conviction appended to an application shall comply with the requirements of N.J.S.2C:52-1 et seq.

Notwithstanding the provisions of the five-year time requirement, an application may be filed and presented, and the court may grant an expungement pursuant to this section, when the court finds:

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

(2) at least three but less than five years have expired from the date of the most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later; and

the person has not been otherwise convicted of a crime, disorderly persons offense, or petty disorderly persons offense since the time of the most recent conviction; and the court finds in its discretion that expungement is in the public interest, giving due consideration to the nature of the offense or offenses, and the applicant's character and conduct since the conviction or convictions.

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

c. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14 shall not apply to an expungement of a conviction of any of the following offenses that occurred prior to the enactment of P.L. , (pending before the Legislature as this bill) and no fee shall be charged to the person making such application:

(1) a violation of subsections a., b., or c. of N.J.S.2C:35-10 involving possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate; or

(2) a violation of subsection b. of N.J.S.2C:36-2 involving paraphernalia for the use of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate.

(cf: P.L.2017, c.244, s.2)

9. Section 1 of P.L.1964, c.289 (C.39:4-49.1) is amended to read as follows:
1. No person shall operate a motor vehicle on any highway
while knowingly having in his possession or in the motor vehicle
any controlled dangerous substance as classified in Schedules I, II,
III, IV and V of the "New Jersey Controlled Dangerous Substances
legend drug, unless the person has obtained the substance or drug
from, or on a valid written prescription of, a duly licensed
physician, veterinarian, dentist or other medical practitioner
licensed to write prescriptions intended for the treatment or
prevention of disease in man or animals or unless the person
possesses a controlled dangerous substance pursuant to a lawful
order of a practitioner or lawfully possesses a Schedule V
substance.

A person who violates this section shall be fined not less than
$50.00 and shall forthwith forfeit his right to operate a motor
vehicle for a period of two years from the date of his conviction.
This section shall not apply to possession of 10 grams or less of
marijuana, including any adulterants or dilutants; a personal-use
amount of a regulated marijuana-infused product as defined in
N.J.S.2C:35-2; or one gram or less of hashish or marijuana
concentrate.

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

10. (New section) a. Any person who, in violation of paragraph
(5) of subsection a. of N.J.S.2C:35-10, possesses 10 grams or less
of marijuana, including any adulterants or dilutants; a personal-use
amount of a regulated marijuana-infused product as defined in
N.J.S.2C:35-2; or one gram or less of hashish or marijuana
concentrate, shall be subject to the following civil penalties:
(1) $150 for a first violation;
(2) $200 for a second violation;
(3) $500 for a third or subsequent violation.
No additional fines, penalties, or fees shall be imposed by the
court, except court costs.
The penalty shall be collected pursuant to the “Penalty
in a summary proceeding before the municipal court having
jurisdiction. A penalty recovered under the provisions of this
section shall be recovered by and in the name of the State by the
local municipality. The penalty shall be paid into the treasury of
the municipality in which the violation occurred. Of each penalty
imposed pursuant to this section, $50 shall be forwarded by the
municipality to the State to be deposited in the “Drug Education
Program Fund” established pursuant to section 13 of P.L. ,
c. C. ) (pending before the Legislature as this bill). The
remainder of the penalty monies collected pursuant to this section
shall be retained by the municipality for the general uses of the
municipality.
A violation of this section shall be proved by a preponderance of the evidence.

The court may waive the penalties in cases of extreme financial hardship. The court shall waive the penalties for a single violation within a three-year period upon proof that, within 60 days of the violation, the person completed a substance abuse assessment by a professional licensed by the Division of Mental Health and Addiction Services in the Department of Health to perform such assessments. A person who intends to undergo such an assessment shall notify the court, which shall schedule the matter for review after 180 days. If proof of completion of the assessment is filed on or before 180 days, the court shall waive the penalties without a hearing unless requested by a party.

b. The substance abuse assessment shall determine if, and to what extent, the person is a drug dependent person within the meaning of N.J.S.2C:35-2 and would benefit from treatment. If the person is determined to not be drug dependent he shall complete a two-hour education program on marijuana and other controlled dangerous substances according to a curriculum developed by the Division of Mental Health and Addiction Services in the Department of Health. The curriculum shall include written materials. If the professional determines that the person is not drug dependent, the professional shall report to the court that no further action is needed, and the records of the violation shall be expunged as set forth in subsection e. of this section.

c. If the person is determined to be drug dependent within the meaning of N.J.S.2C:35-2 and substance abuse treatment and monitoring will serve to benefit the person by addressing his drug dependency, the court shall order the person to undergo treatment for drug dependency at a suitable treatment facility licensed and approved by the Department of Health and to comply with the requirements of the course of treatment. The person shall be required to submit to periodic testing to determine compliance with treatment program goals. The treatment provider shall promptly report to the court any significant failures by the person to comply with any court-imposed term or condition of treatment or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test or the unexcused failure to to attend any session or activity.

d. Upon completion of treatment, the agency designated by the court to monitor or supervise the person’s treatment shall report to the court as to the person’s progress in treatment and compliance with court-imposed terms and conditions.

e. After the expiration of a period of six months following the completion of the education program set forth in subsection b. of this section or following substance abuse treatment as set forth in subsection c. of this section, the records of the violation shall be expunged in accordance with the provisions of section 12 of P.L. ,
c. (C.) (pending before the Legislature as this bill). Expungement shall not require any action by the person or the payment of any fee.

f. A person may apply for a waiver of court fees and the cost of the substance abuse assessment and treatment set forth in this section by reason of extreme financial hardship. Costs of the substance abuse assessment may be reimbursed from the Drug Education Program Fund established in section 13 of P.L. ,

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

11. (New section) a. Any person who possesses drug paraphernalia, as defined in N.J.S.2C:36-1, for the personal use of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate, shall be subject to a civil penalty of $100. No additional fines, penalties, or fees shall be imposed by the court, except court costs.

The penalty shall be collected pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. A penalty recovered under the provisions of this section shall be recovered by and in the name of the State by the local municipality. The penalty shall be paid into the treasury of the municipality in which the violation occurred. Of each penalty imposed pursuant to this section, $50 shall be forwarded by the municipality to the State to be deposited in the “Drug Education Program Fund” established pursuant to section 13 of P.L. ,
c. (C.) (pending before the Legislature as this bill). The remainder of the penalty monies collected pursuant to this section shall be retained by the municipality for the general uses of the municipality.

A violation of this section shall be proved by a preponderance of the evidence.

The court may waive the penalty in cases of extreme financial hardship. The court shall waive the penalty for a single violation within a three-year period upon proof that, within 60 days of the violation, the person completed a substance abuse assessment by a professional licensed by the Division of Mental Health and Addiction Services in the Department of Health to perform such assessments. A person who intends to undergo such an assessment shall notify the court, which shall schedule the matter for review after 180 days. If proof of completion of the assessment is filed on or before 180 days, the court shall waive the penalties without a hearing unless requested by a party.

b. The substance abuse assessment shall determine if, and to what extent, the person is a drug dependent person within the meaning of N.J.S.2C:35-2 and would benefit from treatment. If the person is determined to not be drug dependent he shall complete a
two-hour education program on marijuana and other controlled
dangerous substances according to a curriculum developed by the
Division of Mental Health and Addiction Services in the
Department of Health. The curriculum shall include written
materials. If the professional determines that the person is not drug
dependent, the professional shall report to the court that no further
action is needed, and the records of the violation shall be expunged
as set forth in subsection e. of this section.
   c. If the person is determined to be drug dependent within the
meaning of N.J.S.2C:35-2 and substance abuse treatment and
monitoring will serve to benefit the person by addressing his drug
dependency, the court shall order the person to undergo treatment
for drug dependency at a suitable treatment facility licensed and
approved by the Department of Health and to comply with the
requirements of the course of treatment. The person shall be
required to submit to periodic testing to determine compliance with
treatment program goals. The treatment provider shall promptly
report to the court any significant failures by the person to comply
with any court-imposed term or condition of treatment or any
requirements of the course of treatment, including but not limited to
a positive drug or alcohol test or the unexcused failure to attend
any session or activity.
   d. Upon completion of treatment, the agency designated by the
court to monitor or supervise the person’s treatment shall report to
the court as to the person’s progress in treatment and compliance
with court-imposed terms and conditions.
   e. After the expiration of a period of six months following the
completion of the education program set forth in subsection b. of
this section or following substance abuse treatment as set forth in
subsection c. of this section, the records of the violation shall be
expunged in accordance with the provisions of section 12 of P.L. ,
c. (C. ) (pending before the Legislature as this bill).
Expungement shall not require any action by the person or the
payment of any fee.
   f. A person may apply for a waiver of court fees and the cost
of the substance abuse assessment and treatment set forth in this
section by reason of extreme financial hardship. Costs of the
substance abuse assessment may be reimbursed from the Drug
Education Program Fund established in section 13 of P.L. ,
c. (C. ) (pending before the Legislature as this bill).

12. (New section) Pursuant to the provisions of subsection e. of
section 10 of P.L. , c. (C. ) (pending before the Legislature
as this bill) and subsection e. of section 11 of P.L. ,
c. (C. ) (pending before the Legislature as this bill), the court
shall order the expungement of all records and information relating
to a violation of section 10 or 11 of P.L. , c. (C. ) (pending
before the Legislature as this bill). The provisions of N.J.S.2C:52-7
through N.J.S.2C:52-14 shall not apply to the expungement of such records and no fee shall be charged to the person.

13. (New section) The “Drug Education Program Fund” is established as a dedicated, nonlapsing, revolving fund in the Department of the Treasury. Monies deposited in the fund shall be appropriated to the Department of Health, Division of Mental Health and Addiction Services for drug education programs. Monies shall also be used to reimburse the costs of substance abuse assessment and treatment pursuant to subsection b. of N.J.S.2C:36A-1 and sections 10 and 11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

14. (New section) In addition to the provisions of any other law, a person who negligently stores a regulated marijuana-infused product, resulting in a minor under the age of 18 years possessing such product, shall be guilty of a disorderly persons offense. It shall be prima facie evidence that the person did not act negligently pursuant to this section if he lawfully obtained the regulated marijuana-infused product from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, and stored the product in its original, child-resistant, labeled packaging. Failure to store a regulated marijuana-infused product in its original, child-resistant, labeled packaging shall be prima facie evidence of negligence pursuant to this section.

15. (New section) Any person who is serving a sentence on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) for a violation of: (1) subsection a. of N.J.S.2C:35-10 involving possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10; or (3) N.J.S.2C:36-2 may move to have his sentence reviewed by the sentencing court. The court may impose a civil penalty pursuant to section 10 or 11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

16. (New section) P.L. , c. (C. ) (pending before the Legislature as this bill) shall apply to all persons convicted of, but not yet sentenced as of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) for a violation of: (1) subsection a. of N.J.S.2C:35-10 involving possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10; or
The defendant may move to have his conviction overturned by the court. The court may impose a civil penalty pursuant to section 10 or 11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

17. (New section) P.L. , c. (C. ) (pending before the Legislature as this bill) shall apply to all criminal charges pending on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) for a violation of: (1) subsection a. of N.J.S.2C:35-10 involving possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10; or (3) N.J.S.2C:36-2. On and after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the court shall dismiss any such criminal charges but the prosecutor may charge the defendant with a violation pursuant to section 10 or 11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

18. (New section) The Attorney General shall issue guidelines for prosecutors and law enforcement to effectuate the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

19. (New section) The Commissioner of Health, in consultation with the Attorney General, shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill).

20. This act shall take effect on the 60th day following enactment.

STATEMENT

This bill would decriminalize possession of 10 grams or less of marijuana and certain marijuana products and impose civil penalties for such possession. The bill would also eliminate all penalties for being under the influence of marijuana.

CIVIL PENALTIES. The bill amends N.J.S.2C:35-10, Possession, Use or Being Under the Influence, to provide that a person who possesses 10 grams or less of marijuana, including any adulterants or dilutants; a “personal-use amount of a regulated marijuana-infused product”; or one gram or less of hashish or marijuana concentrate would be subject to a civil penalty: a fine of $150 for a first violation, a $200 fine for a second violation, and a $500 fine for a third or subsequent violation. The bill would allow the court to
waive the penalties in case of extreme financial hardship and under certain other circumstances.

DEFINITIONS. The bill defines “personal-use amount of a regulated marijuana-infused product” as “one or more products, containing a total of no more than 100 milligrams of tetrahydrocannabinol, comprised of marijuana, marijuana extracts, or marijuana resins and other ingredients and intended for personal use or consumption, including but not limited to edible products, ointments, and tinctures, lawfully obtained from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, in its original, child-resistant, labeled packaging when stored.”

The bill defines “marijuana concentrate” as “a product consisting wholly or in part of the resin extracted from any part of the plant Genus Cannabis L. and having a tetrahydrocannabinol concentration greater than 2.5 percent.”

CURRENT LAW. Under current law, possession of 50 grams or less of marijuana or five grams or less of hashish is a disorderly persons offense. Possession of more than 50 grams of marijuana or more than five grams of hashish is a crime of the fourth degree, with an enhanced fine of up to $25,000. A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months or a fine up to $10,000, or both; a disorderly persons offense, by a term of imprisonment of up to six months or a fine of up to $1,000 or both.

Under subsection b. of N.J.S.2C:35-10, it is a disorderly persons offense to use or be under the influence of any controlled dangerous substance, or its analog, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician. This bill provides that it would not be a violation to be under the influence of marijuana.

Subsection c. of N.J.S.2C:35-10 provides that it is a disorderly person offense to unlawfully obtain or possess a controlled dangerous substance, or its analog, and to fail to voluntarily deliver it to the nearest law enforcement officer. The bill provides that this statute would not apply to possession of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate.

N.J.S.2C:36-2 provides that it is a disorderly persons offense to be in possession of drug paraphernalia. Under the bill, this statute would not apply to a person who possesses drug paraphernalia for the use of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate. Instead, the person would be subject to a civil penalty of $100.

SUBSTANCE ABUSE ASSESSMENT. The bill requires the court to waive the penalties for a single violation within a three-year period upon proof that, within 60 days of the violation, the person
completed a substance abuse assessment by a professional licensed
by the Division of Mental Health and Addiction Services in the
Department of Health to perform such assessments. Under the bill, a
person who intends to undergo such an assessment would notify the
court, which would schedule the matter for review after 180 days.
If proof of completion of the assessment is filed on or before 180
days, the court would waive the penalties without a hearing unless
requested by a party. The bill provides that the substance abuse
assessment would determine if, and to what extent, the person is a
drug dependent person within the meaning of N.J.S.2C:35-2 and
would benefit from treatment.

EDUCATION PROGRAM; EXPUNGEMENT OF RECORDS. If the
person is determined to not be drug dependent the person would be
required to complete a two-hour education program on marijuana
and other controlled dangerous substances according to a
curriculum developed by the Division of Mental Health and
Addiction Services in the Department of Health. The curriculum
would include written materials. If the person is not drug
dependent, the professional would report to the court that no further
action is needed, and the records of the violation would be
expunged after the expiration of six months following completion
of the education program. Expungement would not require any
action by the person or the payment of any fee.

SUBSTANCE ABUSE TREATMENT; EXPUNGEMENT OF RECORDS.
The bill provides that if the person is a drug dependent person
within the meaning of N.J.S.2C:35-2 and substance abuse treatment
and monitoring would serve to benefit the person by addressing his
drug dependency, the court would order him to undergo treatment
for drug dependency at a suitable treatment facility licensed and
approved by the Department of Health and to comply with the
requirements of the course of treatment. The person would be
required to submit to periodic testing to determine compliance with
treatment program goals. The treatment provider would promptly
report to the court any significant failures by the person to comply
with any court-imposed term or condition of treatment or any
requirements of the course of treatment, including but not limited to
a positive drug or alcohol test or the unexcused failure to to attend
any session or activity.

Under the bill, upon completion of treatment, the agency
designated by the court to monitor or supervise the person’s
treatment would report to the court as to the person’s progress in
treatment and compliance with court-imposed terms and conditions.
Records would be expunged after the expiration of a period of six
months. Expungement would not require any action by the person
or the payment of any fee.

WAIVER OF FEES AND COST OF ASSESSMENT. The bill provides
that a person may apply for a waiver of court fees and the cost of
the substance abuse assessment and treatment by reason of extreme
financial hardship. Costs of the substance abuse assessment may be reimbursed from the Drug Education Program Fund established in the bill.

**Possession in a Motor Vehicle.** Under N.J.S.A. 39:4-49.1, a person who operates a motor vehicle while in possession of a controlled dangerous substance or prescription drug without a valid prescription is subject to a fine of not less $50 and forfeits his right to operate a motor vehicle for two years. The bill provides that these penalties would not apply to possession of 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product as defined in N.J.S.2C:35-2; or one gram or less of hashish or marijuana concentrate.

**Disorderly Persons Offense: Negligent Storage of Regulated Marijuana-Infused Product.** The bill also establishes a new criminal offense. Under the bill, a person who negligently stores a regulated marijuana-infused product, resulting in a minor under the age of 18 years possessing such product, would be guilty of a disorderly persons offense. It would be prima facie evidence that the person did not act negligently if he lawfully obtained the regulated marijuana-infused product from a jurisdiction where marijuana sales to adults are authorized under the law of the jurisdiction, and stored the product in its original, child-resistant, labeled packaging. Failure to store a regulated marijuana-infused product in its original, child-resistant, labeled packaging would be prima facie evidence of negligence.

**Expungement of Certain Prior Criminal Offenses Involving Marijuana.** The bill provides that in the case of conviction for the possession of 10 grams or less of marijuana, a personal-use amount of a regulated marijuana-infused product, or one gram or less of hashish or marijuana concentrate that occurred prior to the effective date of the bill, an expungement petition may be filed and presented at any time, without the usual waiting period for expungement. Upon review of the petition, the court would immediately grant the expungement.

**Conditional Discharge for First Offenders.** The bill amends N.J.S.2C:36A-2, which provides conditional discharge for certain first offenders charged with disorderly persons or petty disorderly persons drug offenses, to mandate drug treatment in certain cases. Under the bill, when a first offender is charged with a disorderly persons or petty disorderly persons drug offense, the court would suspend further proceedings and place the person on supervisory treatment. The person would be required to undergo a diagnostic assessment by a professional licensed or certified to perform such assessments by the Division of Mental Health and Addiction Services in the Department of Health to determine if and to what extent the person is drug dependent and would benefit from treatment. If the person is determined to not be drug dependent he
would complete a two-hour education program on marijuana and
other controlled dangerous substances, according to a curriculum
developed by the Division of Mental Health and Addiction Services
in the Department of Health. The curriculum would include written
materials. If the professional determines that the person is not drug
dependent, the professional would report to the court that no further
action is needed, and the records of the violation would be
expunged.

If the person is determined to be drug dependent and substance
abuse treatment and monitoring would serve to benefit the person
by addressing his drug dependency, the court would order the
person to undergo treatment for drug dependency at a suitable
treatment facility licensed and approved by the Department of
Health and to comply with the requirements of the course of
treatment. The person would be required to submit to periodic
testing to determine compliance with treatment program goals.

Upon completion of treatment, the agency designated by the court
to monitor or supervise the person’s treatment would report to the
court as to the person’s progress in treatment and compliance with
court-imposed terms and conditions. The treatment provider would
promptly report to the court any significant failures by the person to
comply with any court-imposed term or condition of treatment or
any requirements of the course of treatment, including but not
limited to a positive drug or alcohol test or the unexcused failure to
to attend any session or activity. The bill provides that a person may
apply for a waiver of court fees and the cost of the substance abuse
assessment and treatment by reason of extreme financial hardship.

Costs of the substance abuse assessment may be reimbursed from
the Drug Education Program Fund established in the bill.

After the expiration of a period of six months following the
completion of the education program or following substance abuse
treatment, the records of the violation would be expunged.

Expungement would not require any action by the person or the
payment of any fee. A person may apply for a waiver of court fees
and the cost of the substance abuse assessment by reason of extreme
financial hardship.

Under current law, as a term and condition of supervisory
treatment under N.J.S.2C:36A-2 the court must suspend the
person’s driving privileges for a period of six months to two years
unless the court finds compelling circumstances warranting an
exception. The bill deletes this provision for all persons
participating in supervisory treatment under the statute.

Conditional discharge would be available to every defendant
unless the court in its discretion concludes that:

(1) The defendant’s continued presence in the community, or in
a civil treatment center or program, will pose a danger to the
community; or
(2) The terms and conditions of supervisory treatment will be inadequate to protect the public and will not benefit the defendant by serving to correct any dependence on or use of controlled substances which he may manifest; or

(3) The person has previously received supervisory treatment under section 27 of P.L.1970, c.226 (C.24:21-27), N.J.S.2C:43-12, or the conditional discharge program.

MUNICIPAL COURT JURISDICTION. The bill would amend N.J.S.2B:12-17, which sets out the jurisdiction of the municipal court, to add jurisdiction for the new civil penalties created by the bill.

DRUG EDUCATION PROGRAM FUND. The bill provides that $50 of each penalty imposed would be forwarded by the municipality to the State to be deposited in the “Drug Education Program Fund” established pursuant to the bill. The remainder of the penalty monies would be retained by the municipality for the general uses of the municipality. Monies deposited in the “Drug Education Program Fund” would be appropriated to the Department of Health, Division of Mental Health and Addiction Services for drug education programs. Monies in the fund would also be used to reimburse the costs of substance abuse assessment and treatment pursuant to the bill.

APPLICABILITY. The bill encompasses persons convicted and serving sentences for marijuana offenses under current law; persons convicted but not yet sentenced; and persons charged with offenses who have not yet gone to trial or otherwise had the charges resolved, as follows:

-- Any person who is serving a sentence on the effective date of the bill may move to have his sentence reviewed by the sentencing court, and the court may impose a civil penalty pursuant to the bill, if the person is serving a sentence for a violation of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10 (being under the influence of marijuana, or failing to deliver marijuana to law enforcement); or (3) N.J.S.2C:36-2 (paraphernalia for marijuana use).

-- Any person who has been convicted, but is not yet sentenced, on the effective date of the bill may move to have his conviction overturned by the court, and the court may impose a civil penalty pursuant to the bill, if the person has been convicted of a violation of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or less of marijuana, including any adulterants or dilutants; a personal-use amount of a regulated marijuana-infused product; or one gram or less of hashish or marijuana concentrate; (2) subsection b. or c. of N.J.S.2C:35-10 (being under the influence of marijuana, or failing to deliver marijuana to law enforcement).
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1 failing to deliver marijuana to law enforcement); or (3)
2 N.J.S.2C:36-2 (paraphernalia for marijuana use).
3 -- Any person who has criminal charges pending on the effective
4 date of the bill would have those criminal charges dismissed, and
5 the prosecutor may charge the person with the civil penalty
6 pursuant to the bill, if the person has been charged with a violation
7 of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 10 grams or
8 less of marijuana, including any adulterants or dilutants; a personal-
9 use amount of a regulated marijuana-infused product; or one gram
10 or less of hashish or marijuana concentrate; (2) subsection b. or c.
11 of N.J.S.2C:35-10 (being under the influence of marijuana, or
12 failing to deliver marijuana to law enforcement); or (3)
13 N.J.S.2C:36-2 (paraphernalia for marijuana use).

14 ATTORNEY GENERAL GUIDELINES. The bill requires the Attorney
15 General to issue guidelines for prosecutors and law enforcement to
16 effectuate the provisions of the bill.

17 COMMISSIONER OF HEALTH GUIDELINES. The Commissioner of
18 Health, in consultation with the Attorney General, would be
19 required to adopt rules and regulations pursuant to the
21 seq.), in order to effectuate the purposes of the bill.

22 MEDICAL MARIJUANA NOT AFFECTED. This bill would not be
23 applicable to any person in compliance with the “New Jersey
24 Compassionate Use Medical Marijuana Act,” P.L.2009, c.307
25 (C.24:6I-1 et al.).