

SENATE, No. 2703

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 7, 2018

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

“New Jersey Marijuana Legalization Act”; legalizes possession and personal use of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

7 1. (New section) This act shall be known and may be cited as
8 the “New Jersey Marijuana Legalization Act.”

9

10 2. (New section) Findings and Declarations.

11 The Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

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

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

23

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

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

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

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

35 "Division" means the Division of Marijuana Enforcement in the
36 Department of the Treasury.

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

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

46 "Household" means a housing unit and any place in or around a
47 housing unit at which the occupants of the housing unit are

1 producing, processing, or storing homegrown marijuana or
2 homemade marijuana products.

3 “Housing unit” means a house, an apartment, a mobile home, a
4 group of rooms, or a single room that is occupied as separate living
5 quarters, in which the occupants live and eat separately from any
6 other persons in the building and which have direct access from the
7 outside of the building or through a common hall.

8 “Immature marijuana plant” means a marijuana plant that is not
9 flowering.

10 “Impact zone” means any census tract that ranks in the top 33
11 percent of census tracts in the State for marijuana-related arrests
12 and that ranks in the bottom 33 percent of census tracts in the State
13 for median household income.

14 “Industrial hemp” means the plant of the Genus *Cannabis* L. and
15 any part of such plant, whether growing or not, with a delta-9
16 tetrahydrocannabinol concentration that does not exceed three-
17 tenths percent on a dry weight basis.

18 “Licensee” means a person who holds a license issued under this
19 act that is designated as either a Class 1 Marijuana Grower license,
20 a Class 2 Marijuana Processor license, a Class 3 Marijuana
21 Wholesaler license, or a Class 4 Marijuana Retailer license.

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

25 “Local governmental entity” means a municipality.

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

33 “Marijuana Cultivation facility” means a facility licensed to a
34 Class 1 Marijuana Grower to grow and cultivate marijuana, and to
35 sell marijuana to marijuana product manufacturing facilities, and to
36 other marijuana cultivation facilities, but not to consumers.

37 “Marijuana establishment” means a marijuana cultivation
38 facility, a marijuana testing facility, a marijuana product
39 manufacturing facility, or a marijuana retailer.

40 “Marijuana extract” means a substance obtained by separating
41 resins from marijuana by: a. a chemical extraction process using a
42 hydrocarbon-based solvent, such as butane, hexane, or propane; b. a
43 chemical extraction process using the hydrocarbon-based solvent
44 carbon dioxide, if the process uses high heat or pressure; or c. any
45 other process identified by the division by rule.

46 “Marijuana flowers” means the flowers of the plant Genus
47 *Cannabis* L. within the plant family Cannabaceae.

1 “Marijuana grower” means a person who grows, cultivates or
2 produces marijuana in this State.

3 “Marijuana items” means marijuana, marijuana products, and
4 marijuana extracts.

5 “Marijuana leaves” means the leaves of the plant genus Genus
6 Cannabis L. within the plant family Cannabaceae.

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

14 “Marijuana processor” means a person who processes marijuana
15 items in this State. This entity shall hold a Class 2 Marijuana
16 Processor license.

17 “Marijuana product manufacturing facility” means an entity
18 licensed to purchase marijuana; manufacture, prepare, and package
19 marijuana items; and sell items to other marijuana product
20 manufacturing facilities and to marijuana retailers, but not to
21 consumers.

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

28 “Marijuana retailer” means an entity licensed to purchase
29 marijuana from marijuana cultivation facilities and marijuana items
30 from marijuana product manufacturing facilities or marijuana
31 wholesalers, and to sell marijuana and marijuana products to
32 consumers from a retail store, which shall also be known as a
33 dispensary. This entity shall hold a Class 4 Marijuana Retailer
34 license.

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

39 “Marijuana wholesaler” means any licensed person or entity who
40 sells marijuana items or marijuana paraphernalia for the purpose of
41 resale either to a licensed marijuana wholesaler or to a licensed
42 marijuana retailer. This entity shall hold a Class 3 Marijuana
43 Wholesaler license.

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

46 “Medical marijuana alternative treatment center” means an entity
47 permitted by the Department of Health to sell marijuana and

1 marijuana products pursuant to the "New Jersey Compassionate Use
2 Medical Marijuana Act" P.L.2009, c.307 (C.24:6I-1 et al.).

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

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

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

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

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

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

39 "Retail marijuana consumption area" means an establishment
40 where a new or existing marijuana retail licensee has been approved
41 for a retail marijuana consumption area endorsement to sell retail
42 marijuana, retail marijuana concentrate, and retail marijuana
43 product for consumption on the premises.

44 "Significantly involved person" means a person or entity that is:
45 in a sole proprietorship, the proprietor; in a partnership, limited
46 partnership, limited liability partnership, or limited liability
47 company, a natural person or natural persons among its partnership
48 or membership who in the aggregate individually own or owns,

1 directly or indirectly through business entities, a 20 percent or
2 greater interest in the company; in a nonpublic corporation, a
3 natural person or natural persons among its shareholders who in the
4 aggregate individually own or owns, directly or indirectly, at least
5 20 percent of the corporation's total outstanding shares; in a
6 publicly traded corporation or a majority-owned subsidiary of a
7 publicly traded corporation, natural persons who in the aggregate
8 comprise at least 20 percent of the board of directors or governing
9 body of the publicly traded parent corporation; or in a nonprofit
10 corporation, employee cooperative, or association, natural persons
11 who in the aggregate comprise at least 20 percent of the board of
12 directors or governing body as constituted under the "New Jersey
13 Nonprofit Corporation Act," N.J.S.15A:1-1 et seq..

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

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

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

26

27 4. (New section) Personal Use of Marijuana.

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

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

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

45 c. Consumption of marijuana items, provided that nothing in
46 this section shall permit a person to smoke or otherwise consume
47 marijuana items in a public place; and

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

4

5 5. (New section) Lawful Operation of Marijuana
6 Establishments.

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

11 a. manufacture, possession, or purchase of marijuana
12 paraphernalia or the sale of marijuana paraphernalia to a person
13 who is 21 years of age or older;

14 b. possessing, displaying, or transporting marijuana items;
15 purchase of marijuana from a marijuana cultivation facility;
16 purchase of marijuana items from a marijuana product
17 manufacturing facility; or sale of marijuana items to consumers, if
18 the person conducting the activities described in this subsection has
19 obtained a current, valid license to operate as a marijuana retailer or
20 is acting in his capacity as an owner, employee, or agent of a
21 licensed marijuana retailer;

22 c. cultivating, harvesting, processing, packaging, transporting,
23 displaying, or possessing marijuana; delivery or transfer of
24 marijuana to a marijuana testing facility; selling marijuana to a
25 marijuana cultivation facility, a marijuana product manufacturing
26 facility, or a marijuana retailer; or the purchase of marijuana from a
27 marijuana cultivation facility, if the person conducting the activities
28 described in this subsection has obtained a current, valid license to
29 operate a marijuana cultivation facility or is acting in his capacity as
30 an owner, employee, or agent of a licensed marijuana cultivation
31 facility;

32 d. packaging, processing, transporting, manufacturing,
33 displaying, or possessing marijuana items; delivery or transfer of
34 marijuana items to a marijuana testing facility; selling marijuana
35 items to a marijuana retailer or a marijuana product manufacturing
36 facility; the purchase of marijuana from a marijuana cultivation
37 facility; or the purchase of marijuana items from a marijuana
38 product manufacturing facility, if the person conducting the
39 activities described in this subsection has obtained a current, valid
40 license to operate a marijuana product manufacturing facility or is
41 acting in his capacity as an owner, employee, or agent of a licensed
42 marijuana product manufacturing facility;

43 e. possessing, cultivating, processing, repackaging, storing,
44 transporting, displaying, transferring, or delivering marijuana items
45 if the person has obtained a current, valid license to operate a
46 marijuana testing facility or is acting in his capacity as an owner,
47 employee, or agent of a licensed marijuana testing facility; and

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

5
6 6. (New section) Prohibition of Persons Under the Legal Age
7 Purchasing Marijuana.

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

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

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

23 (1) That the purchaser of the marijuana or marijuana product
24 falsely represented, by producing either a United States passport;
25 driver's license or non-driver identification card issued by the New
26 Jersey Motor Vehicle Commission; a similar card issued pursuant to
27 the laws of another state; United States military identification card;
28 or a photographic identification card issued by a county clerk, that
29 he was of legal age to make the purchase;

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

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

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

42 For purposes of this subsection, purchasing a marijuana item
43 includes accepting a marijuana item, and acquiring a marijuana item
44 includes consuming a marijuana item.

45 e. It shall be unlawful for a person under the age of 21 to
46 present or offer to a marijuana establishment or the marijuana
47 establishment's agent or employee any written or oral evidence of

1 age that is false, fraudulent, or not actually the person's own, for the
2 purpose of:

3 (1) Purchasing, attempting to purchase, or otherwise procuring
4 or attempting to procure marijuana or marijuana products; or

5 (2) Gaining access to a marijuana establishment.

6 f. Except as permitted by the division by rule or regulation, or
7 as necessary on an emergency basis, a person under legal age for
8 purchasing marijuana items may not enter or attempt to enter any
9 portion of a licensed premises that is posted or otherwise identified
10 as being prohibited to the use of persons under legal age for
11 purchasing marijuana items, unless accompanied by and supervised
12 by a parent or legal guardian.

13 g. Any person under the legal age to purchase marijuana who
14 knowingly possesses without legal authority, or who knowingly
15 consumes any marijuana in any school, public conveyance, public
16 place, place of public assembly, or motor vehicle, shall be deemed
17 and adjudged to be a disorderly person, and upon conviction
18 thereof, shall be punished by a fine of not less than \$500.

19 h. The prohibitions of this section do not apply to a person under
20 the legal age for purchasing marijuana items who is acting under the
21 direction of the division or under the direction of State or local law
22 enforcement agencies for the purpose of investigating possible
23 violations of the laws prohibiting sale of marijuana items to persons
24 who are under the legal age for purchasing marijuana items.

25 i. The prohibitions of this section do not apply to a person
26 under the legal age for purchasing marijuana items who is acting
27 under the direction of a licensee for the purpose of investigating
28 possible violations by employees of the licensee of laws prohibiting
29 sales of marijuana items to persons who are under the legal age for
30 purchasing marijuana items.

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

34 (1) The person contacted emergency medical services or a law
35 enforcement agency in order to obtain medical assistance for
36 another person who was in need of medical assistance because that
37 person consumed a marijuana item and the evidence of the violation
38 of this section was obtained as a result of the person's having
39 contacted emergency medical services or a law enforcement
40 agency; or

41 (2) The person was in need of medical assistance because the
42 person consumed a marijuana item and the evidence of the violation
43 of this section was obtained as a result of the person's having
44 sought or obtained the medical assistance.

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

1 7. (New section) There is hereby established in the Department
2 of the Treasury the Division of Marijuana Enforcement.

3

4 8. (New section) Powers and Duties of the Division.

5 a. The Division of Marijuana Enforcement shall have all
6 powers necessary or proper to enable it to carry out the division's
7 duties, functions, and powers under P.L. , c. (C.) (pending
8 before the Legislature as this bill). The jurisdiction, supervision,
9 duties, functions, and powers of the division extend to any person
10 who buys, sells, produces, processes, transports, or delivers any
11 marijuana items within this State. The division may sue and be
12 sued.

13 b. The duties, functions and powers of the division shall
14 include the following:

15 (1) To regulate the purchase, sale, production, processing,
16 transportation, and delivery of marijuana items in accordance with
17 the provisions of P.L. , c. (C.) (pending before the Legislature as
18 this bill);

19 (2) To grant, refuse, suspend or cancel licenses for the sale,
20 processing, or production of marijuana items, or other licenses in
21 regard to marijuana items, and to permit, in the division's
22 discretion, the transfer of a license between persons;

23 (3) To investigate and aid in the prosecution of every violation
24 of the statutory laws of this State relating to marijuana items and to
25 cooperate in the prosecution of offenders before any State court of
26 competent jurisdiction;

27 (4) To adopt, amend, or repeal regulations as necessary to carry
28 out the intent and provisions of P.L. , c. (C.) (pending before
29 the Legislature as this bill);

30 (5) To exercise all powers incidental, convenient, or necessary
31 to enable the division to administer or carry out the provisions of
32 P.L. , c. (C.) (pending before the Legislature as this bill), or any
33 other law of this State that charges the division with a duty,
34 function, or power related to marijuana. Powers described in this
35 paragraph include, but are not limited to:

36 (a) Issuing subpoenas;

37 (b) Compelling attendance of witnesses;

38 (c) Administering oaths;

39 (d) Certifying official acts;

40 (e) Taking depositions as provided by law;

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

43 (g) Establishing fees in addition to the application, licensing,
44 and renewal fees, provided that any fee established by the division
45 is reasonably calculated not to exceed the cost of the activity for
46 which the fee is charged;

47 (6) To adopt rules regulating and prohibiting marijuana growers,
48 marijuana processors, marijuana wholesalers, and marijuana

1 retailers from advertising marijuana items in a manner that is
2 appealing to minors; that promotes excessive use; that promotes
3 illegal activity; or that otherwise presents a significant risk to public
4 health and safety; and

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

8 c. The powers of the division further include the power to
9 purchase, seize, possess, and dispose of marijuana items. The
10 division may purchase, possess, seize, or dispose of marijuana items
11 as is necessary to ensure compliance with and enforcement of the
12 provisions of P.L. , c. (C.) (pending before the Legislature as
13 this bill), and any rule adopted pursuant thereto. Any State officer,
14 board, commission, corporation, institution, department, or other
15 State body, and any local officer, board, commission, institution,
16 department, or other local government body, that is permitted by the
17 statutory laws of this State to perform a duty, function, or power
18 with respect to a marijuana item, may purchase, possess, seize, or
19 dispose of the marijuana item as the State officer, board,
20 commission, corporation, institution, department or other State
21 body, or the local officer, board, commission, institution,
22 department, or other local government body, considers necessary to
23 ensure compliance with and enforce the applicable statutory law or
24 any rule adopted under the applicable statutory law.

25 d. The division shall be under the immediate supervision of a
26 director. The director of the division shall be appointed by the
27 Governor, with the advice and consent of the Senate, and shall serve
28 during the term of office of the Governor appointing him and until
29 the director's successor is appointed and has qualified.

30

31 9. (New section) Regulation of Marijuana.

32 a. No later than 150 days after the effective date of P.L. , c.
33 (C.) (pending before the Legislature as this bill), the division shall
34 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
35 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for
36 implementation of P.L. , c. (C.) (pending before the Legislature
37 as this bill), which shall be consistent with the intent of P.L. ,
38 c. (C.) (pending before the Legislature as this bill). Such
39 regulations shall not prohibit the operation of marijuana
40 establishments, either expressly or through regulations that make their
41 operation unreasonably impracticable. The division may create an
42 expert task force to make recommendations to the division about the
43 content of such regulations. Such regulations shall include:

44 (1) Procedures for the application, issuance, denial, renewal,
45 suspension, and revocation of a license to operate a marijuana
46 establishment. Such procedures shall include a period of no longer
47 than 90 days by which the division shall provide the applicant with
48 notice of the division's approval or denial of any fully completed

1 application for licensure or renewal, and a period not to exceed 30
2 days in which a license shall be issued following approval of an
3 application;

4 (2) License application and renewal fees shall be established by
5 the division;

6 (3) The division shall establish licensing goals for applicants for
7 licensure who are New Jersey residents. The division shall make good
8 faith efforts to meet these goals. Qualifications for licensure shall be
9 directly and demonstrably related to the operation of a marijuana
10 establishment, provided that the division shall make licenses available
11 to as diverse a group as possible, including, but not limited to,
12 requirements that no license of any kind shall be issued to a person
13 under the legal age to purchase marijuana items. An applicant shall
14 have a significantly involved person or persons lawfully residing in the
15 State for at least two years as of the date of application to receive a
16 license;

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

25 (5) Security requirements for marijuana establishments;

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

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

34 (i) The person's passport;

35 (ii) The person's motor vehicle driver's license, whether issued by
36 New Jersey or by any other state, provided the license displays a
37 picture of the person;

38 (iii) A New Jersey identification card issued by the New Jersey
39 Motor Vehicle Commission;

40 (iv) A United States military identification card;

41 (v) A photographic identification card issued by a New Jersey
42 county clerk; or

43 (vi) Any other identification card issued by a state that bears a
44 picture of the person, the name of the person, the person's date of birth
45 and a physical description of the person;

46 (b) No marijuana establishment shall employ persons under the
47 legal age to purchase marijuana items nor shall any marijuana retailer
48 allow persons under the legal age to purchase marijuana items to enter

1 or remain on the premises of a marijuana retailer unless accompanied
2 by a parent or legal guardian;

3 (c) Packaging and branding regulations to prevent marketing of
4 marijuana items and marijuana paraphernalia to people under the legal
5 age to purchase marijuana items;

6 (7) Labeling and packaging requirements for marijuana items sold
7 or distributed by a marijuana establishment, including, but not limited
8 to, requirements that:

9 (a) Packaging and branding rules which prevent marketing of
10 marijuana items and marijuana paraphernalia to people under the legal
11 age to purchase marijuana items, including, but not limited to, rules
12 that prohibit any statement, illustration, or image that:

13 (i) Includes false statements;

14 (ii) Promotes over-consumption;

15 (iii) Depicts a child or other person under legal age consuming
16 marijuana items; or

17 (iv) Includes objects, such as toys, characters, or cartoon characters
18 suggesting the presence of a person under the legal age to purchase
19 marijuana items, or any other depiction designed in any manner to be
20 especially appealing to persons under the legal age to purchase
21 marijuana items;

22 (b) Ensure marijuana items are packaged in child-resistant
23 containers;

24 (c) Marijuana items warning labels adequately inform consumers
25 about safe marijuana use and warn of the consequences of misuse or
26 overuse;

27 (d) Labeling rules that mandate clear identification of health and
28 safety information, including, but not limited to:

29 (i) Net weight;

30 (ii) Production date and expiration date;

31 (iii) An ingredient list that includes, but is not limited to, all
32 ingredients used to manufacture the marijuana product and a list of all
33 potential allergens contained within the product;

34 (iv) Strain or type of cannabis, listed by scientific terms, if
35 available, and generic or “slang” names;

36 (v) Whether the product requires refrigeration;

37 (vi) Growth method (whether dirt grown, hydroponic, or otherwise)
38 and an indication whether or not the cannabis was grown using all-
39 organic materials and a complete list of all nonorganic pesticides,
40 fungicides and herbicides used during the cultivation of the cannabis;

41 (vii) Serving size, the total number of servings, and a statement
42 regarding the percentage of THC contained in the marijuana product
43 and in each serving. For example: “The serving size of active THC in
44 this product is X mg. This product contains X servings of marijuana,
45 and the total amount of active THC in this product is X mg.” Serving
46 sizes are recommended to be individually wrapped;

47 (viii) Warning labels that include, but are not limited to, one or
48 more of the following:

1 -- "This product contains marijuana;"

2 -- "This product is infused with marijuana;"

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

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

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

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

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

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

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

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

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

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

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

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

47 (g) Set appropriate dosage, potency, and serving size limits for
48 marijuana and other marijuana products, provided that a standardized

1 serving of marijuana shall be no more than 10 milligrams of active
2 THC and no individual edible retail product unit for sale shall contain
3 more than 100 milligrams of active THC, and that marijuana and
4 marijuana product packaging prevent children from access;

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

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

17 (j) Establish screening, hiring, training, and supervising
18 requirements for retail store employees and others who manufacture or
19 handle marijuana items;

20 (k) Promote general sanitary requirements for the handling,
21 storage, and disposal of marijuana items, and the maintenance of
22 marijuana establishments;

23 (l) Provide for rigorous auditing, inspection, and monitoring of
24 marijuana establishments for compliance with health and safety rules
25 and regulations;

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

29 (n) Prescribe reasonable restrictions on the manner, methods, and
30 means by which licensees shall transport marijuana items within the
31 State; and

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

38 (9) Restrictions on the advertising and display of marijuana items
39 and marijuana paraphernalia, including, but not limited to,
40 requirements that:

41 (a) Restrict advertising of marijuana items and marijuana
42 paraphernalia in ways that target or are designed to appeal to
43 individuals under the legal age to purchase marijuana items, including,
44 but not limited to depictions of a person under 21 years of age
45 consuming marijuana, or, includes objects, such as toys, characters, or
46 cartoon characters suggesting the presence of a person under 21 years
47 of age, or any other depiction designed in any manner to be especially
48 appealing to a person under 21 years of age;

- 1 (b) No licensed marijuana establishment shall advertise any
2 marijuana items or marijuana paraphernalia on television, or radio
3 between the hours of 6:00am and 10:00pm;
- 4 (c) No licensed marijuana establishment shall engage in
5 advertising unless it has reliable evidence that at least 71.6 percent of
6 the audience for the advertisement is reasonably expected to be 21
7 years of age or older which is the legal age to purchase marijuana
8 items;
- 9 (d) No licensed marijuana establishment may engage in
10 advertising or marketing directed towards location-based devices,
11 including but not limited to cellular phones, unless the marketing is a
12 mobile device application installed on the device by the owner of the
13 device who is 21 years of age or older and includes a permanent and
14 easy opt-out feature and warnings that restrict usage of marijuana
15 products to persons 21 years of age or over;
- 16 (e) No licensed marijuana establishment may sponsor a charitable,
17 sports, musical, artistic, cultural, social, or other similar event or
18 engage in advertising at or in connection with such an event unless it
19 has reliable evidence that no more than 20 percent of the audience at
20 the event is reasonably expected to be under the legal age to purchase
21 marijuana items;
- 22 (f) All advertisements shall contain warnings, including but not
23 limited to one or more of the following:
- 24 (i) "This product contains marijuana;"
- 25 (ii) "Marijuana can impair concentration, coordination, and
26 judgment. Do not operate a vehicle or machinery under the influence
27 of this drug;"
- 28 (iii) "There may be health risks associated with the consumption of
29 this product;"
- 30 (iv) "For use only by adults 21 years of age and older. Keep out of
31 the reach of children;"
- 32 (v) "This product was produced without regulatory oversight for
33 health, safety or efficacy;"
- 34 (vi) "The intoxicating effects of this product may be delayed by
35 two or more hours;"
- 36 (vii) "There may be health risks associated with the consumption
37 of this product, including for women who are pregnant, breastfeeding,
38 or planning on becoming pregnant."
- 39 (viii) No licensed marijuana establishment shall place or maintain,
40 or cause to be placed or maintained, an advertisement of marijuana
41 items or marijuana paraphernalia in any form or through any medium
42 whatsoever within 200 feet of an elementary or secondary school
43 grounds, recreation center or facility, arcade, child care center, public
44 park, playground, public swimming pool, or library; on or in a public
45 transit vehicle or public transit shelter; on or in publicly owned or
46 operated property.

1 For the purposes of this section, a noncommercial message shall
2 not be considered an advertisement. This section also shall not apply to
3 advertisements within the premises of a marijuana retailer.

4 (10) A requirement that only marijuana items and marijuana
5 paraphernalia are available for sale at a marijuana establishment; and

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

17 (a) The division shall be authorized, after adequate notice to the
18 owner or the agent of the owner, to make an examination of the books
19 and may at any time make an examination of the premises of any
20 person licensed under P.L. , c. (C.) (pending before the
21 Legislature as this bill) for the purpose of determining compliance
22 with this act and the rules of the division. The division shall not
23 require the books of any licensee to be maintained on the premises of
24 the licensee;

25 (b) The division may, at any time, examine the books and records
26 of any marijuana licensee, and may appoint auditors, investigators and
27 other employees that the division considers necessary to enforce its
28 powers and perform its duties;

29 (c) During any inspection of a licensed premises, the division may
30 require proof that a person performing work at the premises is 21 years
31 of age or older. If the person does not provide the division with
32 acceptable proof of age upon request, the division may require the
33 person to immediately cease any activity and leave the premises until
34 the division receives acceptable proof of age; and

35 (d) The division shall not be required to obtain a search warrant to
36 conduct an investigation or search of licensed premises;

37 (12) Record keeping requirements, including but not limited to the
38 following:

39 (a) The obligation of every marijuana grower to keep a complete
40 and accurate record of all sales of marijuana flowers, marijuana leaves,
41 and immature marijuana plants, and a complete and accurate record of
42 the number of marijuana flowers produced, the number of ounces of
43 marijuana leaves produced, the number of immature marijuana plants
44 produced, and the dates of production; and the obligation of every
45 marijuana establishment to keep a complete and accurate record of all
46 sales of marijuana, and a complete and accurate record of the number
47 of ounces of marijuana items sold, provided that marijuana retailers
48 shall not retain personally identifying information about persons 21

1 years of age who or older who purchase marijuana or marijuana
2 products in marijuana retailers;

3 (b) Such records shall be kept and maintained for two years and the
4 records shall be in such form and contain such other information as the
5 division may require; and

6 (c) The division may at any time, with adequate notice, examine
7 the books and records of any marijuana establishment, and may
8 appoint auditors, investigators, and other employees that the division
9 considers necessary to enforce its powers and duties as described in
10 P.L. , c. (C.) (pending before the Legislature as this bill);

11 (13) Procedures for inspecting samples of marijuana items,
12 including:

13 (a) On a schedule determined by the division, every licensed
14 marijuana grower and processor shall submit representative samples of
15 marijuana, useable marijuana, or marijuana-infused products produced
16 or processed by the licensee to an independent, third-party testing
17 laboratory meeting the accreditation requirements established by the
18 division, for inspection and testing to certify compliance with
19 standards adopted by the division. Any sample remaining after testing
20 shall be destroyed by the laboratory or returned to the licensee;

21 (b) Licensees shall submit the results of this inspection and testing
22 to the division on a form developed by the division; and

23 (c) If a representative sample inspected and tested under this
24 section does not meet the applicable standards adopted by the division,
25 the entire lot from which the sample was taken shall be destroyed;

26 (14) Establishing the number of marijuana retailers:

27 (a) Assuming there are sufficient qualified applicants for licensure,
28 the division shall issue a sufficient number of Class 4 Retailer licenses,
29 not to exceed a maximum of 218 licenses, as follows:

30 (i) at least two licenses per legislative district;

31 (ii) 40 at large licenses; and

32 (iii) a maximum of 98 medical licenses;

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

36 (i) population distribution, provided that the division shall
37 consider seasonal fluctuations in the population of the county and shall
38 ensure that there are adequate licensed premises to serve the market
39 demands of the county during the peak seasons; and

40 (ii) the provision of adequate access to licensed sources of useable
41 marijuana and marijuana products to discourage purchases from the
42 illegal market; and

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

45 b. In order to ensure that individual privacy is protected, the
46 division shall not require a consumer to provide a marijuana retailer
47 with personal information other than government-issued identification
48 to determine the consumer's age, and a marijuana retailer shall not be

1 required to acquire and record personal information about consumers
2 other than information typically acquired in a financial transaction
3 conducted by the holder of a Class C retail license concerning
4 alcoholic beverages as set forth in R.S.33:1-12.

5 c. Once regulations are adopted pursuant to subsection a. of this
6 section, but prior to the commencement of the application process, the
7 division shall conduct a series of information sessions in every county
8 in New Jersey to educate residents of New Jersey about the
9 responsibilities, opportunities, requirements, obligations, and
10 processes for application for a license to operate a marijuana
11 establishment. The division shall conduct an appropriate number of
12 information sessions in each county considering the population of each
13 county, but no fewer than two information sessions in each county.
14 The division shall publicize the day, time, location, and agenda of
15 these information sessions broadly through television, radio, Internet,
16 print, and through local agencies.

17 d. The division shall:

18 (1) Examine available research, and may conduct or commission
19 new research or convene an expert task force, to investigate the
20 influence of marijuana on the ability of a person to drive a vehicle and
21 on the concentration of delta-9 tetrahydrocannabinol in a person's
22 blood, in each case taking into account all relevant factors; and

23 (2) Present the results of the research to the Legislature and make
24 recommendations to the Legislature regarding whether any
25 amendments to the rules and regulations adopted by the division are
26 appropriate.

27
28 10. (New section) Tracking System. a. The division shall
29 develop and maintain a system for tracking the transfer of
30 marijuana items between licensed premises.

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

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

35 (2) Preventing persons from substituting or tampering with
36 marijuana items;

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

39 (4) Ensuring that taxes are collected for the purpose of being
40 distributed as described in section 11 of P.L. , c.
41 (C.)(pending before the Legislature as this bill);

42 (5) Ensuring that laboratory testing results are accurately
43 reported; and

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

- 1 c. The system developed and maintained under this section
2 shall be capable of tracking, at a minimum:
- 3 (1) The propagation of immature marijuana plants and the
4 production of marijuana by a marijuana processor;
- 5 (2) The processing of marijuana by a marijuana processor;
- 6 (3) The receiving, storing, and delivering of marijuana items by
7 a marijuana wholesaler;
- 8 (4) The sale of marijuana items by a marijuana retailer to a
9 consumer;
- 10 (5) The purchase and sale of marijuana items between licensees;
- 11 (6) The transfer of marijuana items between licensed premises;
- 12 (7) The collection of taxes imposed upon the retail sale of
13 marijuana items; and
- 14 (8) Any other information that the division determines is
15 reasonably necessary to accomplish the duties, functions, and
16 powers of the division.

17

18 11. (New section) Taxation. a. There shall be a tax levied upon
19 marijuana or marijuana products sold or otherwise transferred by a
20 marijuana retailer to a person 21 years of age or older. That tax
21 shall include the prevailing sales tax. To encourage early
22 participation in and development of marijuana establishments and to
23 undermine the illegal marketplace, the tax shall escalate as follows:
24 in year one following the enactment of P.L. , c. (C.)(pending
25 before the Legislature as this bill), the excise tax shall be 10
26 percent; in year two, the tax shall be 15 percent; in year three, the
27 tax rate shall be 20 percent; and in year four and beyond, the tax
28 shall be 25 percent. These excise taxes set forth in this subsection
29 shall include the prevailing sales tax.

30 b. The division shall regularly review the tax levels established
31 under this section and make recommendations to the Legislature as
32 appropriate regarding adjustments that would further the goals of
33 discouraging use, particularly by those under the age of 21;
34 undercutting illegal market prices; and maximizing taxation
35 revenue.

36 c. Statements as to quantities sold. At such periods to be
37 established by the Department of the Treasury, but no more than
38 once per calendar month, every marijuana grower and processor
39 shall file with the Division of Taxation in the Department of the
40 Treasury a statement of the quantities of marijuana flowers,
41 marijuana leaves, and immature marijuana plants sold by the
42 marijuana grower or processor during the preceding period.

43 d. Estimate by Division of Taxation when statement not filed
44 or false statement filed. If any marijuana grower and processor
45 fails, neglects, or refuses to file a statement required by subsection
46 c. of this section or files a false statement, the Department of the
47 Treasury shall estimate the quantities of marijuana flowers,
48 marijuana leaves, and immature marijuana plants sold by the

1 marijuana grower or processor and assess the taxes thereon. The
2 marijuana grower or processor shall be estopped from complaining
3 of the quantities so estimated.

4 e. Lien created by the tax. The tax required to be paid by this
5 section constitutes a lien upon, and has the effect of an execution
6 duly levied against, any and all property of the marijuana retailer,
7 attaching at the time the marijuana flowers, marijuana leaves, and
8 immature marijuana plants subject to the tax were sold, and
9 remaining until the tax is paid. The lien created by this section is
10 paramount to all private liens or encumbrances.

11 f. The Department of the Treasury shall establish procedures
12 for the collection of all taxes levied.

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

17 h. The tax revenue shall be collected by the Director of the
18 Division of Taxation and shall be deposited by the Director of the
19 Division of Taxation into the nonlapsing fund established pursuant
20 to section 39 of P.L., c. (C.) (pending before the Legislature as
21 this bill), and shall be used to fund the Division of Marijuana
22 Enforcement, except that one percent shall be allocated annually to
23 the local governmental entity in which the marijuana establishment
24 is located, to be dedicated to drug prevention and treatment.

25

26 12. (New section) Local Governmental Entity Regulations or
27 Ordinances.

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

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

33 (2) establishing civil penalties for violation of an ordinance or
34 regulation governing the time, place, and manner of a marijuana
35 establishment that may operate in such local governmental entity.

36 b. A local governmental entity may prohibit the operation of
37 marijuana cultivation facilities, marijuana product manufacturing
38 facilities, marijuana testing facilities, or marijuana retailers through
39 the enactment of an ordinance. The failure of a local governmental
40 entity to enact an ordinance prohibiting the operation of a marijuana
41 establishment within 180 days following the effective date of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) shall
43 thereby permit the operation of a marijuana retail establishment
44 within the local governmental entity for a period of five years, at
45 the end of which five year period, and every five year period
46 thereafter, the local governmental entity shall again be permitted to
47 prohibit the operation of a marijuana establishment.

1 c. (1) When the division receives an application for initial
2 licensing, or renewal of an existing license for any marijuana
3 establishment, or endorsement for a retail marijuana consumption
4 area, the division shall provide, within seven days, a copy of the
5 application to the local governmental entity in which the
6 establishment is to be located, unless the local governmental entity
7 has prohibited the operation of retail marijuana establishments. The
8 local jurisdiction shall determine whether the application complies
9 with local restrictions on time, place, manner, and the number of
10 marijuana businesses. The local jurisdiction shall inform the
11 division whether the application complies with local restrictions on
12 time, place, manner, and the number of marijuana businesses.

13 (2) A local governmental entity may impose a separate local
14 licensing or endorsement requirement as a part of its restrictions on
15 time, place, manner, and the number of marijuana businesses. A
16 local governmental entity may decline to impose any local licensing
17 or endorsement requirements, but a local jurisdiction shall notify
18 the division that it either approves or denies each application
19 forwarded to it.

20

21 13. (New section) Application. a. Each application for an
22 annual license to operate a marijuana establishment shall be
23 submitted to the division. A separate license shall be required for
24 each location at which a marijuana establishment seeks to operate.
25 Renewal applications may be filed up to 90 days prior to the
26 expiration of the establishment's license. The division shall:

27 (1) begin accepting and processing applications 30 days after the
28 rules and regulations have been adopted pursuant to section 9 of P.L. ,
29 c. (C.) (pending before the Legislature as this bill);

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

33 (3) upon the approval of a license application and collection of
34 the annual license fee, issue an annual license to the applicant
35 between 45 and 90 days after receipt of an application unless the
36 division finds the applicant is not in compliance with regulations
37 enacted pursuant to the provisions of section 9 of P.L. , c. (C.)
38 (pending before the Legislature as this bill) or the division is
39 notified by the relevant local governmental entity that the applicant
40 is not in compliance with ordinances and regulations made pursuant
41 to the provisions of section 12 of P.L. , c. (C.) (pending
42 before the Legislature as this bill) and in effect at the time of
43 application, provided, where a local governmental entity has
44 enacted a numerical limit on the number of marijuana
45 establishments and a greater number of applicants seek licenses, the
46 division shall solicit and consider input from the local governmental
47 entity as to the local governmental entity's preference or
48 preferences for licensure; and

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

3 b. No employee of the division shall have any interest, directly
4 or indirectly, in the producing, processing, or sale of marijuana,
5 marijuana products, or marijuana paraphernalia, or derive any profit
6 or remuneration from the sale of marijuana, marijuana products, or
7 marijuana paraphernalia, other than the salary or wages payable to
8 him in respect of his position, or receive any gratuity from any
9 person in connection with the application for a license or the sale of
10 marijuana, marijuana products, or marijuana paraphernalia.

11
12 14. (New section) Class 1 Marijuana Grower license. A
13 marijuana grower shall have a Class 1 Marijuana Grower license
14 issued by the division for the premises at which the marijuana is
15 grown or cultivated. The division shall determine the maximum
16 number of licenses. Providing there exist qualified applicants, the
17 division shall issue a sufficient number of licenses, not to exceed a
18 total of 25, including licenses issued to medical marijuana
19 alternative treatment centers but of these 25 licenses, 15 licenses
20 shall be reserved for medical marijuana alternative treatment
21 centers.

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

33 a. To hold a Class 1 Marijuana Grower license under this
34 section, a marijuana grower:

35 (1) Shall apply for a license in the manner described in section
36 13 of P.L. , c. (C.) (pending before the Legislature as
37 this bill);

38 (2) Shall provide proof that an applicant listed on an application
39 submitted under section 13 of P.L. , c. (C.) (pending
40 before the Legislature as this bill), has been a resident of this State
41 for two or more years, and shall provide proof that the applicant is
42 21 years of age or older;

43 (3) Shall meet the requirements of any rule or regulation
44 adopted by the division under subsection b. of this section; and

45 (4) Shall undergo a criminal history record background check:

46 (a) Pursuant to this provision, the director is authorized to
47 exchange fingerprint data with and receive criminal history record
48 background information from the Division of State Police and the

1 Federal Bureau of Investigation consistent with the provisions of
2 applicable federal and State laws, rules, and regulations. The
3 Division of State Police shall forward criminal history record
4 background information to the director in a timely manner when
5 requested pursuant to the provisions of this section;

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

16 (c) The director shall not approve an applicant for a Class 1
17 Marijuana Grower license if the criminal history record background
18 information of the applicant reveals any disqualifying conviction;
19 and

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

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

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

36 b. The division shall adopt rules and regulations that:

37 (1) Require a marijuana grower to annually renew a license
38 issued under this section;

39 (2) Establish application, licensure, and renewal of licensure
40 fees for marijuana growers;

41 (3) Require marijuana produced by marijuana growers to be
42 tested in accordance with P.L. , c. (C.) (pending before
43 the Legislature as this bill);

44 (4) Require marijuana growers to submit, at the time of applying
45 for or renewing a license under P.L. , c. (C.) (pending
46 before the Legislature as this bill), a report describing the
47 applicant's or licensee's electrical and water usage; and

1 (5) Require a marijuana grower to meet any public health and
2 safety standards, industry best practices, and all applicable
3 regulations established by the division by rule or regulation related
4 to the production of marijuana or the propagation of immature
5 marijuana plants and the seeds of the plant Genus Cannabis L.
6 within the plant family Cannabaceae. The division may not limit
7 the number of immature marijuana plants that may be possessed by
8 a marijuana grower licensed under this section; the size of the grow
9 canopy a marijuana grower licensed under this section uses to grow
10 immature marijuana plants; or the weight or size of shipments of
11 immature marijuana plants made by a marijuana grower licensed
12 under this section.

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

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

17 (2) Shall be deposited in the “Marijuana Control and Regulation
18 Fund” established under section 39 of P.L. , c. (C.)
19 (pending before the Legislature as this bill).

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

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

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

38

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

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

45 (1) Limit the size of mature marijuana plant grow canopies for
46 premises where marijuana is grown outdoors and for premises
47 where marijuana is grown indoors in a manner calculated to result
48 in premises that produce the same amount of harvested marijuana

1 leaves and harvested marijuana flowers, regardless of whether the
2 marijuana is grown outdoors or indoors;

3 (2) Adopt a tiered system under which the permitted size of a
4 marijuana growers' mature marijuana plant grow canopy increases
5 at the time of licensure renewal, except that the permitted size of a
6 marijuana growers' mature marijuana plant grow canopy may not
7 increase following any year during which the division disciplined
8 the marijuana growers for violating a provision of or a rule adopted
9 under a provision of P.L. , c. (C.) (pending before the
10 Legislature as this bill); and

11 (3) Take into consideration the market demand for marijuana
12 items in this State, the number of persons applying for a license
13 under P.L. , c. (C.) (pending before the Legislature as
14 this bill), and to whom a license has been issued under P.L. , c.
15 (C.) (pending before the Legislature as this bill), and whether
16 the availability of marijuana items in this State is commensurate
17 with the market demand.

18 c. This section shall not apply to premises for which a license
19 has been issued under P.L. , c. (C.) (pending before the
20 Legislature as this bill), if the premises is used only to propagate
21 immature marijuana plants.

22

23 16. (New section) Class 2 Marijuana Processor license. A
24 marijuana processor shall have a Class 2 Marijuana Processor
25 license issued by the division for the premises at which the
26 marijuana product is produced. The division shall determine the
27 maximum number of licenses but, providing there exist qualified
28 applicants, shall issue a sufficient number of licenses to meet the
29 production demands that implementation of P.L. , c. (C.)
30 (pending before the Legislature as this bill) requires.

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

42 a. To hold a Class 2 Marijuana Processor license under this
43 section, a marijuana processor:

44 (1) Shall apply for a license in the manner described in section
45 13 of P.L. , c. (C.) (pending before the Legislature as
46 this bill);

47 (2) Shall provide proof that an applicant listed on an application
48 submitted under section 13 of P.L. , c. (C.) (pending

1 before the Legislature as this bill), has been a resident of this State
2 for two or more years, and shall provide proof that the applicant is
3 21 years of age or older;

4 (3) Shall meet the requirements of any rule or regulation
5 adopted by the division under subsection b. of this section; and

6 (4) Shall undergo a criminal history record background check:

7 (a) Pursuant to this provision, the Director is authorized to
8 exchange fingerprint data with and receive criminal history record
9 background information from the Division of State Police and the
10 Federal Bureau of Investigation consistent with the provisions of
11 applicable federal and State laws, rules, and regulations. The
12 Division of State Police shall forward criminal history record
13 background information to the director in a timely manner when
14 requested pursuant to the provisions of this section;

15 (b) An applicant shall submit to being fingerprinted in
16 accordance with applicable State and federal laws, rules, and
17 regulations. No check of criminal history record background
18 information shall be performed pursuant to this section unless the
19 applicant has furnished his written consent to that check. An
20 applicant who refuses to consent to, or cooperate in, the securing of
21 a check of criminal history record background information shall not
22 be considered for a processor license. An applicant shall bear the
23 cost for the criminal history record background check, including all
24 costs of administering and processing the check;

25 (c) The director shall not approve an applicant for a Class 2
26 Marijuana Processor license if the criminal history record
27 background information of the applicant reveals any disqualifying
28 conviction; and

29 (d) Upon receipt of the criminal history record background
30 information from the Division of State Police and the Federal
31 Bureau of Investigation, the director shall provide written
32 notification to the applicant of his qualification for or
33 disqualification for a Class 2 Marijuana Processor license.

34 If the applicant is disqualified because of a disqualifying
35 conviction pursuant to the provisions of this section, the conviction
36 that constitutes the basis for the disqualification shall be identified
37 in the written notice.

38 (e) The Division of State Police shall promptly notify the
39 director in the event that an individual who was the subject of a
40 criminal history record background check conducted pursuant to
41 this section is convicted of a crime or offense in this State after the
42 date the background check was performed. Upon receipt of that
43 notification, the director shall make a determination regarding the
44 continued eligibility to hold a Class 2 Marijuana Processor license.

45 b. The division shall adopt rules that:

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

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

3 (3) Require marijuana produced by marijuana processors to be
4 tested in accordance with P.L. , c. (C.) (pending before
5 the Legislature as this bill);

6 (4) Require marijuana processors to submit, at the time of
7 applying for or renewing a license under P.L. , c. (C.)
8 (pending before the Legislature as this bill) a report describing the
9 applicant's or licensee's electrical and water usage; and

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

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

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

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

20 d. The director shall issue a Class 2 Marijuana Processor
21 license if he finds that issuing such a license would be consistent
22 with the purposes of P.L. , c. (C.) (pending before the
23 Legislature as this bill) and the requirements of this section are met
24 and the information contained in the application has been verified.
25 The director shall approve or deny an application within 60 days
26 after receipt of a completed application. The denial of an
27 application shall be considered a final agency decision, subject to
28 review by the Appellate Division of the Superior Court. The
29 director may suspend or revoke a license to operate as a marijuana
30 production facility for cause, which shall be subject to review by
31 the Appellate Division of the Superior Court.

32 e. A person who has been issued a license pursuant to this
33 section shall display the license at the premises at all times when
34 marijuana is being processed.

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

38

39 17. (New section) Class 3 Marijuana Wholesaler license. A
40 marijuana wholesaler shall have a Class 3 Marijuana Wholesaler
41 license issued by the division for the premises at which the
42 marijuana is warehoused. The division shall determine the
43 maximum number of licenses but, providing there exist qualified
44 applicants, shall issue a sufficient number of licenses to meet the
45 wholesaler demands that implementation of this act requires.

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

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

9 a. To hold a Class 3 Marijuana Wholesaler license under this
10 section, a marijuana wholesaler:

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

14 (2) Shall provide proof that an applicant listed on an application
15 submitted under section 13 of P.L. , c. (C.) (pending
16 before the Legislature as this bill), has been a resident of this State
17 for two or more years, and shall provide proof that the applicant is
18 21 years of age or older;

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

21 (4) Shall undergo a criminal history record background check:

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

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

40 (c) The director shall not approve an applicant for a Class 3
41 Marijuana Wholesaler license if the criminal history record
42 background information of the applicant reveals any disqualifying
43 conviction; and

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

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

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

12 b. The division shall adopt rules that:

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

15 (2) Establish application, licensure, and renewal of licensure
16 fees for marijuana wholesalers;

17 (3) Require marijuana warehoused by marijuana wholesalers to
18 be tested in accordance with P.L. , c. (C.) (pending
19 before the Legislature as this bill);

20 (4) Require marijuana wholesalers to submit, at the time of
21 applying for or renewing a license under section 13 of P.L. , c.
22 (C.) (pending before the Legislature as this bill), a report
23 describing the applicant's or licensee's electrical and water usage;
24 and

25 (5) Require a marijuana wholesaler to meet any public health
26 and safety standards, industry best practices, and all applicable
27 regulations established by the division by rule or regulation related
28 to the warehousing of marijuana.

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

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

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

35 d. The director shall issue a Class 3 Marijuana Wholesaler
36 license if he finds that issuing such a license would be consistent
37 with the purposes of this act and the requirements of this section are
38 met and the information contained in the application has been
39 verified. The director shall approve or deny an application within
40 60 days after receipt of a completed application. The denial of an
41 application shall be considered a final agency decision, subject to
42 review by the Appellate Division of the Superior Court. The
43 director may suspend or revoke a Class 3 Marijuana Wholesaler
44 license for cause, which shall be subject to review by the Appellate
45 Division of the Superior Court.

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

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

4
5 18. (New section) Class 4 Marijuana Retailer license. A
6 marijuana retailer shall have a Class 4 Marijuana Retailer license
7 issued by the division for the premises at which the marijuana is
8 retailed. The division shall determine the maximum number of
9 licenses but, providing there exist qualified applicants, shall issue a
10 sufficient number of licenses to meet the wholesaler demands that
11 implementation of P.L. , c. (C.) (pending before the
12 Legislature as this bill) requires.

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

23 a. To hold a Class 4 Marijuana Retailer license under this
24 section, a marijuana retailer:

25 (1) Shall apply for a license in the manner described in section
26 13 of P.L. , c. (C.) (pending before the Legislature as
27 this bill);

28 (2) Shall provide proof that an applicant listed on an application
29 submitted under section 13 of P.L. , c. (C.) (pending
30 before the Legislature as this bill), has been a resident of this State
31 for two or more years, and shall provide proof that the applicant is
32 21 years of age or older;

33 (3) Shall meet the requirements of any rule adopted by the
34 Division under subsection b. of this section; and

35 (4) Shall undergo a criminal history record background check:

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

44 (b) An applicant shall submit to being fingerprinted in
45 accordance with applicable State and federal laws, rules, and
46 regulations. No check of criminal history record background
47 information shall be performed pursuant to this section unless the
48 applicant has furnished his written consent to that check. An

1 applicant who refuses to consent to, or cooperate in, the securing of
2 a check of criminal history record background information shall not
3 be considered for a retailers license. An applicant shall bear the
4 cost for the criminal history record background check, including all
5 costs of administering and processing the check;

6 (c) The director shall not approve an applicant for a Class 4
7 Marijuana Retailer license if the criminal history record background
8 information of the applicant reveals any disqualifying conviction;
9 and

10 (d) Upon receipt of the criminal history record background
11 information from the Division of State Police and the Federal
12 Bureau of Investigation, the director shall provide written
13 notification to the applicant of his qualification for or
14 disqualification for a Class 4 Marijuana Retailer license.

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

19 (e) The Division of State Police shall promptly notify the
20 director in the event that an individual who was the subject of a
21 criminal history record background check conducted pursuant to
22 this section is convicted of a crime or offense in this State after the
23 date the background check was performed. Upon receipt of that
24 notification, the director shall make a determination regarding the
25 continued eligibility to hold a Class 4 Marijuana Retailer license.

26 b. The division shall adopt rules that:

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

29 (2) Establish application, licensure, and renewal of licensure
30 fees for a marijuana retailer;

31 (3) Require marijuana sold by a marijuana retailer to be tested in
32 accordance with P.L. , c. (C.) (pending before the
33 Legislature as this bill);

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

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

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

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

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

1 d. The director shall issue a Class 4 Marijuana Retailer license
2 if he finds that issuing such a license would be consistent with the
3 purposes of this act and the requirements of this section are met and
4 the information contained in the application has been verified. The
5 director shall approve or deny an application within 60 days after
6 receipt of a completed application. The denial of an application
7 shall be considered a final agency decision, subject to review by the
8 Appellate Division of the Superior Court. The director may
9 suspend or revoke a Class 4 Marijuana Retailer license for cause,
10 which shall be subject to review by the Appellate Division of the
11 Superior Court.

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

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

18 g. (1) Subject to receiving an endorsement pursuant to section
19 42 of P.L. , c. (C.) (pending before the Legislature as this
20 bill), a licensed marijuana retailer may operate a retail marijuana
21 consumption area to sell retail marijuana, retail marijuana
22 concentrate, and retail marijuana products for on-premises
23 consumption, other than smoking, on the premises of the
24 establishment.

25 (2) Each licensed marijuana retailer may operate only one retail
26 marijuana consumption area.

27 (3) The retail marijuana consumption area shall be physically
28 separate from the marijuana retail premises and shall be located in
29 the same local jurisdiction as the marijuana retail establishment.

30 (4) A Class 4 Marijuana Retailer license that has been approved
31 for a retail marijuana consumption area endorsement may transfer
32 its retail marijuana, retail marijuana concentrate, and retail
33 marijuana products to its retail marijuana consumption area. The
34 Class 4 Marijuana Retailer license shall package and label
35 individually retail marijuana, retail marijuana concentrate, and retail
36 marijuana product in quantities not to exceed the limits established
37 by the director.

38

39 19. (New section) Marijuana Handlers. a. An individual who
40 performs work for or on behalf of a person who holds a license
41 under P.L. , c. (C.) (pending before the Legislature as
42 this bill) shall have a valid permit issued by the division under this
43 section if the individual participates in:

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

46 (2) the recording of the possession, securing, or selling of
47 marijuana items at the premises for which the license has been
48 issued.

1 b. A person who holds a license under P.L. , c. (C.)
2 (pending before the Legislature as this bill) shall verify that an
3 individual has a valid permit issued under this section before
4 allowing the individual to perform any work described in subsection
5 a. of this section at the premises for which the license has been
6 issued.

7 c. The division shall issue permits to qualified applicants to
8 perform work described in this section. The division shall adopt
9 rules and regulations establishing: the qualifications for performing
10 work described in this section; the terms of a permit issued under
11 this section; procedures for applying for and renewing a permit
12 issued under this section; and reasonable application, issuance, and
13 renewal fees for a permit issued under this section.

14 d. The division may require an individual applying for a permit
15 under this section to successfully complete a course, made available
16 by or through the division, in which the individual receives training
17 on: checking identification; detecting intoxication; handling
18 marijuana items; statutory and regulatory provisions relating to
19 marijuana; and any matter deemed necessary by the division to
20 protect the public health and safety. The division or other provider
21 may charge a reasonable fee for the course.

22 The division may not require an individual to successfully
23 complete the course more than once, except that the division may
24 adopt regulations directing continuing education training on a
25 prescribed schedule.

26 As part of a final order suspending a permit issued under this
27 section, the division may require a permit holder to successfully
28 complete the course as a condition of lifting the suspension and as
29 part of a final order revoking a permit issued under this section, the
30 division shall require an individual to successfully complete the
31 course prior to applying for a new permit.

32 e. The division shall conduct a criminal history record
33 background check on an individual applying for a permit under this
34 section.

35 f. The division may suspend, revoke, or refuse to issue or
36 renew a permit if the individual who is applying for or who holds
37 the permit: violates any provision of P.L. , c. (C.)
38 (pending before the Legislature as this bill), or any rule or
39 regulation adopted under P.L. , c. (C.) (pending before
40 the Legislature as this bill); makes a false statement to the division;
41 refuses to cooperate in any investigation by the division; or, if the
42 individual is convicted of a crime, except that the division may not
43 consider a conviction for the manufacture or delivery of marijuana
44 if the date of the conviction is two or more years before the date of
45 the application or renewal; or if the date of the last criminal
46 conviction is more than 10 years before the date of the application
47 or renewal.

1 g. A permit issued under this section is a personal privilege and
2 permits work described under this section only for the individual
3 who holds the permit.

4
5 20. (New section) Marketplace Regulation.

6 a. For a period of 36 months after the effective date of P.L. ,
7 c. (C.) (pending before the Legislature as this bill) it shall
8 be unlawful for any owner, part owner, stockholder, officer, or
9 director of any corporation, or any other person interested in any
10 marijuana cultivation facility, marijuana testing facility, or
11 marijuana product manufacturing facility, or any wholesaler of
12 marijuana, to conduct, own either in whole or in part, or be directly
13 or indirectly interested in the retailing of any marijuana in New
14 Jersey, and such interest shall include any payments or delivery of
15 money or property by way of loan or otherwise accompanied by an
16 agreement to sell the product of said marijuana cultivation facility,
17 marijuana testing facility, or marijuana product manufacturing
18 facility, or any wholesaler of marijuana.

19 b. For a period of 36 months after the effective date of P.L. ,
20 c. (C.) (pending before the Legislature as this bill) it shall
21 be unlawful for any owner, part owner, stockholder, officer, or
22 director of any corporation, or any other person interested in any
23 retailing of marijuana to conduct, own either whole or in part, or to
24 be a shareholder, officer or director of a corporation or association,
25 directly or indirectly, interested in any marijuana cultivation
26 facility, marijuana testing facility, or marijuana product
27 manufacturing facility, or any wholesaler of marijuana.

28 c. No person, partnership, employee cooperative, association,
29 nonprofit corporation, corporation, or the agents thereof, shall hold
30 more than three marijuana establishment licenses at any time.

31

32 21. (New section) Employers, Driving, Minors and Control of
33 Property.

34 a. Nothing in P.L. , c. (C.) (pending before the
35 Legislature as this bill) is intended to require an employer to permit
36 or accommodate the use, consumption, possession, transfer, display,
37 transportation, sale, or growing of marijuana items in the workplace
38 or to affect the ability of employers to have policies prohibiting
39 marijuana use or intoxication by employees during work hours. No
40 employer shall refuse to hire or employ any person or shall
41 discharge from employment or take any adverse action against any
42 employee with respect to compensation, terms, conditions, or other
43 privileges of employment because that person does or does not
44 smoke or use marijuana items, unless the employer has a rational
45 basis for doing so which is reasonably related to the employment,
46 including the responsibilities of the employee or prospective
47 employee.

1 b. Nothing in P.L. , c. (C.) (pending before the
2 Legislature as this bill) is intended to allow driving under the
3 influence of marijuana items or driving while impaired by
4 marijuana items or to supersede laws related to driving under the
5 influence of marijuana items or driving while impaired by
6 marijuana items.

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

12 d. Nothing in P.L. , c. (C.) (pending before the
13 Legislature as this bill) shall prohibit a person, or any other entity
14 that occupies, owns, or controls a property from prohibiting or
15 otherwise regulating the consumption, use, display, transfer,
16 distribution, sale, transportation, or growing of marijuana items on
17 or in that property, provided that local government units may not
18 prohibit possession permitted by section 4 of P.L. , c.
19 (C.) (pending before the Legislature as this bill).

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

25 f. Nothing in P.L. , c. (C.) (pending before the
26 Legislature as this bill) is intended to permit the smoking of
27 marijuana in any place that any other law prohibits the smoking of
28 tobacco. Any fines that may be assessed for the smoking of tobacco
29 in designated places shall be applicable to the smoking of
30 marijuana.

31

32 22. (New section) Medical Marijuana Provisions.

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

35 a. to limit any privileges or rights of a medical marijuana
36 patient, primary caregiver, institutional caregiver, or alternative
37 treatment center as provided in the “New Jersey Compassionate Use
38 Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.) and
39 P.L.2015, c.158 (C.18A:40-12.22 et al.);

40 b. to authorize an alternative treatment center to dispense
41 marijuana to or on behalf of a person who is not a registered
42 qualifying patient except that an alternative treatment center
43 operating in good standing as of the effective date of P.L. , c.
44 (C.) (pending before the Legislature as this bill) may apply for
45 a retail license to operate immediately. A license issued pursuant to
46 this subsection may be subject to annual renewal until regulations
47 are adopted pursuant to P.L. , c. (C.) (pending before
48 the Legislature as this bill);

1 c. to authorize an alternative treatment center to purchase or
2 acquire marijuana or marijuana products in a manner or from a
3 source not permitted under P.L.2009, c.307 (C.24:6I-1 et seq.) and
4 P.L.2015, c.158 (C.18A:40-12.22 et al.);

5 d. to authorize an alternative treatment center issued a permit
6 under section 7 of P.L.2009, c.307 (C.24:6I-7) to operate on the
7 same premises as a marijuana retailer; or

8 e. to discharge the Department of Health from its duties to
9 regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
10 et seq. and P.L.2015, c.158 (C.18A:40-12.22 et al.).

11

12 23. (New section) Medical Marijuana – Additional Regulatory
13 Requirements.

14 An alternative treatment center issued a permit under section 7 of
15 P.L.2009, c.307 (C.24:6I-7) shall, as a condition of being issued a
16 Class 4 Marijuana Retailer license pursuant section 18 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill):

18 a. certify to the Department of Health, at intervals established by
19 the division, sufficient quantities of approved medical marijuana to
20 meet the reasonably anticipated treatment needs of registered
21 qualifying patients, before personal use marijuana can be sold; and

22 b. maintain separate areas for qualifying patients, primary
23 caregivers, and institutional caregivers, and for personal use
24 customers.

25

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

34

35 25. (New section) Limitations.

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

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

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

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

46 d. To prohibit a party to a federal contract or a person applying
47 to be a party to a federal contract from prohibiting the manufacture,
48 delivery, possession, or use of marijuana to the extent necessary to

1 comply with the terms and conditions of the contract or to satisfy
2 federal requirements for the contract;

3 e. To require a person to violate a federal law; or

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

6

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

8 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1
9 et seq.), or by P.L. , c. (C.) (pending before the Legislature as this
10 bill), any person who knowingly maintains or operates any
11 premises, place or facility used for the manufacture of
12 methamphetamine, lysergic acid diethylamide, phencyclidine,
13 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
14 greater than five pounds or ten plants or any substance listed in
15 Schedule I or II, or the analog of any such substance, or any person
16 who knowingly aids, promotes, finances or otherwise participates in
17 the maintenance or operations of such premises, place or facility, is
18 guilty of a crime of the first degree and shall, except as provided in
19 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
20 include the imposition of a minimum term which shall be fixed at,
21 or between, one-third and one-half of the sentence imposed, during
22 which the defendant shall be ineligible for parole. Notwithstanding
23 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
24 impose a fine not to exceed **【\$750,000.00】** \$750,000 or five times
25 the street value of all controlled dangerous substances, controlled
26 substance analogs, gamma hydroxybutyrate or flunitrazepam at any
27 time manufactured or stored at such premises, place or facility,
28 whichever is greater.

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

30

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

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

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

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

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

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

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

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

12

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 "State" means the State of New Jersey.

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

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

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

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

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

29

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

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

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

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

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

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

1 methylenedioxyamphetamine, in a quantity of five ounces or more
2 including any adulterants or dilutants is guilty of a crime of the first
3 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
4 be sentenced to a term of imprisonment by the court. The term of
5 imprisonment shall include the imposition of a minimum term
6 which shall be fixed at, or between, one-third and one-half of the
7 sentence imposed, during which the defendant shall be ineligible for
8 parole. Notwithstanding the provisions of subsection a. of
9 N.J.S.2C:43-3, a fine of up to **【\$500,000.00】** \$500,000 may be
10 imposed;

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

15 (3) A substance referred to paragraph (1) of this subsection in a
16 quantity less than one-half ounce including any adulterants or
17 dilutants is guilty of a crime of the third degree except that,
18 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
19 fine of up to **【\$75,000.00】** \$75,000 may be imposed;

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

25 (5) A substance classified as a narcotic drug in Schedule I or II
26 other than those specifically covered in this section, or the analog of
27 any such substance, in a quantity of less than one ounce including
28 any adulterants or dilutants is guilty of a crime of the third degree
29 except that, notwithstanding the provisions of subsection b. of
30 N.J.S.2C:43-3, a fine of up to **【\$75,000.00】** \$75,000 may be
31 imposed;

32 (6) Lysergic acid diethylamide, or its analog, in a quantity of
33 100 milligrams or more including any adulterants or dilutants, or
34 phencyclidine, or its analog, in a quantity of 10 grams or more
35 including any adulterants or dilutants, is guilty of a crime of the
36 first degree. Except as provided in N.J.S.2C:35-12, the court shall
37 impose a term of imprisonment which shall include the imposition
38 of a minimum term, fixed at, or between, one-third and one-half of
39 the sentence imposed by the court, during which the defendant shall
40 be ineligible for parole. Notwithstanding the provisions of
41 subsection a. of N.J.S.2C:43-3, a fine of up to **【\$500,000.00】**
42 \$500,000 may be imposed;

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

1 (8) Methamphetamine, or its analog, or phenyl-2-propanone
2 (P2P), in a quantity of five ounces or more including any
3 adulterants or dilutants is guilty of a crime of the first degree.
4 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
5 fine of up to ~~【\$300,000.00】~~ \$300,000 may be imposed;

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

10 (b) Methamphetamine, or its analog, or phenyl-2-propanone
11 (P2P), in a quantity of less than one-half ounce including any
12 adulterants or dilutants is guilty of a crime of the third degree
13 except that notwithstanding the provisions of subsection b. of
14 N.J.S.2C:43-3, a fine of up to ~~【\$75,000.00】~~ \$75,000 may be
15 imposed;

16 (10) (a) Marijuana in a quantity of 25 pounds or more including
17 any adulterants or dilutants, or 50 or more marijuana plants,
18 regardless of weight, or hashish in a quantity of five pounds or
19 more including any adulterants or dilutants, is guilty of a crime of
20 the first degree. Notwithstanding the provisions of subsection a. of
21 N.J.S.2C:43-3, a fine of up to ~~【\$300,000.00】~~ \$300,000 may be
22 imposed;

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

29 (11) Marijuana in a quantity of one ounce or more but less than
30 five pounds including any adulterants or dilutants, or hashish in a
31 quantity of five grams or more but less than one pound including
32 any adulterants or dilutants, is guilty of a crime of the third degree
33 except that, notwithstanding the provisions of subsection b. of
34 N.J.S.2C:43-3, a fine of up to ~~【\$25,000.00】~~ \$25,000 may be
35 imposed;

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

41 (13) Any other controlled dangerous substance classified in
42 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
43 third degree, except that, notwithstanding the provisions of
44 subsection b. of N.J.S.2C:43-3, a fine of up to ~~【\$25,000.00】~~
45 \$25,000 may be imposed; or

46 (14) Any Schedule V substance, or its analog, is guilty of a
47 crime of the fourth degree except that, notwithstanding the

1 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
2 **[\$25,000.00]** \$25,000 may be imposed.

3 c. Where the degree of the offense for violation of this section
4 depends on the quantity of the substance, the quantity involved
5 shall be determined by the trier of fact. Where the indictment or
6 accusation so provides, the quantity involved in individual acts of
7 manufacturing, distribution, dispensing or possessing with intent to
8 distribute may be aggregated in determining the grade of the
9 offense, whether distribution or dispensing is to the same person or
10 several persons, provided that each individual act of manufacturing,
11 distribution, dispensing or possession with intent to distribute was
12 committed within the applicable statute of limitations.
13 (cf: P.L.2000, c.136)

14

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

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

19 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
20 distributing, dispensing or possessing with intent to distribute a
21 controlled dangerous substance or controlled substance analog
22 while on any school property used for school purposes which is
23 owned by or leased to any elementary or secondary school or school
24 board, or within 1,000 feet of such school property or a school bus,
25 or while on any school bus, is guilty of a crime of the third degree
26 and shall, except as provided in N.J.S.2C:35-12, be sentenced by
27 the court to a term of imprisonment. Where the violation involves
28 less than one ounce of marijuana, the term of imprisonment shall
29 include the imposition of a minimum term which shall be fixed at,
30 or between, one-third and one-half of the sentence imposed, or one
31 year, whichever is greater, during which the defendant shall be
32 ineligible for parole. In all other cases, the term of imprisonment
33 shall include the imposition of a minimum term which shall be
34 fixed at, or between, one-third and one-half of the sentence
35 imposed, or three years, whichever is greater, during which the
36 defendant shall be ineligible for parole. Notwithstanding the
37 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
38 \$150,000 may also be imposed upon any conviction for a violation
39 of this section.

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

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

1 (b) the specific location of the present offense in relation to the
2 school property, including distance from the school and the
3 reasonable likelihood of exposing children to drug-related activities
4 at that location;

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

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

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

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

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

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

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

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

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

46 e. It is an affirmative defense to prosecution for a violation of
47 this section that the prohibited conduct took place entirely within a
48 private residence, that no person 17 years of age or younger was

1 present in such private residence at any time during the commission
2 of the offense, and that the prohibited conduct did not involve
3 distributing, dispensing or possessing with the intent to distribute or
4 dispense any controlled dangerous substance or controlled
5 substance analog for profit. The affirmative defense established in
6 this section shall be proved by the defendant by a preponderance of
7 the evidence. Nothing herein shall be construed to establish an
8 affirmative defense with respect to a prosecution for an offense
9 defined in any other section of this chapter.

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

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

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

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

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

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

5 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
6 provisions of law, a conviction arising under this section shall not
7 merge with a conviction for a violation of subsection a. of
8 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
9 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).
10 Nothing in this section shall be construed to preclude or limit a
11 prosecution or conviction for a violation of N.J.S.2C:35-7 or any
12 other offense defined in this chapter.

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

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

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

4 f. As used in this act:

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

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

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

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

18

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

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

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

31 (1) A controlled dangerous substance, or its analog, classified in
32 Schedule I, II, III or IV other than those specifically covered in this
33 section, is guilty of a crime of the third degree except that,
34 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
35 fine of up to **[\$35,000.00]** \$35,000 may be imposed;

36 (2) Any controlled dangerous substance, or its analog, classified
37 in Schedule V, is guilty of a crime of the fourth degree except that,
38 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
39 fine of up to **[\$15,000.00]** \$15,000 may be imposed;

40 (3) Possession of **[more than]** 50 grams or more of marijuana,
41 including any adulterants or dilutants, or more than five grams of
42 hashish is guilty of a crime of the fourth degree, except that,
43 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
44 fine of up to **[\$25,000.00]** \$25,000 may be imposed; or

45 (4) Possession of **[50 grams or less]** more than one ounce
46 (28.38 grams) but less than 50 grams, of marijuana, including any

1 adulterants or dilutants, **[or five grams or less of hashish]** is a
2 disorderly person.

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

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

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

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

25

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

27 2C:36-1. Drug paraphernalia, defined; determination.

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

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

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

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

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

14

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

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

31 A person who violates this section shall be fined not less than
32 **【\$50.00】** \$50 and shall forthwith forfeit his right to operate a motor
33 vehicle for a period of two years from the date of his conviction.

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

35

36 35. (New section) Consumer Protections.

37 a. Individuals and licensed marijuana establishments shall not
38 be subject to arrest, prosecution, or penalty in any manner, or
39 denied any right or privilege, including but not limited to civil
40 liability or disciplinary action by a business, occupational, or
41 professional licensing board or bureau, solely for conduct permitted
42 under P.L. , c. (C.) (pending before the Legislature as this
43 bill).

44 b. The presence of cannabinoid metabolites in the bodily fluids
45 of a person engaged in conduct permitted under P.L. , c. (C.)
46 (pending before the Legislature as this bill) by the following:

47 (1) a student, employee, or tenant, shall not form the basis for
48 refusal to enroll or employ or lease to or otherwise penalize that

1 person, unless failing to do so would put the school, employer, or
2 landlord in violation of federal law or cause it to lose a federal
3 contract or funding; and

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

8 (3) a parent or legal guardian of a child or newborn infant, or a
9 pregnant woman shall not form the sole or primary basis for any
10 action or proceeding by the Division of Child Protection and
11 Permanency, or any successor agencies.

12

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

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

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

29

30 37. (New section) Contract Enforceability.

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

40

41 38. (New section) Criminal Investigation.

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

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

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

1 (3) The possession of marijuana without evidence of quantity in
2 excess of one ounce in proximity to any amount of cash or
3 currency.

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

8
9 39. (New section) Marijuana Control and Regulation Fund. All
10 fees, penalties and tax revenues collected by the Director of the
11 Division of Marijuana Enforcement pursuant to the provisions of
12 P.L. , c. (C.) (pending before the Legislature as this bill) shall
13 be forwarded to the State Treasurer for deposit in a special
14 nonlapsing fund which shall be known as the "Marijuana Control
15 and Regulation Fund." Monies in the fund shall be used
16 exclusively for the operation of the Division of Marijuana
17 Enforcement and for reimbursement of all additional costs of
18 enforcement of the provisions of P.L. , c. (C.) (pending before
19 the Legislature as this bill) incurred by the Department of the
20 Treasury.

21
22 40. (New section) Marijuana Regulation Review Commission.

23 a. The Marijuana Regulation Review Commission shall consist
24 of one member appointed by the Governor, one member appointed
25 by the President of the Senate who shall be a member of the Senate,
26 and one member appointed by the Speaker of the General Assembly
27 who shall be a member of the General Assembly. The presiding
28 officer of the commission shall be determined by the members. The
29 members of the commission shall serve without pay in connection
30 with all such duties as are prescribed in P.L. , c. (C.) (pending
31 before the Legislature as this bill).

32 b. The commission shall call upon the Department of the
33 Treasury to assist in any staff or clerical functions of the
34 commission.

35 c. All meetings of the commission shall be open to the public
36 and all the business of the commission shall be transacted at public
37 meetings held at such time and place as the commission shall
38 prescribe. The commission shall meet at such times as determined
39 by the chairperson of the commission.

40 The secretary shall transmit to each member of the commission a
41 copy of the minutes of each meeting within 24 hours after the
42 adjournment thereof. The minutes of the commission shall be open
43 to inspection by any citizen of the State at all times during business
44 hours.

45 d. The commission shall formulate and adopt rules of
46 procedure for the commission in exercising its powers and fulfilling
47 its duties under P.L. , c. (C.) (pending before the Legislature
48 as this bill).

1 e. The concurrence of two of the members of the commission
2 shall be necessary to validate all acts of the commission.

3 f. The commission shall make an annual detailed report of its
4 actions and operations to the Legislature and render such other
5 reports to the Legislature, pursuant to section 2 of P.L.1991, c.164
6 (C.52:14-19.1), as it shall from time to time require.

7 g. The Marijuana Regulation Review Commission shall review
8 and approve regulations developed by the division pursuant to P.L. ,
9 c. (C.) (pending before the Legislature as this bill) and may
10 require regulations as deemed necessary. The commission shall
11 have such other and further powers and perform such other and
12 further duties as may be conferred or imposed upon it from time to
13 time by the Legislature.

14

15 41. (New section) Possession of up to one ounce of marijuana
16 shall constitute a civil violation not subject to arrest, and limited to
17 a fine of up to \$100, notwithstanding the provisions of
18 N.J.S. 2C:35-10.

19

20 42. (New section) Retail Marijuana Consumption area. a. A
21 local governmental entity may authorize the operation of retail
22 marijuana consumption areas within its jurisdiction through the
23 enactment of an ordinance.

24 b. (1) If a local governmental entity authorizes the operation of
25 retail marijuana consumption areas, it may adopt an approval
26 requirement that complies with the requirements of P.L. , c.
27 (C.) (pending before the Legislature as this bill). The local
28 governmental entity may require additional or more stringent
29 requirements than those provided in this section.

30 (2) Notwithstanding the provisions of this subsection, a local
31 governmental entity shall not allow a retail marijuana consumption
32 area endorsement to a marijuana retailer that is within 1,000 feet of
33 a boundary with an adjoining jurisdiction that does not permit retail
34 marijuana establishments in its boundaries.

35 c. The division may issue a retail marijuana consumption area
36 endorsement only to a marijuana retail licensee to sell retail
37 marijuana, retail concentrate, or retail marijuana products for on-
38 premises consumption.

39 d. Applications for an endorsement pursuant to this section shall
40 be made to the division on forms prepared and furnished by the
41 division and shall set forth such information as division may
42 require. The information shall include the name and address of the
43 applicant, the address of the licensed marijuana retail store and the
44 endorsed premises, and any other information requested by the
45 division. Each application shall be verified by the oath or
46 affirmation of such person or persons as the division may prescribe.
47 The endorsement is conditioned upon approval by a local
48 governmental entity. An applicant is prohibited from operating a

1 retail marijuana consumption area without State and local licensing
2 authority. If the applicant does not receive approval from the local
3 governmental entity within one year from the date of State licensing
4 approval, the State endorsement expires and may not be renewed.
5 If an application is denied by the local governmental entity or the
6 approval of the local governmental entity is revoked, the division
7 shall revoke the State endorsement.

8 e. The division shall deny a State endorsement if the premises
9 on which the applicant proposes to conduct its business does not
10 meet the requirements of P.L. , c. (C.) (pending before the
11 Legislature as this bill) or for reasons set forth in this section. The
12 division may revoke or deny an endorsement renewal or
13 reinstatement or an initial endorsement for good cause.

14 For purposes of this subsection "good cause" means:

15 (1) the endorsed licensee or applicant has violated, does not
16 meet, or has failed to comply with any of the terms, conditions, or
17 provisions of this section, any rules promulgated pursuant to this
18 section, or any supplemental local law, rules, or regulations;

19 (2) the endorsed licensee or applicant has failed to comply with
20 any special terms or conditions that were placed on its endorsement
21 pursuant to an order of the State or local licensing authority; or

22 (3) the premises have been operated in a manner that adversely
23 affects the public health or the safety of the immediate
24 neighborhood in which the establishment is located.

25 f. The retail marijuana consumption area endorsement is valid
26 for one year and may be renewed annually upon the renewal of the
27 retail marijuana store license. The division shall establish by rule
28 the amount of the application fee and renewal fee for the
29 endorsement.

30 g. The division shall maintain a list of all retail marijuana
31 consumption areas in the State and shall make the list available on
32 its website.

33 h. Except as otherwise specified, all requirements of the
34 marijuana retail store apply to the retail marijuana consumption
35 area.

36 i. A retail marijuana consumption establishment shall be subject
37 to the provisions of P.L.2005, c.383 (C.26:3D-55 et al.) the "New
38 Jersey Smoke-Free Air Act."

39 j. An endorsed licensee and its employees shall not:

40 (1) permit a person to bring medical or retail marijuana, medical
41 or retail marijuana concentrate, a medical marijuana-infused
42 product, or a retail marijuana product into a retail marijuana
43 consumption area;

44 (2) sell alcohol, including fermented malt beverages or malt,
45 vinous, or spirituous liquor, sell tobacco or nicotine products, or
46 allow the consumption of alcohol or tobacco or nicotine products on
47 premises;

48 (3) operate as a retail food establishment;

1 (4) allow on-duty employees of the establishment to consume
2 any medical or retail marijuana, medical or retail marijuana
3 concentrate, medical marijuana-infused products, or retail
4 marijuana products in the establishment; or

5 (5) allow distribution of free samples of medical or retail
6 marijuana, medical or retail marijuana concentrate, medical
7 marijuana-infused products, or retail marijuana products in the
8 establishment.

9 k. A retail marijuana consumption area and its employees shall
10 admit into the establishment only patrons who are at least 21 years
11 of age.

12 l. (1) A retail marijuana consumption area shall limit a patron to
13 one transaction of no more than the sales limit set by the division.
14 A retail marijuana consumption area shall not engage in multiple
15 sales transactions to the same patron during the same business day
16 when the establishment's employee knows or reasonably should
17 have known that the sales transaction would result in the patron
18 possessing more than the sales limit established by the division. A
19 patron may leave the establishment with product that he does not
20 consume only if, prior to leaving the premises, the retail marijuana,
21 retail marijuana concentrate, or retail marijuana product is packaged
22 and labeled pursuant to the requirements of P.L. , c. (C.)
23 (pending before the Legislature as this bill).

24 (2) When a patron leaves a retail marijuana consumption area,
25 the establishment shall destroy any remaining unconsumed retail
26 marijuana, retail marijuana concentrate, or retail marijuana products
27 that are not taken by a patron pursuant to this subsection.

28 m. A retail marijuana consumption area and its employees:

29 (1) shall operate the establishment in a decent, orderly, and
30 respectable manner and shall not serve any patron who displays any
31 visible signs of intoxication;

32 (2) may remove an individual from the establishment for any
33 reason, including a patron who displays any visible signs of
34 intoxication;

35 (3) shall not knowingly permit any activity or acts of disorderly
36 conduct;

37 (4) shall not permit rowdiness, undue noise, or other disturbances
38 or activity offensive to the average citizen or to the residents of the
39 neighborhood in which the licensed establishment is located; and

40 (5) shall not allow the use of any device using any liquid
41 petroleum gas, a butane torch, a butane lighter, or matches in the
42 establishment.

43 n. A retail marijuana consumption area and all of its employees
44 who work at the endorsed premises shall successfully complete an
45 annual responsible vendor training program.

46 o. A retail marijuana consumption area shall provide
47 information regarding the safe consumption of retail marijuana,
48 retail marijuana concentrate, or a retail marijuana product at the

1 point of sale to all patrons who purchase such a product. The
2 requirements for such information shall be established by the
3 division, established pursuant to P.L. , c. (C.) (pending
4 before the Legislature as this bill). The content of the information
5 on health and safety shall be based on the relevant research from the
6 panel of health care professionals appointed pursuant to P.L. , c.
7 (C.) (pending before the Legislature as this bill).

8 p. A local governmental entity may require information
9 regarding the safe consumption of retail marijuana concentrate or a
10 retail marijuana product in addition to that required by this section.

11 q. The information required by this section shall be maintained
12 on the endorsed premises for inspection by State and local licensing
13 authorities and law enforcement.

14 r. The establishment shall ensure that the display and
15 consumption of any retail marijuana, retail marijuana concentrate,
16 or retail marijuana product is not visible from outside of the
17 establishment.

18 s. If an emergency requires law enforcement, firefighters,
19 emergency medical services providers, or other public safety
20 personnel to enter a retail marijuana consumption area, employees
21 of the establishment shall cease all on-site sales and prohibit on-site
22 consumption until such personnel have completed their
23 investigation or services and have left the premises.

24
25 43. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to
26 read as follows:

27 3. As used in this act:

28 "Bar" means a business establishment or any portion of a
29 nonprofit entity, which is devoted to the selling and serving of
30 alcoholic beverages for consumption by the public, guests, patrons
31 or members on the premises and in which the serving of food, if
32 served at all, is only incidental to the sale or consumption of such
33 beverages.

34 "Cigar bar" means any bar, or area within a bar, designated
35 specifically for the smoking of tobacco products, purchased on the
36 premises or elsewhere; except that a cigar bar that is in an area
37 within a bar shall be an area enclosed by solid walls or windows, a
38 ceiling and a solid door and equipped with a ventilation system
39 which is separately exhausted from the nonsmoking areas of the bar
40 so that air from the smoking area is not recirculated to the
41 nonsmoking areas and smoke is not backstreamed into the
42 nonsmoking areas.

43 "Cigar lounge" means any establishment, or area within an
44 establishment, designated specifically for the smoking of tobacco
45 products, purchased on the premises or elsewhere; except that a
46 cigar lounge that is in an area within an establishment shall be an
47 area enclosed by solid walls or windows, a ceiling and a solid door
48 and equipped with a ventilation system which is separately

1 exhausted from the nonsmoking areas of the establishment so that
2 air from the smoking area is not recirculated to the nonsmoking
3 areas and smoke is not backstreamed into the nonsmoking areas.

4 "Electronic smoking device" means an electronic device that can
5 be used to deliver nicotine or other substances to the person
6 inhaling from the device, including, but not limited to, an electronic
7 cigarette, cigar, cigarillo, or pipe.

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

31 "Retail marijuana consumption area" means any area in a
32 marijuana retail establishment, pursuant to section 42 of P.L. , c.
33 (C.) (pending before the Legislature as this bill), designated
34 specifically for the smoking of marijuana purchased on the
35 premises; provided that the area shall be enclosed by solid walls or
36 windows, a ceiling and a solid door and equipped with a ventilation
37 system which is separately exhausted from the nonsmoking areas of
38 the establishment so that air from the smoking area is not
39 recirculated to the nonsmoking area and smoke is not backstreamed
40 into the nonsmoking areas.

41 "Person having control of an indoor public place or workplace"
42 means the owner or operator of a commercial or other office
43 building or other indoor public place from whom a workplace or
44 space within the building or indoor public place is leased.

45 "Smoking" means the burning of, inhaling from, exhaling the
46 smoke from, or the possession of a lighted cigar, cigarette, pipe or
47 any other matter or substance which contains tobacco or any other

1 matter that can be smoked, or the inhaling or exhaling of smoke or
2 vapor from an electronic smoking device.

3 "Tobacco retail establishment" means an establishment in which
4 at least 51% of retail business is the sale of tobacco products and
5 accessories, and in which the sale of other products is merely
6 incidental.

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

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

10

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

13 5. The provisions of this act shall not apply to:

14 a. any cigar bar or cigar lounge that, in the calendar year
15 ending December 31, 2004, generated 15% or more of its total
16 annual gross income from the on-site sale of tobacco products and
17 the rental of on-site humidors, not including any sales from vending
18 machines, and is registered with the local board of health in the
19 municipality in which the bar or lounge is located. The registration
20 shall remain in effect for one year and shall be renewable only if:
21 (1) in the preceding calendar year, the cigar bar or lounge generated
22 15% or more of its total annual gross income from the on-site sale
23 of tobacco products and the rental of on-site humidors, and (2) the
24 cigar bar or cigar lounge has not expanded its size or changed its
25 location since December 31, 2004;

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

28 c. any tobacco business when the testing of a cigar or pipe
29 tobacco by heating, burning or smoking is a necessary and integral
30 part of the process of making, manufacturing, importing or
31 distributing cigars or pipe tobacco;

32 d. private homes, private residences and private automobiles;

33 e. the area within the perimeter of:

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

39 (2) any casino simulcasting facility approved by the Casino
40 Control Commission pursuant to section 4 of P.L.1992, c.19
41 (C.5:12-194) that contains a simulcast counter and dedicated seating
42 for at least 50 simulcast patrons or a simulcast operation and at least
43 10 table games, which simulcast facilities and games are available
44 to the public for wagering; **[and]**

45 f. research laboratories and other facilities that have been
46 approved by the Department of Health to permit smoking for the
47 purpose of medical research related to the health effects of
48 smoking, in an indoor facility that is separately ventilated for the

1 purpose of medical or scientific research that is conducted under
2 physician supervision and has been approved by an Investigational
3 Review Board (IRB), if the facility is used solely and exclusively
4 for clinical research activities; and

5 g. any marijuana retail establishment, or any area the marijuana
6 retail establishment provides for the purposes of retail marijuana
7 consumption pursuant to P.L. , c. (C.) (pending before
8 the Legislature as this bill).

9 (cf: P.L.2017, c.271)

10

11 45. (New section) Impact Zones. a. The impact zones
12 identified in subsection c. of this section identify the characteristics
13 of geographical areas where a combination of social and economic
14 factors reduce the likelihood that persons from that area would,
15 without support, benefit from a marijuana business, employment
16 and other related opportunities.

17 b. New Jersey shall establish a prioritization system for issuing
18 marijuana licenses to applicants who (1) meet all licensing
19 requirements of P.L. , c. (C.) (pending before the
20 Legislature as this bill) and (2) meet the requirements of subsection
21 c. of this section.

22 c. Census tracts in New Jersey that rank in the top 33% for
23 marijuana related arrests and the bottom 33% for median household
24 income shall be designated an impact zone. To the extent possible,
25 at least 25% of the total licenses awarded for Class 4 Marijuana
26 Retailer license shall be awarded to applicant who can demonstrate
27 one of the following criteria, with higher tiers given priority within
28 this license category:

29 (1) Tier 1 – at least 51% of the equity associated with the
30 ownership of the dispensary belongs to individuals who live in an
31 impact zone;

32 (2) Tier 2 – At least 20% of the equity associated with the
33 ownership of the dispensary belongs to individuals who live in an
34 impact zone;

35 (3) Tier 3 – This tier shall incubate a Tier 1 or Tier 2 business
36 by providing free lease space financial support or other support
37 identified by the division.

38 d. To the extent possible, of the 25% of the licenses awarded
39 pursuant to subsection c., the division shall seek to ensure that at
40 least 75% of those licenses shall be awarded to applications that
41 seek to establish a dispensary in an Impact Zone.

42 e. An individual shall be deemed a resident of an impact zone
43 who can establish residency in an impact zone for five of the last
44 ten years.

45

46 46. This act shall take effect as follows:

47 a. sections 1 through 40, and sections 42 through 45 shall take
48 effect 180 days after enactment, except the Director of the Division

1 of Marijuana Enforcement may take such anticipatory action as may
2 be necessary to effectuate the provisions of this act; and

3 b. section 41 shall take effect immediately, but shall expire 180
4 days after enactment.

5

6

7

STATEMENT

8

9 This bill would legalize the possession and personal use of
10 marijuana, in regulated quantity, for persons 21 years of age and
11 over. The bill creates a Division of Marijuana Enforcement and
12 establishes a licensing structure. The bill also provides for a tax
13 levied upon marijuana sold or otherwise transferred by a marijuana
14 cultivation facility to a marijuana product manufacturing facility or
15 to a retail marijuana store. This bill would be known as the “New
16 Jersey Marijuana Legalization Act.”

17 This bill provides for the following categories of licenses: Class
18 1 Marijuana Grower, a Class 2 Marijuana Processor, a Class 3
19 Marijuana Wholesaler, or a Class 4 Marijuana Retailer.

20 Section 4 of bill provides for personal use of marijuana for
21 persons 21 years of age or older. This section provides that a person
22 may possess, use, purchase, or transport: marijuana paraphernalia;
23 one ounce or less of marijuana; 16 ounces or less of marijuana
24 infused product in solid form; 72 ounces or less in liquid form; 7
25 grams or less of marijuana concentrate; and up to 6 immature
26 marijuana plants. This section provides that a person may transfer
27 of one ounce or less of marijuana; 16 ounces or less of marijuana
28 infused product in solid form; 72 ounces or less in liquid form; 7
29 grams or less of marijuana concentrate; and up to 6 immature
30 plants, without marijuana cultivation facility to a person who is of
31 or over the legal age for purchasing marijuana items, provided that
32 such transfer is for non-promotional, non-business purposes.

33 The section also provides that a person cannot consume or smoke
34 marijuana items openly in a public place, except as may be
35 permitted in consumption areas.

36 Section 5 concerns the lawful operation of marijuana
37 establishments.

38 Section 6 establishes penalties for any licensee or employee or
39 agent of any licensee who sells, offers for sale, distributes for
40 commercial purpose to a person under the age of 21. The prohibited
41 act constitutes a disorderly persons offense. Additionally, a fine or
42 a civil penalty may be imposed. A disorderly persons offense is
43 punishable by up to six months imprisonment, a fine of up to
44 \$1,000, or both. It shall be unlawful for a person under the age of
45 21 to attempt to purchase, or acquire a marijuana item, even if such
46 marijuana items may be legally purchased by persons at or above
47 the legal age for purchasing marijuana items.

1 Section 7 establishes the new Division of Marijuana
2 Enforcement in the Department of Treasury.

3 Sections 8 concerns the powers and duties of the newly created
4 Division of Marijuana Enforcement.

5 Section 9 provides for the division to adopt rules and regulations
6 necessary for implementation of the bill. The bill would require
7 regulations to include the following: procedures for the application,
8 issuance, denial, renewal, suspension, and revocation of a license to
9 operate a marijuana establishment; license application fees;
10 licensing goals; security requirements for marijuana establishments;
11 requirements to prevent the sale or diversion of marijuana and
12 marijuana products to underage persons; labeling and packaging
13 requirements; health and safety regulations and standards for the
14 manufacture and sale of marijuana products; advertisement
15 restrictions; record keeping requirements; and civil penalties for the
16 failure to comply with the regulations.

17 Section 10 mandates that the division develop a system for
18 tracking the transfer of marijuana items between licensed premises.

19 Section 11 establishes a tax levied upon marijuana sold or
20 otherwise transferred by a marijuana cultivation facility to a
21 marijuana product manufacturing facility or to a retail marijuana
22 store. That tax shall include the prevailing sales tax. To encourage
23 early participation in and development of marijuana establishments
24 and to undermine the illegal market, the bill proposes an escalating
25 tax rate as follows: in one year following enactment of the bill, the
26 excise tax shall be 10 percent; 15 percent in year two; 20% in year
27 three; and 25% in year four and beyond. These excise taxes set forth
28 in this subsection shall include the prevailing sales tax. The
29 Department of the Treasury would establish procedures for the
30 collection of all taxes levied. The tax revenue into the new fund but
31 one percent shall be allocated annually to the local governmental
32 entity where the marijuana establishment is located to be dedicated
33 to drug prevention and treatment.

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

38 Section 12 provides for local governmental entity regulations or
39 ordinances. The bill provides that each local governmental entity
40 may enact an ordinance or regulation governing the time, place or
41 manner and number of marijuana establishment operations and
42 provides for civil penalties violating those ordinances. The local
43 governmental entity may enact ordinances or regulations, not in
44 conflict with the provisions of the bill.

45 The bill provides that a local governmental entity may prohibit
46 the operation of marijuana cultivation facilities, marijuana product
47 manufacturing facilities, marijuana testing facilities, or retail
48 marijuana stores through the enactment of an ordinance. Under the

1 bill, the failure of a local governmental entity to enact an ordinance
2 prohibiting the operation of a marijuana establishment within 180
3 days following the effective date of the bill shall thereby permit the
4 operation of a marijuana retail establishment within the local
5 governmental entity for a period of five years, at the end of which
6 five year period, and every five year period thereafter, the local
7 governmental entity shall again be permitted to prohibit the
8 operation of a marijuana establishment.

9 Section 13 establishes the license application process. Under the
10 bill, each application for an annual license to operate a marijuana
11 establishment would be submitted to the division. A separate
12 license shall be required for each location at which a marijuana
13 establishment seeks to operate. Renewal applications may be filed
14 up to 90 days prior to the expiration of the establishment's license.
15 The division is to begin accepting applications 30 days after the
16 regulations are implemented.

17 Sections 14 through 18 establish the different classes of licenses,
18 requirements to obtain licenses, and plant grow size regulations.

19 The licenses are enumerated as follows:

20 Class 1 Marijuana Grower license for the premises at which the
21 marijuana is grown or cultivated. (Section 14)

22 Class 2 Marijuana Processor license for the premises at which
23 the marijuana is processed. (Section 16)

24 Class 3 Marijuana Wholesaler license for the premises at which
25 the marijuana is warehoused.(Section 17)

26 Class 4 Marijuana Retailer license for the premises at which the
27 marijuana is retailed. (Section 18)

28 All prospective licensees shall complete application
29 requirements, meet residency requirements, and undergo a criminal
30 history record background check.

31 Section 15 regulates plant grow size.

32 Section 19 concerns the regulation of marijuana handlers who
33 perform work for a licensee.

34 Section 20 addresses marketplace regulation and essentially bars
35 an owner, officer or other person interested in a marijuana
36 cultivation facility, marijuana testing facility, product
37 manufacturing facility, or a wholesaler of marijuana to be involved
38 in retailing marijuana. The section further bars a retailer of
39 marijuana from being a shareholder, officer or director of a
40 company or association concerned with marijuana cultivation,
41 testing product manufacturing or marijuana wholesale.

42 Section 21 provides nothing in the bill is intended to: require an
43 employer to permit or accommodate marijuana in the workplace;
44 allow driving under the influence of marijuana; permit marijuana in
45 a school, hospital or correctional facility.

46 Section 22 provides that a currently operating medical marijuana
47 facility licensed under the "New Jersey Compassionate Use Medical
48 Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et seq.), operating in

1 good standing can immediately apply for a license to operate to
2 distribute marijuana to a person who is not a medical marijuana
3 patient.

4 Section 23 provides that an entity licensed under the “New
5 Jersey Compassionate Use Medical Marijuana Act,” P.L.2009,
6 c.307 (C.24:6I-1 et seq.) shall certify to the Department of Health,
7 at intervals established by the division, sufficient quantities of
8 approved medical marijuana to service medical clients, before
9 personal use marijuana can be sold. Such facilities shall further
10 maintain separate areas for medical and personal use customers.

11 Section 24 permits a person convicted of marijuana possession as
12 defined in paragraph (4) of subsection a. of N.J.S.2C:35-10
13 (*possession of 50 grams or less of marijuana, or five grams or less*
14 *of hashish*) to present an application for expungement to the
15 Superior Court.

16 Section 25 concerns limitations as may be related to federal law.

17 Section 27 provides for the personal use of cannabis resin.

18 Section 35 establishes consumer protections barring marijuana
19 related arrest, prosecution, or penalty for conduct permitted under
20 the bill.

21 Section 36 addresses law enforcement agencies obligation under
22 federal law.

23 Section 37 concerns contract enforcement and bars
24 unenforceability on the grounds that the conduct is prohibited by
25 federal law.

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

33 Section 39 creates the “Marijuana Control and Regulation Fund.”
34 All fees, penalties and tax revenues collected by the director shall
35 be forwarded to the fund. Monies in the fund will be used
36 exclusively for the operation of the Division of Marijuana
37 Enforcement and for reimbursement of all additional costs of
38 enforcement.

39 Section 40 establishes a Marijuana Regulation Review
40 Commission which shall be responsible to review and approve
41 regulations developed by the division. The commission shall
42 consist of three members as follows: one member appointed by the
43 Governor, who shall be the presiding officer, one member
44 appointed by the President of the Senate, who shall be a member of
45 the Senate, and one member appointed by the Speaker of the
46 General Assembly, who shall be a member of the General
47 Assembly. The concurrence of two of the members of the

1 commission shall be necessary to validate all acts of the
2 commission.

3 Section 41 permits possession of up to an ounce of marijuana
4 punishable by a civil violation during the period of enactment until
5 legalization becomes effective.

6 Section 42 permits the establishment of retail marijuana
7 consumption area. The division may issue a retail marijuana
8 consumption area endorsement only to a marijuana retail licensee to
9 sell retail marijuana, retail concentrate, or retail marijuana products
10 for on-premises consumption. Applications for an endorsement
11 would be made to the division. The endorsement is conditioned
12 upon approval by a local governmental entity. An applicant is
13 prohibited from operating a retail marijuana consumption area
14 without State and local licensing authority. A retail marijuana
15 consumption area would be subject to the provisions of P.L.2005,
16 c.383 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act.”

17 The bill would also amend sections 3 and 5 of P.L.2005, c.383
18 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act” to
19 include a definition of retail marijuana consumption area that is
20 specific about the ventilation and separation of this area from the
21 retail store. As so defined, this area would be exempt from the
22 provisions of the “New Jersey Smoke-Free Air Act.”

23 Section 45 establishes the socioeconomic factors for a priority
24 system for awarding retail marijuana licenses (impact zones).

25 The bill also amends several sections of Title 2C of New Jersey
26 Statutes, the criminal code, to reflect the decriminalization of
27 marijuana under the bill.

28 This bill provides an effective date as follows: a. sections 1
29 through 40, and sections 42 through 45 shall take effect 180 days
30 after enactment, except the Director of the Division of Marijuana
31 Enforcement may take such anticipatory action as may be necessary
32 to effectuate the provisions of this act; and b. section 41 shall take
33 effect immediately, but shall expire 180 days after enactment.