

SENATE, No. 3445

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Decriminalizes possession of small amounts of marijuana, hashish, and marijuana-infused products; downgrades certain distribution crimes; requires expedited expungement of certain offenses.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning marijuana, amending various parts of the
 2 statutory law, and supplementing Title 2C of the New Jersey
 3 Statutes.

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

7
 8 1. N.J.S.2B:12-17 is amended to read as follows:

9 2B:12-17. Jurisdiction of specified offenses. A municipal court
 10 has jurisdiction over the following cases within the territorial
 11 jurisdiction of the court:

12 a. Violations of county or municipal ordinances;

13 b. Violations of the motor vehicle and traffic laws;

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

17 d. Violations of the fish and game laws;

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

20 f. Violations of laws regulating boating; **[and]**

21 g. Violations of sections 11 and 12 of P.L. , c. (C.)
 22 (pending before the Legislature as this bill); and

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

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

26

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

28 2C:35-2. As used in this chapter:

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

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

40 "Controlled dangerous substance" means a drug, substance, or
 41 immediate precursor in Schedules I through V, any substance the
 42 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
 43 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
 44 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120
 45 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b),

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

Matter underlined thus is new matter.

1 and any drug or substance which, when ingested, is metabolized or
2 otherwise becomes a controlled dangerous substance in the human
3 body. When any statute refers to controlled dangerous substances,
4 or to a specific controlled dangerous substance, it shall also be
5 deemed to refer to any drug or substance which, when ingested, is
6 metabolized or otherwise becomes a controlled dangerous substance
7 or the specific controlled dangerous substance, and to any substance
8 that is an immediate precursor of a controlled dangerous substance
9 or the specific controlled dangerous substance. The term shall not
10 include distilled spirits, wine, malt beverages, as those terms are
11 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
12 products. The term, wherever it appears in any law or
13 administrative regulation of this State, shall include controlled
14 substance analogs.

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

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

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

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

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

46 "Drugs" means (a) substances recognized in the official United
47 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
48 United States, or official National Formulary, or any supplement to

1 any of them; and (b) substances intended for use in the diagnosis,
2 cure, mitigation, treatment, or prevention of disease in man or other
3 animals; and (c) substances (other than food) intended to affect the
4 structure or any function of the body of man or other animals; and
5 (d) substances intended for use as a component of any article
6 specified in subsections (a), (b), and (c) of this section; but does not
7 include devices or their components, parts, or accessories.

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

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

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

37 "Marijuana" means all parts of the plant Genus Cannabis L.,
38 whether growing or not; the seeds thereof, and every compound,
39 manufacture, salt, derivative, mixture, or preparation of the plant or
40 its seeds, except those containing resin extracted from the plant; but
41 shall not include the mature stalks of the plant, fiber produced from
42 the stalks, oil, or cake made from the seeds of the plant, any other
43 compound, manufacture, salt, derivative, mixture, or preparation of
44 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant
45 which is incapable of germination.

46 "Marijuana concentrate" means a product consisting wholly or in
47 part of the resin extracted from any part of the plant Genus

1 Cannabis L. and having a tetrahydrocannabinol concentration
2 greater than 2.5 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 "State" means the State of New Jersey.

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

47 "Prescription legend drug" means any drug which under federal
48 or State law requires dispensing by prescription or order of a

1 licensed physician, veterinarian, or dentist and is required to bear
2 the statement "Rx only" or similar wording indicating that such
3 drug may be sold or dispensed only upon the prescription of a
4 licensed medical practitioner and is not a controlled dangerous
5 substance or stramonium preparation.

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

9 "Stramonium plant" means the plant *Datura Stramonium* Linne,
10 including *Datura Tatula* Linne.

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

12
13 3. N.J.S.2C:35-5 is amended to read as follows:

14 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
15 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
16 unlawful for any person knowingly or purposely:

17 (1) To manufacture, distribute or dispense, or to possess or have
18 under his control with intent to manufacture, distribute or dispense,
19 a controlled dangerous substance or controlled substance analog; or

20 (2) To create, distribute, or possess or have under his control
21 with intent to distribute, a counterfeit controlled dangerous
22 substance.

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

24 (1) Heroin, or its analog, or coca leaves and any salt, compound,
25 derivative, or preparation of coca leaves, and any salt, compound,
26 derivative, or preparation thereof which is chemically equivalent or
27 identical with any of these substances, or analogs, except that the
28 substances shall not include decocainized coca leaves or extractions
29 which do not contain cocaine or ecogine, or 3,4-
30 methylenedioxyamphetamine or 3,4-
31 methylenedioxyamphetamine, in a quantity of five ounces or more
32 including any adulterants or dilutants is guilty of a crime of the first
33 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
34 be sentenced to a term of imprisonment by the court. The term of
35 imprisonment shall include the imposition of a minimum term
36 which shall be fixed at, or between, one-third and one-half of the
37 sentence imposed, during which the defendant shall be ineligible for
38 parole. Notwithstanding the provisions of subsection a. of
39 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

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

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

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

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

12 (6) Lysergic acid diethylamide, or its analog, in a quantity of
13 100 milligrams or more including any adulterants or dilutants, or
14 phencyclidine, or its analog, in a quantity of 10 grams or more
15 including any adulterants or dilutants, is guilty of a crime of the
16 first degree. Except as provided in N.J.S.2C:35-12, the court shall
17 impose a term of imprisonment which shall include the imposition
18 of a minimum term, fixed at, or between, one-third and one-half of
19 the sentence imposed by the court, during which the defendant shall
20 be ineligible for parole. Notwithstanding the provisions of
21 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be
22 imposed;

23 (7) Lysergic acid diethylamide, or its analog, in a quantity of
24 less than 100 milligrams including any adulterants or dilutants, or
25 where the amount is undetermined, or phencyclidine, or its analog,
26 in a quantity of less than 10 grams including any adulterants or
27 dilutants, or where the amount is undetermined, is guilty of a crime
28 of the second degree;

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

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

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

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

1 (b) Marijuana in a quantity of five pounds or more but less than
2 25 pounds including any adulterants or dilutants, or 10 or more but
3 fewer than 50 marijuana plants, regardless of weight, or hashish in a
4 quantity of one pound or more but less than five pounds, including
5 any adulterants and dilutants, is guilty of a crime of the second
6 degree;

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

13 (12) Marijuana in a quantity of less than one ounce including
14 any adulterants or dilutants, or hashish in a quantity of less than five
15 grams including any adulterants or dilutants, is guilty of a [crime of
16 the fourth degree] disorderly persons offense;

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

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

26 c. Where the degree of the offense for violation of this section
27 depends on the quantity of the substance, the quantity involved
28 shall be determined by the trier of fact. Where the indictment or
29 accusation so provides, the quantity involved in individual acts of
30 manufacturing, distribution, dispensing or possessing with intent to
31 distribute may be aggregated in determining the grade of the
32 offense, whether distribution or dispensing is to the same person or
33 several persons, provided that each individual act of manufacturing,
34 distribution, dispensing or possession with intent to distribute was
35 committed within the applicable statute of limitations.

36 (cf: P.L.2000, c.136, s.1)

37

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

39 2C:35-10. Possession, Use or Being Under the Influence, or
40 Failure to Make Lawful Disposition.

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

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

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

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

18 (4) Possession of 50 grams or less of marijuana, including any
19 adulterants or dilutants, or five grams or less of hashish is ~~]~~a
20 disorderly person] not a violation of this Title, but shall be subject
21 to the penalties set forth in section 11 of P.L. , c. (C.)
22 (pending before the Legislature as this bill).

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

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

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

1 c. Any person who knowingly obtains or possesses a controlled
2 dangerous substance or controlled substance analog in violation of
3 subsection a. of this section and who fails to voluntarily deliver the
4 substance to the nearest law enforcement officer is guilty of a
5 disorderly persons offense. Nothing in this subsection shall be
6 construed to preclude a prosecution or conviction for any other
7 offense defined in this title or any other statute. It is not a violation
8 of this subsection if the substance is 50 grams or less of marijuana,
9 including any adulterants or dilutants; five grams or less of hashish
10 or marijuana concentrate; or five times or less of a personal-use
11 amount of a regulated marijuana-infused product.

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

13
14 5. N.J.S.2C:35-18 is amended to read as follows:

15 2C:35-18. Exemption; Burden of Proof. a. If conduct is
16 authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.),
17 P.L.2009, c.307 (C.24:6I-1 et al.), **【or】** P.L.2015, c.158 (C.18A:40-
18 12.22 et al.), or if conduct is not subject to a criminal penalty
19 pursuant to the provisions of paragraph (4) of subsection a. of
20 N.J.S.2C:35-10, that authorization or decriminalization shall,
21 subject to the provisions of this section, constitute an exemption
22 from criminal liability under this chapter or chapter 36, and the
23 absence of such authorization or decriminalization shall not be
24 construed to be an element of any offense in this chapter or chapter
25 36. It is an affirmative defense to any criminal action arising under
26 this chapter or chapter 36 that the defendant is the authorized holder
27 of an appropriate registration, permit or order form or is otherwise
28 exempted or excepted from criminal liability by virtue of any
29 provision of P.L.1970, c.226 (C.24:21-1 et seq.), P.L.2009, c.307
30 (C.24:6I-1 et al.), **【or】** P.L.2015, c.158 (C.18A:40-12.22 et al.) , or
31 the provisions of paragraph (4) of subsection a. of N.J.S.2C:35-10.
32 The affirmative defense established herein shall be proved by the
33 defendant by a preponderance of the evidence. It shall not be
34 necessary for the State to negate any exemption set forth in this act
35 or in any provision of Title 24 of the Revised Statutes in any
36 complaint, information, indictment or other pleading or in any trial,
37 hearing or other proceeding under this act.

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

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

43
44 6. N.J.S.2C:36-2 is amended to read as follows:

45 2C:36-2. Use or possession with intent to use drug paraphernalia,
46 disorderly persons offense.

47 It shall be unlawful for any person to use, or to possess with
48 intent to use, drug paraphernalia to plant, propagate, cultivate,

1 grow, harvest, manufacture, compound, convert, produce, process,
2 prepare, test, analyze, pack, repack, store, contain, conceal, ingest,
3 inhale, or otherwise introduce into the human body a controlled
4 dangerous substance, controlled substance analog or toxic chemical
5 in violation of the provisions of chapter 35 of this title. Any person
6 who violates this section is guilty of a disorderly persons offense.

7 Use, or possession with intent to use, drug paraphernalia to plant,
8 propagate, cultivate, grow, harvest, manufacture, compound,
9 convert, produce, process, prepare, test, analyze, pack, repack,
10 store, contain, conceal, ingest, inhale, or otherwise introduce into
11 the human body 50 grams or less of marijuana, including any
12 adulterants or dilutants; five grams or less of hashish or marijuana
13 concentrate; or five times or less of a personal-use amount of a
14 regulated marijuana-infused product is not a violation of this
15 section but shall be subject to the penalties set forth in section 12 of
16 P.L. , c. (C.) (pending before the Legislature as this bill).

17 (cf: P.L.2007, c.31, s.3)

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

20 2C:36A-1. Conditional discharge for certain first offenses.

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

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

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

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

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

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

31 A person may apply for a waiver of the cost of the substance
32 abuse assessment and substance abuse treatment by reason of
33 extreme financial hardship. Costs of the substance abuse assessment
34 may be reimbursed from the Drug Education Program Fund
35 established in section 14 of P.L. , c. (C.) (pending before
36 the Legislature as this bill).

37 (a) Upon completion of treatment, the agency designated by the
38 court to monitor or supervise the person's treatment shall report to
39 the court as to the person's progress in treatment and compliance
40 with court-imposed terms and conditions.

41 (b) After the expiration of a period of six months following the
42 court's entry of the order of dismissal, the records of the person's
43 arrest shall be expunged pursuant to N.J.S.2C:52-6. Expungement
44 shall not require any action by the person or the payment of any fee.

45 In no event shall the court require as a term or condition of
46 supervisory treatment under this section, referral to any residential
47 treatment facility for a period exceeding the maximum period of
48 confinement prescribed by law for the offense for which the

1 individual has been charged or convicted, nor shall any term of
2 supervisory treatment imposed under this subsection exceed a
3 period of three years. **【**If a person is placed under supervisory
4 treatment under this section after a plea of guilty or finding of guilt,
5 the court as a term and condition of supervisory treatment shall
6 suspend the person's driving privileges for a period to be fixed by
7 the court at not less than six months or more than two years unless
8 the court finds compelling circumstances warranting an exception.
9 For the purposes of this subsection, compelling circumstances
10 warranting an exception exist if the suspension of the person's
11 driving privileges will result in extreme hardship and alternative
12 means of transportation are not available. In the case of a person
13 who at the time of placement under supervisory treatment under this
14 section is less than 17 years of age, the period of suspension of
15 driving privileges authorized herein, including a suspension of the
16 privilege of operating a motorized bicycle, shall commence on the
17 day the person is placed on supervisory treatment and shall run for a
18 period as fixed by the court of not less than six months or more than
19 two years after the day the person reaches the age of 17 years.

20 If the driving privilege of a person is under revocation,
21 suspension, or postponement for a violation of this title or Title 39
22 of the Revised Statutes at the time of the person's placement on
23 supervisory treatment under this section, the revocation, suspension
24 or postponement period imposed herein shall commence as of the
25 date of the termination of the existing revocation, suspension or
26 postponement. The court which places a person on supervisory
27 treatment under this section shall collect and forward the person's
28 driver's license to the New Jersey Motor Vehicle Commission and
29 file an appropriate report with the commission in accordance with
30 the procedure set forth in N.J.S.2C:35-16. The court shall also
31 inform the person of the penalties for operating a motor vehicle
32 during the period of license suspension or postponement as required
33 in N.J.S.2C:35-16.**】**

34 Upon violation of a term or condition of supervisory treatment
35 the court may enter a judgment of conviction and proceed as
36 otherwise provided, or where there has been no plea of guilty or
37 finding of guilty, resume proceedings. Upon fulfillment of the terms
38 and conditions of supervisory treatment the court shall terminate the
39 supervisory treatment and dismiss the proceedings against him.
40 Termination of supervisory treatment and dismissal under this
41 section shall be without court adjudication of guilt and shall not be
42 deemed a conviction for purposes of disqualifications or
43 disabilities, if any, imposed by law upon conviction of a crime or
44 disorderly persons offense but shall be reported by the clerk of the
45 court to the State Bureau of Identification criminal history record
46 information files. Termination of supervisory treatment and
47 dismissal under this section may occur only once with respect to
48 any person. Imposition of supervisory treatment under this section

1 shall not be deemed a conviction for the purposes of determining
2 whether a second or subsequent offense has occurred under section
3 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36 of this title or
4 any law of this State.

5 c. Proceedings under this section shall **[not]** be available to
6 **[any]** every defendant unless the court in its discretion concludes
7 that:

8 (1) The defendant's continued presence in the community, or in
9 a civil treatment center or program, will **[not]** pose a danger to the
10 community; or

11 (2) **[That the]** The terms and conditions of supervisory
12 treatment will be **[adequate]** inadequate to protect the public and
13 will not benefit the defendant by serving to correct any dependence
14 on or use of controlled substances which he may manifest; **[and]** or

15 (3) The person has **[not]** previously received supervisory
16 treatment under section 27 of P.L.1970, c.226 (C.24:21-27),
17 N.J.S.2C:43-12, or the provisions of this chapter.

18 d. A person seeking conditional discharge pursuant to this
19 section shall pay to the court a fee of \$75 which shall be paid to the
20 Treasurer of the State of New Jersey for deposit in the General
21 Fund. The defendant shall also be required to pay restitution, costs
22 and other assessments as provided by law. A person may apply for a
23 waiver of this fee, by reason of poverty, pursuant to the Rules
24 Governing the Courts of the State of New Jersey, or the court may
25 permit the defendant to pay the conditional discharge fee and other
26 assessments in installments or may order other alternatives pursuant
27 to section 1 of P.L.2009, c.317 (C.2B:12-23.1).

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

29
30 8. N.J.S.2C:52-1 is amended to read as follows:

31 2C:52-1. Definition of Expungement.

32 a. Except as otherwise provided in this chapter, expungement
33 shall mean the extraction and isolation of all records on file within
34 any court, detention or correctional facility, law enforcement or
35 criminal justice agency concerning a person's detection,
36 apprehension, arrest, detention, trial or disposition of: an offense
37 within the criminal justice system, or a violation of section 11 or 12
38 of P.L. , c. (C.) (pending before the Legislature as this
39 bill).

40 b. Expunged records shall include complaints, warrants,
41 arrests, commitments, processing records, fingerprints,
42 photographs, index cards, "rap sheets" and judicial docket records.
43 (cf: N.J.S.2C:52-1)

44
45 9. N.J.S.2C:52-3 is amended to read as follows:

46 2C:52-3. Disorderly persons offenses and petty disorderly
47 persons offenses.

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

12 b. Any person who has been convicted of one or more
13 disorderly persons or petty disorderly persons offenses under the
14 laws of this State who has not been convicted of any crime, whether
15 within this State or any other jurisdiction, may present an
16 expungement application to the Superior Court pursuant to this
17 section if:

18 the person has been convicted, under the laws of this State, on
19 the same or separate occasions of no more than four disorderly
20 persons offenses, no more than four petty disorderly persons
21 offenses, or a combination of no more than four disorderly persons
22 and petty disorderly persons offenses, and the person does not
23 otherwise have any prior or subsequent conviction for a disorderly
24 persons or petty disorderly persons offense, whether within this
25 State or any other jurisdiction, such that the total number of
26 convictions for disorderly persons and petty disorderly persons
27 offenses would exceed four; or

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

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

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

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

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

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

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

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

45 c. The provisions of N.J.S.2C:52-7 through N.J.S.2C:52-14
46 shall not apply to an expungement of a conviction of any of the
47 following offenses that occurred prior to the enactment of P.L. ,

1 c. (C.) (pending before the Legislature as this bill) and no fee
2 shall be charged to the person making such application:

3 (1) a violation of subsection a., b., or c. of N.J.S.2C:35-10
4 involving possession of 50 grams or less of marijuana, including
5 any adulterants or dilutants; five grams or less of hashish or
6 marijuana concentrate; or five times or less of a personal-use
7 amount of a regulated marijuana-infused product as defined in
8 N.J.S.2C:35-2.

9 (2) a violation of N.J.S.2C:36-2 involving paraphernalia for the
10 use of 50 grams or less of marijuana, including any adulterants or
11 dilutants; five grams or less of hashish or marijuana concentrate; or
12 five times or less of a personal-use amount of a regulated
13 marijuana-infused product as defined in N.J.S.2C:35-2.

14 (3) a violation of paragraph (12) of subsection b. of N.J.S.2C:35-
15 5 concerning manufacturing, distributing, or dispensing, or
16 possessing or having under one's control with intent to
17 manufacture, distribute, or dispense, marijuana in a quantity of less
18 than one ounce including any adulterants or dilutants, or hashish in
19 a quantity of less than five grams including any adulterants or
20 dilutants.

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

22
23 10. Section 1 of P.L.1964, c.289 (C.39:4-49.1) is amended to
24 read as follows:

25 1. No person shall operate a motor vehicle on any highway
26 while knowingly having in his possession or in the motor vehicle
27 any controlled dangerous substance as classified in Schedules I, II,
28 III, IV and V of the "New Jersey Controlled Dangerous Substances
29 Act," P.L.1970, c.226 (C.24:21-1 et seq.) or any prescription
30 legend drug, unless the person has obtained the substance or drug
31 from, or on a valid written prescription of, a duly licensed
32 physician, veterinarian, dentist or other medical practitioner
33 licensed to write prescriptions intended for the treatment or
34 prevention of disease in man or animals or unless the person
35 possesses a controlled dangerous substance pursuant to a lawful
36 order of a practitioner or lawfully possesses a Schedule V
37 substance.

38 A person who violates this section shall be fined not less than
39 \$50.00 and shall forthwith forfeit his right to operate a motor
40 vehicle for a period of two years from the date of his conviction.
41 This section shall not apply to possession of 50 grams or less of
42 marijuana, including any adulterants or dilutants; five grams or less
43 of hashish or marijuana concentrate; or five times or less of a
44 personal-use amount of a regulated marijuana-infused product as
45 defined in N.J.S.2C:35-2.

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

1 11. (New section) a. Any person who, in violation of paragraph
2 (4) of subsection a. of N.J.S.2C:35-10, possesses 50 grams or less
3 of marijuana, including any adulterants or dilutants; five grams or
4 less of hashish or marijuana concentrate; or five times or less of a
5 personal-use amount of a regulated marijuana-infused product as
6 defined in N.J.S.2C:35-2, shall be subject to the following civil
7 penalties:

- 8 (1) \$150 for a first violation;
9 (2) \$200 for a second violation;
10 (3) \$500 for a third or subsequent violation.

11 No additional fines, penalties, or fees shall be imposed by the
12 court, except court costs.

13 The penalty shall be collected pursuant to the “Penalty
14 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.),
15 in a summary proceeding before the municipal court having
16 jurisdiction. A penalty recovered under the provisions of this
17 section shall be recovered by and in the name of the State by the
18 local municipality. The penalty shall be paid into the treasury of
19 the municipality in which the violation occurred. Of each penalty
20 imposed pursuant to this section, \$50 shall be forwarded by the
21 municipality to the State to be deposited in the “Drug Education
22 Program Fund” established pursuant to section 14 of P.L. ,
23 c. C.) (pending before the Legislature as this bill). The
24 remainder of the penalty monies collected pursuant to this section
25 shall be retained by the municipality for the general uses of the
26 municipality.

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

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

40 b. The substance abuse assessment shall determine if, and to
41 what extent, the person is a drug dependent person within the
42 meaning of N.J.S.2C:35-2 and would benefit from treatment. If the
43 person is determined to not be drug dependent he shall complete a
44 two-hour education program on marijuana and other controlled
45 dangerous substances according to a curriculum developed by the
46 Division of Mental Health and Addiction Services in the
47 Department of Human Services. The curriculum shall include
48 written materials. If the professional determines that the person is

1 not drug dependent, the professional shall report to the court that no
2 further action is needed, and the records of the violation shall be
3 expunged as set forth in subsection e. of this section.

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

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

22 e. After the expiration of a period of six months following the
23 completion of the education program set forth in subsection b. of
24 this section or following substance abuse treatment as set forth in
25 subsection c. of this section, the records of the violation shall be
26 expunged in accordance with the provisions of section 13 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill).
28 Expungement shall not require any action by the person or the
29 payment of any fee.

30 f. A person may apply for a waiver of court fees and the cost
31 of the substance abuse assessment and treatment set forth in this
32 section by reason of extreme financial hardship. Costs of the
33 substance abuse assessment may be reimbursed from the "Drug
34 Education Program Fund" established in section 14 of P.L. ,
35 c. (C.) (pending before the Legislature as this bill).

36
37 12. (New section) a. Any person who possesses drug
38 paraphernalia, as defined in N.J.S.2C:36-1, for the personal use of
39 50 grams or less of marijuana, including any adulterants or
40 dilutants; five grams or less of hashish or marijuana concentrate; or
41 five times or less of a personal-use amount of a regulated
42 marijuana-infused product as defined in N.J.S.2C:35-2, shall be
43 subject to a civil penalty of \$100. No additional fines, penalties, or
44 fees shall be imposed by the court, except court costs.

45 The penalty shall be collected pursuant to the "Penalty
46 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
47 in a summary proceeding before the municipal court having
48 jurisdiction. A penalty recovered under the provisions of this

1 section shall be recovered by and in the name of the State by the
2 local municipality. The penalty shall be paid into the treasury of
3 the municipality in which the violation occurred. Of each penalty
4 imposed pursuant to this section, \$50 shall be forwarded by the
5 municipality to the State to be deposited in the “Drug Education
6 Program Fund” established pursuant to section 14 of P.L. ,
7 c. C.) (pending before the Legislature as this bill). The
8 remainder of the penalty monies collected pursuant to this section
9 shall be retained by the municipality for the general uses of the
10 municipality.

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

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

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

36 c. If the person is determined to be drug dependent within the
37 meaning of N.J.S.2C:35-2 and substance abuse treatment and
38 monitoring will serve to benefit the person by addressing his drug
39 dependency, the court shall order the person to undergo treatment
40 for drug dependency at a suitable treatment facility licensed and
41 approved by the Department of Human Services and to comply with
42 the requirements of the course of treatment. The person shall be
43 required to submit to periodic testing to determine compliance with
44 treatment program goals. The treatment provider shall promptly
45 report to the court any significant failures by the person to comply
46 with any court-imposed term or condition of treatment or any
47 requirements of the course of treatment, including but not limited to

1 a positive drug or alcohol test or the unexcused failure to attend any
2 session or activity.

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

7 e. After the expiration of a period of six months following the
8 completion of the education program set forth in subsection b. of
9 this section or following substance abuse treatment as set forth in
10 subsection c. of this section, the records of the violation shall be
11 expunged in accordance with the provisions of section 13 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill).
13 Expungement shall not require any action by the person or the
14 payment of any fee.

15 f. A person may apply for a waiver of court fees and the cost
16 of the substance abuse assessment and treatment set forth in this
17 section by reason of extreme financial hardship. Costs of the
18 substance abuse assessment may be reimbursed from the "Drug
19 Education Program Fund" established in section 14 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill).

21
22 13. (New section) Pursuant to the provisions of subsection e. of
23 section 11 of P.L. , c. (C.) (pending before the Legislature
24 as this bill) and subsection e. of section 12 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), the court
26 shall order the expungement of all records and information relating
27 to a violation of section 11 or 12 of P.L. , c. (C.) (pending
28 before the Legislature as this bill). The provisions of N.J.S.2C:52-7
29 through N.J.S.2C:52-14 shall not apply to the expungement of such
30 records and no fee shall be charged to the person.

31
32 14. (New section) The "Drug Education Program Fund" is
33 established as a dedicated, nonlapsing, revolving fund in the
34 Department of the Treasury. Monies deposited in the fund shall be
35 appropriated to the Department of Human Services, Division of
36 Mental Health and Addiction Services for drug education programs.
37 Monies shall also be used to reimburse the costs of substance abuse
38 assessment and treatment pursuant to subsection b. of
39 N.J.S.2C:36A-1 and sections 11 and 12 of P.L. , c. (C.)
40 (pending before the Legislature as this bill).

41
42 15. (New section) In addition to the provisions of any other law,
43 a person who negligently stores a regulated marijuana-infused
44 product, resulting in a minor under the age of 18 years possessing
45 such product, shall be guilty of a disorderly persons offense.

46 It shall be prima facie evidence that the person did not act
47 negligently pursuant to this section if he lawfully obtained the
48 regulated marijuana-infused product from a jurisdiction where

1 marijuana sales to adults are authorized under the law of the
2 jurisdiction, and stored the product in its original, child-resistant,
3 labeled packaging. Failure to store a regulated marijuana-infused
4 product in its original, child-resistant, labeled packaging shall be
5 prima facie evidence of negligence pursuant to this section.
6

7 16. (New section) Any person who is serving a sentence on the
8 effective date of P.L. , c. (C.) (pending before the
9 Legislature as this bill) for a violation of: (1) subsection a. of
10 N.J.S.2C:35-10 involving possession of 50 grams or less of
11 marijuana, including any adulterants or dilutants; five grams or less
12 of hashish or marijuana concentrate; or five times or less of a
13 personal-use amount of a regulated marijuana-infused product as
14 defined in N.J.S.2C:35-2; (2) subsection b. or c. of N.J.S.2C:35-10;
15 or (3) N.J.S.2C:36-2 may move to have his sentence reviewed by
16 the sentencing court. The court may impose a civil penalty
17 pursuant to section 11 or 12 of P.L. , c. (C.) (pending
18 before the Legislature as this bill).
19

20 17. (New section) P.L. , c. (C.) (pending before the
21 Legislature as this bill) shall apply to all persons convicted of, but
22 not yet sentenced as of the effective date of P.L. , c. (C.)
23 (pending before the Legislature as this bill) for a violation of: (1)
24 subsection a. of N.J.S.2C:35-10 involving possession of 50 grams
25 or less of marijuana, including any adulterants or dilutants; five
26 grams or less of hashish or marijuana concentrate; or five times or
27 less of a personal-use amount of a regulated marijuana-infused
28 product as defined in N.J.S.2C:35-2; (2) subsection b. or c. of
29 N.J.S.2C:35-10; or (3) N.J.S.2C:36-2. The defendant may move to
30 have his conviction overturned by the court. The court may impose
31 a civil penalty pursuant to section 11 or 12 of P.L. , c. (C.)
32 (pending before the Legislature as this bill).
33

34 18. (New section) P.L. , c. (C.) (pending before the
35 Legislature as this bill) shall apply to all criminal charges pending
36 on the effective date of P.L. , c. (C.) (pending before the
37 Legislature as this bill) for a violation of: (1) subsection a. of
38 N.J.S.2C:35-10 involving possession of 50 grams or less of
39 marijuana, including any adulterants or dilutants; five grams or less
40 of hashish or marijuana concentrate; or five times or less of a
41 personal-use amount of a regulated marijuana-infused product as
42 defined in N.J.S.2C:35-2; (2) subsection b. or c. of N.J.S.2C:35-10;
43 or (3) N.J.S.2C:36-2. On and after the effective date of P.L. ,
44 c. (C.) (pending before the Legislature as this bill), the court
45 shall dismiss any such criminal charges but the prosecutor may
46 charge the defendant with a violation pursuant to section 11 or 12 of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 19. (New section) Any person who is serving a sentence on the
2 effective date of P.L. , c. (C.) (pending before the
3 Legislature as this bill) for a violation of paragraph (12) of
4 subsection b. of N.J.S.2C:35-5 concerning marijuana in a quantity
5 of less than one ounce including any adulterants or dilutants, or
6 hashish in a quantity of less than five grams including any
7 adulterants or dilutants, on the effective date of the bill may move
8 to be resentenced for a disorderly persons offense. The defendant
9 may move to have his conviction overturned by the court, and the
10 court may impose a sentence for a disorderly persons offense
11 pursuant to paragraph (12) of subsection b. of N.J.S.2C:35-5 as
12 amended by P.L. , c. (C.) (pending before the Legislature
13 as this bill) for these convictions.
14

15 20. (New section) P.L. , c. (C.) (pending before the
16 Legislature as this bill) shall apply to all persons convicted of, but
17 not yet sentenced as of the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill) for a violation of
19 paragraph (12) of subsection b. of N.J.S.2C:35-5 concerning
20 marijuana in a quantity of less than one ounce including any
21 adulterants or dilutants, or hashish in a quantity of less than five
22 grams including any adulterants or dilutants. The defendant may
23 move to have his conviction overturned by the court. The court
24 may impose a sentence for a conviction of a disorderly persons
25 offense pursuant to paragraph (12) of subsection b. of N.J.S.2C:35-
26 5 as amended by P.L. , c. (C.) (pending before the
27 Legislature as this bill).
28

29 21. (New section) P.L. , c. (C.) (pending before the
30 Legislature as this bill) shall apply to all criminal charges pending
31 on the effective date of P.L. , c. (C.) (pending before the
32 Legislature as this bill) for a violation of paragraph (12) of
33 subsection b. of N.J.S.2C:35-5 concerning marijuana in a quantity
34 of less than one ounce including any adulterants or dilutants, or
35 hashish in a quantity of less than five grams including any
36 adulterants or dilutants. On and after the effective date of P.L. ,
37 c. (C.) (pending before the Legislature as this bill), the court
38 shall dismiss any such criminal charges but the prosecutor may
39 charge the defendant with a disorderly persons offense pursuant to
40 paragraph (12) of subsection b. of N.J.S.2C:35-5 as amended by
41 P.L. , c. (C.) (pending before the Legislature as this bill).
42

43 22. (New section) The Attorney General shall issue guidelines
44 for prosecutors and law enforcement to effectuate the provisions of
45 P.L. , c. (C.) (pending before the Legislature as this bill).
46

47 23. (New section) The Commissioner of Human Services, in
48 consultation with the Attorney General, shall adopt rules and

1 regulations pursuant to the “Administrative Procedure Act,”
2 P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the
3 purposes of P.L. , c. (C.) (pending before the Legislature as
4 this bill).

5
6 24. This act shall take effect on the 60th day following
7 enactment.

8 9 10 STATEMENT

11
12 This bill would decriminalize possession of 50 grams or less of
13 marijuana and certain marijuana products and impose civil penalties
14 for such possession; eliminate all penalties for being under the
15 influence of marijuana; and downgrade the crimes of distribution of
16 small amounts of marijuana and marijuana products.

17 CIVIL PENALTIES. The bill amends N.J.S.2C:35-10, Possession,
18 Use or Being Under the Influence, to provide that a person who
19 possesses 50 grams or less of marijuana, including any adulterants
20 or dilutants; five grams or less of hashish or marijuana concentrate;
21 or five times or less of a personal-use amount of a regulated
22 marijuana-infused product would be subject to a civil penalty: \$150
23 for a first violation, \$200 for a second violation, and \$500 for a
24 third or subsequent violation. The bill would allow the court to
25 waive the penalties in case of extreme financial hardship and under
26 certain other circumstances.

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

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

41 CURRENT LAW: POSSESSION AND USE. Under current law,
42 possession of 50 grams or less of marijuana or five grams or less of
43 hashish is a disorderly persons offense. Possession of more than 50
44 grams of marijuana or more than five grams of hashish is a crime of
45 the fourth degree, with an enhanced fine of up to \$25,000. A crime
46 of the fourth degree is generally punishable by a term of
47 imprisonment of up to 18 months or a fine up to \$10,000, or both; a

1 disorderly persons offense, by a term of imprisonment of up to six
2 months or a fine of up to \$1,000, or both.

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

9 Subsection c. of N.J.S.2C:35-10 provides that it is a disorderly
10 person offense to unlawfully obtain or possess a controlled
11 dangerous substance, or its analog, and to fail to voluntarily deliver
12 it to the nearest law enforcement officer. The bill provides that this
13 statute would not apply to possession of 50 grams or less of
14 marijuana, or five times or less of a personal-use amount of a
15 regulated marijuana-infused product, or five grams or less of
16 hashish or marijuana concentrate.

17 N.J.S.2C:36-2 provides that it is a disorderly persons offense to
18 be in possession of drug paraphernalia. Under the bill, this statute
19 would not apply to a person who possesses drug paraphernalia for
20 the use of 50 grams or less of marijuana, including any adulterants
21 or dilutants; five grams or less of hashish or marijuana concentrate;
22 or five times or less of a personal-use amount of a regulated
23 marijuana-infused product. Instead, the person would be subject to
24 a civil penalty of \$100.

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

39 EDUCATION PROGRAM; EXPUNGEMENT OF RECORDS. If the
40 person is determined to not be drug dependent the person would be
41 required to complete a two-hour education program on marijuana
42 and other controlled dangerous substances according to a
43 curriculum developed by the Division of Mental Health and
44 Addiction Services in the Department of Human Services. The
45 curriculum would include written materials. If the person is not
46 drug dependent, the professional would report to the court that no
47 further action is needed, and the records of the violation would be
48 expunged after the expiration of six months following completion

1 of the education program. Expungement would not require any
2 action by the person or the payment of any fee.

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

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

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

31 POSSESSION IN A MOTOR VEHICLE. Under section 1 of P.L.1964,
32 c.289 (C.39:4-49.1), a person who operates a motor vehicle while in
33 possession of a controlled dangerous substance or prescription drug
34 without a valid prescription is subject to a fine of not less \$50 and
35 forfeits his right to operate a motor vehicle for two years. The bill
36 provides that these penalties would not apply to possession of 50
37 grams or less of marijuana, including any adulterants or dilutants;
38 five times or less of a personal-use amount of a regulated
39 marijuana-infused product as defined in N.J.S.2C:35-2; or five
40 grams or less of hashish or marijuana concentrate.

41 DOWNGRADE OF CERTAIN CRIMES INVOLVING DISTRIBUTION OF
42 MARIJUANA. Under current law, it is a crime of the fourth degree to
43 manufacture, distribute, or possess with intent to distribute,
44 marijuana in a quantity of less than one ounce, or hashish in a
45 quantity of less than five grams. Under the bill, these offenses
46 would no longer be crimes, but would be disorderly persons
47 offenses.

1 DISORDERLY PERSONS OFFENSE: NEGLIGENT STORAGE OF
2 REGULATED MARIJUANA-INFUSED PRODUCT. The bill also
3 establishes a new offense. Under the bill, a person who negligently
4 stores a regulated marijuana-infused product, resulting in a minor
5 under the age of 18 years possessing such product, would be guilty
6 of a disorderly persons offense. It would be prima facie evidence
7 that the person did not act negligently if he lawfully obtained the
8 regulated marijuana-infused product from a jurisdiction where
9 marijuana sales to adults are authorized under the law of the
10 jurisdiction, and stored the product in its original, child-resistant,
11 labeled packaging. Failure to store a regulated marijuana-infused
12 product in its original, child-resistant, labeled packaging would be
13 prima facie evidence of negligence.

14 EXPUNGEMENT OF CERTAIN PRIOR CRIMINAL OFFENSES
15 INVOLVING MARIJUANA. The bill provides that in the case of
16 convictions prior to the effective date of the bill for offenses that
17 the bill would decriminalize, an expungement petition may be filed
18 and presented without following the usual petition process. Upon
19 review of the petition, the court would immediately grant the
20 expungement. The expedited expungement process would apply to
21 prior convictions for the possession of 50 grams or less of
22 marijuana, including any adulterants or dilutants; five grams or less
23 of hashish or marijuana concentrate; or five times or less of a
24 personal-use amount of a regulated marijuana-infused product.

25 In addition, the expedited expungement process would also apply
26 to prior convictions for crimes of the fourth degree that, under the
27 bill, would become disorderly persons offenses based on
28 distribution of marijuana in a quantity of less than one ounce
29 including any adulterants or dilutants, or hashish in a quantity of
30 less than five grams including any adulterants or dilutants.

31 CONDITIONAL DISCHARGE FOR FIRST OFFENDERS. The bill
32 amends N.J.S.2C:36A-1, which provides conditional discharge for
33 certain first offenders charged with disorderly persons or petty
34 disorderly persons drug offenses, to mandate drug treatment in
35 certain cases. Under the bill, when a first offender is charged with a
36 disorderly persons or petty disorderly persons drug offense, the
37 court would suspend further proceedings and place the person on
38 supervisory treatment. The person would be required to undergo a
39 diagnostic assessment by a professional licensed or certified to
40 perform such assessments by the Division of Mental Health and
41 Addiction Services in the Department of Human Services to
42 determine if and to what extent the person is drug dependent and
43 would benefit from treatment. If the person is determined to not be
44 drug dependent he would complete a two-hour education program
45 on marijuana and other controlled dangerous substances, according
46 to a curriculum developed by the Division of Mental Health and
47 Addiction Services in the Department of Human Services. The
48 curriculum would include written materials. If the professional

1 determines that the person is not drug dependent, the professional
2 would report to the court that no further action is needed, and the
3 records of the violation would be expunged.

4 If the person is determined to be drug dependent and substance
5 abuse treatment and monitoring would serve to benefit the person
6 by addressing his drug dependency, the court would order the
7 person to undergo treatment for drug dependency at a suitable
8 treatment facility licensed and approved by the Department of
9 Human Services and to comply with the requirements of the course
10 of treatment. The person would be required to submit to periodic
11 testing to determine compliance with treatment program goals.
12 Upon completion of treatment, the agency designated by the court
13 to monitor or supervise the person's treatment would report to the
14 court as to the person's progress in treatment and compliance with
15 court-imposed terms and conditions. The treatment provider would
16 promptly report to the court any significant failures by the person to
17 comply with any court-imposed term or condition of treatment or
18 any requirements of the course of treatment, including but not
19 limited to a positive drug or alcohol test or the unexcused failure to
20 to attend any session or activity. The bill provides that a person may
21 apply for a waiver of court fees and the cost of the substance abuse
22 assessment and treatment by reason of extreme financial hardship.
23 Costs of the substance abuse assessment may be reimbursed from
24 the "Drug Education Program Fund" established in the bill.

25 After the expiration of a period of six months following the
26 completion of the education program or following substance abuse
27 treatment, the records of the violation would be expunged.
28 Expungement would not require any action by the person or the
29 payment of any fee.

30 Under current law, as a term and condition of supervisory
31 treatment under N.J.S.2C:36A-1 the court must suspend the
32 person's driving privileges for a period of six months to two years
33 unless the court finds compelling circumstances warranting an
34 exception. The bill deletes this provision for all persons
35 participating in supervisory treatment under the statute.

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

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

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

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

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

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

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

21 (1) Any person who is serving a sentence on the effective date of
22 the bill may move to have his sentence reviewed by the sentencing
23 court, and the court may impose a civil penalty pursuant to the bill,
24 if the person is serving a sentence for a violation of: (1) subsection
25 a. of N.J.S.2C:35-10 (possession) for 50 grams or less of marijuana,
26 including any adulterants or dilutants; five grams or less of hashish
27 or marijuana concentrate; or five times or less of a personal-use
28 amount of a regulated marijuana-infused product; (2) subsection b.
29 or c. of N.J.S.2C:35-10 (being under the influence of marijuana, or
30 failing to deliver marijuana to law enforcement); or (3)
31 N.J.S.2C:36-2 (paraphernalia for marijuana use).

32 (2) Any person who has been convicted, but is not yet sentenced,
33 on the effective date of the bill may move to have his conviction
34 overturned by the court, and the court may impose a civil penalty
35 pursuant to the bill, if the person has been convicted of a violation
36 of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 50 grams or
37 less of marijuana, including any adulterants or dilutants; five grams
38 or less of hashish or marijuana concentrate; or five times or less of a
39 personal-use amount of a regulated marijuana-infused product; (2)
40 subsection b. or c. of N.J.S.2C:35-10 (being under the influence of
41 marijuana, or failing to deliver marijuana to law enforcement); or
42 (3) N.J.S.2C:36-2 (paraphernalia for marijuana use).

43 (3) Any person who has criminal charges pending on the
44 effective date of the bill would have those criminal charges
45 dismissed, and the prosecutor may charge the person with the civil
46 penalty pursuant to the bill, if the person has been charged with a
47 violation of: (1) subsection a. of N.J.S.2C:35-10 (possession) for 50
48 grams or less of marijuana, including any adulterants or dilutants;

1 five grams or less of hashish or marijuana concentrate; or five times
2 or less of a personal-use amount of a regulated marijuana-infused
3 product; (2) subsection b. or c. of N.J.S.2C:35-10 (being under the
4 influence of marijuana, or failing to deliver marijuana to law
5 enforcement); or (3) N.J.S.2C:36-2 (paraphernalia for marijuana
6 use).

7 (4) Any person who is serving a sentence for a crime of the
8 fourth degree for distribution of marijuana in a quantity of less than
9 one ounce including any adulterants or dilutants, or hashish in a
10 quantity of less than five grams including any adulterants or
11 dilutants, on the effective date of the bill may move to be
12 resentenced for a disorderly persons offense.

13 (5) Any person who has been convicted, but is not yet sentenced,
14 on the effective date of the bill for a crime of the fourth degree for
15 distribution of marijuana in a quantity of less than one ounce
16 including any adulterants or dilutants, or hashish in a quantity of
17 less than five grams including any adulterants or dilutants, may
18 move to have his conviction overturned by the court, and the court
19 may impose a sentence for a disorderly persons offense for these
20 convictions.

21 (6) Any person who has criminal charges pending on the
22 effective date of the bill for a crime of the fourth degree for
23 distribution of marijuana in a quantity of less than one ounce
24 including any adulterants or dilutants, or hashish in a quantity of
25 less than five grams including any adulterants or dilutants would
26 have those criminal charges dismissed, and the prosecutor may
27 charge the person with a disorderly persons offense for these acts.

28 ATTORNEY GENERAL GUIDELINES. The bill requires the Attorney
29 General to issue guidelines for prosecutors and law enforcement to
30 effectuate the provisions of the bill.

31 COMMISSIONER OF HUMAN SERVICES GUIDELINES. The
32 Commissioner of Human Services, in consultation with the
33 Attorney General, would be required to adopt rules and regulations
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
35 (C.52:14B-1 et seq.), in order to effectuate the purposes of the bill.

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