

SENATE, No. 3686

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator JAMES BEACH

District 6 (Burlington and Camden)

Senator BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/17/2019)

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

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

8
9 1. (New section) Sections 1 through 9 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be known and may
11 be cited as the “New Jersey Hemp Farming Act.”

12
13 2. (New section) The Legislature finds and declares that hemp
14 is a viable agricultural crop and a potentially valuable agricultural
15 commodity in the State, and that hemp should be cultivated,
16 handled, processed, transported, and sold in the State to the
17 maximum extent permitted by federal law. It is the purpose of
18 P.L. , c. (C.) (pending before the Legislature as this bill) to:
19 promote the cultivation and processing of hemp; develop new
20 commercial markets for farmers and businesses through the sale of
21 hemp products; promote the expansion of the State’s hemp industry
22 to the maximum extent permitted by federal law; allow farmers and
23 businesses to cultivate, handle, and process hemp, and to sell hemp
24 products for commercial purposes; and to move the State and its
25 citizens to the forefront of the hemp industry.

26
27 3. (New section) As used in sections 1 through 9 of
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 unless the context otherwise requires:

30 “Agent” means an employee or contractor of a hemp producer.

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

34 “Commercial sale” means the sale of a product in the stream of
35 commerce at retail, at wholesale, or on the Internet.

36 “Cultivate” means to plant, water, grow, or harvest a plant or
37 crop.

38 “Department” means the New Jersey Department of Agriculture.

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

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

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

Matter underlined thus is new matter.

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

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

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

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

24 “Process” means to convert hemp into a marketable form.

25 “Secretary” means the Secretary of the New Jersey Department
26 of Agriculture.

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

33

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

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

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1 handles, or processes living hemp plants or viable seeds, leaf
2 materials, or floral materials derived from hemp, shall be subject to
3 the same penalties as those related to marijuana.

4
5 5. (New section) a. Pursuant to 7 U.S.C. s.1639p, and to
6 designate itself as the primary regulatory authority over the
7 production of hemp in the State, the department, in consultation
8 with the Governor and the Attorney General, shall promulgate
9 regulations for submission, along with P.L. , c. (C.)
10 (pending before the Legislature as this bill), to the Secretary of the
11 United States Department of Agriculture, as a plan under which the
12 State monitors and regulates hemp production.

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

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

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

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

46 (4) a procedure to comply with the enforcement procedures in
47 section 7 of P.L. , c. (C.) (pending before the Legislature as

1 this bill), pursuant to 7 U.S.C. s.1639p, and to provide due process
2 for hemp producers;

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

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

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

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

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

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

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

43
44 6. (New section) a. Except as otherwise provided,
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 does not apply to the possession, transportation, or sale of hemp
47 products or extracts, including those containing one or more hemp-
48 derived cannabinoids, including cannabidiol.

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

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

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

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

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

44 (4) define classes or categories of hemp products that are
45 eligible for sale, transfer, or distribution to members of the public;

46 (5) establish non-refundable application, licensure, and renewal
47 fees in amounts that are reasonable and necessary to cover the costs
48 of administering and enforcing the State hemp program, which shall

1 be deposited in the State hemp program account pursuant to section
2 8 of P.L. , c. (C.) (pending before the Legislature as this
3 bill); and

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

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

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

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

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

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

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

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

47 (2) If the department determines that an applicant meets the
48 State hemp program participation requirements, the department

1 shall authorize the applicant to participate in the program as a hemp
2 producer.

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

6
7 7. (New section) a. If the department determines that a hemp
8 producer negligently violated P.L. , c. (C.) (pending before
9 the Legislature as this bill) or any rule or regulation adopted
10 pursuant thereto, the department shall enforce the violation in the
11 manner provided by 7 U.S.C. s.1639p as follows:

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

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

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

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

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

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

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

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

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

45 b. If the department determines that a hemp producer has
46 violated P.L. , c. (C.) (pending before the Legislature as
47 this bill) or a rule or regulation adopted pursuant thereto with a
48 culpable mental state greater than negligence, subsection a. of this

1 section shall not apply and the department shall report the hemp
2 producer immediately to the United States Attorney General and the
3 Attorney General of the State, who may, on behalf of the
4 department, investigate the violation and institute proceedings for
5 injunctive or other appropriate relief or report the matter to an
6 appropriate law enforcement agency.

7 c. In addition to the rules and regulations adopted pursuant to
8 sections 5 and 6 of P.L. , c. (C.) (pending before the
9 Legislature as this bill), no later than 90 days after the effective date
10 of P.L. , c. (C.) (pending before the Legislature as this bill)
11 and notwithstanding the provisions of the “Administrative
12 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
13 contrary, the department, after consulting with the Governor and the
14 Attorney General, shall immediately upon filing proper notice with
15 the Office of Administrative Law, adopt interim rules and
16 regulations establishing a schedule of penalties for violations of
17 P.L. , c. (C.) (pending before the Legislature as this bill) or
18 a rule or regulation adopted pursuant thereto that do not conflict
19 with 7 U.S.C. s.1639o et seq. The regulations shall be effective as
20 regulations immediately upon filing with the Office of
21 Administrative Law and shall be in effect for a period not to exceed
22 18 months, and shall, thereafter, be amended, adopted, or readopted
23 by the department in accordance with the provisions of the
24 “Administrative Procedure Act.” Any penalty collected pursuant to
25 P.L. , c. (C.) (pending before the Legislature as this bill)
26 shall be deposited in the “New Jersey Hemp Farming Fund”
27 established pursuant to section 8 P.L. , c. (C.) (pending
28 before the Legislature as this bill).

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

39

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

45 b. The fund shall be credited with:

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

48 (2) moneys as are appropriated by the Legislature;

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

4 (4) any return on investment of moneys deposited in the fund.
5

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

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

17 c. The provisions of P.L. , c. (C.) (pending before the
18 Legislature as this bill) applicable to hemp producers shall not
19 apply to the possession, handling, transport, or sale of hemp
20 products, including those containing one or more hemp-derived
21 cannabinoids, including cannabidiol. Notwithstanding any other
22 law, a person or business entity may possess, transport, sell, and
23 purchase legally produced hemp products in this State. As part of
24 the rules and regulations adopted pursuant to P.L. , c. (C.)
25 (pending before the Legislature as this bill), the Department of
26 Agriculture shall provide to a retailer of hemp products notice of a
27 potential violation concerning hemp products sold by the retailer
28 and shall provide an opportunity to cure a violation committed
29 unintentionally or negligently.

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

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

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

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

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

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

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

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

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

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

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

43 “Counterfeit substance” means a controlled dangerous substance
44 or controlled substance analog which, or the container or labeling of
45 which, without authorization, bears the trademark, trade name, or
46 other identifying mark, imprint, number, or device, or any likeness
47 thereof, of a manufacturer, distributor, or dispenser other than the
48 person or persons who in fact manufactured, distributed, or

1 dispensed the substance and which thereby falsely purports or is
2 represented to be the product of, or to have been distributed by,
3 such other manufacturer, distributor, or dispenser.

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

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

14 “Distribute” means to deliver other than by administering or
15 dispensing a controlled dangerous substance or controlled substance
16 analog. “Distributor” means a person who distributes.

17 “Drugs” means (a) substances recognized in the official United
18 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
19 United States, or official National Formulary, or any supplement to
20 any of them; and (b) substances intended for use in the diagnosis,
21 cure, mitigation, treatment, or prevention of disease in man or other
22 animals; and (c) substances (other than food) intended to affect the
23 structure or any function of the body of man or other animals; and
24 (d) substances intended for use as a component of any article
25 specified in subsections (a), (b), and (c) of this section; but does not
26 include devices or their components, parts, or accessories.

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

37 “Hashish” means the 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. “Hashish” shall
40 not mean **[industrial] hemp or a hemp product cultivated, handled,**
41 **processed, transported, or sold** pursuant to the **[New Jersey**
42 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
43 **(C.4:28-1 et al.)] “New Jersey Hemp Farming Act,”**
44 **P.L. , c. (C.) (pending before the Legislature as this bill) .**

45 “Manufacture” means the production, preparation, propagation,
46 compounding, conversion, or processing of a controlled dangerous
47 substance or controlled substance analog, either directly or by
48 extraction from substances of natural origin, or independently by

1 means of chemical synthesis, or by a combination of extraction and
2 chemical synthesis, and includes any packaging or repackaging of
3 the substance or labeling or relabeling of its container, except that
4 this term does not include the preparation or compounding of a
5 controlled dangerous substance or controlled substance analog by
6 an individual for his own use or the preparation, compounding,
7 packaging, or labeling of a controlled dangerous substance: (1) by
8 a practitioner as an incident to his administering or dispensing of a
9 controlled dangerous substance or controlled substance analog in
10 the course of his professional practice, or (2) by a practitioner (or
11 under his supervision) for the purpose of, or as an incident to,
12 research, teaching, or chemical analysis and not for sale.

13 “Marijuana” means all parts of the plant Genus Cannabis L.,
14 whether growing or not; the seeds thereof, and every compound,
15 manufacture, salt, derivative, mixture, or preparation of the plant or
16 its seeds, except those containing resin extracted from the plant; but
17 shall not include the mature stalks of the plant, fiber produced from
18 the stalks, oil, or cake made from the seeds of the plant, any other
19 compound, manufacture, salt, derivative, mixture, or preparation of
20 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant
21 which is incapable of germination. “Marijuana” shall not mean
22 **【industrial】** hemp or a hemp product cultivated , handled,
23 processed, transported, or sold pursuant to the **【New Jersey**
24 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
25 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,”
26 P.L. , c. (C.) (pending before the Legislature as this bill) .

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

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

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

- 1 “Opium poppy” means the plant of the species *Papaver*
2 *somniferum* L., except the seeds thereof.
- 3 “Person” means any corporation, association, partnership, trust,
4 other institution or entity, or one or more individuals.
- 5 “Plant” means an organism having leaves and a readily
6 observable root formation, including, but not limited to, a cutting
7 having roots, a rootball or root hairs.
- 8 “Poppy straw” means all parts, except the seeds, of the opium
9 poppy, after mowing.
- 10 “Practitioner” means a physician, dentist, veterinarian, scientific
11 investigator, laboratory, pharmacy, hospital, or other person
12 licensed, registered, or otherwise permitted to distribute, dispense,
13 conduct research with respect to, or administer a controlled
14 dangerous substance or controlled substance analog in the course of
15 professional practice or research in this State.
- 16 (a) “Physician” means a physician authorized by law to practice
17 medicine in this or any other state and any other person authorized
18 by law to treat sick and injured human beings in this or any other
19 state.
- 20 (b) “Veterinarian” means a veterinarian authorized by law to
21 practice veterinary medicine in this State.
- 22 (c) “Dentist” means a dentist authorized by law to practice
23 dentistry in this State.
- 24 (d) “Hospital” means any federal institution, or any institution
25 for the care and treatment of the sick and injured, operated or
26 approved by the appropriate State department as proper to be
27 entrusted with the custody and professional use of controlled
28 dangerous substances or controlled substance analogs.
- 29 (e) “Laboratory” means a laboratory to be entrusted with the
30 custody of narcotic drugs and the use of controlled dangerous
31 substances or controlled substance analogs for scientific,
32 experimental, and medical purposes and for purposes of instruction
33 approved by the Department of Health.
- 34 “Production” includes the manufacture, planting, cultivation,
35 growing, or harvesting of a controlled dangerous substance or
36 controlled substance analog.
- 37 “Immediate precursor” means a substance which the Division of
38 Consumer Affairs in the Department of Law and Public Safety has
39 found to be and by regulation designates as being the principal
40 compound commonly used or produced primarily for use, and
41 which is an immediate chemical intermediary used or likely to be
42 used in the manufacture of a controlled dangerous substance or
43 controlled substance analog, the control of which is necessary to
44 prevent, curtail, or limit such manufacture.
- 45 “Residential treatment facility” means any facility licensed and
46 approved by the Department of Human Services and which is
47 approved by any county probation department for the inpatient
48 treatment and rehabilitation of drug or alcohol dependent persons.

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

8 “State” means the State of New Jersey.

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

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

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

24 “Stramonium plant” means the plant *Datura Stramonium* Linne,
25 including *Datura Tatula* Linne.

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

27

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

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

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

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

42 “Commissioner” means the Commissioner of Health.

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

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

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

13 “Director” means the Director of the Division of Consumer
14 Affairs in the Department of Law and Public Safety.

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

20 “Dispenser” means a practitioner who dispenses.

21 “Distribute” means to deliver other than by administering or
22 dispensing a controlled dangerous substance.

23 “Distributor” means a person who distributes.

24 “Division” means the Division of Consumer Affairs in the
25 Department of Law and Public Safety.

26 “Drug Enforcement Administration” means the Drug
27 Enforcement Administration in the United States Department of
28 Justice.

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. “Drugs”
39 shall not mean **[industrial] hemp or a hemp product cultivated ,**
40 **handled, processed, transported, or sold** pursuant to the **[New**
41 **Jersey Industrial Hemp Pilot Program established by P.L.2018,**
42 **c.139 (C.4:28-1 et al.)]** **“New Jersey Hemp Farming Act,”**
43 **P.L. , c. (C.) (pending before the Legislature as this bill) .**

44 “Hashish” means the resin extracted from any part of the plant
45 genus Cannabis and any compound, manufacture, salt, derivative,
46 mixture, or preparation of such resin. “Hashish” shall not mean
47 **[industrial] hemp or a hemp product cultivated , handled,**

1 processed, transported, or sold pursuant to the **【New Jersey**
2 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
3 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,”
4 P.L. , c. (C.) (pending before the Legislature as this bill) .

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

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

35 “Narcotic drug” means any of the following, whether produced
36 directly or indirectly by extraction from substances of vegetable
37 origin, or independently by means of chemical synthesis, or by a
38 combination of extraction and chemical synthesis:

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

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

42 (c) A substance (and any compound, manufacture, salt,
43 derivative, or preparation thereof) which is chemically identical
44 with any of the substances referred to in subsections (a) and (b),
45 except that the words “narcotic drug” as used in **【this act】**
46 P.L.1970, c.226 (C.24:21-1 et seq.) shall not include decocainized

1 coca leaves or extracts of coca leaves, which extracts do not contain
2 cocaine or ecgonine.

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

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

20 “Opium poppy” means the plant of the species *Papaver*
21 *somniferum* L., except the seeds thereof.

22 “Person” means any corporation, association, partnership, trust,
23 other institution or entity, or one or more individuals.

24 “Pharmacist” means a registered pharmacist of this State.

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

32 “Poppy straw” means all parts, except the seeds, of the opium
33 poppy, after mowing.

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

40 (a) “Physician” means a physician authorized by law to practice
41 medicine in this or any other state.

42 (b) “Veterinarian” means a veterinarian authorized by law to
43 practice veterinary medicine in this State.

44 (c) “Dentist” means a dentist authorized by law to practice
45 dentistry in this State.

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

1 entrusted with the custody and professional use of controlled
2 dangerous substances.

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

7 “Production” includes the manufacture, planting, cultivation,
8 growing, or harvesting of a controlled dangerous substance.

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

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

25 “Ultimate user” means a person who lawfully possesses a
26 controlled dangerous substance for the person’s own use or for the
27 use of a member of the person’s household or for administration to
28 an animal owned by the person or by a member of the person’s
29 household.

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

31

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

34 5. Schedule I.

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

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

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

- 1 (1) Acetylmethadol
- 2 (2) Allylprodine
- 3 (3) Alphacetylmethadol
- 4 (4) Alphameprodine
- 5 (5) Alphamethadol
- 6 (6) Benzethidine
- 7 (7) Betacetylmethadol
- 8 (8) Betameprodine
- 9 (9) Betamethadol
- 10 (10) Betaprodine
- 11 (11) Clonitazene
- 12 (12) Dextromoramide
- 13 (13) Dextrorphan
- 14 (14) Diampromide
- 15 (15) Diethylthiambutene
- 16 (16) Dimenoxadol
- 17 (17) Dimepheptanol
- 18 (18) Dimethylthiambutene
- 19 (19) Dioxaphetyl butyrate
- 20 (20) Dipipanone
- 21 (21) Ethylmethylthiambutene
- 22 (22) Etonitazene
- 23 (23) Etoxidine
- 24 (24) Furethidine
- 25 (25) Hydroxypethidine
- 26 (26) Ketobemidone
- 27 (27) Levomoramide
- 28 (28) Levophenacymorphan
- 29 (29) Morpheridine
- 30 (30) Noracymethadol
- 31 (31) Norlevorphanol
- 32 (32) Normethadone
- 33 (33) Norpipanone
- 34 (34) Phenadoxone
- 35 (35) Phenampromide
- 36 (36) Phenomorphan
- 37 (37) Phenoperidine
- 38 (38) Piritramide
- 39 (39) Proheptazine
- 40 (40) Properidine
- 41 (41) Racemoramide
- 42 (42) Trimeperidine.
- 43 d. Any of the following narcotic substances, their salts, isomers
- 44 and salts of isomers, unless specifically excepted, whenever the
- 45 existence of such salts, isomers and salts of isomers is possible
- 46 within the specific chemical designation:
- 47 (1) Acetorphine
- 48 (2) Acetylcodone

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

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

- 27 (1) 3,4-methylenedioxy amphetamine
- 28 (2) 5-methoxy-3,4-methylenedioxy amphetamine
- 29 (3) 3,4,5-trimethoxy amphetamine
- 30 (4) Bufotenine
- 31 (5) Diethyltryptamine
- 32 (6) Dimethyltryptamine
- 33 (7) 4-methyl-2,5-dimethoxylamphetamine
- 34 (8) Ibogaine
- 35 (9) Lysergic acid diethylamide
- 36 (10) Marihuana
- 37 (11) Mescaline
- 38 (12) Peyote
- 39 (13) N-ethyl-3-piperidyl benzilate
- 40 (14) N-methyl-3-piperidyl benzilate
- 41 (15) Psilocybin
- 42 (16) Psilocyn

43 (17) Tetrahydrocannabinols, except when found in **【industrial】**
44 hemp or a hemp product cultivated , handled, processed,
45 transported, or sold pursuant to the 【New Jersey Industrial Hemp
46 Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)】

1 “New Jersey Hemp Farming Act,” P.L. , c. (C.) (pending
2 before the Legislature as this bill) .

3 (cf: P.L.2018, c.139, s.8)

4

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

7 1. In order to protect the health, morals and welfare of the State
8 of New Jersey, whenever the county prosecutor of any county of the
9 State of New Jersey receives credible information that wild,
10 cultivated , or hidden growth or beds of alleged Marihuana weed are
11 located anywhere within the county, the county prosecutor shall
12 immediately communicate such information to the Department of
13 Health. The Department of Health, upon receipt of such
14 information, shall immediately dispatch one of its agents to the
15 location who shall make an examination and determination of the
16 alleged Marihuana weed so as to determine the existence or
17 nonexistence of Marihuana weed at the location, and the
18 Department of Health shall immediately communicate by writing its
19 determination to the aforesaid county prosecutor and the
20 Department of Agriculture . “Marihuana” shall not mean
21 **【industrial】** hemp or a hemp product cultivated , handled,
22 processed, transported, or sold pursuant to the **【New Jersey**
23 **Industrial Hemp Pilot Program** established by P.L.2018, c.139
24 (C.4:28-1 et al.) **】** “New Jersey Hemp Farming
25 Act,” P.L. , c. (C.) (pending before the Legislature as this
26 bill) .

27 (cf: P.L.2018, c.139, s.9)

28

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

31 2. Upon certification by the Department of Health of the
32 existence of Marihuana weed at the location examined by the
33 Department of Health, then the county prosecutor is hereby
34 empowered to dispatch one of the prosecutor’s agents to the
35 location so certified and the agent shall destroy the Marihuana weed
36 and the county prosecutor or the agent shall not be civilly
37 responsible in any manner whatsoever for destruction of the
38 Marihuana weed. “Marihuana” shall not mean **【industrial】** hemp or
39 a hemp product cultivated , handled, processed, transported, and
40 sold pursuant to the **【New Jersey Industrial Hemp Pilot Program**
41 **established by P.L.2018, c.139 (C.4:28-1 et al.)】** “New Jersey
42 Hemp Farming Act,” P.L. , c. (C.) (pending before the
43 Legislature as this bill) .

44 (cf: P.L.2018, c.139, s.10)

45

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

1 16. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would establish a program for the cultivation, handling,
7 processing, transport, and sale of hemp and hemp products in the
8 State in accordance with federal law.

9 The federal “Agricultural Improvement Act of 2018” (commonly
10 known as the 2018 Farm Bill) was enacted in December 2018 and
11 contains changes to the regulation of the production of hemp by the
12 federal government. The 2018 Farm Bill significantly expands the
13 states’ ability to regulate hemp production, and provides an
14 eventual repeal of the section of the 2014 Farm Bill that allowed for
15 hemp pilot programs in the states. As New Jersey’s law
16 establishing a hemp pilot program was consistent with the provision
17 of the 2014 Farm Bill that will eventually be repealed, an update to
18 State law is required to ensure the production of hemp in the State.

19 The bill would repeal New Jersey’s hemp pilot program, and
20 replace it with a permanent program, administered by the
21 Department of Agriculture (department), that complies with federal
22 law. The bill would define “hemp” as the plant *Cannabis sativa* L.,
23 any part of the plant, and all derivatives thereof with a delta-9
24 tetrahydrocannabinol concentration of not more than 0.3 percent,
25 consistent with federal law. The bill would define hemp producer
26 as a person or business entity authorized by the department to
27 cultivate, handle, or process hemp in the State. The bill would
28 define “hemp product” as a finished product with a delta-9
29 tetrahydrocannabinol concentration of not more than 0.3 percent
30 that is derived from or made by processing a hemp plant or plant
31 part and prepared in a form available for commercial sale, and
32 would include cannabidiol.

33 The bill would make it lawful for a hemp producer to cultivate,
34 handle, or process hemp or hemp products in the State, and for any
35 person to possess, transport, sell, and purchase legally-produced
36 hemp products in the State. Any unauthorized person who
37 cultivates, handles, or processes hemp would be subject to the same
38 penalties as those related to marijuana.

39 The bill would require the department to adopt regulations and
40 submit a state plan for the regulation of hemp consistent with
41 federal requirements. The regulations would include: maintaining
42 information about hemp producers; an inspection, testing and
43 disposal of noncompliant hemp program; provisions for
44 enforcement of the bill; information sharing as required by federal
45 law; and a certification that the department has the resources to
46 implement the program. If the United States Department of
47 Agriculture disapproves the State plan, the department would be
48 required to amend the State plan and resubmit it to gain federal

1 approval. The bill would not prevent any person from participating
2 in a federally-administered hemp program if the State does not have
3 an approved State plan.

4 Additionally, the department would be required to adopt rules
5 and regulations to: establish requirements to be a hemp producer,
6 establish an appeal process with retesting, to collect and share
7 information about hemp producers pursuant to federal law, to define
8 classes hemp products that are eligible for sale, establish a licensing
9 fee structure, and establish procedures governing hemp shipment
10 within the State. The regulations would include a requirement that
11 all shipments need only be accompanied by the originating hemp
12 producer's proof of authorization to engage in the commercial sale
13 of hemp, as well as a travel manifest that lists the origin,
14 destination, product description, and date of transport. In no case
15 shall the department require third-party carriers to be authorized
16 hemp producers in order to transport hemp.

17 If a hemp producer negligently violates the bill or any rules or
18 regulations adopted pursuant thereto, the producer would be subject
19 to a corrective action plan designed to bring the producer into
20 compliance with the hemp program. Three negligent violations in a
21 five year period would result in a five year ban from participating in
22 the hemp program. Any intentional violations would be referred to
23 the Attorney General, and the United States Attorney General. The
24 department would be required to adopt rules and regulations
25 establishing a penalty fee structure for violations of the act.

26 The bill would establish a separate fund called the "New Jersey
27 Hemp Farming Fund" to collect all license fees, penalties collected
28 by the department, donations, and sums appropriated by the
29 Legislature to implement the hemp program.

30 The bill would provide that a person may possess, transport, buy,
31 and sell hemp products in the State, including products containing
32 cannabidiol derived from hemp, to the maximum extent permitted
33 by federal law. The department, in consultation with the
34 Department of Health, would be permitted to adopt rules and
35 regulations only to regulate the sale of hemp products that provide
36 that hemp-derived cannabinoids, including cannabidiol, are not
37 considered controlled substances or adulterants. Retail sales of
38 hemp products processed outside the State may be conducted in the
39 State when the products and the hemp used in the products were
40 processed and cultivated legally in another state or jurisdiction that
41 has substantially similar requirements for processing hemp products
42 or cultivating hemp as the bill.

43 The bill would also amend various sections of statutory law to
44 remove references to the New Jersey Industrial Hemp Pilot
45 Program, and replace them with the New Jersey Hemp Farming Act.