

# ASSEMBLY, No. 5084

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 30, 2020

**Sponsored by:**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Reclassifies possession of psilocybin as disorderly persons offense.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 12/14/2020)

A5084 KENNEDY, CALABRESE

2

1 AN ACT concerning psilocybin and amending N.J.S.2C:35-10.

2

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

5

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

7 2C:35-10. Possession, Use or Being Under the Influence, or  
8 Failure to Make Lawful Disposition.

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

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

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

26 (3) Possession of more than 50 grams of marijuana, including  
27 any adulterants or dilutants, or more than five grams of hashish is  
28 guilty of a crime of the fourth degree, except that, notwithstanding  
29 the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
30 \$25,000.00 may be imposed; **[or]**

31 (4) Possession of 50 grams or less of marijuana, including any  
32 adulterants or dilutants, or five grams or less of hashish is a  
33 disorderly person or

34 (5) Possession of one ounce or less of psilocybin is a disorderly  
35 persons offense.

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

44 b. Any person who uses or who is under the influence of any  
45 controlled dangerous substance, or its analog, for a purpose other

**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 than the treatment of sickness or injury as lawfully prescribed or  
2 administered by a physician is a disorderly person.

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

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

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

21

22 2. This act shall take effect immediately.

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#### STATEMENT

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27 Currently, pursuant to paragraph (1) of subsection a. of  
28 N.J.S.2C:35-10, possession of any amount of psilocybin, a Schedule  
29 I controlled dangerous substance, is a crime of the third degree.  
30 This bill would reclassify possession of psilocybin as a disorderly  
31 persons offense, punishable by up to up to six months  
32 imprisonment, a fine of up to \$1,000, or both.