

P.L. 2021, CHAPTER 38, *approved March 26, 2021*  
Assembly, No. 5472 (*Third Reprint*)

1 AN ACT concerning parental notification of minors' alcohol  
2 <sup>1</sup>[and],<sup>1</sup> <sup>3</sup>marijuana, hashish, and<sup>3</sup> <sup>1</sup>cannabis<sup>3</sup><sup>1</sup>, marijuana, and  
3 hashish<sup>1</sup><sup>3</sup> use <sup>1</sup>under certain circumstances<sup>1</sup> <sup>3</sup>under certain  
4 circumstances<sup>3</sup> and amending P.L.1979, c.264 <sup>3</sup><sup>2</sup>and P.L.1991,  
5 c.169<sup>2</sup><sup>3</sup>.

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

9  
10 1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to  
11 read as follows:

12 1. a. (1) Any person under the legal age to purchase alcoholic  
13 beverages, or under the legal age to purchase cannabis items, who  
14 knowingly possesses without legal authority or who knowingly  
15 consumes any alcoholic beverage, cannabis item, marijuana, or  
16 hashish in any school, public conveyance, public place, or place of  
17 public assembly, or motor vehicle shall be subject to the following  
18 consequences:

19 (a) for a first violation, a written warning issued by a law  
20 enforcement officer to the underage person <sup>2</sup>[and, if the underage  
21 person is under 18 years of age, a written warning issued by a law  
22 enforcement officer to the parent, guardian, or other person having  
23 legal custody of the underage person]<sup>2</sup>. The written warning shall  
24 include the person's name, address, and date of birth, and a copy of  
25 the warning containing this information, plus a sworn statement that  
26 includes a description of the relevant facts and circumstances that  
27 support the officer's determination that the person committed the  
28 violation, shall be temporarily maintained in accordance with this  
29 section only for the purposes of determining a second or subsequent  
30 violation subject to the consequences set forth in subparagraph (b)  
31 or (c) of this paragraph. **[Notwithstanding the provisions of]**  
32 <sup>2</sup>**[Pursuant to section 3 of P.L.1991, c.169 (C.33:1-81.1a)]**<sup>2</sup>  
33 **[concerning]** <sup>2</sup>**[ , a written notification of a]** <sup>2</sup>**If the** <sup>2</sup>violation of  
34 this section <sup>2</sup>is <sup>3</sup>**[committed]**<sup>2</sup><sup>3</sup> by a person under 18 years of age <sup>2</sup>,  
35 a written notification concerning the violation shall be provided<sup>2</sup> to  
36 the parent, guardian or other person having legal custody of the  
37 underage person **[ , a written notification]** <sup>2</sup>**[shall]**<sup>2</sup> **[not]** <sup>2</sup>**[be**  
38 **provided]**<sup>2</sup> **[pursuant to that section]** <sup>2</sup>**[for]**<sup>2</sup> **[a first]** <sup>2</sup>**[any**  
39 **violation of this paragraph]** in accordance with section 3 of  
40 P.L.1991, c.169 (C.33:1-81.1a)<sup>2</sup>.

**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

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ACD committee amendments adopted March 17, 2021.

<sup>2</sup>Assembly AHS committee amendments adopted March 17, 2021.

<sup>3</sup>Senate floor amendments adopted March 25, 2021.



(b) for a second violation, a written warning issued by a law enforcement officer to the underage person indicating that a second violation has occurred, which includes the person's name, address, and date of birth. If the violation is by a person 18 years of age or older, the officer shall provide the person with informational materials about how to access community services provided by public or private agencies and organizations that shall assist the person with opportunities to access further social services, including but not limited to counseling, tutoring programs, mentoring services, and faith-based or other community initiatives. If the violation is by a person under 18 years of age, a written notification concerning the second violation <sup>2</sup>], along with a copy of the written warning for the person's first violation, <sup>2</sup>] shall be provided to the parent, guardian or other person having legal custody of the underage person in accordance with section 3 of P.L.1991, c.169 (C.33:1-81.1a). The written notification shall include the same or similar informational materials about how to access community services provided by public or private agencies and organizations as those provided directly by a law enforcement officer to a person 18 years of age or older who commits a second violation of this paragraph. A copy of the second written warning to the underage person, and, if applicable, the written notification to the parent, guardian or other person having legal custody of the underage person concerning the second warning, plus a sworn statement that includes a description of the relevant facts and circumstances that support the officer's determination that the person committed the second violation, shall be temporarily maintained in accordance with this section only for the purposes of determining a subsequent violation subject to the consequences set forth in subparagraph (c) of this paragraph.

(c) for a third or subsequent violation, a write-up issued by a law enforcement officer to the underage person indicating that a third or subsequent violation has occurred, which includes the person's name, address, and date of birth. If the violation is by a person 18 years of age or older, the officer shall include with the write-up a referral for accessing community services provided by a public or private agency or organization, and provide notice to that agency or organization of the referral which may also be used to initiate contact with the person, and the agency or organization shall offer assistance to the person with opportunities to access further social services, including but not limited to counseling, tutoring programs, mentoring services, and faith-based or other community initiatives. If the violation is by a person under 18 years of age, a written notification concerning the third or subsequent violation shall be provided to the parent, guardian or other person having legal custody of the underage person in accordance with section 3 of P.L.1991, c.169 (C.33:1-81.1a). The written notification shall include a referral for the person and the parent, guardian or other



1 person having legal custody of the underage person for accessing  
2 community services provided by a public or private agency or  
3 organization, and provide notice to that agency or organization of  
4 the referral which may also then be used to initiate contact with  
5 both persons, and the agency or organization shall offer assistance  
6 to both with opportunities to access further social services,  
7 including counseling, tutoring programs, mentoring services, and  
8 faith-based or other community initiatives. A copy of a write-up for  
9 a third or subsequent violation, the written notification to the  
10 parent, guardian or other person having legal custody of the  
11 underage person, if applicable, and accompanying referrals, plus a  
12 sworn statement that includes a description of the relevant facts and  
13 circumstances that support the officer's determination that the  
14 person committed the third or subsequent violation, shall be  
15 temporarily maintained in accordance with this section only to the  
16 extent necessary to track referrals to agencies and organizations, as  
17 well as for the purposes of determining a subsequent violation  
18 subject to the consequences set forth in this subparagraph.

19 The failure of a person under the legal age to purchase alcoholic  
20 beverages or cannabis items, or the failure of a parent, guardian or  
21 other person having legal custody of the underage person, to accept  
22 assistance from an agency or organization to which a law  
23 enforcement referral was made, or to access any community  
24 services provided by that agency or organization shall not result in  
25 any summons, initiation of a complaint, or other legal action to be  
26 adjudicated and enforced in any court.

27 (2) (a) A person under the legal age to purchase alcoholic  
28 beverages or cannabis items is not capable of giving lawful consent  
29 to a search to determine a violation of this section, and a law  
30 enforcement officer shall not request that a person consent to a  
31 search for that purpose.

32 (b) The odor of an alcoholic beverage, marijuana, hashish,  
33 cannabis, or cannabis item, or burnt marijuana, hashish, cannabis,  
34 or cannabis item, shall not constitute reasonable articulable  
35 suspicion to initiate an investigatory stop of a person, nor shall it  
36 constitute probable cause to initiate a search of a person or that  
37 person's personal property to determine a violation of paragraph (1)  
38 of this subsection. Additionally, the unconcealed possession of an  
39 alcoholic beverage, marijuana, hashish, or cannabis item in  
40 violation of paragraph (1) of this subsection, observed in plain sight  
41 by a law enforcement officer, shall not constitute probable cause to  
42 initiate a search of a person or that person's personal property to  
43 determine any further violation of that paragraph or any other  
44 violation of law.

45 (3) A person under the legal age to purchase alcoholic  
46 beverages or cannabis items who violates paragraph (1) of this  
47 subsection for possessing or consuming an alcoholic beverage,  
48 marijuana, hashish, or a cannabis item shall not be subject to arrest,



1 'shall not be transported to a police station, police headquarters, or  
2 other place of law enforcement operations.'<sup>1</sup> and shall not  
3 'otherwise' be subject to detention or '[otherwise]'<sup>1</sup> be taken into  
4 custody by a law enforcement officer 'at or near the location where  
5 the violation occurred.'<sup>1</sup> except to the extent 'that detention or  
6 custody at or near the location is'<sup>1</sup> required to issue a written  
7 warning or write-up, 'collect the information necessary to'<sup>1</sup> provide  
8 notice of a violation to a parent, guardian or other person having  
9 legal custody of the underage person in accordance with section 3  
10 of P.L.1991, c.169 (C.33:1-81a), or make referrals for accessing  
11 community services provided by a public or private agency or  
12 organization due to a third or subsequent violation, unless the  
13 person is being arrested, detained, or otherwise taken into custody  
14 for also committing another violation of law for which that action is  
15 legally permitted or required.

16 (4) Consistent with the provisions of subsection c. of section 1  
17 of P.L.2020, c.129 (C.40A:14-118.5), the video and audio recording  
18 functions of a law enforcement officer's body worn camera, as  
19 defined in that section, shall be activated whenever the law  
20 enforcement officer is responding to a call for service related to a  
21 violation or suspected violation of paragraph (1) of this subsection  
22 for possessing or consuming an alcoholic beverage, marijuana,  
23 hashish, or a cannabis item, or at the initiation of any other law  
24 enforcement or investigative encounter between an officer and a  
25 person related to a violation or suspected violation of that  
26 paragraph, and shall remain activated until the encounter has fully  
27 concluded and the officer leaves the scene of the encounter;  
28 provided, however, that the video and audio recording functions of  
29 a body worn camera shall not be deactivated pursuant to  
30 subparagraph (a) of paragraph (2) of subsection c. of P.L.2020,  
31 c.129 (C.40A:14-118.5), based on a request to deactivate the  
32 camera by a person who is the subject of a responsive call for  
33 service or law enforcement or investigative encounter related to a  
34 violation or suspected violation of paragraph (1) of this subsection.

35 (5) As part of the process for the issuance of a written warning  
36 or write-up to a person for a violation of paragraph (1) of this  
37 subsection, the law enforcement officer shall take possession of any  
38 alcoholic beverage, marijuana, hashish, or cannabis item from the  
39 person, and any drug or cannabis paraphernalia for use with any  
40 marijuana, hashish, or cannabis item. The existence and description  
41 of the alcoholic beverage, marijuana, hashish, or cannabis item, and  
42 any drug or cannabis paraphernalia shall be included in the sworn  
43 statement that includes a description of the relevant facts and  
44 circumstances that support the officer's determination that the  
45 person committed a violation, and which record is temporarily  
46 maintained in accordance with this section to determine subsequent  
47 possession or consumption violations, and track referrals for



1 accessing community services provided by a public or private  
2 agency or organization due to a third or subsequent violation. Any  
3 alcoholic beverage, marijuana, hashish, cannabis item, or drug or  
4 cannabis paraphernalia obtained by the law enforcement officer  
5 shall either be destroyed or secured for use in law enforcement  
6 training or educational programs in accordance with applicable law  
7 and directives issued by the Attorney General.

8 (6) With respect to any violation of paragraph (1) of this  
9 subsection concerning the possession or consumption of an  
10 alcoholic beverage, marijuana, hashish, or any cannabis item:

11 (a) a person under the legal age to purchase alcoholic beverages  
12 or cannabis items shall not be photographed or fingerprinted,  
13 notwithstanding any provisions of section 2 of P.L.1982, c.79  
14 (C.2A:4A-61) to the contrary;

15 (b) (i) any copy of any written warning or write-up issued to a  
16 person under the legal age to purchase alcoholic beverages or  
17 cannabis items, written notification provided to the person's parent,  
18 guardian or other person having legal custody in accordance with  
19 section 3 of P.L.1991, c.169 (C.33:1-81.1a), sworn statement  
20 describing the relevant facts and circumstances that support an  
21 officer's determination that a person committed a violation, or  
22 referrals for accessing community services provided by a public or  
23 private agency or organization pertaining to a third or subsequent  
24 violation shall be segregated and maintained in a separate physical  
25 location or electronic repository or database from any other records  
26 maintained by a law enforcement agency, and reported to the  
27 Attorney General in a manner so that they are similarly segregated  
28 and maintained in a separate physical location or electronic  
29 repository or database from other law enforcement records  
30 accessible to the Attorney General and State and local law  
31 enforcement agencies, and shall not be transferred to or copied and  
32 placed in any other physical location or electronic repository or  
33 database containing any other law enforcement records. These  
34 records shall only be used to the extent necessary to determine a  
35 subsequent violation of paragraph (1) of this subsection or to track  
36 referrals to agencies and organizations, and shall not be revealed,  
37 reviewed, or considered in any manner with respect to any current  
38 or subsequent juvenile delinquency matter, including but not limited  
39 to, a charge, filing, eligibility or decision for diversion or discharge,  
40 or sentencing, other disposition, or related decision affecting the  
41 juvenile, or with respect to any current or subsequent prosecution  
42 for committing an offense or other violation of law, including but  
43 not limited to, a charge, filing, eligibility or decision for diversion  
44 or discharge, or sentencing, other disposition, or related decision  
45 affecting an adult under 21 years of age. Also, these records shall  
46 be deemed confidential and shall not be subject to public inspection  
47 or copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1  
48 et seq.), and their existence shall not be acknowledged based upon



1 any inquiry in the same manner as if the records were expunged  
2 records pursuant to the provisions of subsection a. of N.J.S.2C:52-  
3 15.

4 The Attorney General may use the records described herein to  
5 generate the number of occurrences and other statistics concerning  
6 first, second, third and subsequent violations of paragraph (1) of  
7 this subsection, the municipal, county or other geographic areas  
8 within which first, second, third and subsequent violations occur,  
9 and the law enforcement agencies involved in first, second, third  
10 and subsequent violations, which are to be compiled and made  
11 available by the Attorney General in accordance with section 4 of  
12 P.L.2021, c.25 <sup>3</sup>(C.2C:33-15.1)<sup>3</sup>. The identity of any person  
13 named in a record shall not be revealed or included in the  
14 information to be compiled and made available in accordance with  
15 that section.

16 The records of violations shall only be maintained temporarily  
17 and shall be destroyed or permanently deleted as set forth in  
18 subparagraph (c) of this paragraph.

19 (ii) any records pertaining to a person's acceptance of assistance  
20 from an agency or organization to which a law enforcement referral  
21 was made shall not be revealed, reviewed, or considered in any  
22 manner with respect to any current or subsequent juvenile  
23 delinquency matter, including but not limited to, a charge, filing,  
24 eligibility or decision for diversion or discharge, or sentencing,  
25 other disposition, or related decision affecting the juvenile, or with  
26 respect to any current or subsequent prosecution for committing an  
27 offense or other violation of law, including but not limited to, a  
28 charge, filing, eligibility or decision for diversion or discharge, or  
29 sentencing, other disposition, or related decision affecting an adult  
30 under 21 years of age. Also, these records shall be deemed  
31 confidential and shall not be subject to public inspection or copying  
32 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),  
33 and their existence shall not be acknowledged based upon any  
34 inquiry in the same manner as if the records were expunged records  
35 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

36 (c) <sup>3</sup>**Wall** all<sup>3</sup> of the records maintained by a law enforcement  
37 agency and reported to the Attorney General as described in  
38 subsubparagraph (i) of subparagraph (b) of this paragraph shall be  
39 destroyed or permanently deleted by the law enforcement agency  
40 and Attorney General on the second anniversary following the  
41 creation of the record concerning a violation, or not later than the  
42 last day of the month in which that second anniversary date falls, or  
43 alternatively not later than the 21st birthday of a person who is the  
44 subject of a record, or not later than the last day of the month in  
45 which that birthday falls, whichever date occurs sooner, except that  
46 a record shall be maintained upon request by the person named in  
47 the record or representative thereof, the law enforcement officer  
48 who made the record, or the law enforcement agency currently



1 maintaining the record if it involves a lawsuit, disciplinary  
2 complaint, or criminal prosecution arising from the violation  
3 described in the record, based on an assertion that the record has  
4 evidentiary or exculpatory value. Upon final disposition of the  
5 matter for which the extended record retention was requested, the  
6 record shall be destroyed or permanently deleted.

7 (d) A law enforcement officer shall be guilty of the crime of  
8 official deprivation of civil rights as set forth in section 3 of  
9 P.L.2021, c.25 (C.<sup>3</sup>2C:30-6.1<sup>3</sup>) for violating the provisions of  
10 paragraph (1) of this subsection that address law enforcement  
11 actions involving persons who are under the legal age to purchase  
12 alcoholic beverages or cannabis items.

13 b. (Deleted by amendment, P.L.2021, c.25)

14 c. (Deleted by amendment, P.L.2021, c.25)

15 d. Nothing in this act shall apply to possession of alcoholic  
16 beverages by any such person while actually engaged in the  
17 performance of employment pursuant to an employment permit  
18 issued by the Director of the Division of Alcoholic Beverage  
19 Control, or for a bona fide hotel or restaurant, in accordance with  
20 the provisions of R.S.33:1-26, or while actively engaged in the  
21 preparation of food while enrolled in a culinary arts or hotel  
22 management program at a county vocational school or post-  
23 secondary educational institution; and nothing in this section shall  
24 apply to possession of cannabis items by any such person while  
25 actually engaged in the performance of employment by a cannabis  
26 establishment, distributor, or delivery service as permitted pursuant  
27 to the “New Jersey Cannabis Regulatory, Enforcement Assistance,  
28 and Marketplace Modernization Act,” P.L.2021, c.16 <sup>3</sup>(C.24:6I-31  
29 et al.)<sup>3</sup>.

30 e. Except as otherwise provided in this section, the provisions  
31 of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a  
32 parent, guardian or other person with legal custody of a person  
33 under 18 years of age who is found to be in violation of this section.

34 f. An underage person and one or two other persons shall be  
35 immune from prosecution under this section if:

36 (1) one of the underage persons called 9-1-1 and reported that  
37 another underage person was in need of medical assistance due to  
38 alcohol consumption , or the consumption of marijuana, hashish, or  
39 a cannabis item;

40 (2) the underage person who called 9-1-1 and, if applicable, one  
41 or two other persons acting in concert with the underage person  
42 who called 9-1-1 provided each of their names to the 9-1-1  
43 operator;

44 (3) the underage person was the first person to make the 9-1-1  
45 report; and

46 (4) the underage person and, if applicable, one or two other  
47 persons acting in concert with the underage person who made the 9-  
48 1-1 call remained on the scene with the person under the legal age



1 in need of medical assistance until assistance arrived and  
 2 cooperated with medical assistance and law enforcement personnel  
 3 on the scene.

4 The underage person who received medical assistance also shall  
 5 be immune from prosecution under this section.

6 g. For purposes of this section, an alcoholic beverage includes  
 7 powdered alcohol as defined by R.S.33:1-1, a cannabis item  
 8 includes any item available for lawful consumption pursuant to the  
 9 “New Jersey Cannabis Regulatory, Enforcement Assistance, and  
 10 Marketplace Modernization Act,” P.L.2021, c.16 <sup>3</sup>[(C.2C:30-6.1<sup>2</sup>]  
 11 (C.24:6I-31 et al.)<sup>3</sup>, and the terms “marijuana” and “hashish” have  
 12 the same meaning as set forth in N.J.S.2C:35-2, and the terms “drug  
 13 paraphernalia” and “cannabis paraphernalia” have the same  
 14 meaning as set forth in N.J.S.2C:36-1 and section 3 of  
 15 P.L.2021, c.16 <sup>3</sup>[(C.2C:30-6.1<sup>2</sup>)] (C.24:6I-33)<sup>3</sup>, respectively.  
 16 (cf: P.L. 2021, c.25, s.2)

17  
 18 <sup>3</sup>[<sup>2</sup>2. Section 3 of P.L.1991, c.169 (C.33:1-81.1a) is amended to  
 19 read as follows:

20 3. A parent, guardian or other person having legal custody of a  
 21 person under 18 years of age found in violation of R.S.33:1-81 or  
 22 section 1 of P.L.1979, c.264 (C.2C:33-15) with respect to purchasing,  
 23 possessing, or consuming any alcoholic beverage, marijuana, hashish,  
 24 or cannabis item available for lawful consumption pursuant to the  
 25 "New Jersey Cannabis Regulatory, Enforcement Assistance, and  
 26 Marketplace Modernization Act," P.L.2021, c.21 (C.24:6I-31 et al.)  
 27 shall be notified of the violation in writing. The parent, guardian or  
 28 other person having legal custody of a person under 18 years of age  
 29 shall be subject to a fine in the amount of \$500.00 upon any  
 30 subsequent violation of R.S.33:1-81 or section 1 of P.L.1979, c.264  
 31 (C.2C:33-15) on the part of such person if it is shown that the parent,  
 32 guardian or other person having legal custody failed or neglected to  
 33 exercise reasonable supervision or control over the conduct of the  
 34 person under 18 years of age.<sup>2</sup>

35 (cf: P.L.2021, c.16, s.71)]<sup>3</sup>

36  
 37 <sup>2</sup>[<sup>2</sup>.] <sup>3</sup>[<sup>3</sup>.<sup>2</sup>] <sup>2</sup>.<sup>3</sup> This act shall take effect <sup>3</sup>[on the 60<sup>th</sup> day  
 38 following enactment] immediately<sup>3</sup>.

39  
 40  
 41  
 42  
 43 Requires law enforcement to provide written notification to  
 44 parent or guardian of person under age 18 who commits first  
 45 offense of unlawfully possessing or consuming alcoholic beverage,  
 46 cannabis, marijuana, or hashish.