

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 694

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

**By Assemblymen ZISA, DeSOPO, Assemblywoman Allen
and Senator Bubba**

1 AN ACT clarifying the offense of leader of narcotics trafficking
2 network and amending N.J.S.2C:35-3.

3

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

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7 1. N.J.S.2C:35-3 is amended to read as follows:

8 2C:35-3. Leader of Narcotics Trafficking Network.

9 **[A]** ¹[Notwithstanding any other provision of law to the contrary,
10 a]As used in this section:

11 ²["Organizer" means a person who arranges, devises, or plans a
12 drug trafficking network.

13 "Supervisor" means a person who oversees the operation of a drug-
14 trafficking network.]²

15 "Financier" means a person who ²[is responsible for providing the
16 funds or resources necessary to operate], with the intent to derive a
17 profit, provides money or credit or other thing of value in order to
18 purchase a controlled dangerous substance or an immediate precursor,
19 or otherwise to finance the operations of² a drug trafficking network.

20 ²["Manager" means a person who directs the operations of a drug
21 trafficking network.

22 "Upper echelon member" means a person who is superior to street-
23 level distributors and to their immediate supervisors or suppliers and
24 occupies a high-level position of authority in the organization and
25 exercises substantial control over its operation.]²

26 A¹ person is a leader of a narcotics trafficking network ¹[only]¹ if
27 [he conspires with others as an organizer, supervisor, financier or
28 manager, to engage for profit] ¹[.]he ²[. as an upper echelon member

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted June 10, 1996.

² Senate SJU committee amendments adopted November 17, 1997.

1 of the narcotic trafficking network, conspires with others as an
2 organizer, supervisor, financier or manager, to engage for
3 profit¹]conspires with two or more other persons² in a scheme or
4 course of conduct to unlawfully manufacture, distribute, dispense,
5 bring into or transport in this State methamphetamine, lysergic acid
6 diethylamide, phencyclidine or any controlled dangerous substance
7 classified in Schedule I or II, or any controlled substance analog
8 thereof ¹[, the person is the principal administrator, organizer, or
9 leader of the enterprise or is one of several such principal
10 administrators, organizers or leaders, and any two of the following are
11 present:

12 a. the violation involved at least five times the quantity of an illegal
13 narcotic necessary for criminal charges pursuant to the provisions of
14 N.J.S. 2C:35-5;

15 b. the enterprise, or any other enterprise in which the defendant
16 was the principal or one of the several principal administrators,
17 organizers or leaders, received \$500,000.00 in gross receipts during
18 any twelve month period of its existence for the unlawful
19 manufacturing, distributing, dispensing, bringing into or transporting
20 in this State the items listed in this section;

21 c. the person conspires with five or more other persons with
22 respect to whom the person occupies a position of organizer, or a
23 supervisory position, or any other position of management;

24 d. the person obtains substantial income or resources from such
25 enterprises]^{1 2} as a financier, or as an organizer, supervisor or
26 manager of at least one other person.²

27 Leader of narcotics trafficking network is a crime of the first degree
28 and upon conviction thereof, except as may be provided by
29 N.J.S.2C:35-12, a person shall be sentenced to an ordinary term of life
30 imprisonment during which the person must serve 25 years before
31 being eligible for parole. Notwithstanding the provisions of subsection
32 a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed
33 ²[\$500,000.00] \$750,000.00² or five times the street value of the
34 controlled dangerous substance or controlled substance analog
35 involved, whichever is greater.

36 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
37 leader of narcotics trafficking network shall not merge with the
38 conviction for any offense which is the object of the conspiracy.
39 Nothing contained in this section shall prohibit the court from
40 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
41 section be construed in any way to preclude or limit the prosecution
42 or conviction of any person for conspiracy under N.J.S.2C:5-2, or any
43 prosecution or conviction under N.J.S.2C:35-4 (maintaining or
44 operating a CDS production facility), N.J.S.2C:35-5 (manufacturing,
45 distributing or dispensing), N.J.S.2C:35-6 (employing a juvenile in a
46 drug distribution scheme), N.J.S.2C:35-9 (strict liability for drug

1 induced death), N.J.S.2C:41-2 (racketeering activities) or subsection
2 g. of N.J.S.2C:5-2 (leader of organized crime).

3 It shall not be necessary in any prosecution under this section for
4 the State to prove that any intended profit was actually realized. The
5 trier of fact may infer that a particular scheme or course of conduct
6 was undertaken for profit from all of the attendant circumstances,
7 including but not limited to the number of persons involved in the
8 scheme or course of conduct, the actor's net worth and his
9 expenditures in relation to his legitimate sources of income, the
10 amount or purity of the specified controlled dangerous substance or
11 controlled substance analog involved, or the amount of cash or
12 currency involved.

13 It shall not be a defense to a prosecution under this section that
14 such controlled dangerous substance or controlled substance analog
15 was brought into or transported in this State solely for ultimate
16 distribution or dispensing in another jurisdiction; nor shall it be a
17 defense that any profit was intended to be made in another jurisdiction.

18 ² It shall not be a defense that the defendant was subject to the
19 supervision or management of another, nor that another person or
20 persons were also leaders of the narcotics trafficking network.²
21 (cf: P.L.1997, c.181, s.1)

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23 2. This act shall take effect immediately.

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28 Clarifies activities which constitute leader of a drug trafficking
29 network.