

ASSEMBLY, No. 2022

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1996

By Assemblymen BATEMAN and CARABALLO

1 AN ACT concerning various criminal offenses and revising and  
2 repealing various sections of the statutory laws.

3

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

6

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

8 2C:35-2. Definitions.

9 As used in this chapter:

10 "Administer" means the direct application of a controlled dangerous  
11 substance or controlled substance analog, whether by injection,  
12 inhalation, ingestion, or any other means, to the body of a patient or  
13 research subject by: (1) a practitioner (or, in his presence, by his  
14 lawfully authorized agent), or (2) the patient or research subject at the  
15 lawful direction and in the presence of the practitioner.

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

20 "Controlled dangerous substance" means a drug, substance, or  
21 immediate precursor in Schedules I through V. The term shall not  
22 include distilled spirits, wine, malt beverages, as those terms are  
23 defined or used in R.S. 33:1-1 et seq., or tobacco and tobacco  
24 products. The term, wherever it appears in any law or administrative  
25 regulation of this State, shall include controlled substance analogs.

26 "Controlled substance analog" means a substance that has a  
27 chemical structure substantially similar to that of a controlled  
28 dangerous substance and that was specifically designed to produce an  
29 effect substantially similar to that of a controlled dangerous substance.  
30 The term shall not include a substance manufactured or distributed in  
31 conformance with the provisions of an approved new drug application  
32 or an exemption for investigational use within the meaning of section  
33 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21  
34 U.S.C. { 355).

**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.**

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

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

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

20 "Distribute" means to deliver other than by administering or  
21 dispensing a controlled dangerous substance or controlled substance  
22 analog. "Distributor" means a person who distributes.

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

33 "Drug dependent person" means a person who is using a controlled  
34 dangerous substance or controlled substance analog and who is in a  
35 state of psychic or physical dependence, or both, arising from the use  
36 of that controlled dangerous substance or controlled substance analog  
37 on a continuous basis. Drug dependence is characterized by behavioral  
38 and other responses, including but not limited to a strong compulsion  
39 to take the substance on a recurring basis in order to experience its  
40 psychic effects, or to avoid the discomfort of its absence.

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

44 "Manufacture" means the production, preparation, propagation,  
45 compounding, conversion or processing of a controlled dangerous  
46 substance or controlled substance analog, either directly or by

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

14 "Marihuana" means all parts of the plant Genus Cannabis L.,  
15 whether growing or not; the seeds thereof, and every compound,  
16 manufacture, salt, derivative, mixture, or preparation of such plant or  
17 its seeds, except those containing resin extracted from such plant; but  
18 shall not include the mature stalks of such plant, fiber produced from  
19 such stalks, oil or cake made from the seeds of such plant, any other  
20 compound, manufacture, salt, derivative, mixture, or preparation of  
21 such mature stalks, fiber, oil, or cake, or the sterilized seed of such  
22 plant which is incapable of germination.

23 "Narcotic drug" means any of the following, whether produced  
24 directly or indirectly by extraction from substances of vegetable origin,  
25 or independently by means of chemical synthesis, or by a combination  
26 of extraction and chemical synthesis:

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

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

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

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

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

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

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

5 "Practitioner" means a physician, dentist, veterinarian, scientific  
6 investigator, laboratory, pharmacy, hospital or other person licensed,  
7 registered, or otherwise permitted to distribute, dispense, conduct  
8 research with respect to, or administer a controlled dangerous  
9 substance or controlled substance analog in the course of professional  
10 practice or research in this State.

11 (a) "Physician" means a physician authorized by law to practice  
12 medicine in this or any other state and any other person authorized by  
13 law to treat sick and injured human beings in this or any other state  
14 and

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

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

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

24 (e) "Laboratory" means a laboratory to be entrusted with the  
25 custody of narcotic drugs and the use of controlled dangerous  
26 substances or controlled substance analogs for scientific, experimental  
27 and medical purposes and for purposes of instruction approved by the  
28 State Department of Health.

29 "Production" includes the manufacture, planting, cultivation,  
30 growing, or harvesting of a controlled dangerous substance or  
31 controlled substance analog.

32 "Immediate precursor" means a substance which the State  
33 Department of Health has found to be and by regulation designates as  
34 being the principal compound commonly used or produced primarily  
35 for use, and which is an immediate chemical intermediary used or  
36 likely to be used in the manufacture of a controlled dangerous  
37 substance or controlled substance analog, the control of which is  
38 necessary to prevent, curtail, or limit such manufacture.

39 "Residential treatment facility" means any facility approved by any  
40 county probation department for the inpatient treatment and  
41 rehabilitation of drug dependent persons.

42 "Schedules I, II, III, IV, and V" are the schedules set forth in  
43 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8)  
44 and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any  
45 regulations issued by the Commissioner of Health pursuant to his  
46 authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

1 "State" means the State of New Jersey.

2 "Ultimate user" means a person who lawfully possesses a controlled  
3 dangerous substance or controlled substance analog for his own use  
4 or for the use of a member of his household or for administration to an  
5 animal owned by him or by a member of his household.

6 "Prescription legend drug" means any drug which under Federal or  
7 State law requires dispensing by prescription or order of a licensed  
8 physician, veterinarian or dentist and is required to bear the statement  
9 "Caution: Federal law prohibits dispensing without a prescription" and  
10 is not a controlled dangerous substance or stramonium preparation.

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

14 "Stramonium plant" means the plant Datura Stramonium Linne,  
15 including Datura Tatula Linne.

16 (cf: P.L.1987, c.106, s.1.)

17

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

19 2C:36-6. a. Except as [otherwise] authorized by subsections b.  
20 c. or other law, it shall be unlawful for a person to have under his  
21 control or possess with intent to use a hypodermic syringe,  
22 hypodermic needle or any other instrument adapted for the use of a  
23 controlled dangerous substance or a controlled substance analog as  
24 defined in chapter 35 of Title 2C of the New Jersey Statutes or to sell,  
25 furnish or give to any person such syringe, needle or instrument. Any  
26 person who violates this section is guilty of a disorderly persons  
27 offense.

28 b. A person is authorized to possess and use a hypodermic needle  
29 or hypodermic syringe if the person obtains the hypodermic syringe or  
30 hypodermic needle by a valid prescription issued by a licensed  
31 physician, dentist or veterinarian and uses it for its authorized purpose.

32 c. Subsection a. does not apply to a duly licensed physician,  
33 dentist, veterinarian, undertaker, nurse, podiatrist, registered  
34 pharmacist, or a hospital, sanitarium, clinical laboratory or any other  
35 medical institution, or a state or a governmental agency, or a regular  
36 dealer in medical, dental or surgical supplies, or a resident physician  
37 or intern of a hospital, sanitarium or other medical institution.

38 (cf: P.L.1987, c.106, s.2.)

39

40 3. (New section) Sale of cigarettes to minors.

41 A person who sells or gives to a person under the age of 18 tobacco  
42 in any form, including smokeless tobacco, or cigarette papers shall be  
43 punished by a fine as provided for a petty disorderly persons offense.

44 A person who has been previously punished under this section and  
45 who commits another offense under it may be punishable by a fine of

1 twice that provided for a petty disorderly persons offense.

2 (Source: 2A:170-51)

3

4 4. (New section) Sale of motor vehicle on Sunday.

5 A person who engages in the business of buying, selling or  
6 exchanging motor vehicles or who opens a place of business and  
7 attempts to engage in such conduct on a Sunday commits a disorderly  
8 persons offense. The first offense is punishable by a fine not to exceed  
9 \$100.00 or imprisonment for a period of not more than 10 days or  
10 both; the second offense is punishable by a fine not exceed \$500 or  
11 imprisonment for a period of not more than 30 days or both; the third  
12 or each subsequent offense is punishable by a fine of \$750.00 or  
13 imprisonment for a period of 6 months or both. If the person is a  
14 licensed dealer in new or used motor vehicles in this State, under the  
15 provisions of chapter 10, Title 39 of the Revised Statutes, the person  
16 shall also be subject to suspension or revocation of his dealer's license  
17 to engage in the business of buying, selling or exchanging in motor  
18 vehicles in this State as provided in Title 39, chapter 10, section 10,  
19 section 20, for violation of this statute.

20 (Source: 2A:171-1.1)

21

22 5. (New section) Consumption of alcohol in restaurants.

23 a. No person who owns or operates a restaurant, dining room or  
24 other public place where food or liquid refreshments are sold or served  
25 to the general public, and for which premises a license or permit  
26 authorizing the sale of alcoholic beverages for on-premises  
27 consumption has not been issued:

28 (1) Shall allow the consumption of alcoholic beverages, other than  
29 wine or a malt alcoholic beverage, in a portion of the premises which  
30 is open to the public; or

31 (2) Shall charge any admission fee or cover, corkage or service  
32 charge or advertise inside or outside of such premises that patrons may  
33 bring and consume their own wine or malt alcoholic beverages in a  
34 portion of the premises which is open to the public.

35 (3) Shall allow the consumption of wine or malt alcoholic  
36 beverages at times or by persons to who the service or consumption  
37 or alcoholic beverages on licensed premises is prohibited by State or  
38 municipal law or regulation.

39 b. Nothing in this act shall restrict the right of a municipality or an  
40 owner or operator of a restaurant, dining room or other public place  
41 where food or liquid refreshments are sold or served to the general  
42 public from prohibiting the consumption of alcoholic beverages on  
43 those premises.

44 c. A person who violates any provision of this act is a disorderly  
45 person, and the court, in addition to the sentence imposed for the  
46 disorderly person violation, may by its judgment bar the owner or

1 operator from allowing consumption of wine or malt alcoholic  
2 beverages in his premises as authorized by this act.

3 (Source: 2A:170-25.21; 2A:170-25.22; 2A:170-25.23)

4

5 6. (New section) Discarding hypodermic needle or syringe.

6 a. A persons commits a petty disorderly persons offense if:

7 (1) the persons discards, in a place accessible to other persons, a  
8 hypodermic needle or syringe without destroying the hypodermic  
9 needle or syringe; or

10 (2) he is the owner, lessee or person in control of real property and,  
11 knowing that needles and syringes in an intact condition have been  
12 discarded or abandoned on his real property, allows them to remain.

13 b. A hypodermic needle is destroyed if the needle is broken from  
14 the hub or mangled. A syringe is destroyed if the nipple of the barrel  
15 is broken from the barrel, or the plunger and barrel are melted.  
16 Alternatively, a hypodermic needle or syringe is destroyed if it is  
17 discarded as a single unit, without recapping, into a rigid container and  
18 the container is destroyed by grinding or crushing in a compactor, or  
19 by burning in an incinerator approved by the Department of  
20 Environmental Protection, or by another method approved by the  
21 Department of Health.

22 (Source: 2A:170-25.17)

23

24 7. (New section) Toxic chemicals.

25 a. As used in this section the term "toxic chemical" means any  
26 chemical having the property of releasing toxic fumes and includes the  
27 following chemicals: acetone, acetate, benzine, butyl alcohol, ethyl  
28 alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl  
29 ethyl ketone, pentachlorophenol, petroleum ether, toluol, or toluene.

30 b. A person commits a disorderly persons offense if the person:

31 (1) inhales the fumes of any toxic chemical for the purpose of  
32 causing a condition of intoxication; or

33 (2) possesses any toxic chemical for the purpose of causing a  
34 condition of intoxication.

35 c. A person commits a fourth degree offense if the persons sells, or  
36 offers to sell, any substance containing a toxic chemical knowing that  
37 the intended use of the product is to cause a condition of intoxication,  
38 or knowing that the product does not include an additive required by  
39 the Commissioner of the State Department of Health to discourage the  
40 inhalation of vapors of toxic chemicals for the purpose of causing a  
41 condition of intoxication. This subsection does not apply to adhesives  
42 manufactured only for industrial application.

43 (Source: 2A:170-25.9 through 2A:170-25.13)

44

45 8. (New section) Prescription legend drugs.

46 a. Except as authorized by sections 9 through 15 of P.L.1970,

1 c.226 (C.24:21-9 through 24:21-15) a person who knowingly  
2 distributes a prescription legend drug or stramonium preparation  
3 unless lawfully prescribed or administered by a licensed physician,  
4 veterinarian or dentist is a disorderly person.

5 b. A person who uses any prescription legend drug or stramonium  
6 preparation for a purpose other than treatment of sickness or injury as  
7 lawfully prescribed or administered by a licensed physician is a  
8 disorderly person.

9 c. A defendant may be convicted for a violation of subsection b.  
10 if the State proves that the defendant manifested symptoms or  
11 reactions caused by the use of prescription legend drugs or  
12 stramonium preparation. The State need not prove which specific  
13 prescription legend drug or stramonium preparation defendant used.

14 d. A person who obtains or attempts to obtain possession of a  
15 prescription legend drug or stramonium preparation by forgery or  
16 deception is a disorderly person. Nothing in this section shall be  
17 deemed to preclude or limit a prosecution for theft as defined in  
18 chapter 20 of Title 2C of the New Jersey Statutes.

19 (Source: 2A:170-77.8 through 2A:170-77.11)

20

21 9. (New section) Possession of certain prescription drugs.

22 A person who possesses a controlled dangerous substance that was  
23 prescribed or dispensed lawfully may possess it only in the container  
24 in which it was dispensed; except that the person may possess no more  
25 than a 10-day supply in other than the original container if the person  
26 produces, upon the request of a law enforcement officer, the name and  
27 address of the practitioner who prescribed the substance or the  
28 pharmacist who dispensed it. A person who violates this section is a  
29 disorderly person.

30 (Source: 24:21-18.)

31

32 10. (New section) Violation of contract to pay employees.

33 a. An employer who has agreed with an employee or with a  
34 bargaining agent for employees to pay wages, compensation or  
35 benefits to or for the benefit of employees commits a disorderly  
36 persons offense if the employer:

37 (1) fails to pay wages when due; or

38 (2) fails to pay compensation or benefits within 30 days after due.

39 b. If a corporate employer violates subsection a., any officer or  
40 employee of the corporation who is responsible for the violation  
41 commits a disorderly persons offense.

42 (Source: 2A:170-90.2)

43

44 11. (New section) Wrongful discharge of employee.

45 a. An employer who discharges an employee or takes any other  
46 disciplinary action against the employee because the employee's

1 earnings have been subjected to garnishment commits a disorderly  
2 persons offense.

3 b. An employer who discharges an employee or takes any other  
4 disciplinary action in violation of this section shall re-employ any  
5 employee discharged, and shall compensate any employee for any  
6 damages resulting from the discharge or disciplinary action.

7 c. The term "earnings" means any form of compensation payable  
8 for personal services, regardless of whether the payment is  
9 denominated as wages, salary, commission, bonus, income from trust  
10 funds, profits, or otherwise, and includes periodic payments pursuant  
11 to a pension or retirement program.

12 (Source: 2A:170-90.3 through 2A:170-90.5)

13

14 12. (New section)

15 a. No person shall, for any fee, or other remuneration, prepare,  
16 offer to prepare, cause to be prepared, sell or offer for sale any term  
17 paper, thesis, dissertation, essay, report or other written, recorded,  
18 pictorial, artistic or other assignment knowing, or under the  
19 circumstances having reason to know, that said assignment is intended  
20 for submission either in whole or substantial part under a student's  
21 name in fulfillment of the requirements for a degree, diploma,  
22 certificate, course or courses of study at any university, college,  
23 academy, school or other educational institution.

24 b. Nothing contained in this section shall prevent any person from  
25 providing tutorial assistance, research material, information or other  
26 assistance to persons enrolled in a university, college, academy, school  
27 or other educational institution, which is not intended for submission  
28 directly or in substantial part as an assignment under the student's  
29 name to such educational institution in fulfillment of the requirements  
30 for a degree, diploma, certificate or course of study. Nor shall any  
31 person be prevented by this act from rendering services for a fee which  
32 include the typing, research, assembling, transcription, reproduction  
33 or editing of a manuscript or other assignment which he has not  
34 prepared at the request of or on behalf of the purchaser.

35 c. Anyone convicted of violating any provision of this act shall be  
36 subject to a civil penalty of up to \$1,000.00 which shall be collected  
37 in a summary manner pursuant to "the penalty enforcement law"  
38 (N.J.S.2A:58-1 et seq.) in the Superior Court or any municipal court.  
39 The Superior Court may also grant further relief necessary to enforce  
40 the provisions of this section, including the issuance of an injunction.

41 d. Actions for injunction under the provisions of this act may be  
42 brought in the name of the people of this State upon their own  
43 complaint or upon the complaint of any person, or any public or  
44 private college, university, academy, school or other educational  
45 institution which is chartered, incorporated, licensed, registered or  
46 supervised by this State, acting for the interest of itself, its students,

1 or the general public.  
2 (Source 2A:170-77.16; 2A:170-77.17; 2A:170-77.18).

3  
4 13. (New section)

5 a. It shall be unlawful for any person to purchase or have assigned  
6 to him, other than by order of court, any salary, wages, commissions,  
7 pay or other compensation for services, or any part thereof, due or to  
8 become due to any employee and any purchase or assignment,  
9 whenever executed, shall be void. It shall also be unlawful for any  
10 person to withhold or to pay to any other person on the basis of any  
11 assignment or purchase prohibited by this act any salary, wages,  
12 commissions, pay or other compensation due to any employee.

13 b. Any person who violates this act, or attempts to do so, shall be  
14 liable to the employee for the amount of the salary, wages,  
15 commissions, or other compensation for services withheld from the  
16 employee.

17 c. Nothing contained in this act shall be construed to make  
18 unlawful the withholding or diverting of wages by any employer in  
19 accordance with section 4 of P.L.1965, c.173 (C.34:11-4.4).

20 (Source: 2A:150A-1; 2A:150A-2; 2A:150A-3; 2A:150A-4;  
21 2A:150A-5; 2A:150A-6; 34:11-25 and 26)

22  
23 14. (New section) a. On Sunday, it shall be unlawful for any  
24 person whether it be at retail, wholesale or by auction, to sell, attempt  
25 to sell or offer to sell or to engage in the business of selling clothing  
26 or wearing apparel, building and lumber supply materials, furniture,  
27 home or business or office furnishings, household, business or office  
28 appliances, except as works of necessity and charity or as isolated  
29 transactions not in the usual course of the business of the participants.

30 b. Any person who violates any provision of this section is a  
31 disorderly person and upon conviction for the first offense, shall pay  
32 a fine of \$250.00; and for the second offense, shall pay a fine of not  
33 less than \$250.00 or more than \$1,000.00 to be fixed by the court; and  
34 for the third offense, shall pay a fine of not less than \$1,000.00 or  
35 more than \$2,000.00 to be fixed by the court or, in the discretion of  
36 the court, may be imprisoned for a period of not more than 30 days,  
37 or both; and for the fourth or each subsequent offense, shall pay a fine  
38 of not less than \$2,000.00 or more than \$5,000.00 to be fixed by the  
39 court, or, in the discretion of the court, may be imprisoned for a  
40 period of not less than 30 days or more than six months, or both. A  
41 single sale of an article of merchandise of the character prohibited to  
42 any one customer, or a single offer to sell an article of such  
43 merchandise to any one prospective customer, shall be a distinct  
44 violation of this act. The directors, officers, managers, agents or  
45 employees of corporations shall be personally liable for these penalties.

46 c. In addition to the penalties provided for conviction under this

1 section, upon any four convictions for violations of this section, the  
2 premises in or upon which the violation occurred shall be deemed a  
3 nuisance.

4 d. As used in this section:

5 (1) "Clothing and wearing apparel" includes any article or articles  
6 to be worn on the person by man, woman, or child as bodily covering  
7 or protection, including garments of all types, headwear and footwear.

8 (2) "Furniture" includes all articles of furniture used inside or  
9 outside a house or office, including chairs, tables, beds, desks,  
10 wardrobes, dressers, bureaus, cupboards, cabinets, bookcases, sofas,  
11 couches, and related items; and materials especially designed and  
12 prepared for assembly into furniture; and all such furniture, whether  
13 finished or unfinished, painted or unpainted.

14 (3) "Home furnishings" includes items of equipment and furnishings  
15 used in a home or office, such as floor coverings, lamps and lighting  
16 fixtures, household linens, drapes, blinds, curtains, mattresses, bed  
17 coverings, mirrors, china, kitchenware and kitchen utensils, silverware,  
18 cutlery.

19 (4) "Household appliances" includes stoves, heating devices,  
20 cooking equipment, refrigerators, air conditioning equipment, electric  
21 fans, clocks, radios, toasters, television sets, washing machines,  
22 dryers, and all such electrical and gas appliances used in the home.

23 (5) "Building and lumber supply materials" includes all items used  
24 in the construction of buildings, whether residential or industrial, and  
25 particularly, but not limited to lumber, cement, building blocks,  
26 sashes, frames, windows, doors and related items.

27 (6) "Sell" means to enter into an agreement whereby the seller  
28 transfers ownership of property in the goods or an interest in the  
29 goods to the purchaser for a consideration, whether or not the transfer  
30 is for immediate or future delivery, and whether or not the transaction  
31 is regarded as absolute, conditional or secured, and whether or not  
32 immediate consideration is paid therefor. The acceptance of a deposit  
33 for future delivery of any such merchandise, or an agreement for future  
34 delivery of any such merchandise, whether or not immediate  
35 consideration is paid therefor, shall also be deemed a sale for purposes  
36 of this act.

37 (7) "Offer to sell" means the acceptance of bids or proposals for the  
38 purchase of goods at a future date or the attempt to induce a sale as  
39 hereinabove defined, or the attempt to induce an immediate transfer of  
40 any such merchandise, but not to include advertising or display of any  
41 such merchandise, which merchandise is not available for purchase on  
42 Sunday.

43 (8) "Engage in selling" means the attempt to sell or to induce an  
44 immediate or future transfer of any such merchandise by describing,  
45 explaining, extolling or identifying any such merchandise while the

1 seller is in personal contact with the potential purchaser.

2 (Source: 2A:171-5.8; 2A:171-5.9; 2A:171-5.10; 2A:171-5.11)

3

4 15. (New section) a. Section 14 of P.L. , c. (C. )  
5 now pending before the Legislature as this bill) prohibiting Sunday  
6 sales shall not become operative in any county unless the voters of the  
7 county have determined by referendum held pursuant to P.L. c.  
8 (C. ) (now pending before the Legislature as this bill) or its  
9 predecessor that Sunday sales shall not be permitted in the county.

10 b. A public question as to whether Sunday sales shall be permitted  
11 in a county shall be submitted to the voters of the county at a general  
12 election if a petition signed by not less than 2,500 registered voters of  
13 the county requesting that the question be submitted is filed with the  
14 county clerk prior to the 45th day preceding the general election.

15 c. There shall be printed on each official ballot to be used at such  
16 election, the following:

17

18 If you favor the proposition printed below make a cross (X), plus  
19 (+) or check (✓) in the square opposite the word "Yes." If you are  
20 opposed thereto make a cross (X), plus (+) or check (✓) in the square  
21 opposite the word "No."

22

23 YES. Shall Sunday sales be permitted in this county?

24

25 NO.

26

27 In any municipality in which voting machines are used, the question  
28 shall be placed upon the official ballots to be used upon the voting  
29 machines without the instructions and shall be voted upon by the use  
30 of such machines.

31 d. If at the election at which the question is submitted, the majority  
32 of all the votes cast are cast against the question, the provisions of  
33 section 14 of P.L. c. (C. ) (now pending before the  
34 Legislature as this bill) shall be operative in the county on the first  
35 Sunday after the election. If a majority of votes is cast in favor of the  
36 question, the provisions of this act shall remain inoperative in the  
37 county.

38 e. In a county in which there has been a referendum on Sunday  
39 sales provided in this section, a public question as to whether Sunday  
40 sales shall be permitted shall be submitted again to the voters of the  
41 county if three years has elapsed since the last referendum on the  
42 subject and a petition signed by at least 10% of the registered voters  
43 of the county requesting that the question again be submitted is filed  
44 with the county clerk. The election shall be held at the next general

1 election after the 45th day following the date of the filing of the  
2 petition in the same manner as provided in subsection c.

3 (Source: 2A:171-5.12; 2A:171-5.13; 2A:171-5.14; 2A:171-5.15;  
4 2A:171-5.16; 2A:171-5.17; 2A:171-5.18).

5

6 16. (New section)

7 a. If in any city of the first class located within any county in  
8 which, by referendum of the voters Sunday sales are prohibited, a  
9 petition is filed with the city clerk signed by not less than 2,500  
10 registered voters of the city requesting that there shall be submitted to  
11 the voters of the city the question of whether the provisions of Section  
12 17 of P.L. c. (C. ) (now pending before the Legislature  
13 as this bill) prohibiting Sunday sales shall apply within the city, the  
14 question shall be submitted to the voters of the city at the next general  
15 election after the 30th day following the date of the filing of the  
16 petition.

17 b. There shall be printed on each official ballot to be used at the  
18 election authorized by P.L. c. (C. ) (now pending before the  
19 Legislature as this bill) the following:

20

21 If you favor the proposition printed below make a cross (X), plus  
22 (+) or check (✓) in the square opposite the word "Yes." If you are  
23 opposed thereto make a cross (X), plus (+) or check (✓) in the square  
24 opposite the word "No."

25

26 YES. Shall Sunday sales be permitted in this city?

27

28 NO.

29

30 In any city in which voting machines are used, the question shall be  
31 placed upon the official ballots to be used upon the voting machines  
32 without the instructions and shall be voted upon by the use of such  
33 machines.

34 c. If at the election at which the question is submitted, the majority  
35 of all the votes cast are cast in favor of the question, the provisions of  
36 section 14 of P.L. c. (C. ) (now pending before the  
37 Legislature as this bill) prohibiting Sunday sales shall be inoperative in  
38 the city; if a majority of votes is cast against the question, the  
39 provisions shall remain operative in the city.

40 (Source: 2A:171-5.19; 2A:171-5.20; 2A:171-5.21)

41

42 17. (New section)

43 In a county that has approved Sunday sales by referendum, any  
44 municipality in that county which voted to prohibit Sunday sales at  
45 that referendum may by municipal referendum and pursuant to  
46 R.S.40:45-3 submit to the voters of the municipality for their approval

1 the question of whether Sunday sales shall be permitted in that  
2 municipality.

3 (Source: 2A:171-5.24)

4

5 18. (New section)

6 a. As used in this section:

7 (1) "Fundraising event" means a planned, scheduled activity which  
8 has as its main purpose the generating of money to be used for any  
9 educational purposes benefiting students including, but not limited to,  
10 use for scholarships or educational or athletic equipment. The money  
11 generated as a result of the sponsorship of a fundraising event, the  
12 leasing of space to vendors, and any actual sales by the educational  
13 organization itself must be used in their entirety for educational  
14 purposes. These events shall be conducted on the premises of the  
15 school with which the educational organization is affiliated and may  
16 include, but are not limited to, flea markets, auctions, and bazaars.

17 (2) "Educational organizations" means associations of parents of  
18 public or private, nonprofit school students and faculty members of the  
19 public or private, nonprofit school where those students are enrolled,  
20 including teachers and administrators, or student groups consisting of  
21 present or former enrollees of the school or organizations consisting  
22 of some members of both these associations or groups who have  
23 joined together to conduct activities relating to the improvement of the  
24 quality of education. These activities include, meetings devoted to  
25 issues concerning administration or curriculum matters or volunteer  
26 efforts concerning any extracurricular activities or athletic events.

27 b. Notwithstanding any other provisions of law to the contrary, in  
28 a county in which the provisions of section 14 of P.L. , c.  
29 (C. ) (now pending before the Legislature as this bill) prohibiting  
30 Sunday sales apply, an educational organization may be authorized by  
31 the appropriate school board of a public school or the appropriate  
32 chief administrative officer of a private, nonprofit school, as the case  
33 may be, in that county to conduct, on the appropriate school premises,  
34 no more than 10 fundraising events on any 10 Sundays in a calendar  
35 year. Each event shall be subject to separate approval by the board of  
36 chief administrative officer, as the case may be. The 10-day limitation  
37 provided for herein shall apply to all educational organizations for  
38 which a fundraising event would be subject to the approval of a single  
39 school district or chief administrative officer, as the case may be.

40 c. The governing body of a municipality may, by ordinance or  
41 resolution, provide that the provisions of this section will not be  
42 applicable in that municipality or may regulate or otherwise limit the  
43 fundraising events permitted by this act.

44 (Source: 2A:171-5.26; 2A:171-5.27; 2A:171-5.28).

1 19. (New section)

2 a. All moneys paid to a funeral director, undertaker, cemetery, any  
3 other person, firm or corporation, in connection with an agreement for  
4 the sale of personal property to be used in connection with a funeral  
5 or burial, or for the furnishing of personal services of a funeral director  
6 or undertaker, where the personal property is not to be delivered or  
7 the personal services are not to be rendered until the death of the  
8 person for whose funeral or burial such property or services are to be  
9 furnished, shall be trust funds in the possession of such funeral  
10 director, undertaker, cemetery, or other person, firm or corporation,  
11 and shall be deposited within 30 days after its receipt in a special  
12 account maintained exclusively for the deposit of such money in a  
13 federally insured State or federally chartered bank, savings bank or  
14 savings and loan association; or, if the person paying the moneys  
15 requests, in a pooled trust account established pursuant to P.L.1985,  
16 c.147 (C.3B:11-16 et seq.) and chosen by the person paying the  
17 moneys, and shall be held on deposit, together with any interest on it,  
18 until the personal property has been delivered and the personal  
19 services have been rendered, unless it is sooner repaid, in whole or in  
20 part. No depository institution shall be liable for the misuse,  
21 misapplication or improper withdrawal by any such funeral director,  
22 undertaker, cemetery or other person, firm or corporation, of any  
23 moneys deposited pursuant to this section.

24 b. The amount of all moneys paid in connection with such an  
25 agreement, with any interest accrued, shall be repaid on demand at  
26 any time prior to the delivery of the personal property or the rendering  
27 of the personal services.

28 c. Any provisions of any agreement where a person waives any  
29 provisions of this section shall be void.

30 d. Any person who receives moneys in connection with such an  
31 agreement and who fails to deposit, keep on deposit, or repay any such  
32 money as provided in this act, shall be guilty of a crime of the fourth  
33 degree.

34 (Source: 2A:102-13; 2A:102-14; 2A:102-15; 2A:102-16).

35

36 20. (New section)

37 a. Notwithstanding the provisions of Section 19 of P.L. c.  
38 (C. ) (now pending before the Legislature as this bill), an  
39 agreement may provide that the trust shall be irrevocable during the  
40 lifetime of the beneficiary, if at the time of the signing of an  
41 agreement, the beneficiary or grantor of the trust is:

42 (1) An aged, blind or disabled applicant for, or recipient of, benefits  
43 pursuant to the Supplemental Security Income Program under  
44 P.L.1973, c.256 (C. 4:7-85 et seq.) or any Medicaid program under  
45 P.L.1968, c.413 (C.30:4D-1 et seq.) utilizing the eligibility criteria of  
46 the Supplemental Security Income Program in regard to burial spaces

1 and funds set aside for burial expenses; or

2 (2) An aged, blind or disabled person who reasonably anticipates  
3 applying for, or receiving, the benefits provided for in subsection a. of  
4 this section within six months.

5 b. An irrevocable trust established pursuant to this section shall  
6 not affect the selection of funeral goods or services or the selection of  
7 the funeral home. If the beneficiary or grantor of the trust enters into  
8 an agreement, reasonably anticipating that the beneficiary or grantor  
9 will become an applicant for, or recipient of, these programs within six  
10 months from the execution of the agreement, the agreement shall  
11 provide that, in the event the beneficiary or grantor of the trust does  
12 not become an applicant for, or recipient of, any of these programs  
13 within the six month period, the trust shall revert to a revocable trust.

14 c. As used in this section, "agreement" means an agreement for the  
15 sale of personal property to be used in connection with a funeral or  
16 burial, or for the furnishing of personal services of a funeral director  
17 or undertaker, wherein the personal property is not to be delivered or  
18 the personal services are not to be rendered until the occurrence of  
19 the death of the person for whose funeral or burial the property or  
20 services are to be furnished.

21 d. A person shall be guilty of a crime of the fourth degree if he  
22 knowingly solicits or induces any person to execute an irrevocable  
23 trust pursuant to this action with an intent to collect or charge more  
24 than the fair market value for funeral goods or services.

25 e. A person shall be guilty of a crime of the fourth degree if the  
26 proceeds of the trust are expended on anything other than the fair  
27 market value of the funeral goods or services.

28 f. This act shall not apply to the sale of lots or graves by a  
29 cemetery.

30 (Source: 2A:102-16.1; 2A:102-16.2; 2A:102-17)

31

32 21. The following sections are repealed:

33 R.S.34:11-25;

34 R.S.34:11-26;

35 N.J.S.2A:170-51;

36 N.J.S.2A:170-77;

37 N.J.S.2A:170-91;

38 P.L.1957, c.182 (C.2A:102-13 through 2A:102-17);

39 Section 1 and 3 of P.L.1991, c.502 (C.2A:102-16.1 and  
40 C.2A:102-16.2);

41 P.L.1952, c.95 (C.2A:108-9);

42 P.L.1971, c.412 (C.2A:150A-1 through 2A:150A-5);

43 P.L.1973, c.354 (C.2A:150A-6);

44 P.L.1952, c.136 (C.2A:170-25.1);

45 P.L.1965, c.41 (C.2A:170-25.9 through 2A:170-25.13);

46 P.L.1972, c.143 (C.2A:170-25.17);

1 Sections 1 through 4 of P.L.1977, c.244 (C.2A:170-25.21 through  
2 2A:170-25.23);  
3 P.L. 955, c.48 (C.2A:170-77.2);  
4 P.L.1962, c.174 (C.2A:170-77.2a and 2A:170-77.2b);  
5 P.L.1962, c.113 (C.2A:170-77.8 through 2A:170-77.11);  
6 P.L.1964, c.230 (C.2A:170-77.12 through 2A:170-77.14);  
7 Section 7 of P.L.1966, c.314 (C.2A:170-77.15);  
8 P.L.1977, c.215 (C.2A:170-77.16 through 2A:170-77.18);  
9 P.L 1966, c.121 (C.2A:170-90.2);  
10 P.L.1975, c.182 (C.2A:170-90.3 through 2A:170-90.5);  
11 P.L.1955, c.254 (C.2A:171-1.1 and 2A:171-1.2);  
12 P.L.1959, c.119 (C.2A:171-5.8 through 2A:171-5.18);  
13 P.L.1984, c.160 (C.2A:171-5.19 through 2A:171-5.21);  
14 Sections 6 and 7 of P.L.1985, c.271 (C.2A:171-5.22 and  
15 2A:171-5.23);  
16 P.L.1985, c.417 (C.2A:171-5.24 and 2A:171-5.25);  
17 P.L.1988, c. 62 (C.2A:171-5.26 through 2A:171-5.28);  
18 Section 6 of P.L 1980, c.133 (C.24:21-51);  
19 Section 18 of P.L.1970, c.226 (C.24:21-18).

20  
21 22. This act shall take effect immediately.

22  
23

#### 24 STATEMENT

25

26 Title 2C, the "New Jersey Code of Criminal Justice" enacted in  
27 1979 codified New Jersey's criminal law and established a statutory  
28 framework to regulate crimes. This codification was accomplished  
29 largely through the repeal of many sections of Title 2A. However,  
30 several sections of law setting criminal penalties remain in Title 2A.  
31 Similarly, when the "Comprehensive Drug Reform Act of 1986" was  
32 enacted many sections of Title 24 were repealed and incorporated into  
33 Title 2C. A few drug related crimes, however, remain in Title 24.

34 The New Jersey Law Revision Commission examined the criminal  
35 statutes still found in Titles 2A and 24 with a view toward completing  
36 the task of codifying all criminal statutes in Title 2C. This bill  
37 implements the Commission's recommendations. The bill incorporates  
38 into Title 2C those Title 2A and Title 24 provisions with continuing  
39 validity. Provisions that are obsolete or superseded are repealed.  
40 Title 2A and Title 24 provisions that are regulatory in nature are re-  
41 enacted for compilation in other more appropriate Titles. The bill  
42 revises some of the language of the provisions that are re-enacted but  
43 mainly follows the substantive meaning of existing law. Enactment  
44 of the bill would help to complete the codification of New Jersey's  
45 criminal law.

- 1 \_\_\_\_\_
- 2
- 3 Revises and codifies certain criminal law.