

ASSEMBLY, No. 2063

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Assemblyman JONES

1 AN ACT concerning drug-free zones and supplementing chapter 35 of  
2 Title 2C of the New Jersey Statutes.

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

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7 1. a. Except as provided in subsection b., any person who violates  
8 subsection a. of N.J.S.2C:35-5 by distributing, dispensing or  
9 possessing with intent to distribute a controlled dangerous substance  
10 or controlled substance analog while on or within 1,000 feet of  
11 property designated as a senior citizen housing project is guilty of a  
12 crime of the third degree and shall, except as provided in  
13 N.J.S.2C:35-12, be sentenced by the court to a term of imprisonment.  
14 Where the violation involves less than one ounce of marijuana, the  
15 term of imprisonment shall include the imposition of a minimum term  
16 which shall be fixed at, or between, one-third and one-half of the  
17 sentence imposed, or one year, whichever is greater, during which the  
18 defendant shall be ineligible for parole. In all other cases, the term of  
19 imprisonment shall include the imposition of a minimum term which  
20 shall be fixed at, or between, one-third and one-half of the sentence  
21 imposed, or three years, whichever is greater, during which the  
22 defendant shall be ineligible for parole. Notwithstanding the provisions  
23 of subsection b. of N.J.S.2C:43-3, a fine of up to \$100,000.00 may  
24 also be imposed upon any conviction for a violation of this section.

25 b. The provisions of this act shall not apply when the substance  
26 was obtained directly or pursuant to a valid prescription or order from  
27 a practitioner, while acting in the course of his professional practice  
28 or except as otherwise authorized by P.L. 970, c.226 (C.24:21-1 et  
29 seq.).

30 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
31 provisions of law, a conviction arising under this section shall not  
32 merge with a conviction for a violation of subsection a. of  
33 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or  
34 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

35 d. It shall be no defense to a prosecution for a violation of this  
36 section that the actor was unaware that the prohibited conduct took  
37 place while on or within 1,000 feet of any senior citizen housing

1 project.

2 e. It is an affirmative defense to prosecution for a violation of this  
3 section that the prohibited conduct took place entirely within a private  
4 residence and that the prohibited conduct did not involve distributing,  
5 dispensing or possessing with the intent to distribute or dispense any  
6 controlled dangerous substance or controlled substance analog for  
7 profit. The affirmative defense established in this section shall be  
8 proved by the defendant by a preponderance of the evidence. Nothing  
9 herein shall be construed to establish an affirmative defense with  
10 respect to a prosecution for an offense defined in any other section of  
11 this chapter.

12 f. In a prosecution under this section, a map produced or  
13 reproduced by any municipal or county engineer for the purpose of  
14 depicting the location and boundaries of the area on or within 1,000  
15 feet of any senior citizen housing project, or a true copy of such a  
16 map, shall, upon proper authentication, be admissible and shall  
17 constitute prima facie evidence of the location and boundaries of those  
18 areas, provided that the governing body of the municipality or county  
19 has adopted a resolution or ordinance approving the map as official  
20 finding and record of the location and boundaries of the area or areas  
21 on or within 1,000 feet of a senior citizen housing project. Any map  
22 approved pursuant to this section may be changed from time to time  
23 by the governing body of the municipality or county. The original of  
24 every map approved or revised pursuant to this section, or a true copy  
25 thereof, shall be filed with the clerk of the municipality or county, and  
26 shall be maintained as an official record of the municipality or county.  
27 Nothing in this section shall be construed to preclude the prosecution  
28 from introducing or relying upon any other evidence or testimony to  
29 establish any element of this offense; nor shall this section be  
30 construed to preclude the use or admissibility of any map or diagram  
31 other than one which has been approved by the governing body of a  
32 municipality or county, provided that the map or diagram is otherwise  
33 admissible pursuant to the Rules of Evidence.

34 g. As used in this act:

35 "Senior citizen housing project" or "project" means any building or  
36 structure, and any land appurtenant thereto, having three or more  
37 dwelling units, be they rental or owner-occupied, intended for, and  
38 solely occupied by, senior citizens; except that, it shall not include  
39 owner-occupied premises having not more than three dwelling units  
40 that are rented or offered for rent, or any health care facility as defined  
41 in the "Health Care Facilities Planning Act," P.L.1971, c.136  
42 (C.26:2H-1 et seq.).

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44 2. This act shall take effect immediately.

STATEMENT

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This bill classifies the distributing, dispensing or possessing of controlled dangerous substances or controlled substance analogs in or within 1,000 feet of a senior citizen housing project as a crime of the third degree.

The bill further provides that it is no defense to a charge of trafficking within this designated zone if the person was unaware that the prohibited conduct took place in or within 1,000 feet of a senior citizen housing project. In addition, the bill provides that a prosecution for trafficking near a senior citizen housing project does not preclude a person from being prosecuted for any other drug-related criminal offense.

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Provides that the area surrounding a senior citizen housing project be designated a drug-free zone.

WITHDRAWN