

P.L. 1997, CHAPTER 327, *approved January 9, 1998*
Assembly Committee Substitute (*First Reprint*) for
Senate, No. 60

1 **AN ACT** concerning distributing, dispensing, or possessing controlled
2 dangerous substances or controlled substance analogs and
3 supplementing chapter 35 of Title 2C of the New Jersey Statutes.

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

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8 1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by
9 distributing, dispensing or possessing with intent to distribute a
10 controlled dangerous substance or controlled substance analog while
11 in, on or within 500 feet of the real property comprising a public
12 housing facility, a public park, or a public building is guilty of a crime
13 of the second degree, except that it is a crime of the third degree if the
14 violation involved less than one ounce of marijuana.

15 b. It shall be no defense to a prosecution for violation of this
16 section that the actor was unaware that the prohibited conduct took
17 place while on or within 500 feet of a public housing facility, a public
18 park, or a public building.

19 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
20 provisions of law, a conviction arising under this section shall not
21 merge with a conviction for a violation of subsection a. of
22 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
23 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).
24 Nothing in this section shall be construed to preclude or limit a
25 prosecution or conviction for a violation of N.J.S.2C:35-7 or any other
26 offense defined in this chapter.

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 floor amendments adopted December 4, 1997.**

1 d. It is an affirmative defense to prosecution for a violation of this
2 section that the prohibited conduct did not involve distributing,
3 dispensing or possessing with the intent to distribute or dispense any
4 controlled dangerous substance or controlled substance analog for
5 profit, and that the prohibited conduct did not involve distribution to
6 a person 17 years of age or younger. The affirmative defense
7 established in this section shall be proved by the defendant by a
8 preponderance of the evidence. Nothing herein shall be construed to
9 establish an affirmative defense with respect to a prosecution for an
10 offense defined in any other section of this chapter.

11 e. In a prosecution under this section, a map produced or
12 reproduced by any municipal or county engineer for the purpose of
13 depicting the location and boundaries of the area on or within 500 feet
14 of a public housing facility which is owned by or leased to a housing
15 authority according to the "Local Redevelopment and Housing Law,"
16 P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or within 500 feet
17 of a public park, or the area in or within 500 feet of a public building,
18 or a true copy of such a map, shall, upon proper authentication, be
19 admissible and shall constitute prima facie evidence of the location and
20 boundaries of those areas, provided that the governing body of the
21 municipality or county has adopted a resolution or ordinance
22 approving the map as official finding and record of the location and
23 boundaries of the area or areas on or within 500 feet of a public
24 housing facility, a public park, or a public building. Any map
25 approved pursuant to this section may be changed from time to time
26 by the governing body of the municipality or county. The original of
27 every map approved or revised pursuant to this section, or a true copy
28 thereof, shall be filed with the clerk of the municipality or county, and
29 shall be maintained as an official record of the municipality or county.
30 Nothing in this section shall be construed to preclude the prosecution
31 from introducing or relying upon any other evidence or testimony to
32 establish any element of this offense; nor shall this section be
33 construed to preclude the use or admissibility of any map or diagram
34 other than one which has been approved by the governing body of a
35 municipality or county, provided that the map or diagram is otherwise
36 admissible pursuant to the Rules of Evidence.

37 f. As used in this act:

38 "Public housing facility" means any dwelling, complex of dwellings,
39 accommodation, building, structure or facility and real property of any
40 nature appurtenant thereto and used in connection therewith, which is
41 owned by or leased to a local housing authority in accordance with the
42 "Local Redevelopment and Housing Law," P.L.1992, c.79
43 (C.40A:12A-1 et seq.) for the purpose of providing living
44 accommodations to persons of low income.

45 "Public park" means a park ¹recreation facility or area¹ or
46 playground owned or controlled by a State, county or local
47 government unit.

1 "Public building" means any publicly owned or leased library or
2 museum.

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4 2. This act shall take effect immediately.

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9 Provides that the area surrounding a housing project, public park or
10 public building shall be designated as a drug free zone.