

P.L. 1997, CHAPTER 343, *approved January 12, 1998*  
Assembly, No. 694 (*Second Reprint*)

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]** <sup>1</sup>[Notwithstanding any other provision of law to the contrary,  
10 a]As used in this section:

11 <sup>2</sup>["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.]<sup>2</sup>

15 "Financier" means a person who <sup>2</sup>[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 of<sup>2</sup> a drug trafficking network.

20 <sup>2</sup>["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.]<sup>2</sup>

26 A<sup>1</sup> person is a leader of a narcotics trafficking network <sup>1</sup>[only]<sup>1</sup> if  
27 [he conspires with others as an organizer, supervisor, financier or  
28 manager, to engage for profit] <sup>1</sup>[.] <sup>2</sup>[, as an upper echelon member  
29 of the narcotic trafficking network, conspires with others as an  
30 organizer, supervisor, financier or manager, to engage for profit]<sup>1</sup>

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:

<sup>1</sup> Assembly AJU committee amendments adopted June 10, 1996.

<sup>2</sup> Senate SJU committee amendments adopted November 17, 1997.

1 conspires with two or more other persons<sup>2</sup> in a scheme or course of  
2 conduct to unlawfully manufacture, distribute, dispense, bring into or  
3 transport in this State methamphetamine, lysergic acid diethylamide,  
4 phencyclidine or any controlled dangerous substance classified in  
5 Schedule I or II, or any controlled substance analog thereof <sup>1</sup>[, the  
6 person is the principal administrator, organizer, or leader of the  
7 enterprise or is one of several such principal administrators, organizers  
8 or leaders, and any two of the following are present:

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

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

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

21 d. the person obtains substantial income or resources from such  
22 enterprises]<sup>1 2</sup> as a financier, or as an organizer, supervisor or  
23 manager of at least one other person.<sup>2</sup>

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

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

46 It shall not be necessary in any prosecution under this section for

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

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

15 <sup>2</sup> It shall not be a defense that the defendant was subject to the  
16 supervision or management of another, nor that another person or  
17 persons were also leaders of the narcotics trafficking network.<sup>2</sup>

18 (cf: P.L.1997, c.181, s.1)

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20 2. This act shall take effect immediately.

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25 Clarifies activities which constitute leader of a drug trafficking  
26 network.