

CHAPTER 343

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

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

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

Leader of narcotics trafficking network.

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

As used in this section:

"Financier" means a person who, with the intent to derive a profit, provides money or credit or other thing of value in order to purchase a controlled dangerous substance or an immediate precursor, or otherwise to finance the operations of a drug trafficking network.

A person is a leader of a narcotics trafficking network if he conspires with two or more other persons in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into or transport in this State methamphetamine, lysergic acid diethylamide, phencyclidine or any controlled dangerous substance classified in Schedule I or II, or any controlled substance analog thereof as a financier, or as an organizer, supervisor or manager of at least one other person.

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

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

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

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

It shall not be a defense that the defendant was subject to the supervision or management of another, nor that another person or persons were also leaders of the narcotics trafficking network.

2. This act shall take effect immediately.

Approved January 12, 1998.