

SENATE, No. 60

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator CAFIERO

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.

27 d. It is an affirmative defense to prosecution for a violation of this
28 section that the prohibited conduct did not involve distributing,
29 dispensing or possessing with the intent to distribute or dispense any
30 controlled dangerous substance or controlled substance analog for
31 profit, and that the prohibited conduct did not involve distribution to
32 a person 17 years of age or younger. The affirmative defense
33 established in this section shall be proved by the defendant by a
34 preponderance of the evidence. Nothing herein shall be construed to
35 establish an affirmative defense with respect to a prosecution for an
36 offense defined in any other section of this chapter.

37 e. In a prosecution under this section, a map produced or

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

26 f. As used in this act:

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

34 "Public park" means a park, playground, picnic area, square,
35 monument, beach, waterfront, recreation area, conservation area, or
36 similar place or property, or any open space, owned or controlled by
37 a State, county or local government unit.

38 "Public building" means any building, structure, facility or complex
39 which is intended to provide offices, courtrooms, hearing rooms,
40 auditoriums, meeting rooms, libraries, museums and the like, which are
41 intended for the use or accommodation of the general public or for any
42 category or classification thereof in connection with the furtherance of
43 public law or policy necessarily or incidentally requiring the provision

1 of such accommodations or facilities, together with all its grounds and
2 appurtenant structures and facilities.

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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.