

SENATE, No. 1956

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Senator BUBBA

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

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

8 2C:35-3. Leader of Narcotics Trafficking Network.

9 As used in this section:

10 "Organizer" means a person who arranges, devises, or plans a drug  
11 trafficking network.

12 "Supervisor" means a person who oversees the operation of a drug-  
13 trafficking network.

14 "Financier" means a person who is responsible for providing the  
15 funds or resources necessary to operate a drug trafficking network.

16 "Manager" means a person who directs the operations of a drug  
17 trafficking network.

18 "Upper echelon member" means a person who is superior to street-  
19 level distributors and to their immediate supervisors or suppliers and  
20 occupies a high-level position of authority in the organization and  
21 exercises substantial control over its operation.

22 A person is a leader of a narcotics trafficking network if he  
23 [conspires with others as an organizer, supervisor, financier or  
24 manager, to engage for profit] , as an upper echelon member of the  
25 narcotic trafficking network, conspires with others as an organizer,  
26 supervisor, financier or manager, to engage for profit in a scheme or  
27 course of conduct to unlawfully manufacture, distribute, dispense,  
28 bring into or transport in this State methamphetamine, lysergic acid  
29 diethylamide, phencyclidine or any controlled dangerous substance  
30 classified in Schedule I or II, or any controlled substance analog  
31 thereof. Leader of narcotics trafficking network is a crime of the first  
32 degree and upon conviction thereof, except as may be provided by  
33 N.J.S.2C:35-12, a person shall be sentenced to an ordinary term of life  
34 imprisonment during which the person must serve 25 years before

**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.**

1 being eligible for parole. Notwithstanding the provisions of subsection  
2 a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed  
3 \$500,000.00 or five times the street value of the controlled dangerous  
4 substance or controlled substance analog involved, whichever is  
5 greater.

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

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

29 It shall not be a defense to a prosecution under this section that  
30 such controlled dangerous substance or controlled substance analog  
31 was brought into or transported in this State solely for ultimate  
32 distribution or dispensing in another jurisdiction; nor shall it be a  
33 defense that any profit was intended to be made in another jurisdiction.  
34 (cf: P.L.1987, c.106, s.1)

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36 2. This act shall take effect immediately.

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#### STATEMENT

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41 This bill amends N.J.S.A.2C:35-3, the "drug kingpin" statute to  
42 clarify the activities that will result in a person being a "leader of a  
43 narcotics trafficking network." This bill would clarify the intent of the  
44 statute by defining the following terms which are expressed as material  
45 elements of the crime: "organizer" would be defined as a person who  
46 arranges, devises, or plans a drug trafficking network; "supervisor"

1 would be defined as a person who oversees the operation of a drug  
2 trafficking network; "financier" would be defined as a person who is  
3 responsible for providing the funds or resources necessary to operate  
4 a drug trafficking network; " manager" would be defined as a person  
5 who directs the operation of a drug trafficking network; and an "upper  
6 echelon member" would be defined as a person who is superior to  
7 street level distributors and to their immediate supervisors or suppliers  
8 and occupies a high-level position of authority in the organization and  
9 exercises substantial control over its operation.

10 This bill is intended to reiterate the statement of policy as set forth  
11 in N.J.S.2C:35-1.1. The statement declares that the Legislature  
12 recognizes that in order for our criminal laws to be effective in the  
13 war against drugs these laws must target repeat drug offenders and the  
14 "upper echelon" member in the narcotics trafficking network.

15 Furthermore, this bill is intended to codify the New Jersey Supreme  
16 Court's decision in State v. Alexander, 136 N.J. 563 (1994). In that  
17 case the Court noted that since the Legislature clearly intended that  
18 the status and the position of the defendant in the drug trafficking  
19 network be a substantive part of the crime, then the trial court should  
20 explain to the jury the statutory terms of "organizer", "supervisor",  
21 "financier" and "manager" and instruct the jury that it must find that  
22 the defendant occupies an "upper echelon" role and in that position  
23 exercises supervisory power or control over others engaged in an  
24 organized drug trafficking network. Id. at 570, 571.

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29 Clarifies activities which constitute leader of a drug trafficking  
30 network.