

FISCAL NOTE TO
SENATE, No. 2115
STATE OF NEW JERSEY

DATED: JULY 16, 1997

Senate Bill No. 2115 of 1997 the "Anti-Drug Profiteering Act," authorizes enhanced penalties for persons found guilty of dealing large amounts of drugs for profit.

Under the bill, the court, upon application of the prosecutor, is authorized to impose an additional monetary penalty on such defendants. In the case of a person convicted of a crime of the first degree, the additional penalty would be \$200,000; \$100,000 in the case of a crime of the second degree; \$50,000 in the case of a crime of the third degree; and \$25,000 in the case of a crime of the fourth degree. Alternatively, the court may impose a penalty in an amount equal to three times the street value of all the controlled dangerous substances or controlled substance analogs involved in the crime if that amount is greater. The bill specifies that the penalty may be satisfied by a judgment against any of the defendant's assets.

A drug dealer would be subject to these enhanced penalties if any of the following conditions apply:

(1) The defendant is convicted of a violation of N.J.S.2C:35-3 (leader of a narcotics trafficking network); a violation of subsection g. of N.J.S.2C:5-2 (leader of organized crime); or a racketeering offense defined in chapter 41 of Title 2C of the New Jersey Statutes which involves drug dealing.

(2) The defendant is a "drug profiteer." The bill provides that a defendant is a "drug profiteer" when the conduct constituting the crime for which he was convicted shows that he "has knowingly engaged in the illegal manufacture, distribution or transportation of any CDS [controlled dangerous substance] or drug paraphernalia as a substantial source of livelihood."

(3) The defendant is a "wholesale drug distributor." A defendant qualifies as a "wholesale drug distributor" when the conduct constituting the crime for which he is convicted involves the manufacture, distribution or intent to distribute a CDS [controlled dangerous substance] to another for pecuniary gain, "knowing, believing, or under circumstances where it reasonably could be assumed that the other person would, in turn, distribute the CDS to another for pecuniary gain."

(4) The defendant is a "professional drug distributor." A defendant is considered a "professional drug distributor" if he "at any time, for pecuniary gain, unlawfully distributed a CDS [controlled dangerous substance] or drug paraphernalia to three or more different

persons or on five or more separate occasions."

The Administrative Office of Courts (AOC) states that in 1995 there were six convictions under 2C:35-3 (leader of a narcotics trafficking network) and two for racketeering offenses. The AOC further states that in 1995 there were 3,507 convictions under 2C:35-5b (manufacturing, distributing or dispensing controlled dangerous substances or controlled dangerous substance analogs). Of those convictions, 172 were for first degree crimes, 707 were for second degree crimes, 2,390 were for third degree crimes and 230 were for fourth degree crimes.

The Office of Legislative Services concurs and adds that based on the convictions noted above, the proposed bill could generate about \$230 million in increased fines. However, because these fines place sixth in a hierarchy of payments of fines assessed on convicted felons by the State, (such as victim restitution, Victim of Crimes Compensation Board, and DEDRE assessments) it seems likely that a portion of the amount owed would remain uncollected.

This fiscal note has been prepared pursuant to P.L.1980, c.67.