

**ASSEMBLY, No. 5472**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED MARCH 15, 2021

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Co-Sponsored by:**

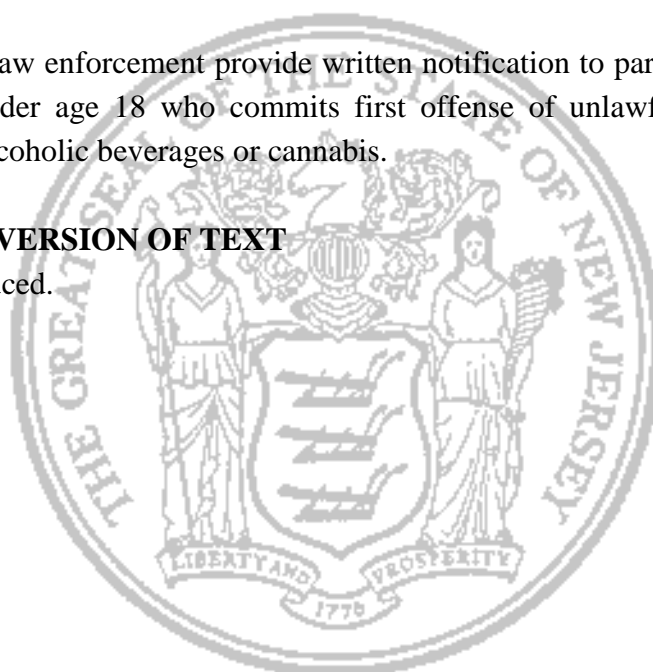
**Assemblywomen Vainieri Huttlet, McKnight, Assemblymen Benson, Bergen, Zwicker, Webber, DeAngelo, Assemblywoman Reynolds-Jackson, Assemblyman Karabinchak, Assemblywoman Carter, Assemblyman Caputo and Assemblywoman DiMaso**

**SYNOPSIS**

Requires law enforcement provide written notification to parent or guardian of person under age 18 who commits first offense of unlawfully buying or possessing alcoholic beverages or cannabis.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/17/2021)**

1 AN ACT concerning parental notification of minors' alcohol and  
2 cannabis use under certain circumstances and amending  
3 P.L.1979, c.264.

4

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

7

8 1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to  
9 read as follows:

10 1. a. (1) Any person under the legal age to purchase alcoholic  
11 beverages, or under the legal age to purchase cannabis items, who  
12 knowingly possesses without legal authority or who knowingly  
13 consumes any alcoholic beverage, cannabis item, marijuana, or  
14 hashish in any school, public conveyance, public place, or place of  
15 public assembly, or motor vehicle shall be subject to the following  
16 consequences:

17 (a) for a first violation, a written warning issued by a law  
18 enforcement officer to the underage person and, if the underage  
19 person is under 18 years of age, a written warning issued by a law  
20 enforcement officer to the parent, guardian, or other person having  
21 legal custody of the underage person. The written warning shall  
22 include the person's name, address, and date of birth, and a copy of  
23 the warning containing this information, plus a sworn statement that  
24 includes a description of the relevant facts and circumstances that  
25 support the officer's determination that the person committed the  
26 violation, shall be temporarily maintained in accordance with this  
27 section only for the purposes of determining a second or subsequent  
28 violation subject to the consequences set forth in subparagraph (b)  
29 or (c) of this paragraph. **【Notwithstanding the provisions of】**  
30 **【Pursuant to section 3 of P.L.1991, c.169 (C.33:1-81.1a)**  
31 **【concerning】**, a written notification of a violation of this section by  
32 a person under 18 years of age to the parent, guardian or other  
33 person having legal custody of the underage person**【**, a written  
34 notification**】** shall **【not】** be provided **【pursuant to that section】** for  
35 **【a first】** any violation of this paragraph.

36 (b) for a second violation, a written warning issued by a law  
37 enforcement officer to the underage person indicating that a second  
38 violation has occurred, which includes the person's name, address,  
39 and date of birth. If the violation is by a person 18 years of age or  
40 older, the officer shall provide the person with informational  
41 materials about how to access community services provided by  
42 public or private agencies and organizations that shall assist the  
43 person with opportunities to access further social services,  
44 including but not limited to counseling, tutoring programs,  
45 mentoring services, and faith-based or other community initiatives.

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 If the violation is by a person under 18 years of age, a written  
2 notification concerning the second violation, along with a copy of  
3 the written warning for the person's first violation, shall be  
4 provided to the parent, guardian or other person having legal  
5 custody of the underage person in accordance with section 3 of  
6 P.L.1991, c.169 (C.33:1-81.1a). The written notification shall  
7 include the same or similar informational materials about how to  
8 access community services provided by public or private agencies  
9 and organizations as those provided directly by a law enforcement  
10 officer to a person 18 years of age or older who commits a second  
11 violation of this paragraph. A copy of the second written warning  
12 to the underage person, and, if applicable, the written notification to  
13 the parent, guardian or other person having legal custody of the  
14 underage person concerning the second warning, plus a sworn  
15 statement that includes a description of the relevant facts and  
16 circumstances that support the officer's determination that the  
17 person committed the second violation, shall be temporarily  
18 maintained in accordance with this section only for the purposes of  
19 determining a subsequent violation subject to the consequences set  
20 forth in subparagraph (c) of this paragraph.

21 (c) for a third or subsequent violation, a write-up issued by a  
22 law enforcement officer to the underage person indicating that a  
23 third or subsequent violation has occurred, which includes the  
24 person's name, address, and date of birth. If the violation is by a  
25 person 18 years of age or older, the officer shall include with the  
26 write-up a referral for accessing community services provided by a  
27 public or private agency or organization, and provide notice to that  
28 agency or organization of the referral which may also be used to  
29 initiate contact with the person, and the agency or organization shall  
30 offer assistance to the person with opportunities to access further  
31 social services, including but not limited to counseling, tutoring  
32 programs, mentoring services, and faith-based or other community  
33 initiatives. If the violation is by a person under 18 years of age, a  
34 written notification concerning the third or subsequent violation  
35 shall be provided to the parent, guardian or other person having  
36 legal custody of the underage person in accordance with section 3  
37 of P.L.1991, c.169 (C.33:1-81.1a). The written notification shall  
38 include a referral for the person and the parent, guardian or other  
39 person having legal custody of the underage person for accessing  
40 community services provided by a public or private agency or  
41 organization, and provide notice to that agency or organization of  
42 the referral which may also then be used to initiate contact with  
43 both persons, and the agency or organization shall offer assistance  
44 to both with opportunities to access further social services,  
45 including counseling, tutoring programs, mentoring services, and  
46 faith-based or other community initiatives. A copy of a write-up for  
47 a third or subsequent violation, the written notification to the  
48 parent, guardian or other person having legal custody of the

1 underage person, if applicable, and accompanying referrals, plus a  
2 sworn statement that includes a description of the relevant facts and  
3 circumstances that support the officer's determination that the  
4 person committed the third or subsequent violation, shall be  
5 temporarily maintained in accordance with this section only to the  
6 extent necessary to track referrals to agencies and organizations, as  
7 well as for the purposes of determining a subsequent violation  
8 subject to the consequences set forth in this subparagraph.

9 The failure of a person under the legal age to purchase alcoholic  
10 beverages or cannabis items, or the failure of a parent, guardian or  
11 other person having legal custody of the underage person, to accept  
12 assistance from an agency or organization to which a law  
13 enforcement referral was made, or to access any community  
14 services provided by that agency or organization shall not result in  
15 any summons, initiation of a complaint, or other legal action to be  
16 adjudicated and enforced in any court.

17 (2) (a) A person under the legal age to purchase alcoholic  
18 beverages or cannabis items is not capable of giving lawful consent  
19 to a search to determine a violation of this section, and a law  
20 enforcement officer shall not request that a person consent to a  
21 search for that purpose.

22 (b) The odor of an alcoholic beverage, marijuana, hashish,  
23 cannabis, or cannabis item, or burnt marijuana, hashish, cannabis,  
24 or cannabis item, shall not constitute reasonable articulable  
25 suspicion to initiate an investigatory stop of a person, nor shall it  
26 constitute probable cause to initiate a search of a person or that  
27 person's personal property to determine a violation of paragraph (1)  
28 of this subsection. Additionally, the unconcealed possession of an  
29 alcoholic beverage, marijuana, hashish, or cannabis item in  
30 violation of paragraph (1) of this subsection, observed in plain sight  
31 by a law enforcement officer, shall not constitute probable cause to  
32 initiate a search of a person or that person's personal property to  
33 determine any further violation of that paragraph or any other  
34 violation of law .

35 (3) A person under the legal age to purchase alcoholic  
36 beverages or cannabis items who violates paragraph (1) of this  
37 subsection for possessing or consuming an alcoholic beverage,  
38 marijuana, hashish, or a cannabis item shall not be subject to arrest,  
39 and shall not be subject to detention or otherwise be taken into  
40 custody by a law enforcement officer except to the extent required  
41 to issue a written warning or write-up, provide notice of a violation  
42 to a parent, guardian or other person having legal custody of the  
43 underage person in accordance with section 3 of P.L.1991, c.169  
44 (C.33:1-81a), or make referrals for accessing community services  
45 provided by a public or private agency or organization due to a third  
46 or subsequent violation , unless the person is being arrested,  
47 detained, or otherwise taken into custody for also committing

1 another violation of law for which that action is legally permitted or  
2 required.

3 (4) Consistent with the provisions of subsection c. of section 1  
4 of P.L.2020, c.129 (C.40A:14-118.5), the video and audio recording  
5 functions of a law enforcement officer's body worn camera, as  
6 defined in that section, shall be activated whenever the law  
7 enforcement officer is responding to a call for service related to a  
8 violation or suspected violation of paragraph (1) of this subsection  
9 for possessing or consuming an alcoholic beverage, marijuana,  
10 hashish, or a cannabis item, or at the initiation of any other law  
11 enforcement or investigative encounter between an officer and a  
12 person related to a violation or suspected violation of that  
13 paragraph, and shall remain activated until the encounter has fully  
14 concluded and the officer leaves the scene of the encounter;  
15 provided, however, that the video and audio recording functions of  
16 a body worn camera shall not be deactivated pursuant to  
17 subparagraph (a) of paragraph (2) of subsection c. of P.L.2020,  
18 c.129 (C.40A:14-118.5), based on a request to deactivate the  
19 camera by a person who is the subject of a responsive call for  
20 service or law enforcement or investigative encounter related to a  
21 violation or suspected violation of paragraph (1) of this subsection.

22 (5) As part of the process for the issuance of a written warning  
23 or write-up to a person for a violation of paragraph (1) of this  
24 subsection, the law enforcement officer shall take possession of any  
25 alcoholic beverage, marijuana, hashish, or cannabis item from the  
26 person, and any drug or cannabis paraphernalia for use with any  
27 marijuana, hashish, or cannabis item. The existence and description  
28 of the alcoholic beverage, marijuana, hashish, or cannabis item, and  
29 any drug or cannabis paraphernalia shall be included in the sworn  
30 statement that includes a description of the relevant facts and  
31 circumstances that support the officer's determination that the  
32 person committed a violation, and which record is temporarily  
33 maintained in accordance with this section to determine subsequent  
34 possession or consumption violations, and track referrals for  
35 accessing community services provided by a public or private  
36 agency or organization due to a third or subsequent violation. Any  
37 alcoholic beverage, marijuana, hashish, cannabis item, or drug or  
38 cannabis paraphernalia obtained by the law enforcement officer  
39 shall either be destroyed or secured for use in law enforcement  
40 training or educational programs in accordance with applicable law  
41 and directives issued by the Attorney General.

42 (6) With respect to any violation of paragraph (1) of this  
43 subsection concerning the possession or consumption of an  
44 alcoholic beverage, marijuana, hashish, or any cannabis item:

45 (a) a person under the legal age to purchase alcoholic beverages  
46 or cannabis items shall not be photographed or fingerprinted,  
47 notwithstanding any provisions of section 2 of P.L.1982, c.79  
48 (C.2A:4A-61) to the contrary;

1 (b) (i) any copy of any written warning or write-up issued to a  
2 person under the legal age to purchase alcoholic beverages or  
3 cannabis items, written notification provided to the person's parent,  
4 guardian or other person having legal custody in accordance with  
5 section 3 of P.L.1991, c.169 (C.33:1-81.1a), sworn statement  
6 describing the relevant facts and circumstances that support an  
7 officer's determination that a person committed a violation, or  
8 referrals for accessing community services provided by a public or  
9 private agency or organization pertaining to a third or subsequent  
10 violation shall be segregated and maintained in a separate physical  
11 location or electronic repository or database from any other records  
12 maintained by a law enforcement agency, and reported to the  
13 Attorney General in a manner so that they are similarly segregated  
14 and maintained in a separate physical location or electronic  
15 repository or database from other law enforcement records  
16 accessible to the Attorney General and State and local law  
17 enforcement agencies, and shall not be transferred to or copied and  
18 placed in any other physical location or electronic repository or  
19 database containing any other law enforcement records. These  
20 records shall only be used to the extent necessary to determine a  
21 subsequent violation of paragraph (1) of this subsection or to track  
22 referrals to agencies and organizations, and shall not be revealed,  
23 reviewed, or considered in any manner with respect to any current  
24 or subsequent juvenile delinquency matter, including but not limited  
25 to, a charge, filing, eligibility or decision for diversion or discharge,  
26 or sentencing, other disposition, or related decision affecting the  
27 juvenile, or with respect to any current or subsequent prosecution  
28 for committing an offense or other violation of law, including but  
29 not limited to, a charge, filing, eligibility or decision for diversion  
30 or discharge, or sentencing, other disposition, or related decision  
31 affecting an adult under 21 years of age. Also, these records shall  
32 be deemed confidential and shall not be subject to public inspection  
33 or copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1  
34 et seq.), and their existence shall not be acknowledged based upon  
35 any inquiry in the same manner as if the records were expunged  
36 records pursuant to the provisions of subsection a. of N.J.S.2C:52-  
37 15.

38 The Attorney General may use the records described herein to  
39 generate the number of occurrences and other statistics concerning  
40 first, second, third and subsequent violations of paragraph (1) of this  
41 subsection, the municipal, county or other geographic areas within  
42 which first, second, third and subsequent violations occur, and the  
43 law enforcement agencies involved in first, second, third and  
44 subsequent violations, which are to be compiled and made available  
45 by the Attorney General in accordance with section 4 of P.L.2021,  
46 c.25. The identity of any person named in a record shall not be  
47 revealed or included in the information to be compiled and made  
48 available in accordance with that section.

1 The records of violations shall only be maintained temporarily  
2 and shall be destroyed or permanently deleted as set forth in  
3 subparagraph (c) of this paragraph.

4 (ii) any records pertaining to a person's acceptance of assistance  
5 from an agency or organization to which a law enforcement referral  
6 was made shall not be revealed, reviewed, or considered in any  
7 manner with respect to any current or subsequent juvenile  
8 delinquency matter, including but not limited to, a charge, filing,  
9 eligibility or decision for diversion or discharge, or sentencing,  
10 other disposition, or related decision affecting the juvenile, or with  
11 respect to any current or subsequent prosecution for committing an  
12 offense or other violation of law, including but not limited to, a  
13 charge, filing, eligibility or decision for diversion or discharge, or  
14 sentencing, other disposition, or related decision affecting an adult  
15 under 21 years of age. Also, these records shall be deemed  
16 confidential and shall not be subject to public inspection or copying  
17 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),  
18 and their existence shall not be acknowledged based upon any  
19 inquiry in the same manner as if the records were expunged records  
20 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

21 (c) Wall of the records maintained by a law enforcement agency  
22 and reported to the Attorney General as described in  
23 subsubparagraph (i) of subparagraph (b) of this paragraph shall be  
24 destroyed or permanently deleted by the law enforcement agency  
25 and Attorney General on the second anniversary following the  
26 creation of the record concerning a violation, or not later than the  
27 last day of the month in which that second anniversary date falls, or  
28 alternatively not later than the 21st birthday of a person who is the  
29 subject of a record, or not later than the last day of the month in  
30 which that birthday falls, whichever date occurs sooner, except that  
31 a record shall be maintained upon request by the person named in  
32 the record or representative thereof, the law enforcement officer  
33 who made the record, or the law enforcement agency currently  
34 maintaining the record if it involves a lawsuit, disciplinary  
35 complaint, or criminal prosecution arising from the violation  
36 described in the record, based on an assertion that the record has  
37 evidentiary or exculpatory value. Upon final disposition of the  
38 matter for which the extended record retention was requested, the  
39 record shall be destroyed or permanently deleted.

40 (d) A law enforcement officer shall be guilty of the crime of  
41 official deprivation of civil rights as set forth in section 3 of  
42 P.L.2021, c.25 (C. ) for violating the provisions of paragraph  
43 (1) of this subsection that address law enforcement actions  
44 involving persons who are under the legal age to purchase alcoholic  
45 beverages or cannabis items.

46 b. (Deleted by amendment, P.L.2021, c.25)

47 c. (Deleted by amendment, P.L.2021, c.25)

1 d. Nothing in this act shall apply to possession of alcoholic  
2 beverages by any such person while actually engaged in the  
3 performance of employment pursuant to an employment permit  
4 issued by the Director of the Division of Alcoholic Beverage  
5 Control, or for a bona fide hotel or restaurant, in accordance with  
6 the provisions of R.S.33:1-26, or while actively engaged in the  
7 preparation of food while enrolled in a culinary arts or hotel  
8 management program at a county vocational school or post-  
9 secondary educational institution; and nothing in this section shall  
10 apply to possession of cannabis items by any such person while  
11 actually engaged in the performance of employment by a cannabis  
12 establishment, distributor, or delivery service as permitted pursuant  
13 to the “New Jersey Cannabis Regulatory, Enforcement Assistance,  
14 and Marketplace Modernization Act,” P.L.2021, c.16.

15 e. Except as otherwise provided in this section, the provisions  
16 of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a  
17 parent, guardian or other person with legal custody of a person  
18 under 18 years of age who is found to be in violation of this section.

19 f. An underage person and one or two other persons shall be  
20 immune from prosecution under this section if:

21 (1) one of the underage persons called 9-1-1 and reported that  
22 another underage person was in need of medical assistance due to  
23 alcohol consumption , or the consumption of marijuana, hashish, or  
24 a cannabis item;

25 (2) the underage person who called 9-1-1 and, if applicable, one  
26 or two other persons acting in concert with the underage person  
27 who called 9-1-1 provided each of their names to the 9-1-1  
28 operator;

29 (3) the underage person was the first person to make the 9-1-1  
30 report; and

31 (4) the underage person and, if applicable, one or two other  
32 persons acting in concert with the underage person who made the 9-  
33 1-1 call remained on the scene with the person under the legal age  
34 in need of medical assistance until assistance arrived and  
35 cooperated with medical assistance and law enforcement personnel  
36 on the scene.

37 The underage person who received medical assistance also shall  
38 be immune from prosecution under this section.

39 g. For purposes of this section, an alcoholic beverage includes  
40 powdered alcohol as defined by R.S.33:1-1, a cannabis item  
41 includes any item available for lawful consumption pursuant to the  
42 “New Jersey Cannabis Regulatory, Enforcement Assistance, and  
43 Marketplace Modernization Act,” P.L.2021, c.16, and the terms  
44 “marijuana” and “hashish” have the same meaning as set forth in  
45 N.J.S.2C:35-2, and the terms “drug paraphernalia” and “cannabis  
46 paraphernalia” have the same meaning as set forth in N.J.S.2C:36-1  
47 and section 3 of P.L.2021, c.16 (C. ), respectively.

48 (cf: P.L.2021, c.25, s.2)



1       2. This act shall take effect on the 60<sup>th</sup> day following  
2 enactment.

3

4

5

STATEMENT

6

7       This bill provides that if a person under the age of 18 violates the  
8 law by purchasing or possessing alcoholic beverages or cannabis  
9 and receives a written warning from a law enforcement officer, the  
10 law enforcement officer would also be required to provide a written  
11 notice to the parent, guardian, or other person having legal custody  
12 of the minor.

13       P.L.2021, c.25 established certain consequences for persons who  
14 purchase or possess alcoholic beverages or cannabis items when  
15 under the legal age to do so. These consequences include, for a  
16 second or third violation where the person is under age 18, a  
17 notification to the minor's parent, guardian, or other person having  
18 legal custody of the minor. However, P.L.2021, c.25 does not  
19 provide that a parent, guardian, or other person having custody  
20 would be notified about the minor's first violation. This bill would  
21 require such notice.