

P.L. 2021, CHAPTER 38, *approved March 26, 2021*
Assembly, No. 5472 (*Third Reprint*)

1 AN ACT concerning parental notification of minors' alcohol
2 ¹~~and~~,³ marijuana, hashish, and ³ ~~cannabis~~¹, marijuana, and
3 hashish¹ ³ use ¹~~under certain circumstances~~¹ ³under certain
4 circumstances³ and amending P.L.1979, c.264 ³~~and P.L.1991,~~
5 c.169² ³.

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

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

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

19 (a) for a first violation, a written warning issued by a law
20 enforcement officer to the underage person ²~~and, if the underage~~
21 person is under 18 years of age, a written warning issued by a law
22 enforcement officer to the parent, guardian, or other person having
23 legal custody of the underage person². The written warning shall
24 include the person's name, address, and date of birth, and a copy of
25 the warning containing this information, plus a sworn statement that
26 includes a description of the relevant facts and circumstances that
27 support the officer's determination that the person committed the
28 violation, shall be temporarily maintained in accordance with this
29 section only for the purposes of determining a second or subsequent
30 violation subject to the consequences set forth in subparagraph (b)
31 or (c) of this paragraph. **[Notwithstanding the provisions of]**
32 ²**[Pursuant to section 3 of P.L.1991, c.169 (C.33:1-81.1a)]**²
33 **[concerning]** ²**[, a written notification of a]** ²**If the** ² violation of
34 this section ²**is** ³**[committed]**³ by a person under 18 years of age ²,
35 a written notification concerning the violation shall be provided² to
36 the parent, guardian or other person having legal custody of the
37 underage person **[, a written notification]** ²**[shall]**² **[not]** ²**[be**
38 **provided]**² **[pursuant to that section]** ²**[for]**² **[a first]** ²**[any**
39 **violation of this paragraph]** in accordance with section 3 of
40 P.L.1991, c.169 (C.33:1-81.1a)².

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACD committee amendments adopted March 17, 2021.

²Assembly AHS committee amendments adopted March 17, 2021.

³Senate floor amendments adopted March 25, 2021.

1 (b) for a second violation, a written warning issued by a law
2 enforcement officer to the underage person indicating that a second
3 violation has occurred, which includes the person's name, address,
4 and date of birth. If the violation is by a person 18 years of age or
5 older, the officer shall provide the person with informational
6 materials about how to access community services provided by
7 public or private agencies and organizations that shall assist the
8 person with opportunities to access further social services,
9 including but not limited to counseling, tutoring programs,
10 mentoring services, and faith-based or other community initiatives.
11 If the violation is by a person under 18 years of age, a written
12 notification concerning the second violation ²], along with a copy
13 of the written warning for the person's first violation, ²] shall be
14 provided to the parent, guardian or other person having legal
15 custody of the underage person in accordance with section 3 of
16 P.L.1991, c.169 (C.33:1-81.1a). The written notification shall
17 include the same or similar informational materials about how to
18 access community services provided by public or private agencies
19 and organizations as those provided directly by a law enforcement
20 officer to a person 18 years of age or older who commits a second
21 violation of this paragraph. A copy of the second written warning
22 to the underage person, and, if applicable, the written notification to
23 the parent, guardian or other person having legal custody of the
24 underage person concerning the second warning, plus a sworn
25 statement that includes a description of the relevant facts and
26 circumstances that support the officer's determination that the
27 person committed the second violation, shall be temporarily
28 maintained in accordance with this section only for the purposes of
29 determining a subsequent violation subject to the consequences set
30 forth in subparagraph (c) of this paragraph.

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

1 person having legal custody of the underage person for accessing
2 community services provided by a public or private agency or
3 organization, and provide notice to that agency or organization of
4 the referral which may also then be used to initiate contact with
5 both persons, and the agency or organization shall offer assistance
6 to both with opportunities to access further social services,
7 including counseling, tutoring programs, mentoring services, and
8 faith-based or other community initiatives. A copy of a write-up for
9 a third or subsequent violation, the written notification to the
10 parent, guardian or other person having legal custody of the
11 underage person, if applicable, and accompanying referrals, plus a
12 sworn statement that includes a description of the relevant facts and
13 circumstances that support the officer's determination that the
14 person committed the third or subsequent violation, shall be
15 temporarily maintained in accordance with this section only to the
16 extent necessary to track referrals to agencies and organizations, as
17 well as for the purposes of determining a subsequent violation
18 subject to the consequences set forth in this subparagraph.

19 The failure of a person under the legal age to purchase alcoholic
20 beverages or cannabis items, or the failure of a parent, guardian or
21 other person having legal custody of the underage person, to accept
22 assistance from an agency or organization to which a law
23 enforcement referral was made, or to access any community
24 services provided by that agency or organization shall not result in
25 any summons, initiation of a complaint, or other legal action to be
26 adjudicated and enforced in any court.

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

32 (b) The odor of an alcoholic beverage, marijuana, hashish,
33 cannabis, or cannabis item, or burnt marijuana, hashish, cannabis,
34 or cannabis item, shall not constitute reasonable articulable
35 suspicion to initiate an investigatory stop of a person, nor shall it
36 constitute probable cause to initiate a search of a person or that
37 person's personal property to determine a violation of paragraph (1)
38 of this subsection. Additionally, the unconcealed possession of an
39 alcoholic beverage, marijuana, hashish, or cannabis item in
40 violation of paragraph (1) of this subsection, observed in plain sight
41 by a law enforcement officer, shall not constitute probable cause to
42 initiate a search of a person or that person's personal property to
43 determine any further violation of that paragraph or any other
44 violation of law.

45 (3) A person under the legal age to purchase alcoholic
46 beverages or cannabis items who violates paragraph (1) of this
47 subsection for possessing or consuming an alcoholic beverage,
48 marijuana, hashish, or a cannabis item shall not be subject to arrest,

1 'shall not be transported to a police station, police headquarters, or
2 other place of law enforcement operations,' and shall not
3 'otherwise' be subject to detention or '[otherwise]' be taken into
4 custody by a law enforcement officer 'at or near the location where
5 the violation occurred,' except to the extent 'that detention or
6 custody at or near the location is' required to issue a written
7 warning or write-up, 'collect the information necessary to' provide
8 notice of a violation to a parent, guardian or other person having
9 legal custody of the underage person in accordance with section 3
10 of P.L.1991, c.169 (C.33:1-81a), or make referrals for accessing
11 community services provided by a public or private agency or
12 organization due to a third or subsequent violation, unless the
13 person is being arrested, detained, or otherwise taken into custody
14 for also committing another violation of law for which that action is
15 legally permitted or required.

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

35 (5) As part of the process for the issuance of a written warning
36 or write-up to a person for a violation of paragraph (1) of this
37 subsection, the law enforcement officer shall take possession of any
38 alcoholic beverage, marijuana, hashish, or cannabis item from the
39 person, and any drug or cannabis paraphernalia for use with any
40 marijuana, hashish, or cannabis item. The existence and description
41 of the alcoholic beverage, marijuana, hashish, or cannabis item, and
42 any drug or cannabis paraphernalia shall be included in the sworn
43 statement that includes a description of the relevant facts and
44 circumstances that support the officer's determination that the
45 person committed a violation, and which record is temporarily
46 maintained in accordance with this section to determine subsequent
47 possession or consumption violations, and track referrals for

1 accessing community services provided by a public or private
2 agency or organization due to a third or subsequent violation. Any
3 alcoholic beverage, marijuana, hashish, cannabis item, or drug or
4 cannabis paraphernalia obtained by the law enforcement officer
5 shall either be destroyed or secured for use in law enforcement
6 training or educational programs in accordance with applicable law
7 and directives issued by the Attorney General.

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

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

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

1 any inquiry in the same manner as if the records were expunged
2 records pursuant to the provisions of subsection a. of N.J.S.2C:52-
3 15.

4 The Attorney General may use the records described herein to
5 generate the number of occurrences and other statistics concerning
6 first, second, third and subsequent violations of paragraph (1) of
7 this subsection, the municipal, county or other geographic areas
8 within which first, second, third and subsequent violations occur,
9 and the law enforcement agencies involved in first, second, third
10 and subsequent violations, which are to be compiled and made
11 available by the Attorney General in accordance with section 4 of
12 P.L.2021, c.25 ³(C.2C:33-15.1)³ . The identity of any person
13 named in a record shall not be revealed or included in the
14 information to be compiled and made available in accordance with
15 that section.

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

19 (ii) any records pertaining to a person's acceptance of assistance
20 from an agency or organization to which a law enforcement referral
21 was made shall not be revealed, reviewed, or considered in any
22 manner with respect to any current or subsequent juvenile
23 delinquency matter, including but not limited to, a charge, filing,
24 eligibility or decision for diversion or discharge, or sentencing,
25 other disposition, or related decision affecting the juvenile, or with
26 respect to any current or subsequent prosecution for committing an
27 offense or other violation of law, including but not limited to, a
28 charge, filing, eligibility or decision for diversion or discharge, or
29 sentencing, other disposition, or related decision affecting an adult
30 under 21 years of age. Also, these records shall be deemed
31 confidential and shall not be subject to public inspection or copying
32 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),
33 and their existence shall not be acknowledged based upon any
34 inquiry in the same manner as if the records were expunged records
35 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

36 (c) ³**Wall** all³ of the records maintained by a law enforcement
37 agency and reported to the Attorney General as described in
38 subparagraph (i) of subparagraph (b) of this paragraph shall be
39 destroyed or permanently deleted by the law enforcement agency
40 and Attorney General on the second anniversary following the
41 creation of the record concerning a violation, or not later than the
42 last day of the month in which that second anniversary date falls, or
43 alternatively not later than the 21st birthday of a person who is the
44 subject of a record, or not later than the last day of the month in
45 which that birthday falls, whichever date occurs sooner, except that
46 a record shall be maintained upon request by the person named in
47 the record or representative thereof, the law enforcement officer
48 who made the record, or the law enforcement agency currently

1 maintaining the record if it involves a lawsuit, disciplinary
2 complaint, or criminal prosecution arising from the violation
3 described in the record, based on an assertion that the record has
4 evidentiary or exculpatory value. Upon final disposition of the
5 matter for which the extended record retention was requested, the
6 record shall be destroyed or permanently deleted.

7 (d) A law enforcement officer shall be guilty of the crime of
8 official deprivation of civil rights as set forth in section 3 of
9 P.L.2021, c.25 (C.³2C:30-6.1³) for violating the provisions of
10 paragraph (1) of this subsection that address law enforcement
11 actions involving persons who are under the legal age to purchase
12 alcoholic beverages or cannabis items.

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

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

15 d. Nothing in this act shall apply to possession of alcoholic
16 beverages by any such person while actually engaged in the
17 performance of employment pursuant to an employment permit
18 issued by the Director of the Division of Alcoholic Beverage
19 Control, or for a bona fide hotel or restaurant, in accordance with
20 the provisions of R.S.33:1-26, or while actively engaged in the
21 preparation of food while enrolled in a culinary arts or hotel
22 management program at a county vocational school or post-
23 secondary educational institution; and nothing in this section shall
24 apply to possession of cannabis items by any such person while
25 actually engaged in the performance of employment by a cannabis
26 establishment, distributor, or delivery service as permitted pursuant
27 to the “New Jersey Cannabis Regulatory, Enforcement Assistance,
28 and Marketplace Modernization Act,” P.L.2021, c.16 ³(C.24:6I-31
29 et al.)³.

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

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

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

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

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

46 (4) the underage person and, if applicable, one or two other
47 persons acting in concert with the underage person who made the 9-
48 1-1 call remained on the scene with the person under the legal age

1 in need of medical assistance until assistance arrived and
 2 cooperated with medical assistance and law enforcement personnel
 3 on the scene.

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

6 g. For purposes of this section, an alcoholic beverage includes
 7 powdered alcohol as defined by R.S.33:1-1, a cannabis item
 8 includes any item available for lawful consumption pursuant to the
 9 “New Jersey Cannabis Regulatory, Enforcement Assistance, and
 10 Marketplace Modernization Act,” P.L.2021, c.16 ³[(C.2C:30-6.1²)
 11 (C.24:6I-31 et al.)³], and the terms “marijuana” and “hashish” have
 12 the same meaning as set forth in N.J.S.2C:35-2, and the terms “drug
 13 paraphernalia” and “cannabis paraphernalia” have the same
 14 meaning as set forth in N.J.S.2C:36-1 and section 3 of
 15 P.L.2021, c.16 ³[(C.2C:30-6.1²) (C.24:6I-33)³], respectively.
 16 (cf: P.L. 2021, c.25, s.2)

17

18 ³[²2. Section 3 of P.L.1991, c.169 (C.33:1-81.1a) is amended to
 19 read as follows:

20 3. A parent, guardian or other person having legal custody of a
 21 person under 18 years of age found in violation of R.S.33:1-81 or
 22 section 1 of P.L.1979, c.264 (C.2C:33-15) with respect to purchasing,
 23 possessing, or consuming any alcoholic beverage, marijuana, hashish,
 24 or cannabis item available for lawful consumption pursuant to the
 25 "New Jersey Cannabis Regulatory, Enforcement Assistance, and
 26 Marketplace Modernization Act," P.L.2021, c.21 (C.24:6I-31 et al.)
 27 shall be notified of the violation in writing. The parent, guardian or
 28 other person having legal custody of a person under 18 years of age
 29 shall be subject to a fine in the amount of \$500.00 upon any
 30 subsequent violation of R.S.33:1-81 or section 1 of P.L.1979, c.264
 31 (C.2C:33-15) on the part of such person if it is shown that the parent,
 32 guardian or other person having legal custody failed or neglected to
 33 exercise reasonable supervision or control over the conduct of the
 34 person under 18 years of age.²

35 (cf: P.L.2021, c.16, s.71)³

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37 ²[².] ³[³.²] ².³ This act shall take effect ³[on the 60th day
 38 following enactment] immediately³.

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43 _____
 44 Requires law enforcement to provide written notification to
 45 parent or guardian of person under age 18 who commits first
 46 offense of unlawfully possessing or consuming alcoholic beverage,
 cannabis, marijuana, or hashish.