

1 **AN ACT** concerning marijuana, amending and supplementing various
2 parts of the statutory law.

3

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

6

7 1. This act shall be known and may be cited as the “New Jersey Tax,
8 Regulate and Control Marijuana Act.”

9

10 2. (New section) The Legislature finds and declares that:

11 a. New Jersey currently wastes more than \$125 million dollars a year
12 arresting people for marijuana possession.

13 b. A conviction for marijuana possession has severe long-term
14 consequences. A person with a marijuana conviction is subject to a system
15 of legal discrimination that can last a lifetime and can make it difficult to
16 secure employment, housing, student loans, or even a driver’s license.
17 Even without a conviction, the consequences of an arrest can include
18 stigma and humiliation, the financial burden of hiring a lawyer, and lost
19 hours at work or school.

20 c. Marijuana laws have a disparate racial impact on communities of
21 color. In New Jersey, black people are almost three times more likely to be
22 arrested for marijuana possession than white people even though both
23 races use marijuana at the similar rates. On a county level, these disparities
24 are even starker. In one county, black people are over five times more
25 likely to be arrested than white people. In six New Jersey counties the
26 disparate rates at which black people are arrested exceed the national
27 average.

28 d. Taxing and regulating marijuana would create a predictable and
29 significant revenue stream for New Jersey to be used to fund infrastructure
30 upgrades, substance use disorder treatment programs and for education

1 and reinvestment in the communities most negatively harmed by New
2 Jersey’s current marijuana laws.

3 e. Four states (Alaska, Colorado, Oregon and Washington) and the
4 District of Columbia have now legalized marijuana, and a majority of New
5 Jersey residents support legalizing, taxing and regulating marijuana like
6 alcohol for adults. This legislation would make New Jersey’s marijuana
7 laws consistent with the values and opinions of New Jersey residents and
8 would build on smart and popular reforms across the country.

9
10 3. (New section) Definitions.

11 As used in this act:

12 a. “Advertise” means the publication or dissemination of an
13 advertisement.

14 b. “Advertisement” includes any written or verbal statement,
15 illustration, or depiction which is calculated to induce sales of marijuana
16 or marijuana products, including any written, printed, graphic, or other
17 material, billboard, sign, or other outdoor display, public transit card, other
18 periodical literature, publication, or in a radio or television broadcast, or in
19 any other media; except that such term shall not include:

20 (1) Any label affixed to any marijuana or marijuana products, or any
21 individual covering, carton, or other wrapper of such container that
22 constitutes a part of the labeling under provisions of P.L. , c. (C.)
23 (pending before the Legislature as this bill).

24 (2) Any editorial or other reading material (e.g., news release) in any
25 periodical or publication or newspaper for the publication of which no
26 money or valuable consideration is paid or promised, directly or indirectly,
27 by any licensee, and which is not written by or at the direction of the
28 licensee.

29 c. “Advertising sign” is any sign, poster, display, billboard, or any
30 other stationary or permanently-affixed advertisement promoting the sale

- 1 of marijuana or marijuana products which are not cultivated,
2 manufactured, distributed, or sold on the same lot.
- 3 d. “Alternative treatment center” shall have the same meaning given
4 in N.J.S.24:61-3.
- 5 e. “Child resistant” means designed or constructed to be significantly
6 difficult for children under five years of age to open, and not difficult for
7 normal adults to use properly.
- 8 f. “Commercial marijuana activity” includes the cultivation,
9 possession, manufacture, distribution, processing, storing, laboratory
10 testing, labeling, transportation, delivery or sale of marijuana and
11 marijuana products as provided for in P.L. c. (C.) (pending
12 before the Legislature as this bill); but shall not include medical marijuana
13 activities provided for in P.L.2009, c.307 (C.24:6I-1 et seq.).
- 14 g. “Controlling person” means an officer, board member, or other
15 individual who has a financial or voting interest of 10 percent or greater in
16 a marijuana establishment. “Controlling person” does not include a bank
17 or licensed lending institution.
- 18 h. “Cultivation” means any activity involving the planting, growing,
19 harvesting, drying, curing, grading, or trimming of marijuana.
- 20 i. “Cultivator” means a person licensed by the Division to cultivate
21 and package marijuana, to have marijuana tested by a marijuana testing
22 facility, and to sell marijuana to other marijuana establishments.
- 23 j. “Customer” means a natural person 21 years of age or over.
- 24 k. “Delivery” means the commercial transfer of marijuana or
25 marijuana products to a customer.
- 26 l. “Distribution” means the procurement, sale, and transport of
27 marijuana and marijuana products between marijuana entities licensed
28 under P.L. c. (C.) (pending before the Legislature as this bill).
- 29 m. “Distributor” means a person licensed for the distribution of
30 marijuana and marijuana products.

- 1 n. “Division” means the Division of Marijuana Control within the
2 Department of Law and Public Safety.
- 3 o. “Division of Taxation” means the Division of Taxation within the
4 Department of the Treasury.
- 5 p. “Hashish” shall have the same meaning given in N.J.S.24:21-2.
- 6 q. “Health-related statement” means any statement related to health,
7 and includes statements of a curative or therapeutic nature that, expressly
8 or by implication, suggest a relationship between the consumption of
9 marijuana or marijuana products and health benefits, or effects on health.
- 10 r. “Industrial hemp” means a fiber or oilseed crop, or both, that is
11 limited to types of the plant *Cannabis sativa* L. having no more than three-
12 tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried
13 flowering tops, and the seed whether growing or not; the seeds of that
14 plant; the resin extracted from any part of the plant; and every compound,
15 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds
16 or resin produced therefrom, having no more than three-tenths of 1 percent
17 tetrahydrocannabinol (THC) contained in the dried flowering tops, and
18 that is cultivated and processed exclusively for the purpose of producing
19 the mature stalks of the plant, fiber produced from the stalks, oil or cake
20 made from the seeds of the plant, or any other compound, manufacture,
21 salt, derivative, mixture, or preparation of the mature stalks, except the
22 resin or flowering tops extracted therefrom, fiber, oil, or cake, or the
23 sterilized seed, or any component of the seed, of the plant that is incapable
24 of germination.
- 25 s. “License” means a state license issued under P.L. c. (C.)
26 (pending before the Legislature as this bill).
- 27 t. “Licensee” means any person holding a license under P.L. c.
28 (C.) (pending before the Legislature as this bill).
- 29 u. “Local jurisdiction” means a borough, township, city, village or
30 other municipality.

- 1 v. “Manufacture” means to compound, blend, extract, infuse, or
2 otherwise make or prepare a marijuana product, but does not include
3 producing the marijuana contained in the marijuana product.
- 4 w. “Manufacturer” means a person licensed by the Division to
5 manufacture marijuana products, to have marijuana products tested by a
6 marijuana testing facility, and to sell marijuana products to other
7 marijuana establishments.
- 8 x. “Marijuana” means all parts of the plant Genus Cannabis L.,
9 whether growing or not; the seeds thereof; and every compound,
10 manufacture, salt, derivative, mixture, or preparation of the plant or its
11 seeds, but shall not include:
- 12 (1) the mature stalks of the plant, fiber produced from the stalks, oil or
13 cake made from the seeds of the plant, any other compound, manufacture,
14 salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or
15 cake, or the sterilized seed of the plant which is incapable of germination;
- 16 (2) industrial hemp, as defined in subsection r. of this section;
- 17 (3) or the weight of any other ingredient combined with marijuana to
18 prepare topical or oral administrations, food, drink, or other product.
- 19 y. “Marijuana establishment” means a marijuana cultivator,
20 marijuana manufacturer, marijuana microbusiness, marijuana nursery,
21 marijuana distributor, marijuana retailer, marijuana testing facility, or
22 other type of licensee whose operations are allowed by the Division or the
23 Legislature.
- 24 z. “Marijuana flowers” shall mean the dried flowers of the marijuana
25 plant.
- 26 aa. “Marijuana leaves” shall mean all parts of the marijuana plant
27 other than marijuana flowers that are sold or consumed.
- 28 bb. “Marijuana paraphernalia” shall mean all equipment, products and
29 materials of any kind which are used or intended for use in planting,
30 propagating, cultivating, growing, harvesting, manufacturing,
31 compounding, converting, producing, processing, preparing, testing,

1 analyzing, packaging, repackaging, storing, containing, concealing,
2 ingesting, inhaling, or otherwise introducing into the human body
3 marijuana, marijuana products, or hashish. It shall include, but not be
4 limited to:

- 5 (1) Kits used or intended for use in planting, propagating, cultivating,
6 growing or harvesting marijuana plants;
- 7 (2) Kits used or intended for use in manufacturing, compounding,
8 converting, producing, processing, or preparing marijuana, marijuana
9 products, or hashish;
- 10 (3) Isomerization devices used or intended for use in increasing the
11 potency of any marijuana plant;
- 12 (4) Testing equipment used or intended for use identifying, or in
13 analyzing the strength, effectiveness or purity of marijuana, marijuana
14 products, or hashish;
- 15 (5) Scales and balances used or intended for use in weighing or
16 measuring marijuana, marijuana products, or hashish;
- 17 (6) Separation gins and sifters used or intended for use in removing
18 twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- 19 (7) Blenders, bowls, containers, spoons and mixing devices used or
20 intended for use in compounding hashish or marijuana products;
- 21 (8) Capsules, balloons, envelopes and other containers used or
22 intended for use in packaging small quantities of marijuana, marijuana
23 products, or hashish;
- 24 (9) Containers and other objects used or intended for use in storing or
25 concealing marijuana, marijuana products, or hashish;
- 26 (10) Objects used or intended for use in ingesting, inhaling, or
27 otherwise introducing marijuana, marijuana products, or hashish into the
28 human body, such as (i) metal, wooden, acrylic, glass, stone, plastic, or
29 ceramic pipes with or without screens, permanent screens, hashish heads,
30 or punctured metal bowls; (ii) water pipes; (iii) carburetion tubes and
31 devices; (iv) smoking and carburetion masks; (v) roach clips, meaning

1 objects used to hold burning material, such as a marijuana cigarette, that
2 has become too small or too short to be held in the hand.

3 cc. "Marijuana products" means marijuana that has undergone a
4 process whereby the plant material has been transformed into a
5 concentrate, including, but not limited to, hashish, or an edible or topical
6 product containing marijuana or hashish and other ingredients.

7 dd. "Market" or "Marketing" means any act or process of promoting or
8 selling marijuana or marijuana products, including but not limited to,
9 sponsorship of sporting events, point of sale advertising, development of
10 products specifically designed to appeal to certain demographics, etc.

11 ee. "Microbusiness" means a person licensed by the Division to
12 cultivate marijuana on an area less than 10,000 square feet and to act as a
13 licensed distributor, manufacturer, and retailer.

14 ff. "Nursery" means a person licensed by the Division to produce only
15 clones, immature plants, seeds, and other agricultural products used
16 specifically for the planting, propagation, and cultivation of marijuana.

17 gg. "Package" means any container or receptacle used for holding
18 marijuana or marijuana products.

19 hh. "Person" includes any individual, firm, co-partnership, joint
20 venture, association, corporation, limited liability company, estate, trust,
21 business trust, receiver, syndicate, or any other group or combination
22 acting as a unit, and the plural as well as the singular.

23 ii. "Private residence" means a house, an apartment unit, a mobile
24 home, or other similar dwelling.

25 jj. "Retailer" means a person licensed by the Division for the retail
26 sale and delivery of marijuana or marijuana products to customers.

27 kk. "Sell," "sale," and "to sell" include any transaction whereby, for
28 any consideration, title to marijuana is transferred from one person to
29 another, and includes the delivery of marijuana or marijuana products
30 pursuant to an order placed for the purchase of the same and soliciting or
31 receiving an order for the same, but does not include the return of

1 marijuana or marijuana products by a licensee to the licensee from whom
2 such marijuana or marijuana product was purchased.

3 ll. “Testing service” means a laboratory, facility, or person licensed
4 by the Division, that offers or performs tests of marijuana or marijuana
5 products and that is registered with the Division.

6 mm. “Unreasonably impracticable” means that the measures necessary
7 to comply with the regulations require such a high investment of risk,
8 money, time, or any other resource or asset, that the operation of a
9 marijuana establishment is not worthy of being carried out in practice by a
10 reasonably prudent business person.

11

12 4. Section 3 of P.L.1948, c.439 (C.52:17B-3) is amended to read as
13 follows:

14 52:17B-3. Divisions established in Department

15 There is hereby established in the Department of Law and Public Safety
16 a Division of Law, a Division of State Police, a Division of Alcoholic
17 Beverage Control, a Division of Marijuana Control, a Division of Motor
18 Vehicles, a Division of Weights and Measures and a Division of
19 Professional Boards.

20 The Attorney General shall have the authority to organize and maintain
21 in his offices an Administrative Division and to assign to employment
22 therein such secretarial, clerical and other assistants in the department as
23 his office and the internal operations of the department shall require.

24 (cf: P.L.1948, c. 439, s. 3)

25

26 5. (New section) Administration.

27 a. The Division of Marijuana Control established in Section 52:17B-
28 17 shall heretofore have the power, duty, purpose, responsibility, and
29 jurisdiction to regulate commercial marijuana activity as provided in P.L
30 , c. (C.)(pending before the Legislature as this bill).

1 b. The Division shall have the exclusive authority to create, issue,
2 renew, discipline, suspend, or revoke licenses for commercial marijuana
3 activities in accordance with the “Administrative Procedure Act,”
4 P.L.1968, c.410 (C.52:14B-1 et seq.).

5 (1) The Division shall consult with the Department of Agriculture
6 regarding rules, regulations, and licenses for the cultivation of marijuana.

7 (2) The Division shall begin issuing licenses not later than 18 months
8 following the effective date of P.L. c. (C.) (pending before the
9 Legislature as this bill).

10 (3) The Division shall have the authority to collect fees in connection
11 with activities they regulate concerning marijuana.

12 (4) The Division may limit the total amount of marijuana produced in
13 New Jersey based on the demand for marijuana and marijuana products
14 and in an effort to reduce illicit marijuana markets.

15 (5) The Director of the Division shall not have any interest in the
16 marijuana industry nor accept gift from marijuana establishments.

17

18 6. (New section) Rulemaking.

19 a. Not later than six months following the effective date of P.L. c.
20 (C.) (pending before the Legislature as this bill), the Division shall
21 make and prescribe reasonable rules and regulations as may be necessary
22 to implement, administer and enforce its respective duties under P.L. c.
23 (C.) (pending before the Legislature as this bill) and in accordance
24 with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
25 seq.). Such rules and regulations shall be consistent with the purpose of
26 P.L. c. (C.) (pending before the Legislature as this bill). Such
27 regulations shall include:

28 (1) Procedures for the issuance, renewal, suspension, and revocation
29 of a license to operate a marijuana establishment, with such procedures
30 subject to all requirements of the “Administrative Procedure Act,”
31 P.L.1968, c.410 (C.52:14B-1 et seq.);

1 (2) A schedule of application, licensing and renewal fees pursuant to
2 Section 10 of P.L. c. (C.) (pending before the Legislature as this
3 bill);

4 (3) Qualifications for licensure that are directly and demonstrably
5 related to the operation of a marijuana establishment;

6 (4) Security requirements for marijuana establishments;

7 (5) Requirements to prevent the sale or diversion of marijuana and
8 marijuana products to persons under the age of 21;

9 (6) Labeling requirements for marijuana and marijuana products sold
10 or distributed by a marijuana establishment pursuant to Section 18 of P.L.
11 c. (C.) (pending before the Legislature as this bill);

12 (1) Health and safety regulations and standards for the manufacture of
13 marijuana products and the cultivation of marijuana;

14 (2) In consultation with the Department of Health and Senior Services,
15 standards for quality control, inspection, and testing;

16 (3) Restrictions on the advertising, marketing, and display of
17 marijuana and marijuana products pursuant to Section 21 of P.L. c.
18 (C.) (pending before the Legislature as this bill);

19 (4) Civil penalties for the failure to comply with regulations made
20 pursuant to this section; and

21 (5) Procedures and policies that promote and encourage full
22 participation in the regulated marijuana industry by people from
23 communities disproportionately harmed by marijuana prohibition and
24 enforcement. Such harms include disproportionate rates of stops, arrests,
25 incarceration, and collateral consequences for marijuana violations.

26 b. The Division may prescribe, adopt, and enforce any emergency
27 regulations as necessary to implement, administer and enforce their
28 respective duties under of P.L. c. (C.) (pending before the
29 Legislature as this bill). Any emergency regulation prescribed, adopted or
30 enforced pursuant to this section shall be adopted in accordance with
31 N.J.A.C. 1:30–6.5.

1 c. The Division may make or cause to be made such investigation as
2 it deems necessary to carry out its duties under P.L. c. (C.)
3 (pending before the Legislature as this bill).

4 d. The Pesticide Control Council in the Department of Environmental
5 Protection, in consultation with the Department of Agriculture, shall
6 develop standards for the use of pesticides in cultivation, and maximum
7 tolerances for pesticides and other foreign object residue in harvested
8 marijuana. These standards shall apply to licensed cultivators under P.L.
9 c. (C.) (pending before the Legislature as this bill).

10 e. The Department of Agriculture shall develop environmental
11 protections which shall apply to all licensees.

12 f. The regulations made in accordance with this section cannot be
13 unreasonably impracticable.

14

15 7. (New section) Administrative Hearings.

16 An applicant denied a license or license renewal, or who has a license
17 revoked pursuant to this section, shall have the right to an administrative
18 hearing and decision, and the matter shall be treated as a contested case,
19 under the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
20 seq.)”

21

22 8. (New section) Local Control.

23 a. A local jurisdiction may enact ordinances or regulations, including,
24 but not limited to, local zoning and land use requirements, business license
25 requirements, not in conflict with the provisions of P.L. , c. (C.)
26 (pending before the Legislature as this bill) governing the time, place and
27 manner so long as such regulations are not unreasonably impracticable.

28 b. Notwithstanding paragraph 2 of subsection a. of Section 34 of P.L.
29 , c. (C.) (pending before the Legislature as this bill), a local jurisdiction
30 may allow for the smoking, vaporizing, and ingesting of marijuana or

1 marijuana products on the premises of a marijuana retailer or
2 microbusiness licensed under this division if:

3 (1) Access to the area where marijuana consumption is allowed is
4 restricted to persons 21 years of age and older;

5 (2) Marijuana consumption is not visible from any public place or
6 non-age restricted area; and

7 (3) Consumption of alcohol or tobacco is not allowed on the premises.

8

9 9. (New section) Licensing.

10 a. Notwithstanding any other provision of law, the Division shall
11 have the authority to issue licenses that it deems necessary to carry out the
12 purpose of P.L. , c. (C.) (pending before the Legislature as this
13 bill).

14 b. The Division shall issue licenses pursuant to this authority,
15 including but not necessarily limited to marijuana cultivators, marijuana
16 manufacturers, marijuana microbusinesses, marijuana nurseries, marijuana
17 distributors, marijuana retailers and marijuana testing facilities as defined
18 in Section 3 of P.L. , c. (C.) (pending before the Legislature as
19 this bill).

20 c. All licenses issued under this division shall bear a clear designation
21 indicating that the license is for commercial marijuana activity as distinct
22 from medical marijuana manufactured, produced and sold for medical use
23 pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.).

24 d. A marijuana retail licensee shall not hold a license in another
25 license category of Section 10 of P.L. , c. (C.) (pending before the
26 Legislature as this bill) and shall not own or have ownership interest in a
27 non-retail facility licensed pursuant to P.L. , c. (C.) (pending
28 before the Legislature as this bill).

29 e. A marijuana microbusiness licensee shall not hold a license in
30 another license category of Section 10 of P.L. , c. (C.) (pending
31 before the Legislature as this bill) and shall not own or have ownership

1 interest in a non-microbusiness facility licensed pursuant to P.L. , c. (C.
2) (pending before the Legislature as this bill).

3 f. A testing licensee shall not hold a license in another license
4 category of Section 10 of P.L. , c. (C.) (pending before the
5 Legislature as this bill) and shall not own or have ownership interest in a
6 non-testing facility licensed pursuant to P.L. , c. (C.) (pending
7 before the Legislature as this bill).

8 g. A license issued pursuant to P.L. , c. (C.) (pending before
9 the Legislature as this bill) shall be valid for 12 months from the date of
10 issuance. The license may be renewed annually.

11 h. The Division shall establish procedures for the issuance and
12 renewal of licenses.

13 i. Notwithstanding subsection g., the Division may issue a temporary
14 license valid for a period of less than 12 months. This subsection shall
15 cease to be operable not less than two years following the effective date of
16 P.L. c. (C.) (pending before the Legislature as this bill).

17

18 10. (New section) Application.

19 a. The Division shall establish procedures for the issuance and
20 renewal of licenses for marijuana establishments.

21 b. Each application for an annual license to operate a marijuana
22 establishment shall be submitted to the Division. The Division shall:

23 (1) Begin accepting and processing applications not more than 12
24 months following the effective date of P.L. c. (C.) (pending
25 before the Legislature as this bill);

26 (2) Issue an annual license to the applicant between 45 and 90 days
27 after receipt of an application unless the Division finds a controlling
28 person does not qualify for a license pursuant to Section 10 of P.L. , c.
29 (C.) (pending before the Legislature as this bill); and

30 (3) Upon denial of an application, notify the applicant in writing of the
31 specific reason for its denial.

1 c. The Division shall:

2 (1) Actively seek to achieve racial, ethnic, gender, and geographic
3 diversity among license holders when issuing licenses; and

4 (2) Encourage applicants who qualify as a minority business or
5 women's business, as defined in N.J.S.52:27H-21.18, to apply for
6 licensure.

7

8 11. (New section) Licensing equity program.

9 a. The Division shall process low income applications on a priority
10 basis.

11 b. For the purpose of this section, "low income" means an applicant
12 with at least one controlling person with a household income lower than
13 the basic cost of living in New Jersey.

14

15 12. (New section) Denial of a marijuana license.

16 a. The Division shall deny an application if either a controlling
17 person, or the premises for which a state license is applied, do not qualify
18 for licensure under this division.

19 b. The Division may deny the application for licensure or renewal of
20 a state license if any of the following conditions apply:

21 (1) Failure to comply with the provisions of P.L. c. (C.)
22 (pending before the Legislature as this bill) or any rule or regulation
23 adopted pursuant to P.L. c. (C.) (pending before the Legislature
24 as this bill).

25 (2) Failure to provide information required by the Division.

26 (3) Licensure or renewal of a license will lead to monopolization or
27 unreasonably restrain competition.

28 (4) The premises is licensed to sell alcohol or tobacco.

29 (5) A controlling person has been convicted of an offense that is
30 substantially related to the qualifications, functions, or duties of the
31 business or profession for which the application is made, except that if the

1 Division determines that the controlling person or licensee is otherwise
2 suitable to be issued a license, and granting the license would not
3 compromise public safety, the Division shall conduct a thorough review of
4 the nature of the crime, conviction, circumstances, and evidence of
5 rehabilitation of the controlling person, and shall evaluate the suitability of
6 the controlling person or licensee to be issued a license based on the
7 evidence found through the review. In determining which offenses are
8 substantially related to the qualifications, functions, or duties of the
9 business or profession for which the application is made, the Division
10 shall include, but not be limited to, the following:

11 (A) A felony conviction involving fraud, deceit, or embezzlement.

12 (B) A felony conviction for hiring, employing, or using a minor in
13 transporting, carrying, selling, giving away, preparing for sale, or
14 peddling, any controlled substance to a minor; or selling, offering to sell,
15 furnishing, offering to furnish, administering, or giving any controlled
16 substance to a minor.

17 (6) A controlling person has been sanctioned by the Division for
18 unauthorized commercial marijuana activities or medical marijuana
19 activities pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.), has had a license
20 revoked under P.L. c. (C.) (pending before the Legislature as this
21 bill) in the three years immediately preceding the date the application is
22 filed with the Division.

23 c. Except as provided in subparagraphs (A) and (B) of paragraph (5)
24 of subsection b. of this Section, a prior conviction, where the sentence,
25 including any term of probation, incarceration, or supervised release, is
26 completed, for possessing, using, being under the influence of,
27 manufacturing, distributing or dispensing, or possessing with intent to
28 manufacture, distribute or dispense a controlled substance is not
29 considered substantially related, and shall not be the sole ground for denial
30 of a license. Conviction for any controlled substance felony subsequent to

1 licensure shall be grounds for revocation of a license or denial of the
2 renewal of a license.

3

4 13. (New section) Protections for licensees.

5 a. Actions and conduct by a licensee, its employees, and its agents
6 that are permitted pursuant to a valid license issued by the Division, and
7 by those who allow property to be used by a licensee, its employees, or its
8 agents as permitted pursuant to a valid license issued by the Division, are
9 lawful under state and local law, and shall not be a violation of state or
10 local law.

11 b. No state or local government agency shall impose any criminal,
12 civil, or administrative penalty on any licensee, its employees, or its
13 agents, or on those who allow property to be used by a licensee, its
14 employees, or its agents, solely for actions or conduct permitted pursuant
15 to a valid license issued by the Division.

16 c. Actions and conduct by a licensee, its employees, and its agents
17 that are permitted pursuant to a valid license issued by the Division, and
18 by those who allow property to be used by a licensee, its employees, or its
19 agents as permitted pursuant to a valid license issued by the Division, shall
20 not be a basis for seizure or forfeiture of any products, materials,
21 equipment, property, or assets under state or local law.

22 d. Anyone who sells any marijuana or marijuana products to a person
23 under the legal age for purchasing marijuana and marijuana products shall
24 be subject to a civil penalty, collected pursuant to the “Penalty
25 Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.), of not
26 less than \$250 for the first violation not less than \$500 for the second
27 violation, and \$1,000 for the third and each subsequent violation;
28 provided, however, that the establishment of all of the following facts by a
29 person making any such sale shall constitute a defense to any prosecution
30 therefor:

1 (1) that the purchaser falsely represented in writing, or by producing a
2 driver's license bearing a photograph of the licensee, or by producing a
3 photographic identification card issued pursuant to section 2 of P.L.1980,
4 c. 47 (C.39:3-29.3), or a similar card issued pursuant to the laws of this
5 State, another state or the federal government that he or she was of legal
6 age to make the purchase,

7 (2) that the appearance of the purchaser was such that an ordinary
8 prudent person would believe him or her to be of legal age to make the
9 purchase, and

10 (3) that the sale was made in good faith relying upon such written
11 representation, or production of a driver's license bearing a photograph of
12 the licensee, or production of a photographic identification card issued
13 pursuant to section 2 of P.L.1980, c. 47 (C.39:3-29.3), or a similar card
14 issued pursuant to the laws of this State, another state or the federal
15 government and appearance and in the reasonable belief that the purchaser
16 was actually of legal age to make the purchase.

17 e. Nothing in this section shall be construed or interpreted to:

18 (1) Prevent the Division from enforcing its rules and regulations
19 against a licensee.

20 (2) Prevent a state agency from enforcing a law, rule, or regulation
21 that is not in conflict with the provisions of P.L. c. (C.) (pending
22 before the Legislature as this bill) or the rules and regulations of the
23 Division.

24 (3) Prevent a locality from enforcing a local zoning ordinance or local
25 ordinance consistent with Section 9 of P.L. c. (C.) (pending
26 before the Legislature as this bill).

27

28 14. (New section) License fees.

29 The Division shall establish a scale of application, licensing, and
30 renewal fees, based upon the cost of enforcing this division, as follows:

1 a. The Division shall charge each licensee a licensure and renewal
2 fee, as applicable. The licensure and renewal fee shall be calculated to
3 cover the costs of administering P.L. , c. (C.) (pending before the
4 Legislature as this bill). The licensure fee may vary depending upon the
5 varying costs associated with administering the various regulatory
6 requirements of P.L. , c. (C.) (pending before the Legislature as
7 this bill) as they relate to the nature and scope of the different licensure
8 activities, including, but not limited to, the track and trace system required
9 pursuant to Section 22 of P.L. , c. (C.) (pending before the
10 Legislature as this bill), but shall not exceed the reasonable regulatory
11 costs to the Division.

12 b. The total fees assessed pursuant to P.L. , c. (C.) (pending
13 before the Legislature as this bill) shall be set at an amount that will fairly
14 and proportionately generate sufficient total revenue to fully cover the
15 total costs of administering P.L. , c. (C.) (pending before the
16 Legislature as this bill).

17 c. All license fees shall be set on a scaled basis by the Division,
18 dependent on the size of the business and shall not create barriers to entry
19 for smaller businesses.

20 d. The Division shall deposit all fees collected in the Marijuana
21 Regulation Fund established in Section 14 P.L. , c. (C.) (pending
22 before the Legislature as this bill). Monies in the Division fee accounts
23 shall be used, upon appropriation by the Legislature, by the Division for
24 the administration of P.L. , c. (C.) (pending before the Legislature
25 as this bill).

26 e. The total fees charged to any one licensee shall not be
27 unreasonably impracticable.

28

29 15. (New section) Funding.

30 There is hereby created and established in the Department of the
31 Treasury a separate nonlapsing fund to be known as the “Marijuana

1 Regulation Fund.” Commencing 18 months following the effective date of
2 P.L. , c. (C.) (pending before the Legislature as this bill) and
3 annually for each succeeding State fiscal year, the State Treasurer shall
4 credit to the Marijuana Regulation Fund, on a monthly basis, an amount
5 equivalent to the dedicated marijuana license fees received by the State
6 during each calendar month of such fiscal year.

7

8 16. (New section) Distribution and Transport.

9 a. P.L. , c. (C.) (pending before the Legislature as this bill)
10 shall not be construed to authorize or permit a licensee to transport or
11 distribute, or cause to be transported or distributed, marijuana or marijuana
12 products outside the state, unless authorized by federal law.

13 b. A local jurisdiction shall not prevent transportation of marijuana or
14 marijuana products on public roads by a licensee transporting marijuana or
15 marijuana products in compliance with this division.

16

17 17. (New section) Delivery.

18 a. Deliveries, as defined in this division, may only be made by a
19 marijuana retailer, marijuana microbusiness, or other person licensed by
20 the Division to sell marijuana or marijuana products to customers.

21 b. A customer requesting delivery shall maintain a physical or
22 electronic copy of the delivery request and shall make it available upon
23 request by the Division and law enforcement officers.

24 c. A local jurisdiction shall not prevent delivery of marijuana or
25 marijuana products to a customer by a licensee acting in compliance with
26 this division and local law as adopted under Section 9 of P.L. , c. (C.
27) (pending before the Legislature as this bill).

28

29 18. (New section) Packaging and labeling.

30 a. The Division shall develop standards for the production and
31 labeling of all marijuana and marijuana products and these standards shall

1 apply to all licensed manufacturers and microbusinesses licensed by the
2 Division.

3 b. Prior to delivery or sale at a retailer, marijuana and marijuana
4 products shall be labeled and placed in a resealable, child resistant
5 package.

6 c. Packages and labels shall not be made to be attractive to children.

7 d. Labels shall include:

8 (1) For packages containing only dried flower, the net weight of
9 marijuana in the package.

10 (2) Identification of the source and date of cultivation, the type of
11 marijuana or marijuana product and the date of manufacturing and
12 packaging.

13 (3) List of pharmacologically active ingredients.

14 (4) For marijuana products, a list of all ingredients and disclosure of
15 nutritional information in the same manner as the federal nutritional
16 labeling requirements in 21 C.F.R. section 101.9.

17 (5) A warning if nuts or other known allergens are used.

18

19 19. (New section) Marijuana products.

20 a. Marijuana products shall be:

21 (1) Not designed to be appealing to children or easily confused with
22 commercially sold candy or foods that do not contain marijuana.

23 (2) Produced and sold with a standardized dosage of cannabinoids not
24 to exceed ten (10) milligrams tetrahydrocannabinol per serving.

25 (3) Delineated or scored into standardized serving sizes if the
26 marijuana product contains more than one serving and is an edible
27 marijuana product in solid form.

28 (4) Homogenized to ensure uniform disbursement of cannabinoids
29 throughout the product.

30 (5) Manufactured and sold under sanitation standards established by
31 the Division, for preparation, storage, handling and sale of food products.

1 (6) Provided to customers with sufficient information to enable the
2 informed consumption of such product, including the potential effects of
3 the marijuana product and directions as to how to consume the marijuana
4 product, as necessary.

5 b. Marijuana, including hashish, included in a marijuana product
6 manufactured in compliance with law is not considered an adulterant
7 under state law.

8

9 20. (New section) Protection of minors.

10 a. No licensee shall:

11 (1) Sell marijuana or marijuana products to persons under 21 years of
12 age.

13 (2) Employ or retain persons under 21 years of age.

14 b. Notwithstanding subsection a., a licensee that is also an alternative
15 treatment center licensed under P.L.2009, c.307 (C.24:6I-1 et seq.) may:

16 (1) Allow any person 18 years of age or older who possesses a valid
17 identification card under P.L.2009, c.307 (C.24:6I-1 et seq.) and a valid
18 government-issued identification card to purchase marijuana or marijuana
19 products;

20 (2) Sell marijuana, marijuana products, and marijuana paraphernalia to
21 a person 18 years of age or older who possesses a valid identification card
22 under P.L.2009, c.307 (C.24:6I-1 et seq.) and a valid government-issued
23 identification card.

24

25 21. (New section) Advertising and marketing restrictions.

26 a. All marketing strategies and implementation including, but not
27 limited to, branding, packaging, labeling, location of marijuana retailers
28 and marijuana microbusinesses, and advertisements shall not be designed
29 to:

30 (1) Appeal to persons less than 21 years of age; or

31 (2) Disseminate false or misleading information to customers.

- 1 b. All advertisements and marketing shall accurately and legibly
2 identify the licensee responsible for its content.
- 3 c. Any broadcast, cable, radio, print and digital communications
4 advertisements shall only be placed where the audience is reasonably
5 expected to be 21 years of age or older, as determined by reliable, up-to-
6 date audience composition data.
- 7 d. Any advertising involving direct, individualized communication or
8 dialogue controlled by the licensee shall utilize a method of age
9 affirmation to verify that the recipient is 21 years of age or older prior to
10 engaging in such communication or dialogue controlled by the licensee.
11 For purposes of this section, such method of age affirmation may include
12 user confirmation, birth date disclosure, or other similar registration
13 method.
- 14 e. All advertising shall be truthful and appropriately substantiated.
- 15 f. No licensee shall:
- 16 (1) Advertise in a manner that is false or untrue in any material
17 particular, or that, irrespective of falsity, directly, or by ambiguity,
18 omission, or inference, or by the addition of irrelevant, scientific or
19 technical matter tends to create a misleading impression;
- 20 (2) Publish or disseminate advertising containing any statement
21 concerning a brand or product that is inconsistent with any statement on
22 the labeling thereof;
- 23 (3) Publish or disseminate advertising containing any statement,
24 design, device, or representation which tends to create the impression that
25 the marijuana originated in a particular place or region, unless the label of
26 the advertised product bears an appellation of origin, and such appellation
27 of origin appears in the advertisement;
- 28 (4) Advertise on a billboard or similar advertising device located on an
29 Interstate Highway or State Highway which crosses the border of any
30 other state;

1 (5) Advertise marijuana or marijuana products in a manner intended to
2 encourage persons under the age of 21 years to consume marijuana or
3 marijuana products;

4 (6) Publish or disseminate advertising or marketing containing
5 symbols, language, music, gestures, cartoon characters or other content
6 elements known to appeal primarily to persons below the legal age of
7 consumption; or

8 (7) Advertise marijuana or marijuana products on an advertising sign
9 within 1,000 feet of a day care center, school providing instruction in
10 kindergarten or any grades 1 through 12, playground, or youth center.

11 g. No licensee shall give away any amount of marijuana or marijuana
12 products, or any marijuana paraphernalia, as part of a business promotion
13 or other commercial activity.

14 h. No licensee shall publish or disseminate advertising containing any
15 health-related statement that is untrue in any particular manner or tends to
16 create a misleading impression as to the effects on health of marijuana
17 consumption.

18 i. The provisions of paragraph (7) of subsection (e) shall not apply to
19 the placement of advertising signs inside a licensed premises and which
20 are not visible by normal unaided vision from a public place, provided that
21 such advertising signs do not advertise marijuana or marijuana products in
22 a manner intended to encourage persons under the age of 21 years to
23 consume marijuana or marijuana products.

24 j. This Section does not apply to any noncommercial speech.

25

26 22. (New section) Track and Trace System.

27 a. The Division, in consultation with the bureau and the Division of
28 Taxation, shall establish a track and trace program for reporting the
29 movement of marijuana and marijuana products throughout the
30 distribution chain and shall capture, at a minimum, the following:

31 (1) The licensees receiving the product.

- 1 (2) The transaction date.
- 2 (3) The cultivator from which the product originates.
- 3 b. The Division shall create an electronic database containing the
- 4 electronic shipping manifests which shall include, but is not limited to, the
- 5 following information:
- 6 (1) The quantity, or weight, and variety of products shipped.
- 7 (2) The estimated and actual times of departure and arrival.
- 8 (3) The quantity, or weight, and variety of products received.
- 9 (4) The licensee receiving the product.
- 10 c. The database shall be designed to flag irregularities for the
- 11 Division to investigate.
- 12 d. Upon the request of a state or local law enforcement agency, the
- 13 Division shall allow access to or provide information contained within the
- 14 database to assist law enforcement in their duties and responsibilities
- 15 pursuant to this chapter.

16

17 23. (New section) Contracts.

18 It is the public Policy of the People of the State of New Jersey that

19 contracts related to the operation of licenses under P.L. , c. (C.)

20 (pending before the Legislature as this bill) should be enforceable and no

21 contract entered into by a licensee, its employees, or its agents as

22 permitted pursuant to a valid license issued by the Division under Section

23 10 of P.L. , c. (C.) (pending before the Legislature as this bill), or

24 by those who allow property to be used by a licensee, its employees, or its

25 agents as permitted pursuant to a valid license issued by the Division

26 under Section 10 of P.L. , c. (C.) (pending before the Legislature

27 as this bill), shall be deemed unenforceable on the basis that the actions or

28 conduct permitted pursuant to the license are prohibited by federal law.

29

30 24. (New section) Provision of professional services.

1 An attorney, accountant, insurance agent, real estate agent, security
2 guard, or other person engaged in a profession subject to state licensure
3 may not be subject to disciplinary action by the state bar association, other
4 state professional board, or state licensing association for providing
5 professional services or assistance to prospective or licensed marijuana
6 establishments or others related to activity that the person reasonably
7 believes is permitted by the provisions of P.L. , c. (C.) (pending
8 before the Legislature as this bill) and the statutes, regulations, orders, and
9 other state or local provisions implementing P.L. , c. (C.) (pending
10 before the Legislature as this bill).

11

12 25. (New section) Marijuana Tax.

13 a. There is hereby levied and imposed a cultivation tax upon all
14 harvested marijuana that enters the commercial market upon all persons
15 required to be licensed to cultivate marijuana pursuant to Section 9 of P.L.
16 c. (C.) (pending before the Legislature as this bill). The tax shall be
17 due after the marijuana is harvested.

18 (1) Marijuana flowers shall be taxed at a rate of \$0.62 per dry-weight
19 gram.

20 (2) Marijuana leaves shall be taxed at a rate of \$ 0.10 per dry-weight
21 gram.

22 b. There is hereby levied and imposed a nursery tax upon all
23 immature plants that enter the commercial market upon all persons
24 required to be licensed to produce immature plants pursuant to Section 9
25 of P.L. c. (C.) (pending before the Legislature as this bill).
26 Immature plants shall be taxed at a rate of \$1.35 each.

27 c. There is hereby levied and imposed a tax upon marijuana sold or
28 otherwise transferred by a marijuana cultivation facility to a marijuana
29 product manufacturing facility or to a retail marijuana store at a rate
30 equivalent to the rate established under the “Sales and Use Tax Act,”
31 P.L.1966, c.30 (C.54:32B-1 et seq.).

- 1 d. In addition to the excise tax imposed pursuant to subsection b.,
2 there is hereby levied and imposed a marijuana excise tax upon customers
3 of nonmedical marijuana or nonmedical marijuana products sold in this
4 State at the rate 15% of any sale by a retailer, microbusiness, or other
5 person required to be licensed pursuant Section 9 of P.L. c. (C.)
6 (pending before the Legislature as this bill) to sell marijuana and
7 marijuana products directly to a customer.
- 8 e. The Division of Taxation shall establish procedures for the
9 collection of all taxes levied.
- 10 f. No tax established by this section shall be levied upon marijuana
11 intended for sale at alternative treatment centers pursuant to the “New
12 Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307
13 (C.24:6I-1 et seq.).

14
15 26. (New section) Revenue.

- 16 a. There is hereby created and established in the Department of the
17 Treasury a separate nonlapsing fund to be known as the “Dedicated
18 Marijuana Tax Revenue Fund.” During the State fiscal year in which
19 licensing commences for the collection of the cultivation tax, established
20 in subsection a. of Section 25 of P.L. c. (C.) (pending before the
21 Legislature as this bill), and during each succeeding State fiscal year, the
22 State Treasurer shall credit to such Fund, on a monthly basis, an amount
23 equivalent to the dedicated marijuana tax revenues received by the State
24 during each calendar month of such fiscal year.
- 25 b. Before any funds are disbursed pursuant to Subsections c., d., e., f.
26 and g. of this section the State Treasurer shall disburse from the Dedicated
27 Marijuana Tax Revenue Fund to the appropriate account, without regard
28 to fiscal year, the following:
- 29 (1) Reasonable costs incurred by the Division of Taxation for
30 administering and collecting the taxes imposed by this part; provided,

1 however, such costs shall not exceed four percent (4%) of tax revenues
2 received.

3 (2) Reasonable costs incurred by the Division for implementing,
4 administering, and enforcing P.L. c. (C.) (pending before the
5 Legislature as this bill) to the extent those costs are not reimbursed
6 pursuant to Section 13 of P.L. c. (C.) (pending before the
7 Legislature as this bill). This paragraph shall remain operative through
8 fiscal year 2022-2023., and

9 c. The remaining funds shall be disbursed as follows:

10 (1) Five percent (5%) shall be deposited in the Drug Treatment and
11 Public Education Fund, and disbursed by the State Treasurer for the
12 following purposes:

13 (A) To develop and implement a youth-focused public health
14 education and prevention campaign, including school-based prevention,
15 early intervention, and health care services and programs to reduce the risk
16 of marijuana and other substance use and abuse by school-aged children;

17 (B) To develop and implement a statewide public health campaign
18 focused on the health effects of marijuana and legal use, including an
19 ongoing education and prevention campaign that educates the general
20 public, including parents, consumers and retailers, on the legal use of
21 marijuana, the importance of preventing youth access, the importance of
22 safe storage and preventing secondhand marijuana smoke exposure,
23 information for pregnant or breastfeeding women, and the
24 overconsumption of edibles;

25 (C) To provide substance use disorder treatment programs for youth
26 and adults, with an emphasis on programs that are culturally and gender
27 competent, trauma-informed, evidence-based and provide a continuum of
28 care that includes screening and assessment (substance use disorder as
29 well as mental health), early intervention, active treatment, family
30 involvement, case management, overdose prevention, prevention of
31 communicable diseases related to substance use, relapse management for

1 substance use and other co-occurring behavioral health disorders,
2 vocational services, literacy services, parenting classes, family therapy and
3 counseling services, medication-assisted treatments, psychiatric
4 medication and psychotherapy.

5 (D) To evaluate the programs being funded to determine their
6 effectiveness.

7 (2.) Fifty percent (50%) shall be deposited in the Community Grants
8 Reinvestment Fund, and disbursed by the State Treasurer for the
9 establishment of a Community Grants Reinvestment Program that shall
10 administer the monies to qualified community-based nonprofit
11 organizations for the purpose of reinvesting in communities
12 disproportionately affected by incarceration, lack of economic
13 opportunity, and poverty—including inability to afford the basic
14 necessities of housing, food, child care, health care, and
15 transportation—as defined by a series of standardized
16 measurements.” The grants from this program shall be used to support
17 job placement, mental health treatment, substance use disorder
18 treatment, system navigation services, legal services to address barriers
19 to reentry, and linkages to medical care and women’s health services.
20 The programs may include, but are not limited to, the following
21 components:

22 (A) The Community Grants Reinvestment Program shall periodically
23 evaluate the programs it is funding to determine the effectiveness
24 of the programs.

25 (B) The Community Grants Reinvestment Program shall be governed
26 and administered by an executive steering committee that includes,
27 but is not limited to, a balanced and diverse membership from
28 relevant state and local government entities and community-based
29 job skills and job placement service providers. The committee
30 shall have expertise in job placement, homelessness and housing,

1 behavioral health and substance abuse treatment, and effective
2 rehabilitative treatment for adults and juveniles.

3 (C) The committee shall make recommendations regarding the design,
4 efficacy, and viability of proposals.

5 (D) The committee shall prioritize proposals that provide any of the
6 following:

7 (i) Community-based job skills services.

8 (ii) Community-based job placement services.

9 (iii) Adult education services.

10 Other community-based supportive services.

11

12 27. (New section) Annual reports; performance audit

13 a. Beginning on March 1, 2020, and on or before March 1 of each
14 year thereafter, the Division shall prepare and submit to the Legislature an
15 annual report on the Division's activities concerning commercial
16 marijuana activities and post the report on the Division's website. The
17 report shall include, but not be limited to:

18 (1) The amount of funds allocated and spent by the Division for
19 marijuana licensing, enforcement, and administration.

20 (2) The number of state licenses issued, renewed, denied, suspended,
21 and revoked, by state license category.

22 (3) The demographics of licensees including, but not limited to,
23 gender, race, and ethnicity of license holders and geographic location of
24 marijuana establishments.

25 (4) The average time for processing state license applications, by state
26 license category.

27 (5) The number and type of enforcement activities conducted by the
28 Division and by local law enforcement agencies in conjunction with the
29 Division or the bureau.

30 (6) The number, type, and amount of penalties, fines, and other
31 disciplinary actions taken by the Division.

1 (7) A detailed list of the petitions for regulatory relief or rulemaking
2 changes received by the office from licensees requesting modifications of
3 the enforcement of rules under this division.

4 The State Treasurer, pursuant to his or her statutory authority, shall
5 audit the Marijuana Tax Revenue Fund every two (2) years to ensure that
6 those funds are used and accounted for in a manner consistent with
7 Section 26 P.L. , c. (C.) (pending before the Legislature as this
8 bill).

9
10 28. (New section) Medical marijuana provisions unaffected.
11 Nothing in P.L. , c. (C.) (pending before the Legislature as this
12 bill) shall be construed:

13 a. to limit any privileges or rights of a medical marijuana patient,
14 primary caregiver, or a person issued a permit to operate as an alternative
15 treatment center or be a director, officer, or employee of an alternative
16 treatment center as provided in the “New Jersey Compassionate Use
17 Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.);

18 b. to permit an alternative treatment center to distribute marijuana to
19 a person who is not a medical marijuana patient without first obtaining a
20 valid marijuana retail or marijuana microbusiness license from the
21 Division pursuant to Section 10 of P.L. , c. (C.) (pending before
22 the Legislature as this bill);

23 c. to permit an alternative treatment center to purchase marijuana or
24 marijuana products in a manner or from a source not authorized under
25 P.L.2009, c.307 (C.24:6I-1 et seq.) without first obtaining a valid
26 marijuana retail or marijuana microbusiness license from the Division
27 pursuant to Section 10 of P.L. , c. (C.) (pending before the
28 Legislature as this bill);

29 d. to discharge the Department of Health from its duties to regulate
30 medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.).

31

1 29. (New section) Discrimination protections.

2 a. No school or landlord may refuse to enroll or lease to and may not
3 otherwise penalize a person solely for conduct allowed under P.L. , c.
4 (C.) (pending before the Legislature as this bill) or P.L.2009, c.307
5 (C.24:6I-1 et seq.), unless failing to do so would cause the school or
6 landlord to lose a monetary or licensing related benefit under federal law
7 or regulations.

8 b. For the purposes of medical care, including organ transplants, a
9 registered qualifying patient's authorized use of marijuana must be
10 considered the equivalent of the use of any other medication under the
11 direction of a physician and does not constitute the use of an illicit
12 substance or otherwise disqualify a registered qualifying patient from
13 medical care.

14 c. No person may be denied custody of or visitation or parenting time
15 with a minor, and there is no presumption of neglect or child
16 endangerment for conduct allowed under P.L. , c. (C.) (pending
17 before the Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.),
18 unless the person's behavior creates an unreasonable danger to the safety
19 of the minor as established by clear and convincing evidence.
20

21 30. Section 16 of P.L.2009, c.307 (C.24:6I-14) is amended to read as
22 follows:

23 16. Nothing in this act shall be construed to require a government
24 medical assistance program or private health insurer to reimburse a person
25 for costs associated with the medical use of marijuana, or, except as
26 provided in section 30 of P.L. , c. (C.) (pending before the
27 Legislature as this bill), an employer to accommodate the medical use of
28 marijuana in any workplace.
29 (cf: P.L.2009, c.307, s.16)
30

31 31. (New section) Employment protections.

1 a. Unless an employer establishes by a preponderance of the evidence
2 that the lawful use of marijuana has impaired the employee's ability to
3 perform the employee's job responsibilities, it shall be unlawful to take
4 any adverse employment action against an employee based on either: (1)
5 conduct allowed under P.L. , c. (C.) (pending before the
6 Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.); or (2) the
7 employee's positive drug test for marijuana components or metabolites.

8 For the purposes of this section, an employer may consider an
9 employee's ability to perform the employee's job responsibilities to be
10 impaired when the employee manifests specific articulable symptoms
11 while working that decrease or lessen the employee's performance of the
12 duties or tasks of the employee's job position.

13 b. Nothing in this section shall restrict an employer's ability to
14 prohibit or take adverse employment action for the possession or use of
15 intoxicating substances during work hours, or require an employer to
16 commit any act that would cause the employer to be in violation of federal
17 law, or that would result in the loss of a federal contract or federal
18 funding.

19 c. As used in this section, "adverse employment action" means
20 refusing to hire or employ, barring or discharging from employment,
21 requiring a person to retire from employment, or discriminating against in
22 compensation or in terms, conditions, or privileges of employment.

23

24 32. (New section) Protections for persons under state supervision.

25 A person currently under parole, probation or other state supervision, or
26 released on bail awaiting trial may not be punished or otherwise penalized
27 for conduct allowed under P.L. , c. (C.) (pending before the
28 Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.).

29

30 33. (New section) Personal use of marijuana.

- 1 a. Notwithstanding any other provision of law, the following acts are
2 lawful under state and local law for persons 21 years of age and older:
- 3 (1) Possessing, using, being under the influence, displaying,
4 purchasing, obtaining, or transporting not more than 50 grams of
5 marijuana not in the form of hashish.
- 6 (2) Transferring, without remuneration, to a person 21 years of age
7 and older not more than 50 grams of marijuana.
- 8 (3) Possessing, using, being under the influence, displaying,
9 purchasing, obtaining, transporting or transferring, without remuneration,
10 to persons 21 years of age and older not more than 14 grams of marijuana
11 in the form of hashish, including as contained in marijuana products.
- 12 (4) Possessing, planting, cultivating, harvesting, drying, processing or
13 transporting not more than six living marijuana plants and possessing the
14 marijuana produced by the plants.
- 15 (5) Smoking, ingesting or otherwise consuming marijuana or
16 marijuana products.
- 17 (6) Possessing, using, displaying, purchasing, obtaining,
18 manufacturing, transporting or giving away to persons 21 years of age and
19 older marijuana paraphernalia.
- 20 (7) Assisting another person who is 21 years of age and older or allow
21 property to be used in any of the acts described in paragraphs (1) through
22 (7) of this subsection.
- 23 b. Paragraph (6) of subsection a. is intended to meet the requirements
24 of subsection (f) of Section 863 of Title 21 of the United States Code (21
25 U.S.C. § 863(f)) by authorizing, under state law, any person in compliance
26 with this section to manufacture, possess, or distribute marijuana
27 paraphernalia.
- 28 c. Marijuana and marijuana products involved in any way with
29 conduct deemed lawful by this section are not contraband nor subject to
30 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other

1 applicable law, and no conduct deemed lawful by this section shall
2 constitute the basis for detention, search, or arrest.

3 d. Except as provided in subsection e. of this section, none of the
4 following shall, individually or in combination with each other, constitute
5 reasonable articulable suspicion of a crime:

6 (1) The odor of marijuana or of burnt marijuana;

7 (2) The possession of or the suspicion of possession of marijuana
8 without evidence of quantity in excess of 50 grams;

9 (3) The possession of multiple containers of marijuana without
10 evidence of quantity in excess of 50 grams; or

11 (4) The possession of marijuana in proximity to any amount of cash or
12 currency without evidence of marijuana quantity in excess of 50 grams.

13 e. Subsection d. of this section shall not apply when a law
14 enforcement officer is investigating whether a person is operating or in
15 physical control of a vehicle or watercraft while intoxicated, under the
16 influence of, or impaired by alcohol or a drug or any combination thereof
17 in violation of N.J.S. 39:4-50.

18

19 34. (New section) Personal cultivation of marijuana.

20 a. Personal cultivation of marijuana under paragraph (5) subsection a.
21 of Section 32 of P.L. , c. (C.)(pending before the Legislature
22 as this bill) is subject to the following restrictions:

23 (1) A person shall plant, cultivate, harvest, dry, or process plants in
24 accordance with local ordinances, if any, adopted in accordance with
25 subsection b. of this section.

26 (2) The living plants and any marijuana produced by the plants in
27 excess of 50 grams are kept within the person's private residence, or upon
28 the grounds of that private residence (e.g., in an outdoor garden area), are
29 in a locked space, and are not visible by normal unaided vision from a
30 public place.

1 (3) Not more than six living plants may be planted, cultivated,
2 harvested, dried, or processed within a single private residence, or upon
3 the grounds of that private residence, at one time.

4 b.(1) A local jurisdiction may enact and enforce reasonable regulations
5 to reasonably regulate the actions and conduct in paragraph (5) of
6 subsection a. of Section 32 of P.L. , c. (C.)(pending before
7 the Legislature as this bill).

8 (2) Notwithstanding paragraph (1), no local jurisdiction may
9 completely prohibit persons engaging in the actions and conduct under
10 paragraph (5) of subsection a. of Section 32 of P.L. , c. (C.
11)(pending before the Legislature as this bill).

12

13 35. (New section) Restrictions on personal consumption.

14 a. Nothing in Sections 32 and 33 of P.L. , c. (C.
15)(pending before the Legislature as this bill) shall be construed to permit
16 any person to:

17 (1) Smoke or ingest marijuana or marijuana products in any public
18 place, except in accordance with subsection b. of Section 9 of P.L. , c.
19 (C.) (pending before the Legislature as this bill).

20 (2) Smoke marijuana or marijuana products in a location where
21 smoking tobacco is prohibited.

22 (3) Possess, smoke or ingest marijuana or marijuana products in or
23 upon the grounds of any school property used for school purposes which is
24 owned by or leased to any elementary or secondary school or school board
25 while children are present.

26 (4) Smoke or ingest marijuana or marijuana products while driving,
27 operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for
28 transportation.

29 b. For purposes of this section:

30 (5) “Smoke” means to inhale, exhale, burn, or carry any lighted or
31 heated device or pipe, or any other lighted or heated marijuana or

1 marijuana product intended for inhalation, whether natural or synthetic, in
2 any manner or in any form.

3 (6) “Smoke” does not include the use of an electronic smoking device
4 that creates an aerosol or vapor.

5

6 36. N.J.S.A. 24:21-5 is amended to read as follows:

7 a. Tests. The director shall place a substance in Schedule I if he finds
8 that the substance: (1) has high potential for abuse; and (2) has no
9 accepted medical use in treatment in the United States; or lacks
10 accepted safety for use in treatment under medical supervision.

11 b. The controlled dangerous substances listed in this section are
12 included in Schedule I, subject to any revision and republishing by
13 the director pursuant to subsection d. of section 3 of P.L.1970, c. 226
14 ([C.24:21-3](#)), and except to the extent provided in any other schedule.

15 c. Any of the following opiates, including their isomers, esters, and
16 ethers, unless specifically excepted, whenever the existence of such
17 isomers, esters, ethers and salts is possible within the specific chemical
18 designation:

- 19 (1) Acetylmethadol
- 20 (2) Allylprodine
- 21 (3) Alphacetylmethadol
- 22 (4) Alphameprodine
- 23 (5) Alphamethadol
- 24 (6) Benzethidine
- 25 (7) Betacetylmethadol
- 26 (8) Betameprodine
- 27 (9) Betamethadol
- 28 (10) Betaprodine
- 29 (11) Clonitazene
- 30 (12) Dextromoramide
- 31 (13) Dextrophan

- 1 (14) Diampromide
- 2 (15) Diethylthiambutene
- 3 (16) Dimenoxadol
- 4 (17) Dimepheptanol
- 5 (18) Dimethylthiambutene
- 6 (19) Dioxaphetyl butyrate
- 7 (20) Dipipanone
- 8 (21) Ethylmethylthiambutene
- 9 (22) Etonitazene
- 10 (23) Etoxidine
- 11 (24) Furethidine
- 12 (25) Hydroxypethidine
- 13 (26) Ketobemidone
- 14 (27) Levomoramide
- 15 (28) Levophenacymorphan
- 16 (29) Morpheridine
- 17 (30) Noracymethadol
- 18 (31) Norlevorphanol
- 19 (32) Normethadone
- 20 (33) Norpipanone
- 21 (34) Phenadoxone
- 22 (35) Phenampromide
- 23 (36) Phenomorphan
- 24 (37) Phenoperidine
- 25 (38) Piritramide
- 26 (39) Proheptazine
- 27 (40) Properidine
- 28 (41) Racemoramide
- 29 (42) Trimeperidine.
- 30 d. Any of the following narcotic substances, their salts, isomers and
- 31 salts of isomers, unless specifically excepted, whenever the existence

1 of such salts, isomers and salts of isomers is possible within the
2 specific chemical designation:

- 3 (1) Acetorphine
- 4 (2) Acetylcodeine
- 5 (3) Acetyldihydrocodeine
- 6 (4) Benzylmorphine
- 7 (5) Codeine methylbromide
- 8 (6) Codeine-N-Oxide
- 9 (7) Cyprenorphine
- 10 (8) Desomorphine
- 11 (9) Dihydromorphine
- 12 (10) Etorphine
- 13 (11) Heroin
- 14 (12) Hydromorphanol
- 15 (13) Methyldesorphine
- 16 (14) Methylhydromorphine
- 17 (15) Morphine methylbromide
- 18 (16) Morphine methylsulfonate
- 19 (17) Morphine-N-Oxide
- 20 (18) Myrophine
- 21 (19) Nicocodeine
- 22 (20) Nicomorphine
- 23 (21) Normorphine
- 24 (22) Phoclodine
- 25 (23) Thebacon.

26 e. Any material, compound, mixture or preparation which contains any
27 quantity of the following hallucinogenic substances, their salts, isomers
28 and salts of isomers, unless specifically excepted, whenever the
29 existence of such salts, isomers, and salts of isomers is possible within
30 the specific chemical designation:

- 31 (1) 3,4-methylenedioxy amphetamine

- 1 (2) 5-methoxy-3,4-methylenedioxy amphetamine
- 2 (3) 3,4,5-trimethoxy amphetamine
- 3 (4) Bufotenine
- 4 (5) Diethyltryptamine
- 5 (6) Dimethyltryptamine
- 6 (7) 4-methyl-2,5-dimethoxylamphetamine
- 7 (8) Ibogaine
- 8 (9) Lysergic acid diethylamide
- 9 [(10) Marihuana]
- 10 [(11)] (10) Mescaline
- 11 [(12)] (11) Peyote
- 12 [(13)] (12) N-ethyl-3-piperidyl benzilate
- 13 [(14)] (13) N-methyl-3-piperidyl benzilate
- 14 [(15)] (14) Psilocybin
- 15 [(16)] (15) Psilocyn
- 16 [(17)] (16) Tetrahydrocannabinols.

17

18 37. N.J.S.A. 2C:36-1 is amended to read as follows:

19 As used in this act, “drug paraphernalia” means all equipment, products
20 and materials of any kind which are used or intended for use in planting,
21 propagating, cultivating, growing, harvesting, manufacturing,
22 compounding, converting, producing, processing, preparing, testing,
23 analyzing, packaging, repackaging, storing, containing, concealing,
24 ingesting, inhaling, or otherwise introducing into the human body a
25 controlled dangerous substance , controlled substance analog or toxic
26 chemical in violation of the provisions of chapter 35 of this title. It shall
27 include, but not be limited to: a. kits used or intended for use in planting,
28 propagating, cultivating, growing or harvesting of any species of plant
29 which is a controlled dangerous substance or from which a controlled
30 dangerous substance can be derived; b. kits used or intended for use in
31 manufacturing, compounding, converting, producing, processing, or

1 preparing controlled dangerous substances or controlled substance
2 analogs; c. isomerization devices used or intended for use in increasing the
3 potency of any species of plant which is a controlled dangerous substance;
4 d. testing equipment used or intended for use identifying, or in analyzing
5 the strength, effectiveness or purity of controlled dangerous substances or
6 controlled substance analogs; e. scales and balances used or intended for
7 use in weighing or measuring controlled dangerous substances or
8 controlled substance analogs; f. dilutants and adulterants, such as quinine
9 hydrochloride, mannitol, mannite, dextrose and lactose, used or intended
10 for use in cutting controlled dangerous substances or controlled substance
11 analogs; [g. separation gins and sifters used or intended for use in
12 removing twigs and seeds from, or in otherwise cleaning or refining,
13 marijuana; h] g. blenders, bowls, containers, spoons and mixing devices
14 used or intended for use in compounding controlled dangerous substances
15 or controlled substance analogs; [i]h. capsules, balloons, envelopes and
16 other containers used or intended for use in packaging small quantities of
17 controlled dangerous substances or controlled substance analogs; [j]i.
18 containers and other objects used or intended for use in storing or
19 concealing controlled dangerous substances , controlled substance analogs
20 or toxic chemicals; [k]j. objects used or intended for use in ingesting,
21 inhaling, or otherwise introducing [marijuana,]cocaine, [hashish, hashish
22 oil,] nitrous oxide or the fumes of a toxic chemical into the human body,
23 such as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
24 with or without screens, permanent screens, [hashish heads,] or punctured
25 metal bowls; [(2) water pipes; (3)2) carburetion tubes and devices; ([4]3)
26 smoking and carburetion masks; [(5) roach clips, meaning objects used to
27 hold burning material, such as a marijuana cigarette, that has become too
28 small or too short to be held in the hand; (6]4) miniature cocaine spoons,
29 and cocaine vials; [(7) chamber pipes; (8) carburetor pipes; (9) electric
30 pipes; (10) air-driven pipes; (11) chillums; (12) bongs; (13) ice pipes or
31 chillers; (14]5) compressed gas containers, such as tanks, cartridges or

1 canisters, that contain food grade or pharmaceutical grade nitrous oxide as
2 a principal ingredient; ([15]6) chargers or charging bottles, meaning metal,
3 ceramic or plastic devices that contain an interior pin that may be used to
4 expel compressed gas from a cartridge or canister; and ([16]7) tubes,
5 balloons, bags, fabrics, bottles or other containers used to concentrate or
6 hold in suspension a toxic chemical or the fumes of a toxic chemical.

7 In determining whether or not an object is drug paraphernalia, the trier
8 of fact, in addition to or as part of the proofs, may consider the following
9 factors: a. statements by an owner or by anyone in control of the object
10 concerning its use; b. the proximity of the object of illegally possessed
11 controlled dangerous substances, controlled substance analogs or toxic
12 chemicals; c. the existence of any residue of illegally possessed controlled
13 dangerous substances, controlled substance analogs or toxic chemicals on
14 the object; d. direct or circumstantial evidence of the intent of an owner, or
15 of anyone in control of the object, to deliver it to persons whom he knows
16 intend to use the object to facilitate a violation of this act; the innocence of
17 an owner, or of anyone in control of the object, as to a direct violation of
18 this act shall not prevent a finding that the object is intended for use as
19 drug paraphernalia; e. instructions, oral or written, provided with the
20 object concerning its use; f. descriptive materials accompanying the object
21 which explain or depict its use; g. national or local advertising whose
22 purpose the person knows or should know is to promote the sale of objects
23 intended for use as drug paraphernalia; h. the manner in which the object
24 is displayed for sale; i. the existence and scope of legitimate uses for the
25 object in the community; and j. expert testimony concerning its use.

26

27 38. N.J.S. 2C:33-13 is amended to read as follows:

28 2C:33-13. Smoking in public

29 a. Any person who smokes or carries lighted tobacco, lighted
30 marijuana, or lighted marijuana product in or upon any bus or other public
31 conveyance, except group charter buses, specially marked railroad

1 smoking cars, limousines or livery services, and, when the driver is the
2 only person in the vehicle, autocabs, is a petty disorderly person. For the
3 purposes of this section, “bus” includes school buses and other vehicles
4 owned or contracted for by the governing body, board or individual of a
5 nonpublic school, a public or private college, university, or professional
6 training school, or a board of education of a school district, that are used to
7 transport students to and from school and school- related activities; and
8 the prohibition on smoking or carrying lighted tobacco shall apply even if
9 students are not present in the vehicle.

10 b. Any person who smokes or carries lighted tobacco, lighted
11 marijuana, or lighted marijuana product in any public place, including but
12 not limited to places of public accommodation, where such smoking is
13 prohibited by municipal ordinance under authority of R.S.40:48-1 and
14 40:48-2 or by the owner or person responsible for the operation of the
15 public place, and when adequate notice of such prohibition has been
16 conspicuously posted, is a petty disorderly person. Notwithstanding the
17 provisions of 2C:43-3, the maximum fine which can be imposed for
18 violation of this section is \$200.

19 c. The provisions of this section shall supersede any other statute and
20 any rule or regulation adopted pursuant to law.

21

22 39. N.J.S.2C:35-4 is amended to read as follows:

23 2C:35-4. Except as permitted by P.L.1970, c.226 (C.24:21-1 et
24 seq.), or P.L. , c. (C.) (pending before the Legislature as this bill),
25 any person who knowingly maintains or operates any premises, place or
26 facility used for the manufacture of methamphetamine, lysergic acid
27 diethylamide, phencyclidine, gamma hydroxybutyrate, flunitrazepam,
28 [marijuana in an amount greater than five pounds or ten plants]or any
29 substance listed in Schedule I or II of N.J.S. 24:21, et seq., or the analog of
30 any such substance, or any person who knowingly aids, promotes,
31 finances or otherwise participates in the maintenance or operations of such

1 premises, place or facility, is guilty of a crime of the first degree and shall,
2 except as provided in N.J.S.2C:35-12, be sentenced to a term of
3 imprisonment which shall include the imposition of a minimum term
4 which shall be fixed at, or between, one-third and one-half of the sentence
5 imposed, during which the defendant shall be ineligible for parole.
6 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the
7 court may also impose a fine not to exceed \$750,000.00 or five times the
8 street value of all controlled dangerous substances, controlled substance
9 analogs, gamma hydroxybutyrate or flunitrazepam at any time
10 manufactured or stored at such premises, place or facility, whichever is
11 greater.
12 (cf: P.L.1999, c.133, s.2)

13

14 40. N.J.S.2C:35-5 is amended to read as follows:

15 2C:35-5. Manufacturing, Distributing or Dispensing.

16 a. Except as [authorized] permitted by P.L.1970, c.226 (C.24:21-1 et
17 seq.) or P.L. , c. (C.) (pending before the Legislature as this bill) it
18 shall be unlawful for any person knowingly or purposely:

19 (1) To manufacture, distribute or dispense, or to possess or have under
20 his control with intent to manufacture, distribute or dispense, a controlled
21 dangerous substance, as defined by N.J.S. 24:21, et seq or controlled
22 substance analog; or

23 (2) To create, distribute, or possess or have under his control with
24 intent to distribute, a counterfeit controlled dangerous substance.

25 b. Any person who violates subsection a. with respect to:

26 (1) Heroin, or its analog, or coca leaves and any salt, compound,
27 derivative, or preparation of coca leaves, and any salt, compound,
28 derivative, or preparation thereof which is chemically equivalent or
29 identical with any of these substances, or analogs, except that the
30 substances shall not include decocainized coca leaves or extractions which
31 do not contain cocaine or ecogine, or 3,4-

1 methylenedioxymethamphetamine or 3,4-methylenedioxyamphetamine, in
2 a quantity of five ounces or more including any adulterants or dilutants is
3 guilty of a crime of the first degree. The defendant shall, except as
4 provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment by
5 the court. The term of imprisonment shall include the imposition of a
6 minimum term which shall be fixed at, or between, one-third and one-half
7 of the sentence imposed, during which the defendant shall be ineligible for
8 parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,
9 a fine of up to \$500,000.00 may be imposed;

10 (2) A substance referred to in paragraph (1) of this subsection, in a
11 quantity of one-half ounce or more but less than five ounces, including
12 any adulterants or dilutants is guilty of a crime of the second degree;

13 (3) A substance referred to paragraph (1) of this subsection in a
14 quantity less than one-half ounce including any adulterants or dilutants is
15 guilty of a crime of the third degree except that, notwithstanding the
16 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$75,000.00
17 may be imposed;

18 (4) A substance classified as a narcotic drug in Schedule I or II, as
19 defined by N.J.S. 24:21, et seq other than those specifically covered in this
20 section, or the analog of any such substance, in a quantity of one ounce or
21 more including any adulterants or dilutants is guilty of a crime of the
22 second degree;

23 (5) A substance classified as a narcotic drug in Schedule I or II, as
24 defined by N.J.S. 24:21, et seq., other than those specifically covered in
25 this section, or the analog of any such substance, in a quantity of less than
26 one ounce including any adulterants or dilutants is guilty of a crime of the
27 third degree except that, notwithstanding the provisions of subsection b. of
28 N.J.S.2C:43-3, a fine of up to \$75,000.00 may be imposed;

29 (6) Lysergic acid diethylamide, or its analog, in a quantity of 100
30 milligrams or more including any adulterants or dilutants, or
31 phencyclidine, or its analog, in a quantity of 10 grams or more including

1 any adulterants or dilutants, is guilty of a crime of the first degree. Except
2 as provided in N.J.S.2C:35-12, the court shall impose a term of
3 imprisonment which shall include the imposition of a minimum term,
4 fixed at, or between, one-third and one-half of the sentence imposed by the
5 court, during which the defendant shall be ineligible for parole.

6 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of
7 up to \$500,000.00 may be imposed;

8 (7) Lysergic acid diethylamide, or its analog, in a quantity of less than
9 100 milligrams including any adulterants or dilutants, or where the amount
10 is undetermined, or phencyclidine, or its analog, in a quantity of less than
11 10 grams including any adulterants or dilutants, or where the amount is
12 undetermined, is guilty of a crime of the second degree;

13 (8) Methamphetamine, or its analog, or phenyl-2-propanone (P2P), in
14 a quantity of five ounces or more including any adulterants or dilutants is
15 guilty of a crime of the first degree. Notwithstanding the provisions of
16 subsection a. of N.J.S.2C:43-3, a fine of up to \$300,000.00 may be
17 imposed;

18 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
19 (P2P), in a quantity of one-half ounce or more but less than five ounces
20 including any adulterants or dilutants is guilty of a crime of the second
21 degree;

22 (b) Methamphetamine, or its analog, or phenyl-2-propanone (P2P), in
23 a quantity of less than one-half ounce including any adulterants or
24 dilutants is guilty of a crime of the third degree except that
25 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of
26 up to \$75,000.00 may be imposed;

27 (10) (a) Marijuana in a quantity of 25 pounds or more including any
28 adulterants or dilutants, or 50 or more marijuana plants, regardless of
29 weight, or hashish manufactured without the use of an explosive gas, such
30 as butane, in a quantity of five pounds or more including any adulterants
31 or dilutants, shall be subject to a civil penalty of \$250 for the first

1 violation, \$500 for the second violation, and \$1,000 for the third and each
2 subsequent violation[is guilty of a crime of the second
3 degree. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,
4 a fine of up to \$300,000.00 may be imposed];

5 (11) (b) Marijuana in a quantity of five pounds or more but less
6 than 25 pounds including any adulterants or dilutants, or 10 or more but
7 fewer than 50 marijuana plants, regardless of weight, or hashish
8 manufactured without the use of an explosive gas, such as butane, in a
9 quantity of one pound or more but less than five pounds, including any
10 adulterants and dilutants, shall be subject to a civil penalty of \$200 for the
11 first violation, \$350 for the second violation, and \$750 for the third and
12 each subsequent violation [is guilty of a crime of the third
13 degree];Marijuana in a quantity of [one ounce]more than 50 grams [or
14 more]but less than five pounds including any adulterants or dilutants, or
15 hashish manufactured without the use of explosive an gas, such as butane,
16 in a quantity of [five]more than 14 grams [or more]but less than one
17 pound including any adulterants or dilutants, shall be subject to a civil
18 penalty of \$150 for a first violation, \$200 for a second violation, and \$500
19 for a third or subsequent violation[is guilty of a crime of the fourth degree
20 except that, notwithstanding the provisions of subsection b.
21 of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed];

22 (12) Marijuana in a quantity of [less than one ounce]50 grams or less
23 including any adulterants or dilutants or hashish manufactured without the
24 use of an explosive gas, such as butane, in a quantity of [less than five]14
25 grams or less including any adulterants or dilutants by a person under the
26 age of 21 years, shall be subject to a civil penalty of \$100 [is guilty of a
27 crime of the fourth degree];

28 (13) (a) Hashish manufactured with the use of an explosive gas, such as
29 butane, and without a license pursuant to section 9 of Section 9 of P.L.
30 c. (C.) (pending before the Legislature as this bill) in a quantity of

1 five pounds or more including adulterants or dilutants, is guilty of a crime
2 in the third degree;

3 (b) Hashish manufactured with the use of an explosive gas, such as
4 butane, and without a license pursuant to section 9 of Section 9 of P.L.
5 c. (C.) (pending before the Legislature as this bill) in a quantity of
6 one pound or more but less than five pounds, including any adulterants
7 and dilutants is guilty of a crime in the fourth degree;

8 (c) Hashish manufactured with the use of an explosive gas, such as
9 butane, and without a license pursuant to section 9 of Section 9 of P.L.
10 c. (C.) (pending before the Legislature as this bill) in a quantity of
11 more than 14 grams but less than one pound including any adulterants or
12 dilutants is a disorderly person;

13 (d) Hashish manufactured with the use of an explosive gas, such as
14 butane and without a license pursuant to section 9 of Section 9 of P.L. c.
15 (C.) (pending before the Legislature as this bill) in a quantity of 14
16 grams or less including any adulterants or dilutants, shall be subject to a
17 civil penalty of \$150 for a first violation, \$200 for a second violation, and
18 \$500 for a third or subsequent violation;

19 ~~[(13)]~~(14) Any other controlled dangerous substance classified in
20 Schedule I, II, III or IV, as defined by N.J.S. 24:21, et seq., or its analog, is
21 guilty of a crime of the third degree, except that, notwithstanding the
22 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00
23 may be imposed; or

24 ~~[(14)]~~(15)Any Schedule V substance, or its analog, is guilty of a crime
25 of the fourth degree except that, notwithstanding the provisions of
26 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be
27 imposed.

28 c. Where the degree of the offense for violation of this section
29 depends on the quantity of the substance, the quantity involved shall be
30 determined by the trier of fact. Where the indictment or accusation so
31 provides, the quantity involved in individual acts of manufacturing,

1 distribution, dispensing or possessing with intent to distribute may be
2 aggregated in determining the grade of the offense, whether distribution or
3 dispensing is to the same person or several persons, provided that each
4 individual act of manufacturing, distribution, dispensing or possession
5 with intent to distribute was committed within the applicable statute of
6 limitations.

7 (cf: P.L.2000, c.136)

8 d. The civil penalties in this section shall be collected pursuant to the
9 “Penalty Enforcement Law of 1999,” [P.L.1999, c. 274 \(C.2A:58-10 et](#)
10 [seq.\)](#).

11

12

13 41. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read as
14 follows:

15 a. a. Any person who violates subsection a. of [N.J.S.2C:35-5](#) by
16 distributing, dispensing or possessing with intent to distribute a controlled
17 dangerous substance, as defined by N.J.S. 24:21, et seq., or controlled
18 substance analog while on any school property used for school purposes
19 which is owned by or leased to any elementary or secondary school or
20 school board, or within 1,000 feet of such school property or a school bus,
21 or while on any school bus, is guilty of a crime of the third degree and
22 shall, except as provided in [N.J.S.2C:35-12](#), be sentenced by the court to a
23 term of imprisonment. [Where the violation involves less than one ounce
24 of marijuana, the term of imprisonment shall include the imposition of a
25 minimum term which shall be fixed at, or between, one-third and one-half
26 of the sentence imposed, or one year, whichever is greater, during which
27 the defendant shall be ineligible for parole.] In all other cases, the term of
28 imprisonment shall include the imposition of a minimum term which shall
29 be fixed at, or between, one-third and one-half of the sentence imposed, or
30 three years, whichever is greater, during which the defendant shall be
31 ineligible for parole. Notwithstanding the provisions of subsection b. of

1 [N.J.S.2C:43-3](#), a fine of up to \$150,000 may also be imposed upon any
2 conviction for a violation of this section.

3 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or
4 subsection a. of this section, the court may waive or reduce the minimum
5 term of parole ineligibility required under subsection a. of this section or
6 place the defendant on probation pursuant to paragraph (2) of subsection
7 b. of N.J.S.2C:43-2. In making this determination, the court shall
8 consider:

9 (a) the extent of the defendant's prior criminal record and the
10 seriousness of the offenses for which the defendant has been convicted;

11 (b) the specific location of the present offense in relation to the
12 school property, including distance from the school and the reasonable
13 likelihood of exposing children to drug-related activities at that location;

14 (c) whether school was in session at the time of the offense; and

15 (d) whether children were present at or in the immediate vicinity of
16 the location when the offense took place.

17 (2) The court shall not waive or reduce the minimum term of parole
18 ineligibility or sentence the defendant to probation if it finds that:

19 (a) the offense took place while on any school property used for
20 school purposes which is owned by or leased to any elementary or
21 secondary school or school board, or while on any school bus; or

22 (b) the defendant in the course of committing the offense used or
23 threatened violence or was in possession of a firearm.

24 If the court at sentencing elects not to impose a minimum term of
25 imprisonment and parole ineligibility pursuant to this subsection, imposes
26 a term of parole ineligibility less than the minimum term prescribed in
27 subsection a. of this section, or places the defendant on probation for a
28 violation of subsection a. of this section, the sentence shall not become
29 final for 10 days in order to permit the prosecution to appeal the court's
30 finding and the sentence imposed. The Attorney General shall develop
31 guidelines to ensure the uniform exercise of discretion in making

1 determinations regarding whether to appeal a decision to waive or reduce
2 the minimum term of parole ineligibility or place the defendant on
3 probation.

4 Nothing in this subsection shall be construed to establish a basis for
5 overcoming a presumption of imprisonment authorized or required by
6 subsection d. of N.J.S.2C:44-1, or a basis for not imposing a term of
7 imprisonment or term of parole ineligibility authorized or required to be
8 imposed pursuant to subsection f. of N.J.S.2C:43-6 or upon conviction for
9 a crime other than the offense set forth in this subsection.

10 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
11 provisions of law, a conviction arising under this section shall not merge
12 with a conviction for a violation of subsection a. of N.J.S.2C:35-5
13 (manufacturing, distributing or dispensing) or N.J.S.2C:35-6 (employing a
14 juvenile in a drug distribution scheme).

15 d. It shall be no defense to a prosecution for a violation of this section
16 that the actor was unaware that the prohibited conduct took place while on
17 or within 1,000 feet of any school property. Nor shall it be a defense to a
18 prosecution under this section, or under any other provision of this title,
19 that no juveniles were present on the school property at the time of the
20 offense or that the school was not in session.

21 e. It is an affirmative defense to prosecution for a violation of this
22 section that the prohibited conduct took place entirely within a private
23 residence, that no person 17 years of age or younger was present in such
24 private residence at any time during the commission of the offense, and
25 that the prohibited conduct did not involve distributing, dispensing or
26 possessing with the intent to distribute or dispense any controlled
27 dangerous substance or controlled substance analog for profit. The
28 affirmative defense established in this section shall be proved by the
29 defendant by a preponderance of the evidence. Nothing herein shall be
30 construed to establish an affirmative defense with respect to a prosecution
31 for an offense defined in any other section of this chapter.

1 f. In a prosecution under this section, a map produced or reproduced
2 by any municipal or county engineer for the purpose of depicting the
3 location and boundaries of the area on or within 200 feet of any property
4 used for school purposes which is owned by or leased to any elementary
5 or secondary school or school board, or a true copy of such a map, shall,
6 upon proper authentication, be admissible and shall constitute prima facie
7 evidence of the location and boundaries of those areas, provided that the
8 governing body of the municipality or county has adopted a resolution or
9 ordinance approving the map as official finding and record of the location
10 and boundaries of the area or areas on or within 200 feet of the school
11 property. Any map approved pursuant to this section may be changed
12 from time to time by the governing body of the municipality or
13 county. The original of every map approved or revised pursuant to this
14 section, or a true copy thereof, shall be filed with the clerk of the
15 municipality or county, and shall be maintained as an official record of the
16 municipality or county. Nothing in this section shall be construed to
17 preclude the prosecution from introducing or relying upon any other
18 evidence or testimony to establish any element of this offense; nor shall
19 this section be construed to preclude the use or admissibility of any map or
20 diagram other than one which has been approved by the governing body of
21 a municipality or county, provided that the map or diagram is otherwise
22 admissible pursuant to the Rules of Evidence.

23 (cf: P.L.2009, c.192, s.1)

24

25 42. Section 1 of P.L.1997, c.327 (C.2C:35-7.1) is amended to read as
26 follows:

27 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
28 distributing, dispensing or possessing with intent to distribute a controlled
29 dangerous substance, as defined by N.J.S. 24:21, et seq., or controlled
30 substance analog while in, on or within 500 feet of the real property
31 comprising a public housing facility, a public park, or a public building is

1 guilty of a crime of the second degree[, except that it is a crime of the third
2 degree if the violation involved less than one ounce of marijuana].

3 b. It shall be no defense to a prosecution for violation of this section
4 that the actor was unaware that the prohibited conduct took place while on
5 or within 500 feet of a public housing facility, a public park, or a public
6 building.

7 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
8 provisions of law, a conviction arising under this section shall not merge
9 with a conviction for a violation of subsection a. of N.J.S.2C:35-5
10 (manufacturing, distributing or dispensing) or N.J.S.2C:35-6 (employing a
11 juvenile in a drug distribution scheme). Nothing in this section shall be
12 construed to preclude or limit a prosecution or conviction for a violation of
13 N.J.S.2C:35-7 or any other offense defined in this chapter.

14 d. It is an affirmative defense to prosecution for a violation of this
15 section that the prohibited conduct did not involve distributing, dispensing
16 or possessing with the intent to distribute or dispense any controlled
17 dangerous substance or controlled substance analog for profit, and that the
18 prohibited conduct did not involve distribution to a person 17 years of age
19 or younger. The affirmative defense established in this section shall be
20 proved by the defendant by a preponderance of the evidence. Nothing
21 herein shall be construed to establish an affirmative defense with respect
22 to a prosecution for an offense defined in any other section of this chapter.

23 e. In a prosecution under this section, a map produced or reproduced
24 by any municipal or county engineer for the purpose of depicting the
25 location and boundaries of the area on or within 500 feet of a public
26 housing facility which is owned by or leased to a housing authority
27 according to the "Local Redevelopment and Housing Law," P.L.1992,
28 c.79 (C.40A:12A-1 et seq.), the area in or within 500 feet of a public park,
29 or the area in or within 500 feet of a public building, or a true copy of such
30 a map, shall, upon proper authentication, be admissible and shall
31 constitute prima facie evidence of the location and boundaries of those

1 areas, provided that the governing body of the municipality or county has
2 adopted a resolution or ordinance approving the map as official finding
3 and record of the location and boundaries of the area or areas on or within
4 500 feet of a public housing facility, a public park, or a public
5 building. Any map approved pursuant to this section may be changed
6 from time to time by the governing body of the municipality or
7 county. The original of every map approved or revised pursuant to this
8 section, or a true copy thereof, shall be filed with the clerk of the
9 municipality or county, and shall be maintained as an official record of the
10 municipality or county. Nothing in this section shall be construed to
11 preclude the prosecution from introducing or relying upon any other
12 evidence or testimony to establish any element of this offense; nor shall
13 this section be construed to preclude the use or admissibility of any map or
14 diagram other than one which has been approved by the governing body of
15 a municipality or county, provided that the map or diagram is otherwise
16 admissible pursuant to the Rules of Evidence.

17 f. As used in this act:

18 “Public housing facility” means any dwelling, complex of dwellings,
19 accommodation, building, structure or facility and real property of any
20 nature appurtenant thereto and used in connection therewith, which is
21 owned by or leased to a local housing authority in accordance with the
22 “Local Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1
23 et seq.) for the purpose of providing living accommodations to persons of
24 low income.

25 “Public park” means a park, recreation facility or area or playground
26 owned or controlled by a State, county or local government unit.

27 “Public building” means any publicly owned or leased library or
28 museum.

29 (cf: P.L.1997, c.327, s.1)

30

31 43. N.J.S.2C:35-10 is amended to read as follows:

1 2C:35-10. Possession, Use or Being Under the Influence, or Failure to
2 Make Lawful Disposition.

3 a. It is unlawful for any person, knowingly or purposely, to obtain, or
4 to possess, actually or constructively, a controlled dangerous substance or
5 controlled substance analog, unless the substance was obtained directly, or
6 pursuant to a valid prescription or order form from a practitioner, while
7 acting in the course of his professional practice, or except as otherwise
8 [authorized] permitted by P.L.1970, c.226 (C.24:21-1 et seq.) or
9 P.L. , c. (C.) (pending before the Legislature as this bill). Any
10 person who violates this section with respect to:

11 (1) A controlled dangerous substance, or its analog, classified in
12 Schedule I, II, III or IV other than those specifically covered in this
13 section, is guilty of a crime of the third degree except that,
14 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of
15 up to \$35,000.00 may be imposed;

16 (2) Any controlled dangerous substance, or its analog, classified in
17 Schedule V, is guilty of a crime of the fourth degree except that,
18 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of
19 up to \$15,000.00 may be imposed;

20 (3) Possession of more than 50 grams of marijuana, including any
21 adulterants or dilutants, or more than [five]14 grams of hashish is not a
22 violation of this title, but shall be subject to the penalties set forth in
23 section 47 of P.L. , c. (C.) (pending before the Legislature as this
24 bill)]guilty of a crime of the fourth degree, except that, notwithstanding
25 the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
26 \$25,000.00 may be imposed]; or

27 (4) Possession of 50 grams or less of marijuana, including any
28 adulterants or dilutants, or [five]14 grams or less of hashish by a person
29 under 21 years of age, is not a violation of this title, but shall be subject to
30 the penalties set forth in section 47 of P.L. , c. (C.) (pending before
31 the Legislature as this bill).

1 Any person who commits any offense defined in this section while on
2 any property used for school purposes which is owned by or leased to any
3 elementary or secondary school or school board, or within 1,000 feet of
4 any such school property or a school bus, or while on any school bus, and
5 who is not sentenced to a term of imprisonment, shall, in addition to any
6 other sentence which the court may impose, be required to perform not
7 less than 100 hours of community service.

8 b. Any person who uses or who is under the influence of any
9 controlled dangerous substance, or its analog, for a purpose other than the
10 treatment of sickness or injury as lawfully prescribed or administered by a
11 physician is a disorderly person. Notwithstanding the provisions of this
12 subsection, it shall not be a violation of this section for a person to be
13 under the influence of marijuana.

14 In a prosecution under this subsection, it shall not be necessary for
15 the State to prove that the accused did use or was under the influence of
16 any specific drug, but it shall be sufficient for a conviction under this
17 subsection for the State to prove that the accused did use or was under the
18 influence of some controlled dangerous substance, counterfeit controlled
19 dangerous substance, or controlled substance analog, other than marijuana,
20 by proving that the accused did manifest physical and physiological
21 symptoms or reactions caused by the use of any controlled dangerous
22 substance or controlled substance analog.

23 c. Any person who knowingly obtains or possesses a controlled
24 dangerous substance or controlled substance analog in violation of
25 subsection a. of this section and who fails to voluntarily deliver the
26 substance to the nearest law enforcement officer is guilty of a disorderly
27 persons offense. Nothing in this subsection shall be construed to preclude
28 a prosecution or conviction for any other offense defined in this title or
29 any other statute. This subsection shall not apply to possession of 50
30 grams or less of marijuana or 14 grams or less of hashish.

31 (cf: P.L.1997, c.181, s.6)

1

2 44. N.J.S.2C:36-1 is amended to read as follows:

3 As used in this act, “drug paraphernalia” means all equipment, products
4 and materials of any kind which are used or intended for use in planting,
5 propagating, cultivating, growing, harvesting, manufacturing,
6 compounding, converting, producing, processing, preparing, testing,
7 analyzing, packaging, repackaging, storing, containing, concealing,
8 ingesting, inhaling, or otherwise introducing into the human body a
9 controlled dangerous substance , controlled substance analog or toxic
10 chemical in violation of the provisions of chapter 35 of this title. It shall
11 include, but not be limited to: a. kits used or intended for use in planting,
12 propagating, cultivating, growing or harvesting of any species of plant
13 which is a controlled dangerous substance or from which a controlled
14 dangerous substance can be derived; b. kits used or intended for use in
15 manufacturing, compounding, converting, producing, processing, or
16 preparing controlled dangerous substances or controlled substance
17 analogs; c. isomerization devices used or intended for use in increasing the
18 potency of any species of plant which is a controlled dangerous substance;
19 d. testing equipment used or intended for use identifying, or in analyzing
20 the strength, effectiveness or purity of controlled dangerous substances or
21 controlled substance analogs; e. scales and balances used or intended for
22 use in weighing or measuring controlled dangerous substances or
23 controlled substance analogs; f. dilutants and adulterants, such as quinine
24 hydrochloride, mannitol, mannite, dextrose and lactose, used or intended
25 for use in cutting controlled dangerous substances or controlled substance
26 analogs; g. [separation gins and sifters used or intended for use in
27 removing twigs and seeds from, or in otherwise cleaning or refining,
28 marihuana; h.]blenders, bowls, containers, spoons and mixing devices
29 used or intended for use in compounding controlled dangerous substances
30 or controlled substance analogs; [i]h. capsules, balloons, envelopes and
31 other containers used or intended for use in packaging small quantities of

1 controlled dangerous substances or controlled substance analogs; [j].
2 containers and other objects used or intended for use in storing or
3 concealing controlled dangerous substances , controlled substance analogs
4 or toxic chemicals; k. objects used or intended for use in ingesting,
5 inhaling, or otherwise introducing [marihuana,]cocaine, [hashish, hashish
6 oil,]nitrous oxide or the fumes of a toxic chemical into the human body,
7 such as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
8 with or without screens, permanent screens, [hashish heads,]or punctured
9 metal bowls; (2) water pipes; (3) carburetion tubes and devices; (4)
10 smoking and carburetion masks; (5) roach clips, meaning objects used to
11 hold burning material, [such as a marihuana cigarette,]that has become
12 too small or too short to be held in the hand; (6) miniature cocaine spoons,
13 and cocaine vials; (7) chamber pipes; (8) carburetor pipes; (9) electric
14 pipes; (10) air-driven pipes; (11) chillums; (12) bongs; (13) ice pipes or
15 chillers; (14) compressed gas containers, such as tanks, cartridges or
16 canisters, that contain food grade or pharmaceutical grade nitrous oxide as
17 a principal ingredient; (15) chargers or charging bottles, meaning metal,
18 ceramic or plastic devices that contain an interior pin that may be used to
19 expel compressed gas from a cartridge or canister; and (16) tubes,
20 balloons, bags, fabrics, bottles or other containers used to concentrate or
21 hold in suspension a toxic chemical or the fumes of a toxic chemical.

22 In determining whether or not an object is drug paraphernalia, the trier
23 of fact, in addition to or as part of the proofs, may consider the following
24 factors: a. statements by an owner or by anyone in control of the object
25 concerning its use; b. the proximity of the object of illegally possessed
26 controlled dangerous substances , controlled substance analogs or toxic
27 chemicals; c. the existence of any residue of illegally possessed controlled
28 dangerous substances , controlled substance analogs or toxic chemicals on
29 the object; d. direct or circumstantial evidence of the intent of an owner, or
30 of anyone in control of the object, to deliver it to persons whom he knows
31 intend to use the object to facilitate a violation of this act; the innocence of

1 an owner, or of anyone in control of the object, as to a direct violation of
2 this act shall not prevent a finding that the object is intended for use as
3 drug paraphernalia; e. instructions, oral or written, provided with the
4 object concerning its use; f. descriptive materials accompanying the object
5 which explain or depict its use; g. national or local advertising whose
6 purpose the person knows or should know is to promote the sale of objects
7 intended for use as drug paraphernalia; h. the manner in which the object
8 is displayed for sale; i. the existence and scope of legitimate uses for the
9 object in the community; and j. expert testimony concerning its use.

10

11 45. N.J.S.2C:36-2 is amended to read as follows:

12 2C:36-2. Use or possession with intent to use, disorderly persons
13 offense.

14 It shall be unlawful for any person to use, or to possess with intent to
15 use, drug paraphernalia to plant, propagate, cultivate, grow, harvest,
16 manufacture, compound, convert, produce, process, prepare, test, analyze,
17 pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce
18 into the human body a controlled dangerous substance, controlled
19 substance analog or toxic chemical in violation of the provisions of
20 chapter 35 of this title. Any person who violates this section is guilty of a
21 disorderly persons offense.

22 Use, or possession with intent to use, marijuana paraphernalia is not a
23 violation of this title but shall be subject to the penalties set forth in
24 section 48 of P.L. , c. (C.) (pending before the Legislature as this
25 bill).

26 (cf: P.L.2007, c.31, s.3)

27

28 46. N.J.S.2B:12-17 is amended to read as follows:

29 2B:12-17. Jurisdiction of specified offenses. A municipal court has
30 jurisdiction over the following cases within the territorial jurisdiction of
31 the court:

- 1 a. Violations of county or municipal ordinances;
- 2 b. Violations of the motor vehicle and traffic laws;
- 3 c. Disorderly persons offenses, petty disorderly persons offenses and
4 other non-indictable offenses except where exclusive jurisdiction is given
5 to the Superior Court;
- 6 d. Violations of the fish and game laws;
- 7 e. Proceedings to collect a penalty where jurisdiction is granted by
8 statute;
- 9 f. Violations of laws regulating boating; **[and]**
- 10 g. Violations of section 47 and 48 of P.L. , c. (C.) (pending
11 before the Legislature as this bill); and
- 12 h. Any other proceedings where jurisdiction is granted by statute.
13 (cf: P.L.1996, c.95, s.12)

14
15 47. Section 1 of P.L.1964, c.289 (C.39:4-49.1) is amended to read as
16 follows:

17 1. No person shall operate a motor vehicle on any highway while
18 knowingly having in his possession or in the motor vehicle any controlled
19 dangerous substance as classified in Schedules I, II, III, IV and V of the
20 “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226
21 (C.24:21-1 et seq.) or any prescription legend drug, unless the person has
22 obtained the substance or drug from, or on a valid written prescription of,
23 a duly licensed physician, veterinarian, dentist or other medical
24 practitioner licensed to write prescriptions intended for the treatment or
25 prevention of disease in man or animals or unless the person possesses a
26 controlled dangerous substance pursuant to a lawful order of a practitioner
27 or lawfully possesses a Schedule V substance.

28 A person who violates this section shall be fined not less than \$50.00
29 and shall forthwith forfeit his right to operate a motor vehicle for a period
30 of two years from the date of his conviction. This section shall not apply
31 to possession of 50 grams or less of marijuana or 14 grams or less of

1 hashish or the lawful possession of more than 50 grams of marijuana or 14
2 grams of hashish pursuant to P.L. , c. (C.) (pending before the
3 Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.).
4 (cf: P.L.1985, c.239, s.1)

5

6 48. (New section) Penalties.

7 a. Any person under 21 years of age who possesses less than 50 grams
8 of marijuana or 14 grams or less of hashish, except as permitted by P.L. ,
9 c. (C.) (pending before the Legislature as this bill) or P.L.2009,
10 c.307 (C.24:6I-1 et al.), shall be subject to a \$100 civil penalty. No
11 additional fines, penalties, or fees shall be imposed by the court, except
12 court costs.

13 b. Any person 21 years of age and older who possesses more than 50
14 grams of marijuana or more than 14 grams of hashish, except as permitted
15 by P.L. , c. (C.) (pending before the Legislature as this bill) or
16 P.L.2009, c.307 (C.24:6I-1 et al.), shall be subject to the following civil
17 penalties:

- 18 (1) \$150 for a first violation;
19 (2) \$200 for a second violation;
20 (3) \$500 for a third or subsequent violation.

21 No additional fines, penalties, or fees shall be imposed by the court,
22 except court costs.

23 c. Any person under 21 years of age who possesses more than 50
24 grams of marijuana or more than 14 grams of hashish, except as permitted
25 by P.L.2009, c.307 (C.24:6I-1 et al.) is a disorderly person.

26 d. The civil penalties established in subsection a. and b. of this
27 section shall be collected pursuant to the “Penalty Enforcement Law of
28 1999,” [P.L.1999, c. 274 \(C.2A:58-10 et seq.\)](#).

29 e. A violation of subsection a. or b. of this section shall be proved by
30 a preponderance of the evidence. A violation of subsection c. shall be
31 proved beyond a reasonable doubt.

1

2 49. (New section) Expungement for Crimes Repealed by this Act.

3 a. In all cases wherein a person has been arrested or convicted of a
4 crime under the laws of this State and who would not have been arrested
5 or found guilty of a crime under the New Jersey Tax, Regulate and
6 Control Marijuana Act, P.L. c. (C.) (pending before the
7 Legislature as this bill), had that Act been in effect at the time of the
8 crime, such person may present a duly verified petition to the Superior
9 Court in the county in which the conviction was entered praying that such
10 conviction and all records and information pertaining thereto be expunged.

11 (1) The application for expungement shall proceed pursuant to
12 N.J.S.2C:52-1 et seq. except that the requirements related to the expiration
13 of the time periods specified in N.J.S. 2C:52-3 through section 1 of P.L.
14 1980, c. 163 shall not apply.

15 (2) No fee shall be charged to the person making such application.

16 (3) Unless requested by the applicant, no hearing is necessary to grant
17 or deny an application filed under subsection a.

18 (4) Expungement shall have the same meaning as in N.J.S.2C:52-1.

19 b. The Superior Court shall grant an expungement pursuant to this
20 section where the Court finds the application for expungement meets the
21 criteria in subsection a.

22 c. Nothing in this section is intended to diminish or abrogate any
23 rights or remedies otherwise available to the applicant.

24

25 50. (New section) Resentencing for Crimes Amended by this Act.

26 a. In all cases wherein a person has been convicted of a crime under
27 the laws of this State and for which the crime or penalty has been amended
28 by the New Jersey Tax, Regulate and Control Marijuana Act, P.L. c.
29 (C.) (pending before the Legislature as this bill), such person may
30 present a duly verified petition to the Superior Court in the county in

1 which the conviction was entered praying that such person be resentenced
2 and such conviction be reclassified in accordance with the Act.

3 (1) The application for resentencing shall proceed pursuant to
4 N.J.S.2C:52-1 et seq. except that the requirements related to the expiration
5 of the time periods specified in N.J.S. 2C:52-3 through section 1 of P.L.
6 1980, c. 163 shall not apply.

7 (2) No fee shall be charged to the person making such application.

8 (3) Unless requested by the applicant, no hearing is necessary to grant
9 or deny an application filed under subsection a.

10 b. The Superior Court shall grant an application pursuant to this
11 section where the Court finds the application for resentencing meets the
12 criteria in subsection a.

13 c. Nothing in this section is intended to diminish or abrogate any
14 rights or remedies otherwise available to the applicant.

15 d. Any person who is resentenced pursuant to this section shall be
16 given credit for any time in custody already served.

17 e. Under no circumstances may resentencing under this section result
18 in the imposition of a term longer than the original sentence.

19

20

21 51. (New section) Retroactive application.

22 The New Jersey Tax, Regulate and Control Marijuana Act, P.L. c.
23 (C.) (pending before the Legislature as this bill), shall apply to arrests
24 and convictions which occurred prior to, and which occur on or
25 subsequent to, the effective date of this act.

26

27 52. (New section) Industrial hemp.

28 The possession, use, purchase, sale, production, manufacture,
29 packaging, labeling, transporting, storage, distribution, use and transfer of
30 industrial hemp shall not be subject to the provisions of P.L. c. (C.
31) (pending before the Legislature as this bill) with the exception of

1 Sections 52, 53 and 56 of P.L. c. (C.) (pending before the
2 Legislature as this bill).

3

4 53. (New section) Industrial hemp farming.

5 a. Notwithstanding any other law, or rule or regulation adopted
6 pursuant thereto, to the contrary, a person may plant, grow, harvest,
7 possess, process, distribute, buy, or sell industrial hemp in the State,
8 provided the person complies with the rules and regulations adopted
9 pursuant to subsection b.

10 b. In consultation with the Attorney General, the Secretary of
11 Agriculture shall adopt, pursuant to the “Administrative Procedure Act,”
12 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations providing for
13 the administrative and enforcement responsibilities of the Department of
14 Agriculture pursuant to this act, including, but not necessarily limited to:

15 (1) Establishment of approved varieties of industrial hemp and
16 methods to distinguish it from any type of marijuana;

17 (2) Protocols for testing plant parts during growth for delta-9
18 tetrahydrocannabinol;

19 (3) Guidelines for monitoring the growth and harvest of industrial
20 hemp;

21 (4) Penalties necessary for the administration and enforcement of this
22 act; and

23 (5) Any other issues required to implement this act.

24 c. The Secretary of Agriculture may defer to the Attorney General
25 rulemaking on any of the issues enumerated above if they determine in the
26 interest of public safety, that the issue is better addressed by the
27 Department of Law and Public Safety than by the Department of
28 Agriculture.

29 d. Annually, at the time required under the rules and regulations
30 adopted pursuant to subsection b., each person planting, growing,
31 harvesting, processing, distributing, or selling industrial hemp, or

1 possessing industrial hemp for any such purposes, shall file with the
2 Secretary of Agriculture documentation indicating that the industrial hemp
3 is a type and variety of hemp approved by the secretary as having a
4 concentration of no more than 0.3% delta-9-tetrahydrocannabinol by dry
5 weight; and

6 e. Any person violating this act shall be subject to penalties
7 established pursuant to subsection b. or pursuant to other applicable State
8 and federal laws.

9
10 54. (New section) Industrial hemp licensing.

11 a. Not later than six months following the effective date of P.L. c.
12 (C.) (pending before the Legislature as this bill), the Secretary of
13 Agriculture shall make and prescribe rules and regulations as may be
14 necessary to establish an industrial hemp licensing structure under P.L.
15 c. (C.) (pending before the Legislature as this bill) and in
16 accordance with the “Administrative Procedure Act,” P.L.1968, c.410
17 (C.52:14B-1 et seq.). Such rules and regulations shall be consistent with
18 the purposes and intent of P.L. c. (C.) (pending before the
19 Legislature as this bill). Such regulations shall include:

20 (1) Procedures for the issuance, renewal, suspension, and revocation
21 of a license to cultivate industrial hemp, with such procedures subject to
22 all requirements of the “Administrative Procedure Act,” P.L.1968, c.410
23 (C.52:14B-1 et seq.);

24 (2) A schedule of application, licensing and renewal fees;

25 (3) Qualifications for licensure that are directly and demonstrably
26 related to the operation of an industrial hemp farm.

27

28 55. (New section) Writ of mandamus.

29 Any person may commence a legal action for a writ of mandamus to
30 compel the Division to perform the acts mandated by this P.L. c. (C.
31) (pending before the Legislature as this bill).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

56. (New section) Severability.

If any provision in this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

57. (New section) Enactment.

This act shall take effect on the 30th day after enactment.

STATEMENT

This bill would legalize and regulate the cultivation, possession and personal use of small amounts of marijuana for adults age 21 and older.

The bill establishes a Division of Marijuana Control within the Department of Law and Public Safety and grants the Division the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity within New Jersey. The Division shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce its respective duties as outlined by the legislation, including the issuance of rules and regulations that promote and encourage full participation in the regulated marijuana industry by people from communities disproportionately harmed by marijuana prohibition and enforcement.

The bill also provides for local jurisdiction regulations or ordinances. The local jurisdiction may enact ordinances or regulations, including but not limited to, local zoning and land use requirements, business license requirements, not in conflict with the provisions of the bill, governing the time, place and manner so long as such regulations are not unreasonably impracticable. Subject to certain restrictions, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or

1 marijuana products on the premises of a marijuana retailer or
2 microbusiness.

3 Under the bill, the Division is granted the authority to issue licenses
4 that it deems necessary to carry out the purpose of the legislation,
5 including, but not limited to, licenses to marijuana cultivators, marijuana
6 manufacturers, marijuana microbusinesses, marijuana nurseries, marijuana
7 distributors, marijuana retailers and marijuana testing facilities.

8 The bill establishes the following taxes to be levied and imposes:

9 (1) A cultivation tax upon all harvested marijuana that enters the
10 commercial market upon all persons required to be licensed to cultivate
11 marijuana;

12 (2) A nursery tax upon all immature plants that enter the commercial
13 market upon all persons required to be licensed to produce immature
14 plants;

15 (3) A tax upon marijuana sold or otherwise transferred by a marijuana
16 cultivation facility to a marijuana product manufacturing facility or to a
17 retail marijuana store at a rate equivalent to the rate established under the
18 “Sales and Use Tax Act,” and

19 (4) A marijuana excise tax upon customers of nonmedical marijuana
20 or nonmedical marijuana products sold in this State by a retailer,
21 microbusiness, or other person required to be licensed.

22 The Division of Taxation shall establish procedures for the collection of
23 all taxes levied. The bill specifies that no tax would be levied upon
24 marijuana intended for sale at alternative treatment centers pursuant to the
25 “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009,
26 c.307 (C.24:6I-1 et seq.).

27 The bill requires all revenue to be deposited into the Dedicated
28 Marijuana Tax Revenue Fund and mandates how the State Treasurer shall
29 disburse the revenue from the fund. After the State Treasurer disburses
30 reasonable costs to the Division of Taxation and the Division, the State
31 Treasurer shall, in the order below:

- 1 (1) Disburse the sum of \$1,000,000 to Rutgers University annually to
2 research and evaluate the implementation and effect of the bill;
- 3 (2) Deposit 25% of remaining revenues in a fund dedicated to public
4 education;
- 5 (3) Deposit 25% of remaining revenues in the “Transportation Trust
6 Fund;”
- 7 (4) Deposit 50% of the remaining revenues in the Drug Treatment and
8 Public Education Fund, to support programs for youth that are designed to
9 educate about and to prevent substance use disorders and to prevent harm
10 from substance use; and finally,
- 11 (5) Deposit the remaining 50% of revenues in the Community Grants
12 Reinvestment Fund that shall administer the monies to local health
13 departments and community-based nonprofit organizations for the purpose
14 or reinvesting in communities disproportionately affected by past federal
15 and state drug policies.