

# ASSEMBLY, No. 3581

# STATE OF NEW JERSEY

## 218th LEGISLATURE

INTRODUCED MARCH 12, 2018

**Sponsored by:**  
**Assemblyman REED GUSCIORA**  
**District 15 (Hunterdon and Mercer)**

### SYNOPSIS

Legalizes possession, personal use, cultivation, manufacture and distribution of small amounts of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure.

### CURRENT VERSION OF TEXT

As introduced.

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

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

1. This act shall be known and may be cited as “New Jersey Adult Recreational Use Marijuana Law.”
2. (New Section) Findings. The Legislature finds and declares that:
  - a. It is the intent of the people of New Jersey to adopt a new approach to our marijuana policies by taxing, controlling and legalizing marijuana like alcohol for adults;
  - b. It is the intent of the people of New Jersey that the provisions of this act will prevent the sale or distribution of marijuana to persons under 21 years of age;
  - c. This act is designed to eliminate the problems caused by the unregulated manufacture, distribution, and use of marijuana within New Jersey;
  - d. This act will divert funds from marijuana sales from going to illegal enterprises, gangs, and cartels;

- e. New Jersey law enforcement officers made over 24,000 arrests for marijuana possession in 2012, more than in the previous 20 years;
- f. In 2012, a person was arrested for marijuana possession in New Jersey approximately every 22 minutes;
- g. Black New Jerseyans are nearly three times more likely to be arrested for marijuana possession than white New Jerseyans, despite similar usage rates;
- h. Marijuana possession arrests constituted three out of every five drug arrests in New Jersey in 2012;
- i. New Jersey spends approximately \$127 million per year on marijuana possession enforcement costs;
- j. Taxing, controlling, and legalizing marijuana for adults like alcohol will free up precious resources to allow our criminal justice system to focus on serious crime and public safety issues;
- k. Taxing, controlling, and legalizing marijuana for adults like alcohol will strike a blow at the illegal enterprises that profit from New Jersey's current, unregulated marijuana illegal market;
- l. New Jersey must strengthen our support for evidence-based, drug prevention programs that work to educate New Jerseyans, particularly young New Jerseyans, about the harms of drug abuse;
- m. New Jersey must enhance State-supported programming that provides appropriate, evidence-based treatment for those who suffer from the illness of drug addiction;
- n. Controlling and regulating the manufacture, distribution, and sale of marijuana will strengthen our ability to keep marijuana away from minors;
- o. A controlled system of marijuana manufacturing, distribution, and sale must be designed in a way that enhances public health and minimizes harms to New Jersey communities and families;
- p. The regulated marijuana system in New Jersey must be regulated so as to prevent persons younger than 21 years of age from accessing or purchasing marijuana;
- q. A marijuana arrest in New Jersey can have a debilitating impact on a person's future, including consequences for one's job prospects, housing access, financial health, familial integrity, immigration status, and educational opportunities;
- r. The tax revenue generated from a controlled marijuana manufacture, distribution, and retail sales system in New Jersey will generate hundreds of millions of dollars to bolster effective, evidence-based drug treatment and education, and to reinvest in New Jersey communities;
- s. New Jersey cannot afford to sacrifice its public safety and civil rights by continuing its ineffective and wasteful marijuana enforcement policies.

### 3. (New section) Definitions.

As used in P.L. , c. (C. ) (pending before the Legislature as this bill), unless the context otherwise requires:

“Common ownership or control” shall mean:

Between two for-profit entities, the same individuals or entities own and control over 50% of both entities;

Between a nonprofit entity and a for-profit entity, a majority of the directors, trustees, or members of the governing body of the nonprofit entity directly or indirectly own and control over 50% of the for-profit entity;

Between two nonprofit entities, the same directors, trustees, or governing body members comprise a majority of the voting directors, trustees, or governing body members of both nonprofits.

"Consumer" means a person 21 years of age or older who purchases, acquires, owns, holds or uses marijuana or marijuana products for personal use by a person 21 years of age or older, but not for resale to others.

"Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

"Director" means the Director of the Division of Marijuana Enforcement.

"Division" means the Division of Marijuana Enforcement in the Department of Law and Public Safety.

"Financial backer" means any owner, principal, officer, director, employee, or other person or entity that is anticipated to or actually loans or invests, directly or indirectly, \$100,000 or more to the applicant.

"Financial consideration," means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations; but does not include: homegrown marijuana that is given or received when nothing is given or received in return; or homegrown marijuana products that are given or received when nothing is given or received in return.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Immature marijuana plant" means a marijuana plant that is not flowering.

"Industrial hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

"Interest holder" means any person or entity that holds a 5% interest in the profits, losses, or ownership of the marijuana establishment.

"Licensee" means a person who holds a license issued under this act that is designated as either a Class 1 Marijuana Producer-Processor license, or Class 2 Marijuana Retailer license; or a Class 3 Marijuana Transportation license.

"Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

"Local governmental entity" means a municipality.

“Marijuana” means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

"Marijuana cultivation facility" means an entity licensed to cultivate marijuana and sell marijuana to marijuana producers, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. This entity shall hold a Class 1 Marijuana Producer-Processor license.

“Marijuana establishment” means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a marijuana retailer.

“Marijuana extract” means a substance obtained by separating resins from marijuana by: (i) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or (ii) Any other process identified by the division by rule.

“Marijuana flowers” means the flowers of the plant Genus Cannabis L. within the plant family Cannabaceae.

“Marijuana items” means marijuana, marijuana products, and marijuana extracts.

“Marijuana leaves” means the leaves of the plant Genus Cannabis L. within the plant family Cannabaceae.

“Marijuana paraphernalia” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

“Marijuana processor” means a person who processes marijuana items in this State. This person shall hold a Class 1 Producer-Processor license.”

“Marijuana producer” means a person who produces marijuana in this State. This person shall hold a Class 1 Producer-Processor license.”

“Marijuana product manufacturing facility” means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana items; and sell items to other marijuana product manufacturing facilities and to marijuana retailers, but not to consumers. This entity shall hold a Class 1 Marijuana Product Manufacturing Facility license.

“Marijuana products” means a product containing marijuana or marijuana extracts and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible products, ointments, and tinctures. Marijuana products do not include: (i) marijuana by itself; or (ii) marijuana extract by itself.

“Marijuana retailer” means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana items from marijuana product manufacturing facilities or marijuana

wholesalers and to sell marijuana and marijuana products to consumers. This entity shall hold a Class 2 Marijuana Retailer license.

“Marijuana testing facility” means an independent, third-party entity meeting accreditation requirements established by the Division that is licensed to analyze and certify the safety and potency of marijuana items.

Marijuana transporter” means an entity licensed to transport marijuana through and within the State of New Jersey and to maintain a warehouse. This entity shall hold a Class 3 Marijuana Transportation license.

“Mature marijuana plant” means a marijuana plant that is not an immature marijuana plant.

“Medical marijuana alternative treatment center” means an entity permitted by a State agency to sell marijuana and marijuana products pursuant to the "New Jersey Compassionate Use Medical Marijuana Act” P.L.2009, c.307 (C.24:6I-1 et seq.).

“Noncommercial” means not dependent or conditioned upon the provision or receipt of financial consideration.

“Premises” or “licensed premises” includes the following areas of a location licensed under this act: all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms; all areas outside a building that the division has specifically licensed for the production, processing, wholesale sale, or retail sale of marijuana items; and, for a location that the division has specifically licensed for the production of marijuana outside a building, the entire lot or parcel that the licensee owns, leases or has a right to occupy.

“Processes” means the processing, compounding, or conversion of marijuana into marijuana products or marijuana extracts; “Processes” does not include packaging or labeling.

“Produces” means the manufacture, planting, cultivation, growing or harvesting of marijuana. “Produces” does not include the drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or the cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler, or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

“Public place” means any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, playground, swimming pool, or shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

“Radio” means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the Internet.

“Substantially involved person” means a person or entity that is: in a sole proprietorship, the proprietor; in a partnership, limited partnership, limited liability partnership, or limited liability company, a natural person or natural persons among its partnership or membership who in the aggregate individually own or owns, directly or indirectly through business entities, a twenty percent or greater interest in the company; in a nonpublic corporation, a natural person or natural persons among its shareholders who in the aggregate individually own or owns, directly or indirectly, at least twenty percent of the corporation’s total outstanding shares; in a publicly traded corporation or a majority-owned subsidiary of a publically trades corporation, natural persons who in the aggregate comprise at least twenty percent of the board of directors or governing body if the publicly traded parent corporation; or in a nonprofit corporation, employee cooperative, or association, natural persons who in the aggregate comprise at least twenty percent of the board of directors or governing body as constituted under the New Jersey Nonprofit Corporation Act.

“Television” means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the Internet.

“THC” means delta-9-tetrahydrocannabinol, the main psychoactive chemical contained in the cannabis plant.

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

#### 4. (New section) Personal use of marijuana.

Notwithstanding any other provision of law, the following acts are not unlawful and shall not be a criminal offense or a basis for seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable law for persons 21 years of age or older:

a. Possessing, using, purchasing, or transporting: marijuana paraphernalia; one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature marijuana plants subject to the provisions of subsection b. of this section.

b. Transfer of one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature plants, without financial consideration to a person who is of or over the legal age for purchasing marijuana items, provided that such transfer is for non-promotional, non-business purposes.

c. Consumption of marijuana items, provided that nothing in this section shall permit a person to smoke or otherwise consume marijuana items openly in a public place.

d. Assisting another person who is of or over the legal age for purchasing marijuana items in any of the acts described in subsections a. through c. of this section.

e. Home grow of marijuana. (1) Except as provided in paragraph (2), possessing, growing, or processing, no more than six marijuana plants within a house or rental unit that constitutes such person's principal residence, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown, provided that the cultivation takes place in an enclosed, locked space, is not conducted openly in a public place, and provided further that all persons residing within a single house or rental unit may not possess, grow, process, or transport, in the aggregate, more than twelve marijuana plants, with six or fewer being mature, flowering plants; and provided further that marijuana cultivation may only occur on property lawfully in possession of the cultivator or with consent of the person in lawful possession of the property. This shall not include cooperative grow operations in which an individual allows another to grow their allotment on their behalf.

(2) A local governmental unit shall be may adopt an ordinance prohibiting the home grow of marijuana.

#### 5. (New section) Lawful operation of marijuana establishments.

Notwithstanding any other provision of law, the following acts are not unlawful and shall not be a criminal offense or a basis for seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable law for persons 21 years of age or older:

a. manufacture, possession, or purchase of marijuana paraphernalia or the sale of marijuana paraphernalia to a person who is 21 years of age or older.

b. possessing, displaying, or transporting marijuana items; purchase of marijuana from a marijuana cultivation facility; purchase of marijuana items from a marijuana product manufacturing facility; or sale of marijuana items to consumers, if the person conducting the activities described in this subsection has obtained a current, valid license to operate as a marijuana retailer or is acting in his capacity as an owner, employee, or agent of a licensed marijuana retailer.

c. cultivating, harvesting, processing, packaging, transporting, displaying, or possessing marijuana; delivery or transfer of marijuana to a marijuana testing facility; selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana retailer; or the purchase of marijuana from a marijuana cultivation facility, if the person conducting the activities described in this subsection has obtained a current, valid license to operate a marijuana cultivation facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana cultivation facility.

d. packaging, processing, transporting, manufacturing, displaying, or possessing marijuana items; delivery or transfer of marijuana items to a marijuana testing facility; selling marijuana items to a marijuana retailer or a marijuana product manufacturing facility; the purchase of marijuana from a marijuana cultivation facility; or the purchase of marijuana items from a marijuana product

manufacturing facility, if the person conducting the activities described in this subsection has obtained a current, valid license to operate a marijuana product manufacturing facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana product manufacturing facility.

e. possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering marijuana items if the person has obtained a current, valid license to operate a marijuana testing facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana testing facility.

f. leasing or otherwise allowing the use of property owned, occupied, or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with subsections a. through e. of this section.

6. (New section) Prohibition of Persons Under the Legal Age Purchasing Marijuana.

a. No person, either directly or indirectly by an agent or employee, shall sell, offer for sale, distribute for commercial purpose at no cost or minimal cost, give, or furnish, to a person under 21 years of age, any marijuana items.

b. Any licensee or employee or agent of a licensee who allows a person under the age of 21 to procure marijuana items is guilty of a disorderly persons offense and subject to a civil penalty of not less than \$250 for the first violation; \$500 for the second violation; and \$1,000 for the third and each subsequent violation; in addition, subject to a hearing, a licensee's license may be revoked;

c. The establishment of all of the following facts by a licensee, employee, or agent, allowing any such person under the age of 21 to procure marijuana items shall constitute a defense to any prosecution pursuant to the provisions of subsections a. and b. of this section:

(1) That the purchaser of the marijuana or marijuana product falsely represented, by producing either a United States passport; driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission; a similar card issued pursuant to the laws of another state; United States military identification card; or a photographic identification card issued by a county clerk, that he was of legal age to make the purchase;

(2) That the appearance of the purchaser was such that an ordinary prudent person would believe him to be 21 years of age or older, of legal age to make the purchase; and

(3) That the sale or distribution was made in good faith, relying upon the production of the identification in paragraph (1) of this subsection, the minor's appearance, and in the reasonable belief that the purchaser or recipient was actually of legal age to make the purchase.

d. It shall be unlawful for a person under the age of 21 to attempt to purchase, or acquire a marijuana item, even if such marijuana items may be legally purchased by persons at or above the legal age for purchasing marijuana items.

For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and acquiring a marijuana item includes consuming a marijuana item.



e. It shall be unlawful for a person under the age of 21 to present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent, or not actually the person's own, for the purpose of:

(1) Purchasing, attempting to purchase, or otherwise procuring or attempting to procure marijuana or marijuana products; or

(2) Gaining access to a marijuana establishment.

f. Except as permitted by the division by rule or regulation, or as necessary on an emergency basis, a person under legal age for purchasing marijuana items may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under legal age for purchasing marijuana items, unless accompanied by and supervised by a parent or legal guardian.

g. Any person who shall violate any of the provisions of subsections d., e., or f. of this section shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$500.

h. The prohibitions of this section do not apply to a person under the legal age for purchasing marijuana items who is acting under the direction of the division or under the direction of State or local law enforcement agencies for the purpose of investigating possible violations of the laws prohibiting sale of marijuana items to persons who are under the legal age for purchasing marijuana items.

i. The prohibitions of this section do not apply to a person under the legal age for purchasing marijuana items who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under the legal age for purchasing marijuana items.

j. A person under the legal age for purchasing marijuana items is not in violation of this section, and is immune from prosecution under this section if:

(1) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(2) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having sought or obtained the medical assistance.

(3) Paragraph (1) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

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

There is hereby established in the Department of Law and Public Safety a Division of Law, a Division of State Police, a Division of Alcoholic Beverage Control, [a Division of Motor Vehicles,] a Division of Weights and Measures, a Division of Marijuana Enforcement and a Division of Professional Boards.

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

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

8. (New section) Powers and duties of the division.

a. The Division of Marijuana Enforcement shall have all powers necessary or proper to enable it to carry out the division's duties, functions, and powers under P.L. , c. (C. ) (pending before the Legislature as this bill). The jurisdiction, supervision, duties, functions, and powers of the division extend to any person who buys, sells, produces, processes, transports, or delivers any marijuana items within this State. The division may sue and be sued.

b. The duties, functions and powers of the division include the following:

(1) To regulate the purchase, sale, production, processing, transportation and delivery of marijuana items in accordance with the provisions of this act.

(2) To grant, refuse, suspend or cancel licenses for the sale, processing, or production of marijuana items, or other licenses in regard to marijuana items, and to permit, in the division's discretion, the transfer of a license between persons.

(3) To investigate and aid in the prosecution of every violation of the statutory laws of this State relating to marijuana items and to cooperate in the prosecution of offenders before any State court of competent jurisdiction.

(4) To adopt, amend, or repeal regulations as necessary to carry out the intent and provisions of this act.

(5) To exercise all powers incidental, convenient, or necessary to enable the division to administer or carry out the provisions of this act, or any other law of this State that charges the division with a duty, function, or power related to marijuana. Powers described in this paragraph include, but are not limited to:

(a) Issuing subpoenas;

(b) Compelling attendance of witnesses;

(c) Administering oaths;

(d) Certifying official acts;

(e) Taking depositions as provided by law;

(f) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(g) Establishing fees in addition to the application, licensing, and renewal fees, provided that any fee established by the division is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(6) To adopt rules regulating and prohibiting marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers from advertising marijuana items in a manner that is appealing to minors; that promotes excessive use; that promotes illegal activity; or that otherwise presents a significant risk to public health and safety.

(7) To regulate the use of marijuana items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes.

c. The powers of the division further include the power to purchase, seize, possess, and dispose of marijuana items.

(1) The division may purchase, possess, seize, or dispose of marijuana items as is necessary to ensure compliance with and enforcement of the provisions of this act, and any rule adopted pursuant thereto.

(2) Any State officer, board, commission, corporation, institution, department, or other State body, and any local officer, board, commission, institution, department, or other local government body, that is permitted by the statutory laws of this State to perform a duty, function, or power with respect to a marijuana item, may purchase, possess, seize, or dispose of the marijuana item as the State officer, board, commission, corporation, institution, department or other State body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law.

d. The division shall be under the immediate supervision of a director. The director of the division shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor appointing him and until the director's successor is appointed and has qualified.

## 9. (New section) Regulation of marijuana.

a. Not later than 18 months following the effective date of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), the division shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for implementation of P.L. c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), which shall be consistent with the intent of this act. Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The division may create an expert task force to make recommendations to the Division about the content of such regulations. Such regulations shall include:

(1) Procedures for the application, issuance, denial, renewal, suspension, and revocation of a license to operate a marijuana establishment. Such procedures shall include a period of no longer

than 90 days by which the division shall provide the applicant with notice of the division's approval or denial of any fully completed application for licensure or renewal and a period not to exceed 30 days in which a license shall be issued following approval of an application.

(2) License application and renewal fees shall be established by the division as follows:

(a) Class 1 Marijuana Producer-Processor: \$50,000 one-time nonrefundable application fee; \$150,000 license fee due with the application, which is refunded to the applicant if unsuccessful, for an initial three-year license term; \$40,000 license fee thereafter for each biannual renewal term

(b) Class 2 Marijuana Retailer: \$10,000 one-time nonrefundable application fee (per location); \$22,500 license fee due with the application, which is refunded to the applicant if unsuccessful, for an initial three-year license term; \$10,000 license fee thereafter for each biannual renewal term

(c) Class 3 Marijuana Transportation: \$2,500 one-time nonrefundable application fee; \$7,500 nonrefundable license fee if the application is successful, for an initial three-year license term; \$5,000 license fee thereafter for each biannual renewal term.

(3) (a) The division shall establish licensing goals for New Jersey residents. The division shall make good faith efforts to meet these goals. Qualifications for licensure shall be directly and demonstrably related to the operation of a marijuana establishment, provided that the division shall make licenses available to as diverse a group as possible, including, but not limited to, requirements that no license of any kind shall be issued to a person under the legal age to purchase marijuana items. An applicant shall have a substantially involved person or persons lawfully residing in the State for at least two years as of the date of application to receive a license.

(b) A person doing business as a sole proprietor who has not lawfully resided in the State for at least two years prior to applying to receive a license;

(c) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this State, and unless all of the members thereof are qualified to obtain a license;

(d) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee;

(4) To ensure the participation of diverse and historically disadvantaged groups in the ownership and operation of licensed marijuana facilities, assuming sufficiently qualified diverse groups make application, the division shall ensure that not less than fifteen percent of the total number of Class 1 Marijuana Producer-Processor licenses and not less than fifteen percent of the total number of Class 2 Marijuana Retailer licenses throughout the State are issued to established diverse group-owned applicants, meaning the applicant must have been certified by the New Jersey Department of the Treasury as a minority business enterprise, women business enterprise pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.), or registered as a veteran-owned business pursuant to P.L.2011, c.147 (C.52:32-49 et seq.), at least one year prior to the date the application is submitted, or is a registered disabled veteran-owned business pursuant to P.L.2015, c. 116 (C.52:32-31.1 et seq.), as of the date the application is submitted. While selecting from the pool of sufficiently qualified minority-owned,

women-owned, or veteran-owned businesses applying for licenses, the division shall grant a higher preference to those applicants with up to two diverse groups in its ownership composition.

(5) Security requirements for marijuana establishments;

(6) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the legal age to purchase marijuana items, including, but not limited to, requirements that:

(a) All licensees and licensee representatives, before selling or serving marijuana or marijuana products to any person about whom there is any reasonable doubt of the person's having reached the legal age to purchase marijuana items, shall require such person to produce one of the following pieces of identification:

(i) The person's passport.

(ii) The person's motor vehicle driver's license, whether issued by New Jersey or by any other state, provided the license displays a picture of the person.

(iii) A New Jersey identification card issued by the New Jersey Motor Vehicle Commission.

(iv) A United States military identification card.

(v) A photographic identification card issued by a New Jersey county clerk.

(vi) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(b) No marijuana establishment shall employ persons under the legal age to purchase marijuana items nor shall any marijuana retailer allow persons under the legal age to purchase marijuana items from entering or remaining on the premises of a marijuana retailer unless accompanied by a parent or legal guardian;

(c) Packaging and branding regulations to prevent marketing of marijuana items and marijuana paraphernalia to people under the legal age to purchase marijuana items;

(7) Labeling and packaging requirements for marijuana items sold or distributed by a marijuana establishment, including, but not limited to, requirements that:

(a) Packaging and branding rules which prevent marketing of marijuana items and marijuana paraphernalia to people under the legal age to purchase marijuana items, including, but not limited to, rules that prohibit any statement, illustration, or image that:

(i) Includes false statements;

(ii) Promotes over-consumption;

(iii) Depicts a child or other person under legal age consuming marijuana items; or

(iv) Includes objects, such as toys, characters, or cartoon characters suggesting the presence of a person under the legal age to purchase marijuana items, or any other depiction designed in any manner to be especially appealing to persons under the legal age to purchase marijuana items;

(b) Ensure marijuana items are packaged in child-resistant containers;

(c) Marijuana items warning labels adequately inform consumers about safe marijuana use and warn of the consequences of misuse or overuse;

(d) Labeling rules that mandate clear identification of health and safety information, including, but not limited to:

(i) Net weight;

(ii) Production date and expiration date;

(iii) An ingredient list that includes, but is not limited to, all ingredients used to manufacture the marijuana product and a list of all potential allergens contained within the product;

(iv) Strain or type of cannabis, listed by scientific terms, if available, and generic or “slang” names;

(v) Whether the product requires refrigeration;

(vi) Growth method (whether dirt grown, hydroponic, or otherwise) and an indication whether or not the cannabis was grown using all-organic materials and a complete list of all nonorganic pesticides, fungicides and herbicides used during the cultivation of the cannabis;

(vii) Serving size, the total number of servings, and a statement regarding the percentage of THC contained in the marijuana product and in each serving. For example: “The serving size of active THC in this product is X mg. This product contains X servings of marijuana, and the total amount of active THC in this product is X mg.” Serving sizes are recommended to be individually wrapped.

(viii) Warning labels that include, but are not limited to, one or more of the following:

-- “This product contains marijuana.”

-- “This product is infused with marijuana”

-- “This product is intended for use by adults 21 years and older. Keep out of the reach of children.”

-- “The intoxicating effects of this product may be delayed by two or more hours.”

-- “There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant.”

-- “Do not drive a motor vehicle or operate heavy machinery while using marijuana.”

(e) Labeling rules mandate the source of the marijuana items, including, but not limited to, the license number of the marijuana cultivation facility where the marijuana used to produce the marijuana item was grown, the license number of the marijuana product manufacturing facility that produced the marijuana item; and the license number of the marijuana retailer that sold the marijuana item and the production batch and lot numbers of the marijuana items.

(8) Health and safety regulations and standards for the manufacture and sale of marijuana products and the cultivation of marijuana, including, but not limited to, requirements that:

(a) Establish accreditation and licensure criteria for marijuana testing facilities;

(b) The division issues licenses for a sufficient number of marijuana testing facilities, if those facilities meet the requirements for licensure, in order to ensure testing of marijuana items produced and sold in the State;

(c) Every licensed marijuana cultivation facility and marijuana product manufacturing facility shall submit representative samples of marijuana and marijuana products to marijuana testing facilities for inspection and testing to certify compliance with health, safety, and potency standards

adopted by the division on a schedule set by the division. Any sample remaining after testing shall be destroyed or returned to the licensee;

(d) Prescribe methods of producing, processing, and packaging marijuana items; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana items produced, processed, packaged, or sold by marijuana establishments;

(e) Establish accreditation and licensing criteria for responsible marijuana server and seller training and certification programs for marijuana retailer employees;

(f) Provide that no licensed marijuana establishment or employee of a marijuana establishment shall consume, or allow to be consumed, any marijuana items on the establishment's premises, except as otherwise permitted by the division;

(g) Set appropriate dosage, potency, and serving size limits for marijuana and other marijuana products, provided that a standardized serving of marijuana shall be no more than 10 milligrams of active THC and no individual edible retail product unit for sale shall contain more than 100 milligrams of active THC, and that marijuana and marijuana product packaging prevent children from access;

(h) Require that each single standardized serving of marijuana in a multiple-serving edible marijuana product is physically demarked in a way that enables a reasonable person to determine how much of the product constitutes a single serving of active THC, and that each standardized serving of marijuana shall be easily separable to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product;

(i) Require that, if it is impracticable to clearly demark every standardized serving of marijuana or to make each standardized serving easily separable in an edible marijuana product, the product shall contain no more than 10 milligrams of active THC per unit of sale;

(j) Establish screening, hiring, training and supervising requirements for retail store employees and others who manufacture or handle marijuana items;

(k) Promote general sanitary requirements for the handling, storage, and disposal of marijuana items, and the maintenance of marijuana establishments;

(l) Provide for rigorous auditing, inspection, and monitoring of marijuana establishments for compliance with health and safety rules and regulations;

(m) Require the implementation of security requirements for retail outlets and premises where marijuana items are produced or processed, and safety protocols for marijuana establishments and their employees;

(n) Prescribe reasonable restrictions on the manner, methods, and means by which, licensees shall transport marijuana items within the State; and

(o) Establish procedures for identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana or marijuana products produced, processed, sold,

or offered for sale within this State which do not conform in all respects to the standards prescribed by this chapter or the rules adopted to implement and enforce these chapters.

(9) Restrictions on the advertising and display of marijuana items and marijuana paraphernalia, including, but not limited to, requirements that:

(a) Restrict advertising of marijuana items and marijuana paraphernalia in ways that target or are designed to appeal to individuals under the legal age to purchase marijuana items, including, but not limited to depictions of a person under 21 years of age consuming marijuana, or, includes objects, such as toys, characters, or cartoon characters suggesting the presence of a person under 21 years of age, or any other depiction designed in any manner to be especially appealing to a person under 21 years of age;

(b) Marijuana retailers shall not display any signage in a window, on a door, or on the outside of the premises of a marijuana retailer that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business trade name;

(c) No licensed marijuana establishment shall advertise any marijuana items or marijuana paraphernalia on television, radio or the Internet between the hours of 6:00am and 10:00pm.

(d) No licensed marijuana establishment shall engage in advertising unless it has reliable evidence that no more than 20 percent of the audience for the advertisement is reasonably expected to be under the legal age to purchase marijuana items.

(e) No licensed marijuana establishment may engage in advertising or marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature;

(f) No licensed marijuana establishment may sponsor a charitable, sports, musical, artistic, cultural, social, or other similar event or engage in advertising at or in connection with such an event unless it has reliable evidence that no more than 20 percent of the audience at the event is reasonably expected to be under the legal age to purchase marijuana items;

(g) All advertisements must contain warnings, including but not limited to one or more of the following:

(i) "This product contains marijuana;"

(ii) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug;"

(iii) "There may be health risks associated with the consumption of this product;"

(iv) "For use only by adults 21 years of age and older. Keep out of the reach of children."

(v) "This product was produced without regulatory oversight for health, safety or efficacy."

(vi) "The intoxicating effects of this product may be delayed by two or more hours."

(vii) "There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant."



(viii) No licensed marijuana establishment shall place or maintain, or cause to be placed or maintained an advertisement of marijuana items or marijuana paraphernalia in any form or through any medium whatsoever within 200 feet of an elementary or secondary school grounds, recreation center or facility, arcade, child care center, public park, playground, public swimming pool or library; on or in a public transit vehicle or public transit shelter; on or in publicly owned or operated property. For the purposes of this section, a noncommercial message shall not be considered an advertisement. This section also shall not apply to advertisements within the premises of a marijuana retailer.

(10) Rules and regulations permitting the sale of marijuana items and marijuana paraphernalia at a marijuana establishment.

(11) Procedures for the division to conduct announced and unannounced visits to marijuana establishments to make, or cause to be made, such investigations as it shall deem proper in the administration of P.L. ,c. (C. )(pending before the Legislature as this bill) and any and all other laws which may hereafter be enacted concerning marijuana, or the manufacture, distribution or sale thereof, or the collection of taxes thereon, including the inspection and search of premises for which the license is sought or has been issued, of any building containing the same, of licensed buildings, examination of the books, records, accounts, documents and papers of the licensees or on the licensed premises;

(a) The division shall be authorized, after adequate notice to the owner or the agent of the owner, to make an examination of the books and may at any time make an examination of the premises of any person licensed under P.L. ,c. (C. )(pending before the Legislature as this bill) for the purpose of determining compliance with this act and the rules of the division. The division shall not require the books of any licensee to be maintained on the premises of the licensee.

(b) The division may, at any time, examine the books and records of any marijuana producer, and may appoint auditors, investigators and other employees that the division considers necessary to enforce its powers and perform its duties.

(c) During any inspection of a licensed premises, the division may require proof that a person performing work at the premises is 21 years of age or older. If the person does not provide the division with acceptable proof of age upon request, the division may require the person to immediately cease any activity and leave the premises until the division receives acceptable proof of age.

(d) The division shall not be required to obtain a search warrant to conduct an investigation or search of licensed premises.

(12) Record keeping requirements, including but not limited to the following:

(a) (i) the obligation of every marijuana producer to keep a complete and accurate record of all sales of marijuana flowers, marijuana leaves, and immature marijuana plants, and a complete and accurate record of the number of marijuana flowers produced, the number of ounces of marijuana

leaves produced, the number of immature marijuana plants produced, and the dates of production; and

(ii) the obligation of every marijuana establishment to keep a complete and accurate record of all sales of marijuana, and a complete and accurate record of the number of ounces of marijuana items sold, provided that marijuana retailers shall not retain personally identifying information about persons 21 years of age who or older who purchase marijuana or marijuana products in marijuana retailers. Such records shall be kept and maintained for two years. The records shall be in such form and contain such other information as the division may require.

(b) The division may, at any time, but with adequate notice, examine the books and records of any marijuana establishment, and may appoint auditors, investigators, and other employees that the division considers necessary to enforce its powers and duties as described in P.L. , c. (C. ) (pending before the Legislature as this bill).

(13) Procedures for inspecting samples of marijuana items, including:

(a) On a schedule determined by the division, every licensed marijuana producer and processor shall submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the division, for inspection and testing to certify compliance with standards adopted by the division. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee.

(b) Licensees shall submit the results of this inspection and testing to the division on a form developed by the division.

(c) If a representative sample inspected and tested under this section does not meet the applicable standards adopted by the division, the entire lot from which the sample was taken shall be destroyed.

(14) Establishing the maximum number of marijuana retailers at 10 per legislative district, plus one marijuana retail license for each medical marijuana alternative treatment center that applies. However the other types of licenses shall remain at two per legislative district, for a total of 80. Assuming there are sufficient qualified applicants for licensure, there shall be at least two marijuana retail store per legislative district, as the districts are constituted at the time of application.

(15) Establishing the maximum number of marijuana producer-processors at 15 divided evenly in three regions of the State, northern region, the central region and the southern region. Two years after the initial producer-processors are licensed, an additional 10 producer-processors will be licensed.

(16) Civil penalties for the failure to comply with regulations made pursuant to this section.

b. In order to ensure that individual privacy is protected, the division shall not require a consumer to provide a marijuana retailer with personal information other than government-issued identification to determine the consumer's age, and a marijuana retailer shall not be required to acquire and record personal information about consumers other than information typically acquired

in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth in R.S.33:1-12.

c. Once regulations are adopted pursuant to subsection a. of this section, but prior to the commencement of the application process, the division shall conduct a series of information sessions in every county in New Jersey to educate New Jerseyans about the responsibilities, opportunities, requirements, obligations, and processes for application for a license to operate a marijuana establishment. The division shall conduct an appropriate number of information sessions in each county considering the population of each county, but no fewer than two information sessions in each county. The division shall publicize the day, time, location, and agenda of these information sessions broadly through television, radio, Internet, print, and through local agencies.

d. The division shall:

(i) Examine available research, and may conduct or commission new research or convene an expert task force, to investigate the influence of marijuana on the ability of a person to drive a vehicle and on the concentration of delta-9-tetrahydrocannabinol in a person's blood, in each case taking into account all relevant factors; and

(ii) Present the results of the research to the Legislature and make recommendations to the Legislature regarding whether any amendments to the rules and regulations adopted by the division are appropriate.

10. (New section) Tracking system. a. The division shall develop and maintain a system for tracking the transfer of marijuana items between licensed premises.

b. The purposes of the system developed and maintained under this section include, but are not limited to:

(1) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;

(2) Preventing persons from substituting or tampering with marijuana items;

(3) Ensuring an accurate accounting of the production, processing and sale of marijuana items;

(4) Ensuring that taxes are collected for the purpose of being distributed as described in section 11 of P.L. , c. (C. )(pending before the Legislature as this bill);

(5) Ensuring that laboratory testing results are accurately reported; and

(6) Ensuring compliance with the rules and regulations adopted under the provisions of P.L. , c. (C. )(pending before the Legislature as this bill), and any other law of this State that charges the division with a duty, function or power related to marijuana.

c. The system developed and maintained under this section shall be capable of tracking, at a minimum:

(1) The propagation of immature marijuana plants and the production of marijuana by a marijuana producer;

(2) The processing of marijuana by a marijuana processor;

- (3) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;
- (4) The sale of marijuana items by a marijuana retailer to a consumer;
- (5) The purchase and sale of marijuana items between licensees;
- (6) The transfer of marijuana items between licensed premises;
- (7) The collection of taxes imposed upon the retail sale of marijuana items and
- (8) Any other information that the division determines is reasonably necessary to accomplish the duties, functions and powers of the division.

11. (New section) Taxation.

a. There shall be a tax levied upon marijuana or marijuana products sold or otherwise transferred by a marijuana retailer to a person 21 years of age or older at a rate of seven percent. To encourage early participation in and development of marijuana establishments and to undermine the illegal marketplace, the tax shall escalate annually over a five year period: such that in year one following the enactment of P.L. , c. (C. )(pending before the Legislature as this bill), the excise tax shall be seven percent; and in year three, the tax shall be 10 percent; and in year five and beyond, the tax rate shall be 15 percent.

b. The division shall regularly review the tax levels established under this section and make recommendations to the Legislature as appropriate regarding adjustments that would further the goals of discouraging use, particularly by those under the age of 21; undercutting illegal market prices; and maximizing taxation revenue.

c. Statements as to quantities sold. At such periods to be established by the Department of the Treasury, but no more than once per calendar month, every marijuana producer shall file with the Division of Taxation in the Department of the Treasury a statement of the quantities of marijuana flowers, marijuana leaves, and immature marijuana plants sold by the marijuana producer during the preceding period.

d. Estimate by Division of Taxation when statement not filed or false statement filed. If any marijuana producer fails, neglects, or refuses to file a statement required by subsection c. of this section or files a false statement, the Department of the Treasury shall estimate the quantities of marijuana flowers, marijuana leaves, and immature marijuana plants sold by the marijuana producer and assess the taxes thereon. The marijuana producer shall be estopped from complaining of the quantities so estimated.

e. Lien created by the tax. The tax required to be paid by this section constitutes a lien upon, and has the effect of an execution duly levied against, any and all property of the marijuana retailer, attaching at the time the marijuana flowers, marijuana leaves, and immature marijuana plants subject to the tax were sold, and remaining until the tax is paid. The lien created by this section is paramount to all private liens or encumbrances.

f. The Department of the Treasury shall establish procedures for the collection of all taxes levied.

No tax established by this section shall be levied upon marijuana intended for sale at medical marijuana centers pursuant to the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.).

g. The tax revenue shall be collected by the Director of the Division of Taxation and shall be deposited by the Director of the Division of Taxation into the nonlapsing fund established pursuant to section 39 of P.L., c. (C. ) (pending before the Legislature as this bill), and shall be used to fund the Division of Marijuana Enforcement, except that during the first and second year the tax is collected one percent shall be allocated to the local governmental entity in which the marijuana establishment is located; during year three and four, two percent shall be allocated to the local governmental entity in which the marijuana establishment is located; and in year five and each subsequent year thereafter, three percent shall be allocated to the local governmental entity in which the marijuana establishment is located.

12. (New section) Local governmental entity regulation or ordinance.

a. A local governmental entity may enact ordinances or regulations, not in conflict with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill):

(1) governing the time, place, manner, and number of marijuana establishment operations;

(2) establishing local government registration fees for marijuana establishments not to exceed \$10,000;

(3) establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local governmental entity.

b. A local governmental entity may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or marijuana retailers through the enactment of an ordinance. The failure of a local governmental entity to enact an ordinance prohibiting the operation of a marijuana establishment within one year following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) shall thereby permit the operation of a marijuana retail establishment within the local governmental entity for a period of five years, at the end of which five year period, and every five year period thereafter, the local governmental entity shall again be permitted to prohibit the operation of a marijuana establishment.

c. (1) A marijuana establishment that complies with the provisions of an ordinance or regulation enacted pursuant to paragraph (1) of subsection a. of this section shall be a permitted use.

(2) If a local governmental entity fails to enact an ordinance prohibiting the operation of a type of marijuana establishment pursuant to subsection b. of this section within one year following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), that type of marijuana establishment shall be a permitted use in all agricultural, commercial, and industrial districts of a municipality.

(3) If a local governmental entity does not enact an ordinance or regulation pursuant to paragraph (1) of subsection a. of this section, but enacts an ordinance pursuant to subsection b. of this section within one year following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) prohibiting the operation of one or more but not all types of marijuana establishment, the type or types of marijuana establishment not prohibited shall be permitted uses in all agricultural, commercial, and industrial districts of a municipality.

13. (New section) Application. a. Each application for an initial three year license to operate a marijuana establishment, and for each subsequent two year renewal license to operate a marijuana establishment shall be submitted to the division. A separate license shall be required for each location at which a marijuana establishment seeks to operate. Renewal applications may be filed up to 90 days prior to the expiration of the establishment's license. The initial license applications shall only be scored and reviewed based upon a 100 point scale established by the division. The division shall:

(1) begin accepting and processing applications 18 months following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) immediately forward a copy of each application to the local governmental entity in which the applicant desires to operate the marijuana establishment;

(3) upon the approval of a license application and collection of the annual license fee, issue an annual license to the applicant between 45 and 90 days after receipt of an application unless the division finds the applicant is not in compliance with regulations enacted pursuant to the provisions of section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill) or the division is notified by the relevant local governmental entity that the applicant is not in compliance with ordinances and regulations made pursuant to the provisions of section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill) and in effect at the time of application.

b. No employee of the division shall have any interest, directly or indirectly, in the producing, processing, or sale of marijuana, marijuana products, or marijuana paraphernalia, or derive any profit or remuneration from the sale of marijuana, marijuana products, or marijuana paraphernalia, other than the salary or wages payable to him in respect of his position, or receive any gratuity from any person in connection with the application for a license or the sale of marijuana, marijuana products, or marijuana paraphernalia.

c. Unless otherwise solicited by the division in a specific application question, only the experience and qualifications of the applicant business entity itself, entities with common ownership or control, or interest holders, officers, directors, and actual full-time existing employees of the applicant business entity may be considered by the division in evaluating submissions. The following factors shall be relevant in evaluating applications for licensure for a Class 1 and Class 2 license, and Class 3 applications if in the discretion of the director a competitive process is necessary for a Class 3 Transportation license:

(1) Summary of operating plan and safety and security plan – 25%.

(a) The applicant shall certify that all individuals whose qualifications or experience is furnished are owners or bona fide full-time employees of the applicant or an entity with common ownership or control as of the date of submission.

(b) In evaluating the operating plan summaries, each of which subsections should not exceed 1,000 words, the Division will consider the applicant's qualifications, experience, and knowledge in the following areas:

(i) For Class 1 Producer-Processor applicants: qualifications or experience in horticulture or agriculture, familiarity with good agricultural practices, and any relevant certifications or degrees; qualifications or experience in State-licensed cannabis cultivation; qualifications or experience in pharmaceutical manufacturing or analytical chemistry and familiarity with good manufacturing practices and good laboratory practices; qualifications or experience in cannabis extractions and product manufacture using CO2 or other methods, excluding butane hash oil or propane, which shall not be permitted under this law for safety reasons; strain variety or plant genetics; water management plan; recall plan; packaging and labeling; inventory control system and tracking of marijuana throughout cultivation and experience and familiarity with marijuana seed-to-sale software or systems; pest and disease management; description of plans for pesticide, nutrient, and additive use; compliance with applicable laws and regulations.

(ii) For Class 2 Retailer applicants: qualifications or experience with State-licensed cannabis dispensation; product evaluation procedures; inventory control and experience and familiarity with marijuana point-of-sale software or systems; familiarity with cannabis routes of administration, strains, varieties, and cannabinoid profiles.

(iii) For Class 1 and Class 2 applications: Odor mitigation practices; onsite and offsite recordkeeping; employee education and training; reporting of adverse events; waste disposal plan; environmental impact.

(2) Summary of safety and security plans and procedures. Plans for use of security personnel and experience or qualifications of existing security personnel; description of security and surveillance features, including alarm systems, video surveillance, and access and visitor management systems, and including drawings indicating cameras and security features at the proposed facility; storage of marijuana and marijuana products, including safes, vaults, and climate control; diversion prevention; emergency management plan; employee screening, monitoring, and background check procedures; cybersecurity procedures, data collection and handling, and familiarity with privacy laws; workplace safety and familiarity with OSHA regulations; history of workers compensation claims or safety assessments; and sanitation practices.

(3) Business experience – 15%.

(a) Experience operating businesses in highly regulated industries, such as liquor licenses or regulated healthcare organizations. The history of the applicant, controlling owners of the applicant, or entities with common ownership or control will be weighted most heavily, followed by the

experience of substantially involved persons; followed by the experience of interest holders; followed by officers or directors with less than an interest in the applicant and actual full-time existing employees of the applicant. This section shall constitute seven and one half percent (7.5%) of the total application score.

(b) Experience operating State-authorized marijuana businesses. The history of the applicant, controlling owners of the applicant, or entities with common ownership or control shall be weighted most heavily, followed by the experience of substantially involved persons; followed by the experience of interest holders; followed by officers or directors with less than an interest in the applicant and actual full-time existing employees of the applicant. This section shall constitute seven and one half percent (7.5%) of the total application score.

(c) Not required but will be a scored criterion or factor that adds five percent (5%) to the total application score as bonus points – Any applicant that can demonstrate that one or more substantially involved persons has previously submitted and been approved with a Personal History Disclosure by the New Jersey Department of Health Medicinal Marijuana Program and has served as an officer, director, principal, or key employee of a medical marijuana alternative treatment center for at least two years prior to the submission of the application.

(4) Location and zoning. – 15%

(a) The proposed sites for a marijuana producer, processor or retailer must be identified by the applicant at the time of application. The applicant shall submit with the application to avoid disqualification a definitive lease agreement, contract for sale, title, or deed that demonstrates the applicant will have final site control of the premises upon licensure. If leasing, a certification from the landlord that the landlord is aware that tenant's use will involve the cultivation, manufacture, or distribution of cannabis and cannabis-infused or derived products at the property.

(b) A description of the proposed location, surrounding area, and suitability or advantages, together with floor plan and renderings and optional architectural and engineering plans. This section will constitute seven percent (7%) of the total application score.

(c) Not required but will be a scored criterion or factor that adds four percent (4%) to the score – Zoning approvals for the proposed location which shall consist of a letter or affidavit from the appropriate municipal officials that the location being purchased or leased will conform to municipal zoning requirements to allow the cultivation, manufacture, or distribution of cannabis and cannabis-infused or derived products.

(d) Not required but will be a scored criterion or factor that adds four percent (4%) to the score – Local support for the suitability of the location such as a letter from the municipality's highest ranking official or a resolution by the municipality's elected governing body indicating that the intended property is appropriately located or otherwise suitable for the cultivation, manufacture, or distribution of cannabis and cannabis-infused or derived products.

(5) Community impact or record of social responsibility. – 15%



(a) Applicants can submit information on their record of social responsibility, philanthropy, support of substance abuse addiction treatment, prevention and recovery activities, and ties to the proposed host community. The history of the applicant, controlling owners of the applicant, or entities with common ownership or control will be weighted most heavily, followed by the experience of substantially involved persons; followed by the experience of interest holders; followed by officers or directors with less than an interest in the applicant and actual full-time existing employees of the applicant. This section will constitute five percent (5%) of the total application score.

(b) Applicants can submit information on any past research and development conducted by them on medical efficacy or adverse effects of marijuana; participation in or support of marijuana-related research; and involvement in substance abuse prevention, recovery, and treatment in connection with the applicant's marijuana-related businesses. The history of the applicant, controlling owners of the applicant, or entities with common ownership or control will be weighted most heavily, followed by the experience of substantially involved persons; followed by the experience of interest holders; followed by officers or directors with less than an interest in the applicant and actual full-time existing employees of the applicant. This section will constitute ten percent (10%) of the total application score.

(6) Workforce development and job creation plan – 15%

The points awarded in this criterion will be awarded in the following order of priority: Applicants, or entities with common control and ownership, that submit executed collective bargaining agreements in the cannabis industry in effect for at least one year as of the date of submission will receive the most weight, followed by consideration of employer experience with collective bargaining units in other industries or in the cannabis industry if in effect for less than one year, followed by applicants that have executed a labor peace agreement or card check and neutrality agreement with a collective bargaining unit for their proposed New Jersey producer, processor or retailer establishment which should be submitted with the application, followed by consideration of an applicant's workforce development and job creation.

(7) Business and financial plan. 15%

(a) An executive summary of the Applicant's business plan, not to exceed 1,500 words. This section will constitute five percent (5%) of the total application score.

(b) Demonstration of the Applicant's financial ability to implement its business plan, not to exceed ten pages including all attachments, which may include without limitation the applicant's or its owners' bank statements, business or individual financial statements, net worth statements, or debt and equity financing statements. While not required, Class 1 producer-processor applicants that demonstrate the availability of \$2,000,000 in a bank account in the applicants name at the time of submission, and Class 2 retailer applicants that demonstrate the availability of \$500,000 in a bank account in the applicants name at the time of submission will receive full points for this subsection. This section will constitute five percent (5%) of the total application score.

(c) Applicant's ability to demonstrate knowledge and experience complying with marijuana-related Financial Crimes Enforcement Network guidance under the federal Bank Secrecy Act by submitting letters regarding its banking history from banks or credit unions that state they are aware of the business activities of applicant (or entities with common ownership or control) in this state or other states where the applicant has operated marijuana-related businesses. Only references involving accounts in the applicant's name or entities with common ownership or control will be considered. This section will constitute five percent (5%) of the total application score.

14. (New section) A marijuana producer must have a Class 1 Marijuana Producer-Processor license issued by the division for the premises at which the marijuana is produced.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 1 Marijuana Producer-Processor license, unless such conviction occurred after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. , c. (C. ) (pending before the Legislature as this bill).

a. To hold a producer-processor license under this section, a marijuana producer:

(1) Must apply for a license in the manner described in section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) Must provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), has been a resident of this State for two or more years, and must provide proof that the applicant is 21 years of age or older;

(3) Must meet the requirements of any rule or regulation adopted by the Division under subsection b. of this section; and

(4) Must undergo a criminal history record background check.

(a) Pursuant to this provision, the director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section.

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a production license. An

applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(c) The director shall not approve an applicant for a Class 1 Marijuana Producer-Processor license if the criminal history record background information of the applicant reveals any disqualifying conviction.

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 1 Marijuana Producer-Processor license.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility to hold a Class 1 Marijuana Producer-Processor license.

(5) Should the division choose to establish additional disqualifying licensure criteria related to an applicant's criminal history by regulation, it shall not consider convictions under paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, or similar offenses, nor shall the division consider up to one conviction for a disorderly persons offense under the laws of New Jersey or up to one misdemeanor offense under the laws of the United States or analogous offense in another state. In addition, if an applicant can demonstrate evidence of rehabilitation, the division shall not consider up to one conviction for a nonviolent crime, or up to three disorderly persons or misdemeanor offenses.

In determining rehabilitation and present character and fitness the division shall consider the nature and responsibility of the position the licensee would hold, has held or currently holds, as the case may be; the nature and seriousness of the offense the circumstances under which the offense occurred; the date of the offense; the age of the applicant when the offense was committed; whether the offense was an isolated or repeated incident; any social conditions that may have contributed to the offense; and any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.

b. The division shall adopt rules that:

(1) Require a marijuana producer to renew a license issued under this section every two years following the initial three year license period;

- (2) Establish application, licensure, and renewal of licensure fees for marijuana producers;
- (3) Require marijuana produced by marijuana producers to be tested in accordance with section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill);
- (4) Require marijuana producers to submit, at the time of applying for or renewing a license under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), a report describing the applicant's or licensee's electrical and water usage; and
- (5) Require a marijuana producer to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule or regulation related to the production of marijuana or the propagation of immature marijuana plants and the seeds of the plant Cannabis family Cannabaceae. The division may not limit the number of immature marijuana plants that may be possessed by a marijuana producer licensed under this section; the size of the grow canopy a marijuana producer licensed under this section uses to grow immature marijuana plants; or the weight or size of shipments of immature marijuana plants made by a marijuana producer licensed under this section.
  - c. Fees adopted under subsection b. of this section shall be deposited in the "Marijuana Control and Regulation Fund" established under section 39 of P.L. , c. (C. ) (pending before the Legislature as this bill).
  - d. The director shall issue a Class 1 Marijuana Producer-Processor license if it finds that issuing such a license would be consistent with the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill) and the requirements of this section are met and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The director may suspend or revoke a license to operate as a Class 1 Marijuana Producer-Processor for cause, which shall be subject to review by the Appellate Division of the Superior Court.
  - e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being produced.
  - f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

15. (New section) a. Subject to subsection b. of this section, the division shall adopt rules or regulations restricting the size of mature marijuana plant grow canopies at premises for which a license has been issued under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. In adopting rules under this subsection, the division shall:

- (1) Limit the size of mature marijuana plant grow canopies for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors in a manner calculated to result

in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers, regardless of whether the marijuana is grown outdoors or indoors.

(2) Adopt a tiered system under which the permitted size of a marijuana producer's mature marijuana plant grow canopy increases at the time of licensure renewal, except that the permitted size of a marijuana producer's mature marijuana plant grow canopy may not increase following any year during which the division disciplined the marijuana producer for violating a provision of or a rule adopted under a provision of P.L. , c. (C. ) (pending before the Legislature as this bill).

(3) Take into consideration the market demand for marijuana items in this State, the number of persons applying for a license under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), and to whom a license has been issued under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), and whether the availability of marijuana items in this State is commensurate with the market demand.

c. This section shall not apply to a premises for which a license has been issued under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), if the premises is used only to propagate immature marijuana plants.

16. (New section) A marijuana processor must have a Class 1 Marijuana Producer-Processor license issued by the division for the premises at which the marijuana is processed.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 1 Marijuana Producer-Processor license, unless such conviction occurred after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. , c. (C. ) (pending before the Legislature as this bill).

a. To hold a producer-processing license under this section, a marijuana processor:

(1) Must apply for a license in the manner described in section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) Must provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), has been a resident of this State for two or more years, and must provide proof that the applicant is 21 years of age or older;

(3) Must meet the requirements of any rule or regulation adopted by the division under subsection b. of this section; and

(4) Must undergo a criminal history record background check.

(a) Pursuant to this provision, the director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws,

rules, and regulations. The Division of State Police shall forward criminal history record background information to the commissioner in a timely manner when requested pursuant to the provisions of this section.

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a processing license. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(c) The director shall not approve an applicant for a Class 1 Marijuana Producer-Processor license if the criminal history record background information of the applicant reveals any disqualifying conviction.

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 1 Marijuana Producer-Processor license.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility to hold a Class 1 Marijuana Producer-Processor license.

(5) Should the division choose to establish additional disqualifying licensure criteria related to an applicant's criminal history by regulation, it shall not consider convictions under paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, or similar offenses, nor shall the division consider up to one conviction for a disorderly persons offense under the laws of New Jersey or up to one misdemeanor offense under the laws of the United States or analogous offense in another state. In addition, if an applicant can demonstrate evidence of rehabilitation, the division shall not consider up to one conviction for a nonviolent crime, or up to three disorderly persons or misdemeanor offenses.

In determining rehabilitation and present character and fitness the division shall consider the nature and responsibility of the position the licensee would hold, has held or currently holds, as the case may be; the nature and seriousness of the offense the circumstances under which the offense occurred; the date of the offense; the age of the applicant when the offense was committed; whether

the offense was an isolated or repeated incident; any social conditions that may have contributed to the offense; and any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.

(6) In addition to the criminal history background checks required of owners, interest holders, and employees, the division shall, in its discretion, be authorized to request personal history disclosures from and conduct additional financial due diligence upon any financial backer of a prospective Class 1 producer-processor or Class 2 retailer.

b. The division shall adopt rules that:

(1) Require a marijuana processor to renew a license issued under this section every two years following the initial three year license period;

(2) Establish application, licensure, and renewal of licensure fees for marijuana processors;

(3) Require marijuana produced by marijuana processors to be tested in accordance with section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(4) Require marijuana processors to submit, at the time of applying for or renewing a license under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill) a report describing the applicant's or licensee's electrical and water usage; and

(5) Require a marijuana processor to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule or regulation related to the processing of marijuana.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage; and

(2) Shall be deposited in the "Marijuana Control and Regulation Fund" established under section 39 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. The director shall issue a Class 1 Marijuana Producer-Processor license if it finds that issuing such a license would be consistent with the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill) and the requirements of this section are met and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The director may suspend or revoke a license to operate as marijuana production facility for cause, which shall be subject to review by the Appellate Division of the Superior Court.

e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being produced.

f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

17. (New section) A marijuana retailer must have a Class 2 Marijuana Retailer license issued by the division for the premises at which the marijuana is retailed.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 2 Marijuana Retailer license, unless such conviction occurred after the effective date of this act and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. , c. (C. ) (pending before the Legislature as this bill).

a. To hold a retailers license under this section, a marijuana retailer:

(1) Must apply for a license in the manner described in section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) Must provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), has been a resident of this State for two or more years, and must provide proof that the applicant is 21 years of age or older;

(3) Must meet the requirements of any rule adopted by the division under subsection b. of this section; and

(4) Must undergo a criminal history record background check.

(a) Pursuant to this provision, the director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section.

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a retailers license. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(c) The director shall not approve an applicant for a Class 2 Marijuana Retailer license if the criminal history record background information of the applicant reveals any disqualifying conviction.

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 2 Marijuana Retailers license.



If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility to hold a Marijuana Retailers license.

(5) Should the division choose to establish additional disqualifying licensure criteria related to an applicant's criminal history by regulation, it shall not consider convictions under paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, or similar offenses, nor shall the division consider up to one conviction for a disorderly persons offense under the laws of New Jersey or up to one misdemeanor offense under the laws of the United States or analogous offense in another state. In addition, if an applicant can demonstrate evidence of rehabilitation, the division shall not consider up to one conviction for a nonviolent crime, or up to three disorderly persons or misdemeanor offenses.

In determining rehabilitation and present character and fitness the division shall consider the nature and responsibility of the position the licensee would hold, has held or currently holds, as the case may be; the nature and seriousness of the offense the circumstances under which the offense occurred; the date of the offense; the age of the applicant when the offense was committed; whether the offense was an isolated or repeated incident; any social conditions that may have contributed to the offense; and any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.

(6) In addition to the criminal history background checks required of owners, interest holders, and employees, the division shall, in its discretion, be authorized to request personal history disclosures from and conduct additional financial due diligence upon any financial backer of a prospective Class 1 producer-processor or Class 2 retailer.

b. The division shall adopt rules that:

(1) Require a marijuana retailers to renew a license issued under this section every two years following the initial three year license period; ;

(2) Establish application, licensure, and renewal of licensure fees for marijuana retailers;

(3) Require marijuana sold by marijuana retailer to be tested in accordance with section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(4) Require marijuana retailers to submit, at the time of applying for or renewing a license under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), a report describing

the applicant's or licensee's electrical and water usage; and

(5) Require a marijuana retailer to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule related to the sale of marijuana.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage; and

(2) Shall be deposited in the "Marijuana Control and Regulation Fund" established under section 39 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. The director shall issue a Class 2 Marijuana Retailer license if it finds that issuing such a license would be consistent with the purposes of this act and the requirements of this section are met and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The director may suspend or revoke a Marijuana Retailer license for cause, which shall be subject to review by the Appellate Division of the Superior Court.

e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being warehoused.

f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

18. (New section) A marijuana transporter must have a Class 3 Marijuana Transportation license issued by the division. The division shall determine the maximum number of licenses but, providing there exist qualified applicants, shall issue a sufficient number of licenses to meet the transportation demands that implementation of P.L. , c. (C. ) (pending before the Legislature as this bill) requires.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 3 Marijuana Transportation license, unless such conviction occurred after the effective date of this act and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. c. , (C. ) (pending before the Legislature as this bill).

a. To hold a transportation license under this section, a marijuana transporter:

(1) Must apply for a license in the manner described in section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) Must provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), has been a resident of this State

for two or more years, and must provide proof that the applicant is 21 years of age or older;

(3) Must meet the requirements of any rule adopted by the division under subsection b. of this section; and

(4) Must undergo a criminal history record background check.

(a) Pursuant to this provision, the director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section.

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a transportation license. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(c) The director shall not approve an applicant for a Class 3 Marijuana Transportation license if the criminal history record background information of the applicant reveals any disqualifying conviction.

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 3 Marijuana Transportation license.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility to hold a Marijuana Transportation license.

(5) Should the division choose to establish additional disqualifying licensure criteria related to an applicant's criminal history by regulation, it shall not consider convictions under paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, or similar offenses, nor shall the division consider up to one conviction for a disorderly persons offense under the laws of New Jersey or up to one misdemeanor offense under the laws of the United States or analogous offense in

another state. In addition, if an applicant can demonstrate evidence of rehabilitation, the division shall not consider up to one conviction for a nonviolent crime, or up to three disorderly persons or misdemeanor offenses.

In determining rehabilitation and present character and fitness the division shall consider the nature and responsibility of the position the licensee would hold, has held or currently holds, as the case may be; the nature and seriousness of the offense the circumstances under which the offense occurred; the date of the offense; the age of the applicant when the offense was committed; whether the offense was an isolated or repeated incident; any social conditions that may have contributed to the offense; and any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.

(6) In addition to the criminal history background checks required of owners, interest holders, and employees, the division shall, in its discretion, be authorized to request personal history disclosures from and conduct additional financial due diligence upon any financial backer of a prospective Class 1 producer-processor or Class 2 retailer.

b. The division shall adopt rules that:

(1) Require a marijuana transporter to renew a license issued under this section every two years following the initial three year license period; ;

(2) Establish application, licensure, and renewal of licensure fees for marijuana transporters;

(3) Require marijuana that is transported by a Marijuana Transportation licensee to be tested in accordance with section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(4) Require marijuana transporter to submit, at the time of applying for or renewing a license under section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), a report describing the applicant's or licensee's electrical and water usage; and

(5) Require a marijuana transporter to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule related to the transporting of marijuana.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage; and

(2) Shall be deposited in the "Marijuana Control and Regulation Fund" established under section 39 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. The director shall issue a Class 4 Marijuana Transportation license if it finds that issuing such a license would be consistent with the purposes of this act and the requirements of this section are met and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate

Division of the Superior Court. The director may suspend or revoke a Marijuana Transportation license for cause, which shall be subject to review by the Appellate Division of the Superior Court.

e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being warehoused.

f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

19. (New section) Marijuana handlers. a. An individual who performs work for or on behalf of a person who holds a license under P.L. , c. (C. ) (pending before the Legislature as this bill) shall have a valid permit issued by the division under this section if the individual participates in:

(1) the possession, securing, or selling of marijuana items at the premises for which the license has been issued; or

(2) the recording of the possession, securing, or selling of marijuana items at the premises for which the license has been issued.

b. A person who holds a license under P.L. , c. (C. ) (pending before the Legislature as this bill) shall verify that an individual has a valid permit issued under this section before allowing the individual to perform any work described in subsection a. of this section at the premises for which the license has been issued.

c. The division shall issue permits to qualified applicants to perform work described in this section. The division shall adopt rules and regulations establishing the qualifications for performing work described in this section, the terms of a permit issued under this section; procedures for applying for and renewing a permit issued under this section; and reasonable application, issuance and renewal fees for a permit issued under this section.

d. The division may require an individual applying for a permit under this section to successfully complete a course, made available by or through the division, in which the individual receives training on checking identification; detecting intoxication; handling marijuana items; statutory and regulatory provisions relating to marijuana; and any matter deemed necessary by the division to protect the public health and safety. The division or other provider may charge a reasonable fee for the course.

The division may not require an individual to successfully complete the course more than once, except that the division may adopt regulations directing continuing education training on a prescribed schedule.

As part of a final order suspending a permit issued under this section, the division may require a permit holder to successfully complete the course as a condition of lifting the suspension and as part of a final order revoking a permit issued under this section, the division shall require an individual to successfully complete the course prior to applying for a new permit.

e. The division shall conduct a criminal history record background check on an individual applying for a permit under this section. Should the division choose to establish criteria for approval as a marijuana handler related to an applicant's criminal history, it shall not consider convictions under paragraphs (3) and (4) of subsection a. of N.J.S.2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, or similar offenses, nor shall the division consider up to one conviction for a disorderly persons offense under the laws of New Jersey or up to one misdemeanor offense under the laws of the United States or analogous offense in another state. In addition, if an applicant can demonstrate evidence of rehabilitation, the division shall not consider up to one conviction for a nonviolent crime under the laws of New Jersey or its felony equivalent in another jurisdiction, or up to three disorderly persons or misdemeanor offenses. In determining rehabilitation and present character and fitness, the division shall consider the nature and responsibility of the position the licensee would hold, has held or currently holds, as the case may be; the nature and seriousness of the offense the circumstances under which the offense occurred; the date of the offense; the age of the applicant when the offense was committed; whether the offense was an isolated or repeated incident; any social conditions that may have contributed to the offense; and any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.

f. The division may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit violates any provision of P.L. , c. (C. ) (pending before the Legislature as this bill), or any rule or regulation adopted under P.L. , c. (C. ) (pending before the Legislature as this bill); or makes a false statement to the division; or refuses to cooperate in any investigation by the division, or, if the individual is or was convicted of a disqualifying criminal offense pursuant to the subsection e. of this section..

g. A permit issued under this section is a personal privilege and permits work described under this section only for the individual who holds the permit.

## 20. (New section) Marketplace Regulation.

a. It shall be unlawful for any direct or indirect owner, part owner, investor, interest holder, lender, stockholder, officer, director, partner, or member of any corporation, partnership, limited liability company, limited liability partnership, employee cooperative, association, nonprofit corporation, business entity, or any other person with a direct ownership interest or indirect interest through intermediary business entities or other structures in any Class 1 producer-processor or marijuana testing facility to conduct, own either in whole or in part, or be directly or indirectly interested in the retailing of any marijuana in New Jersey, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said marijuana producer-processor or marijuana testing facility. The

foregoing shall not apply to Class 1 and Class 2 licenses issued to a medical marijuana alternative treatment center or an entity with common ownership or control with a medical marijuana alternative treatment center.

b. It shall be unlawful for any direct or indirect owner, part owner, investor, interest holder, lender, stockholder, officer, director, partner, or member of any corporation, partnership, limited liability company, limited liability partnership, employee cooperative, association, nonprofit corporation, business entity, or any other person with a direct ownership interest or indirect interest through intermediary business entities or other structures in any Class 2 retailer to conduct, own either in whole or in part, or be directly or indirectly interested in any Class 1 producer-processor or marijuana testing facility. The foregoing shall not apply to Class 1 and Class 2 licenses issued to a medical marijuana alternative treatment center or an entity with common ownership or control with a medical marijuana alternative treatment center.

c. No person, corporation, partnership, limited liability company, limited liability partnership, employee cooperative, association, nonprofit corporation, or other business entity, or the agents thereof, shall hold more than one Class 1 producer-processor license, or more than three Class 2 retailer licenses, at any time. No natural person, corporation, partnership, limited liability company, limited liability partnership, employee cooperative, association, nonprofit corporation, or other business entity, or the agents thereof, shall hold a direct partial interest or indirect partial interest through intermediary business entities or other structures in more than five Class 2 retailer licenses at any time. If an applicant for Class 1 producer-processor licenses or Class 2 retailer licenses scores sufficiently high on its applications as to be awarded an impermissibly excessive number of licenses, such applicant must notify the Division of Marijuana Enforcement of its desired locations in order of preference within seven business days of its receipt of the notice of award. The division will then award such applicant the permissible number of licenses and award the licenses in the remaining geographic regions to the next highest scoring applicant.

d. An ownership of stock by a person of less than one percent of the capitalization of a publicly traded company in which the person is not an officer, director, or employee shall not be construed to implicate the prohibitions on vertical integration in the foregoing paragraphs.

## 21. (New section) Employers, driving, minors and control of property.

a. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana items in the workplace or to affect the ability of employers to have policies prohibiting marijuana use or intoxication by employees during work hours. No employer shall refuse to hire or employ any person or shall discharge from employment or take any adverse action against any employee with respect to compensation, terms, conditions or other privileges of employment because that person does or does not smoke or use marijuana items,

unless the employer has a rational basis for doing so which is reasonably related to the employment, including the responsibilities of the employee or prospective employee.

b. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) is intended to allow driving under the influence of marijuana items or driving while impaired by marijuana items or to supersede laws related to driving under the influence of marijuana items or driving while impaired by marijuana items.

c. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) is intended to permit the transfer of marijuana items, with or without remuneration, to a person under the age of 21 or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume marijuana items.

d. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) shall prohibit a person, or any other entity that occupies, owns, or controls a property from prohibiting or otherwise regulating the consumption, use, display, transfer, distribution, sale, transportation or growing of marijuana items on or in that property, provided that local government units may not prohibit possession permitted by section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill) on or within a public place.

e. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) is intended to permit any person to possess, consume, use, display, transfer, distribute, sell, transport or grow marijuana items in a school, hospital, detention facility, adult correctional facility, and youth correction facility.

f. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) is intended to permit the smoking of marijuana in any place that any other law prohibits the smoking of tobacco. Any fines that may be assessed for the smoking of tobacco in designated places shall be applicable to the smoking of marijuana.

## 22. (New section) Medical marijuana provisions.

Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) shall be construed:

a. to limit any privileges or rights of a medical marijuana patient, primary caregiver, or licensed entity as provided in the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.);

b. except as provided in section 23 of P.L. , c. (C. ) (pending before the Legislature as this bill), to permit a medical marijuana alternative treatment center to distribute marijuana to a person who is not a medical marijuana patient. A license issued pursuant to this subsection may be subject to annual renewal until regulations are adopted pursuant to section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill);

c. to permit a medical marijuana center to purchase marijuana or marijuana products in a manner or from a source not permitted under P.L.2009, c.307 (C.24:6I-1 et seq.);



- d. to permit any medical marijuana center licensed pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.) to operate on the same premises as a marijuana retailer; or
- e. to discharge the Department of Health from its duties to regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.), except that the division will assume the enforcement, inspection and monitoring functions related to medical marijuana alternative treatment centers on behalf of the Department of Health.

23. (New section) An existing medical marijuana alternative treatment center, or an entity with common ownership or control with an alternative treatment center, shall be automatically eligible to receive a Class 1 Marijuana Producer-Processor License, and a Class 2 Marijuana Retailer License, and the prohibition on vertical integration shall not apply to licenses being issued to an alternative treatment center, an entity with common ownership or control, or its owners, officers, directors, or interest holders by virtue of their role in a medical marijuana alternative treatment center, as long as the owners incorporate the marijuana business established pursuant to this act as a legally distinct entity from the medical marijuana business, and the two share common ownership. The provisions of Administrative Procedures Act," P.L.1968, c.410 (C. 52:14B-1 et seq.), shall be waived to permit the Department of Health Medicinal Marijuana Program to promulgate temporary emergent rules within 90 days of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill) and issue Class 1, Class 2, or vertically integrated retail marijuana licenses to medical marijuana alternative treatment centers within six months of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill). The Medicinal Marijuana Program will oversee the Class 1, Class 2, or vertically integrated retail marijuana operations of alternative treatment centers until the division is established, operational, and promulgates its own regulations. Medical marijuana alternative treatment centers shall not be limited by region in its location of a Class 1 producer-processor facility. A Class 2 retailer license automatically granted to a medical marijuana alternative treatment center or an entity with common ownership or control shall only permit a location in the region in which the alternative treatment center was issued a permit to dispense medical marijuana. Nothing in this section shall be construed to prohibit a medical marijuana alternative treatment center or an entity with common ownership or control from submitting applications in a competitive process and receiving up to two additional Class 2 retailer licenses, subject to the limitations imposed by section 20 of P.L. , c. (C. ) (pending before the Legislature as this bill), in a different region. The Department of Health shall ensure in its temporary emergent regulation that patient needs are met and alternative treatment centers prioritize the cultivation and sale of medical marijuana above retail marijuana.

24. (New section) Expungement. Any person convicted of marijuana possession as defined in paragraph (4) of subsection a. of N.J.S.2C:35-10 prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) shall, following the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), be eligible to present an application for

expungement to the Superior Court pursuant to the provisions of chapter 52 of Title 2C of the New Jersey Statutes.

25. (New section) Limitations.

The provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) shall not be construed:

- a. To amend or affect in any way any state or federal law pertaining to employment matters;
- b. To amend or affect in any way any state or federal law pertaining to landlord-tenant matters;
- c. To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession, or use of marijuana to the extent necessary to satisfy federal requirements for the grant;
- d. To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession, or use of marijuana to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;
- e. To require a person to violate a federal law;
- f. To exempt a person from a federal law or obstruct the enforcement of a federal law.

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

2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or by P.L. , c. (C. ) (pending before the Legislature as this bill), any person who knowingly maintains or operates any premises, place or facility used for the manufacture of methamphetamine, lysergic acid diethylamide, phencyclidine, gamma hydroxybutyrate, flunitrazepam, marijuana in an amount greater than five pounds or ten plants or any substance listed in Schedule I or II, or the analog of any such substance, or any person who knowingly aids, promotes, finances or otherwise participates in the maintenance or operations of such premises, place or facility, is guilty of a crime of the first degree and shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed \$750,000.00 or five times the street value of all controlled dangerous substances, controlled substance analogs, gamma hydroxybutyrate or flunitrazepam at any time manufactured or stored at such premises, place or facility, whichever is greater.

(cf: P.L.1999, c.133, s.2)

27. (New section) Personal Use of Cannabis Resin.

a. Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense or a basis for seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other

applicable law for persons 21 years of age or older:

(1) Possessing, using, displaying, purchasing, or transporting five grams or less of resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin, or "Hashish."

(2) Transfer of five grams or less of resin extracted from any part of the Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin without remuneration to a person who is 21 years of age or older, provided that such transfer is for non-promotional, non-business purposes;

(3) Consumption of the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin, provided that nothing in this section shall permit a person to smoke or otherwise consume such resin or its derivatives openly in a public place;

(4) Assisting another person who is 21 years of age or older in any of the acts described in subparagraphs (1) through (3) of this subsection.

b. It shall be unlawful for a person or persons to manufacture or process resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin, unless licensed to do so under the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

2C:35-2. As used in this chapter:

"Administer" means the direct application of a controlled dangerous substance or controlled substance analog, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b), and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a

controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21 U.S.C. s.355).

"Counterfeit substance" means a controlled dangerous substance or controlled substance analog which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance or controlled substance analog, whether or not there is an agency relationship.

"Dispense" means to deliver a controlled dangerous substance or controlled substance analog to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. "Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance or controlled substance analog. "Distributor" means a person who distributes.

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b), and (c) of this section; but does not include devices or their components, parts, or accessories.

"Drug or alcohol dependent person" means a person who as a result of using a controlled dangerous substance or controlled substance analog or alcohol has been in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance or controlled substance analog or alcohol on a continuous or repetitive basis. Drug or alcohol dependence is characterized by behavioral and other responses, including but not limited to a strong

compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance or controlled substance analog by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance or controlled substance analog in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Marijuana" means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant[; but shall not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination].

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) Opium, coca leaves, and opiates;
- (b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
- (c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled pursuant to the provisions of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity, or one or more individuals.

"Plant" means an organism having leaves and a readily observable root formation, including, but not limited to, a cutting having roots, a rootball or root hairs.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State.

(a) "Physician" means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state.

(b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental, and medical purposes and for purposes of instruction approved by the Department of Health.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the Division of Consumer Affairs in the Department of Law and Public Safety has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility licensed and approved by the Department of Human Services and which is approved by any county probation department for the inpatient treatment and rehabilitation of drug or alcohol dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any regulations issued by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to the director's authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance or controlled substance analog for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

"Prescription legend drug" means any drug which under federal or State law requires dispensing by prescription or order of a licensed physician, veterinarian, or dentist and is required to bear the statement "Rx only" or similar wording indicating that such drug may be sold or dispensed only upon the prescription of a licensed medical practitioner and is not a controlled dangerous substance or stramonium preparation.

"Stramonium preparation" means a substance prepared from any part of the stramonium plant in the form of a powder, pipe mixture, cigarette, or any other form with or without other ingredients.

"Stramonium plant" means the plant *Datura Stramonium* Linne, including *Datura Tatula* Linne. (cf: P.L.2013, c.35, s.1)

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

2C:35-5. Manufacturing, Distributing or Dispensing. a. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or P.L. , c. (C. ), (pending before the Legislature as this bill), it shall be unlawful for any person knowingly or purposely:

(1) To manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense, a controlled dangerous substance or controlled substance analog; or

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

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

(1) Heroin, or its analog, or coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, or analogs, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine, or 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxyamphetamine, in a quantity of five ounces or more including any adulterants or dilutants is guilty of a crime of the first degree. The defendant shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

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

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

(4) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants is guilty of a crime of the second degree;

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

(6) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more including any adulterants or dilutants, or phencyclidine, or its analog, in a quantity of 10 grams or more including any adulterants or dilutants, is guilty of a crime of the first degree. Except as provided in N.J.S.2C:35-12, the court shall impose a term of imprisonment which shall include the imposition of a minimum term, fixed at, or between, one-third and one-half of the sentence imposed by the court, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

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

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

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

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

(10) (a) Marijuana in a quantity of 25 pounds or more including any adulterants or dilutants, or 50 or more marijuana plants, regardless of weight, or hashish in a quantity of five pounds or more including any adulterants or dilutants, is guilty of a crime of the first degree. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;



(b) Marijuana in a quantity of five pounds or more but less than 25 pounds including any adulterants or dilutants, or 10 or more but fewer than 50 marijuana plants, regardless of weight, or hashish in a quantity of one pound or more but less than five pounds, including any adulterants and dilutants, is guilty of a crime of the second degree;

(11) Marijuana in a quantity of one ounce or more but less than five pounds including any adulterants or dilutants, or hashish in a quantity of five grams or more but less than one pound including any adulterants or dilutants, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;

(12) [Marijuana in a quantity of less than one ounce including any adulterants or dilutants, or hashish in a quantity of less than five grams including any adulterants or dilutants, is guilty of a crime of the fourth degree;] (Deleted by amendment, P.L. \_\_\_ c. \_\_\_)(pending before the Legislature as this bill).

(13) Any other controlled dangerous substance classified in Schedule I, II, III or IV, or its analog, is guilty of a crime of the third degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed; or

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

c. Where the degree of the offense for violation of this section depends on the quantity of the substance, the quantity involved shall be determined by the trier of fact. Where the indictment or accusation so provides, the quantity involved in individual acts of manufacturing, distribution, dispensing or possessing with intent to distribute may be aggregated in determining the grade of the offense, whether distribution or dispensing is to the same person or several persons, provided that each individual act of manufacturing, distribution, dispensing or possession with intent to distribute was committed within the applicable statute of limitations.

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

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

1. Except as authorized by P.L. , c. (C. )(pending before the Legislature as this bill):

a. Any person who violates subsection a. of N.J.S.2C:35-5 by distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog while on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property or a school bus, or while on any school bus, is guilty of a crime of the third degree and shall, except as provided in N.J.S.2C:35-12, be sentenced by the court to a term of imprisonment. Where the violation involves less than one ounce of marijuana, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or one year, whichever is greater, during which the defendant shall be ineligible

for parole. In all other cases, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or three years, whichever is greater, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$150,000 may also be imposed upon any conviction for a violation of this section.

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

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

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

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

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

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

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

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

If the court at sentencing elects not to impose a minimum term of imprisonment and parole ineligibility pursuant to this subsection, imposes a term of parole ineligibility less than the minimum term prescribed in subsection a. of this section, or places the defendant on probation for a violation of subsection a. of this section, the sentence shall not become final for 10 days in order to permit the prosecution to appeal the court's finding and the sentence imposed. The Attorney General shall develop guidelines to ensure the uniform exercise of discretion in making determinations regarding whether to appeal a decision to waive or reduce the minimum term of parole ineligibility or place the defendant on probation.

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

c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for a violation of subsection a. of

N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

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

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

f. In a prosecution under this section, a map produced or reproduced by any municipal or county engineer for the purpose of depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or a true copy of such a map, shall, upon proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 1,000 feet of the school property. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Rules of Evidence.

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

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

1. Except as authorized by P.L., c. (C.) (pending before the Legislature as this bill):

a. Any person who violates subsection a. of N.J.S.2C:35-5 by distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog while in, on or within 500 feet of the real property comprising a public housing facility, a public

park, or a public building is guilty of a crime of the second degree, except that it is a crime of the third degree if the violation involved less than one ounce of marijuana.

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

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

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

e. In a prosecution under this section, a map produced or reproduced by any municipal or county engineer for the purpose of depicting the location and boundaries of the area on or within 500 feet of a public housing facility which is owned by or leased to a housing authority according to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or within 500 feet of a public park, or the area in or within 500 feet of a public building, or a true copy of such a map, shall, upon proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 500 feet of a public housing facility, a public park, or a public building. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Rules of Evidence.

f. As used in this act:

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

"Public park" means a park, recreation facility or area or playground owned or controlled by a State, county or local government unit.

"Public building" means any publicly owned or leased library or museum.  
(cf: P.L.1997, c.327, s.1)

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

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

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

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

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

(3) Possession of [more than] 50 grams or more of marijuana, including any adulterants or dilutants, or more than five grams of hashish is guilty of a crime of the fourth degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed; or

(4) Possession of [50 grams or less] more than one ounce (28.38 grams) but less than 50 grams, of marijuana, including any adulterants or dilutants, [or five grams or less of hashish] is a disorderly person.

b. Any person who uses or who is under the influence of any controlled dangerous substance, or its analog, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician is a disorderly person.

In a prosecution under this subsection, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug, but it shall be sufficient for a conviction under this subsection for the State to prove that the accused did use or was under the

influence of some controlled dangerous substance, counterfeit controlled dangerous substance, or controlled substance analog, by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any controlled dangerous substance or controlled substance analog.

c. Any person who knowingly obtains or possesses a controlled dangerous substance or controlled substance analog in violation of subsection a. of this section and who fails to voluntarily deliver the substance to the nearest law enforcement officer is guilty of a disorderly persons offense. Nothing in this subsection shall be construed to preclude a prosecution or conviction for any other offense defined in this title or any other statute.

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

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

2C:36-1. Drug paraphernalia, defined; determination.

[As] Except as authorized by P.L. c. (C. ) (pending before the Legislature as this bill), as used in this act, "drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title. It shall include, but not be limited to: a. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived; b. kits used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled dangerous substances or controlled substance analogs; c. isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled dangerous substance; d. testing equipment used or intended for use identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances or controlled substance analogs; e. scales and balances used or intended for use in weighing or measuring controlled dangerous substances or controlled substance analogs; f. dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances or controlled substance analogs; g. [separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;] h. blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances or controlled substance analogs; i. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances or controlled substance analogs; j. containers and other objects used or intended for use in storing or concealing controlled dangerous substances, controlled substance analogs or toxic chemicals; k. objects used or intended for use in

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

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

(cf: P.L.2007, c.31, s.2)

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

[No] Except as authorized by P.L. \_\_, c. \_\_ (C. \_\_) (pending before the Legislature as this bill), no person shall operate a motor vehicle on any highway while knowingly having in his possession or in the motor vehicle any controlled dangerous substance as classified in Schedules I, II, III, IV and V of the "New Jersey Controlled Dangerous Substances Act," P.L. 1970, c. 226 (C. 24:21-1 et seq.) or any prescription legend drug, unless the person has obtained the substance or drug from, or on a valid written prescription of, a duly licensed physician, veterinarian, dentist or other medical

practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals or unless the person possesses a controlled dangerous substance pursuant to a lawful order of a practitioner or lawfully possesses a Schedule V substance.

A person who violates this section shall be fined not less than [ \$50.00 ] \$50 and shall forthwith forfeit his right to operate a motor vehicle for a period of two years from the date of his conviction.

(cf: P.L.1985, c.239, s.1)

35. (New section) Consumer Protections.

a. Individuals and licensed marijuana establishments shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business, occupational, or professional licensing board or bureau, solely for conduct permitted under this act.

b. The presence of cannabinoid metabolites in the bodily fluids of a person engaged in conduct permitted under P.L. , c. (C. ) (pending before the Legislature as this bill) by:

(1) a student, employee, or tenant, shall not form the basis for refusal to enroll or employ or lease to or otherwise penalize that person, unless failing to do so would put the school, employer, or landlord in violation of federal law or cause it to lose a federal contract or funding;

(2) a patient, shall not constitute the use of an illicit substance resulting in denial of medical care, including organ transplant, and a patient's use of marijuana may only be considered with respect to evidence-based clinical criteria;

(3) a parent or legal guardian of a child or newborn infant, or a pregnant woman, shall not form the sole or primary basis for any action or proceeding by the Division of Child Protection and Permanency, or any successor agencies.

36. (New section) a. Law enforcement agencies in New Jersey shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the Controlled Substance Act, 21 U.S.C. s. 801 et seq., solely for actions consistent with P.L. , c. (C. ) (pending before the Legislature as this bill), except as pursuant to a valid court order.

b. No agency or subdivision of an agency of the State of New Jersey may refuse to perform any duty under P.L. , c. (C. ) (pending before the Legislature as this bill) on the basis that manufacturing, distributing, dispensing, possessing, or using marijuana is prohibited by federal law.

c. The division may not revoke or refuse to issue or renew a license P.L. , c. (C. ) (pending before the Legislature as this bill) on the basis that manufacturing, distributing, dispensing, possessing, or using marijuana is prohibited by federal law.

37. (New section) Contract Enforceability.

No contract shall be unenforceable on the basis that manufacturing, distributing, dispensing, possessing, or using marijuana is prohibited by federal law. No contract entered into by a licensee, its



employees, or its agents as permitted pursuant to a valid license issued by the division, or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the division, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

38. (New section) Criminal Investigation.

a. None of the following shall, individually or in combination, constitute reasonable articulable suspicion of a crime:

(1) The odor of marijuana or burnt marijuana;

(2) The possession of or the suspicion of possession of marijuana without evidence of quantity in excess of one ounce;

(3) The possession of marijuana without evidence of quantity in excess of one ounce in proximity to any amount of cash or currency;

b. Subsection a. of this section shall not apply when a law enforcement officer is investigating whether a person is driving under the influence of marijuana or driving while impaired by marijuana in violation of R.S.39:4-50.

39. (New section) All fees and penalties collected by the Director of the Division of Marijuana Enforcement pursuant to the provisions of P.L. c. (C. ) (pending before the Legislature as this bill) shall be forwarded to the State Treasurer for deposit in a special nonlapsing fund which shall be known as the "Marijuana Control and Regulation Fund." Monies in the fund shall be used exclusively for the operation of the Division of Marijuana Enforcement and for reimbursement of all additional costs of enforcement of the provisions of P.L. c. (C. ) (pending before the Legislature as this bill) incurred by the Department of Law and Public Safety.

40. (New section) Marijuana Regulation Review Commission.

a. The Marijuana Regulation Review Commission shall consist of one member appointed by the Governor, one member appointed by the President of the Senate who shall be a member of the Senate, and one member appointed by the Speaker of the General Assembly who shall be a member of the General Assembly. The presiding officer of the commission shall be determined by the members. The members of the commission shall serve without pay in connection with all such duties as are prescribed in P.L. c. (C. ) (pending before the Legislature as this bill).

b. The commission shall call upon the Department of Law and Public Safety to assist in any staff or clerical functions of the commission.

c. Meetings of commission, copies of minutes.

All meetings of the commission shall be governed by the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), open to the public and all the business of the commission shall be transacted at public meetings held at such time and place as the commission

shall prescribe. The commission shall meet at such times as determined by the chairperson of the commission.

The secretary shall transmit to each member of the commission a copy of the minutes of each meeting within twenty-four hours after the adjournment thereof. The minutes of the commission shall be open to inspection by any citizen of the State at all times during business hours.

d. Rules. The commission shall formulate and adopt rules of procedure for the commission in exercising its powers and fulfilling its duties under P.L. , c. (C. ) (pending before the Legislature as this bill).

e. Number of members necessary to act. The concurrence of two of the members of the commission shall be necessary to validate all acts of the commission.

f. Annual report to Legislature. The commission shall make a biannual detailed report of its actions and operations to the Legislature and render such other reports to the Legislature as it shall from time to time require.

g. Powers and duties of commission.

The Marijuana Regulation Review Commission, in lieu of the Attorney General, shall review and approve regulations developed by the division pursuant to section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall review and approve all actions of the division related to the selection of licensees and the grant, suspension, or revocation of licenses pursuant to section 13 of P.L. , c. (C. ) (pending before the Legislature as this bill), and may author and require regulations as deemed necessary. The commission shall have such other and further powers and perform such other and further duties as may be conferred or imposed upon it from time to time by the Legislature.

41. (New section) Following the enactment of, but prior to the effective date of, P.L. c. (C. ) (pending before the Legislature as this bill), possession of up to 50 grams of marijuana shall constitute a civil violation not subject to arrest, and limited to a fine of up to \$100, notwithstanding the provisions of N.J.S. 2C:35-10.

42. This act shall take effect on the 360th day following enactment, but the director may take such anticipatory action as may be necessary to effectuate the provisions of this act.

## STATEMENT

This bill would legalize the possession and personal use of small amounts of marijuana for persons age 21 and over.

Section 1 of the bill contains the title, "New Jersey Adult Use Marijuana Law."

Section 2 of the bill contains findings and declarations including reversal of the existing state policy which criminalizes distribution and possession of marijuana. The bill declares the adoption of

a new approach to the marijuana policy for New Jersey which includes the taxing, controlling and legalization of marijuana for adults and the intention to prevent the sale or distribution of the substance to persons under 21 years of age.

Section 3 of the bill contains key definitions to aid in the implementation of the policy change, including the newly created Division of Marijuana Enforcement in the Department of Law and Public Safety, and defining the categories of persons who will be licensed under the act.

Section 4 specifies that the following acts are not unlawful and would not be an offense or a basis for seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable law for persons 21 years of age or older:

- possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana and certain other related products;
- transfer of one ounce or less of marijuana or other related products to a person who is 21 years of age or older;
- consumption of marijuana, provided that nothing in the bill would permit consumption that is conducted openly and publicly;
- assisting another person who is 21 years of age or older in any of the acts described above; or
- home grow of marijuana – possessing, growing or processing no more than six marijuana plants in house or rental unit; local government may prohibit home grow.

Section 5 of the bill provides that the following acts would also not be unlawful or a basis for seizure or forfeiture of assets for persons 21 years of age or older:

- manufacture, possession, or purchase of marijuana accessories or the sale of marijuana accessories to a person who is 21 years of age or older;
- possessing, displaying, or transporting marijuana or marijuana products; purchase of marijuana from a marijuana cultivation facility; purchase of marijuana or marijuana products from a marijuana product manufacturing facility; or sale of marijuana or marijuana products to consumers, if the person conducting the activities has obtained a current, valid license to operate a retail marijuana store or is acting in his capacity as an owner, employee or agent of a licensed retail marijuana store;
- cultivating, harvesting, processing, packaging, transporting, displaying, or possessing marijuana; delivery or transfer of marijuana to a marijuana testing facility; selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store; or the purchase of marijuana from a marijuana cultivation facility, if the person conducting the activities has obtained a current, valid license to operate a marijuana cultivation facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana cultivation facility;

- packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products; delivery or transfer of marijuana or marijuana products to a marijuana testing facility; selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility; the purchase of marijuana from a marijuana cultivation facility; or the purchase of marijuana or marijuana products from a marijuana product manufacturing facility, if the person conducting the activities has obtained a current, valid license to operate a marijuana product manufacturing facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana product manufacturing facility;
- possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering marijuana or marijuana products if the person has obtained a current, valid license to operate a marijuana testing facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana testing facility;
- leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully.

Sections 6 establishes the penalties for a person to “sell, offer for sale, distribute for commercial purpose at no cost or minimal cost, give, or furnish, to a person under 21 years of age.” Further, the section establishes penalties for a person under 21 to attempt to purchase, or acquire a marijuana item, offer “written or oral evidence of age that is false, fraudulent, or not actually the person’s own,” or to enter or attempt to enter any portion of a licensed marijuana premises. The prohibited act, in each instance, constitutes a disorderly persons offense. Additionally, a fine or a civil penalty may be imposed. A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

Section 7 establishes in the Department of Law and Public Safety a Division of Marijuana Enforcement.

Sections 8 and 9 describe the powers and duties of the newly created Division of Marijuana Enforcement and the regulation of marijuana generally. The bill provides for the division to adopt rules and regulations necessary for implementation of the bill. The regulations could not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The bill would require regulations to include the following: procedures for the application, issuance, denial, renewal, suspension, and revocation of a license to operate a marijuana establishment; the establishment by the division of license application fees. Additional required regulations must include licensing goals for minority owned and female owned businesses under the act; security requirements for marijuana establishments; requirements to prevent the sale or diversion of marijuana and marijuana products to underage persons; labeling and packaging requirements; health and safety regulations and standards for the manufacture and sale of marijuana products; advertisement restrictions; procedures for the division to conduct unannounced visits to marijuana establishments; a requirement that only marijuana, marijuana based products and

paraphernalia be available for sale at a marijuana establishment; and civil penalties for the failure to comply with established regulations.

Section 10 mandates that the division develop a system for tracking the transfer of marijuana items between licensed premises capable, at a minimum, of tracking among other categories, the propagation of immature marijuana plants, the processing of marijuana by a processor, the receiving, storing and delivering of marijuana items by a wholesaler, the sale of marijuana items by a marijuana retailer to a consumer; the purchase and sale of marijuana items between licensees, the transfer of marijuana items between licensed premises; and the collection of taxes imposed upon the retail sale of marijuana items.

Section 11 of the bill establishes a tax levied upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store. To encourage early participation in and development of marijuana establishments and to undermine the illegal market, the bill proposes the tax shall escalate over a five year period such that in year one following the excise tax shall be seven percent; and in year three, the tax shall be 10 percent; and in year five and beyond, the tax rate shall be 15 percent. The Department of the Treasury would establish procedures for the collection of all taxes levied.

The bill specifies that no tax would be levied upon marijuana intended for sale at medical marijuana centers pursuant to the “New Jersey Compassionate Use Medical Marijuana Act,” P.L. 2009, c.307 (C.24:6I-1 et seq.).

Under the bill, tax revenue shall be collected by the Director of the Division of Taxation and shall be deposited by the Director of the Division of Taxation into the nonlapsing fund established pursuant to section 37 of P.L., c. (C. ) (pending before the Legislature as this bill), and shall be used to fund the Division of Marijuana Enforcement, except that during the first and second year the tax is collected one percent shall be allocated to the local governmental entity in which the marijuana establishment is located; during year three and four, two percent shall be allocated to the local governmental entity in which the marijuana establishment is located; and in year five and each subsequent year thereafter, three percent shall be allocated to the local governmental entity in which the marijuana establishment is located.

Section 12 provides for local governmental entity regulations or ordinances. The local governmental entity may enact ordinances or regulations, not in conflict with the provisions of the bill, that address the following:

- governing the time, place, manner and number of marijuana establishment operations;
- establishing local government registration fees for marijuana establishments not to exceed \$10,000; and
- establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local governmental entity.

The bill provides that a local governmental entity may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail

marijuana stores through the enactment of an ordinance. Under the bill, the failure of a local governmental entity to enact an ordinance prohibiting the operation of a marijuana establishment within one year of the effective date shall thereby permit the operation of a marijuana retail establishment within the local governmental entity for a period of five years, at the end of which five year period, and every five year period thereafter, the local governmental entity shall again be permitted to prohibit the operation of a marijuana establishment.

Section 13 establishes the application process. Under the bill, each application for an initial three year license and each subsequent two year renewal license to operate a marijuana establishment would be submitted to the division. A separate license shall be required for each location at which a marijuana establishment seeks to operate. Renewal applications may be filed up to 90 days prior to the expiration of the establishment's license. The initial license application only shall be based upon a 100 point scale. The Division shall begin processing applications 18 months following enactment.

Sections 14 through 18 establish the different classes of licenses and the requirements to obtain licensure.

A marijuana producer or processor must have a Class 1 Marijuana Producer-Processor license issued by the division for the premises at which the marijuana is produced or processed.

A marijuana retailer must have a Class 2 Marijuana Retailer license issued by the division for the premises at which the marijuana is retailed.

A marijuana transporter must have a Class 3 Marijuana Transportation license issued by the division.

All prospective licensees must complete application requirements, meet residency requirements, and undergo a criminal history record background check.

Section 19 concerns the permitting of marijuana handlers, a person who performs work for a licensee.

Section 20, concerning marketplace regulation, bars producer-processor from conducting or owning retail marijuana establishment; bars retail marijuana from conducting or owning a producer-processor marijuana establishment and places limits on number of licenses which can be held per license class.

Section 21 regulates employment policies related to marijuana.

Section 22 concerning a currently operating medical marijuana facility, known as an alternative treatment center, operating in good standing can immediately apply for a license to operate to distribute marijuana to a person who is not a medical marijuana patient, as long as the owners incorporate the marijuana business established pursuant to this act as a legally distinct entity from the medical marijuana business, and the two share common.

Section 23 provides that an existing medical marijuana alternative treatment center, or an entity with common ownership or control with an alternative treatment center, shall be automatically eligible to receive a Class 1 Marijuana Producer-Processor License, and a Class 2 Marijuana Retail License, and the prohibition on vertical integration shall not apply

Section 24 permits a person with a previous conviction for marijuana possession to present an application for expungement to the Superior Court.

Sections 25 concerns limitations as relates to federal law.

Sections 26, and 28 through 34 update existing sections of law to reflect the decriminalization of marijuana under the bill.

Section 27 concerns personal use of cannabis resin.

Section 35 establishes consumer protections barring medical marijuana arrest, prosecution, or penalty for conduct permitted under the act.

Section 36 provides that New Jersey law enforcement agencies “shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the Controlled Substance Act, 21 U.S.C. 801 et seq., solely for actions consistent with” conduct legalized by S-3195, “except pursuant to a valid court order.” Nor shall an agency refuse to renew a license, or, to perform any duty under the bill on the basis that manufacturing, distributing, dispensing, possessing, or using marijuana is prohibited by federal law.

Section 37 concerns contract enforcement and bars unenforceability on the grounds that conduct is prohibited by federal law.

Section 38 concerns criminal investigations and establishes that certain conduct shall not constitute “articulable suspicion,” including the odor of marijuana or burnt marijuana, the possession of or the suspicion of possession of marijuana without evidence of quantity in excess of one ounce, and the possession of marijuana without evidence of quantity in excess of one ounce in proximity to any amount of cash or currency.

Section 39 establishes that all fees and penalties collected by the Director of the Division of Marijuana Enforcement shall be forwarded to the State Treasurer for deposit in a special nonlapsing fund which shall be known as the “Marijuana Control and Regulation Fund.” Monies in the fund shall be used exclusively for the operation of the Division of Marijuana Enforcement and for reimbursement of all additional costs of enforcement

Section 40 establishes a Marijuana Regulation Review Commission which shall be responsible to review and approve regulations developed by the division. The commission shall consist of three members as follows: one member appointed by the Governor, who shall be the presiding officer, one member appointed by the President of the Senate, who shall be a member of the Senate, and one member appointed by the Speaker of the General Assembly, who shall be a member of the General Assembly. The concurrence of two of the members of the commission shall be necessary to validate all acts of the commission.

Section 41 provides that following enactment of the legislation but prior to the effective date, established as one year following enactment, the possession of up to 50 grams of marijuana shall constitute a civil violation not subject to arrest, and limited to a fine of up to \$100.

Section 42 provides that the bill shall take effect on the 360<sup>th</sup> day following enactment, but the director may take such anticipatory action as may be necessary to effectuate the provisions.