

SENATE, No. 830

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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2

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

3

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

6

7 1. (New section) Findings.

8 The Legislature finds and declares that:

9 a. It is the intent of the people of New Jersey to adopt a new
10 approach to our marijuana policies by taxing, controlling and
11 legalizing marijuana like alcohol for adults;

12 b. It is the intent of the people of New Jersey that the
13 provisions of this act will prevent the sale or distribution of
14 marijuana to persons under 21 years of age;

15 c. This act is designed to eliminate the problems caused by the
16 unregulated manufacture, distribution, and use of marijuana within
17 New Jersey;

18 d. This act will divert funds from marijuana sales from going to
19 illegal enterprises, gangs, and cartels;

20 e. New Jersey law enforcement officers made over 24,000
21 arrests for marijuana possession in 2012, more than in the previous
22 20 years;

23 f. In 2012, a person was arrested for marijuana possession in
24 New Jersey approximately every 22 minutes;

25 g. Black New Jerseyans are nearly three times more likely to be
26 arrested for marijuana possession than white New Jerseyans, despite
27 similar usage rates;

28 h. Marijuana possession arrests constituted three out of every
29 five drug arrests in New Jersey in 2012;

30 i. New Jersey spends approximately \$127 million per year on
31 marijuana possession enforcement costs;

32 j. Taxing, controlling, and legalizing marijuana for adults like
33 alcohol will free up precious resources to allow our criminal justice
34 system to focus on serious crime and public safety issues;

35 k. Taxing, controlling, and legalizing marijuana for adults like
36 alcohol will strike a blow at the illegal enterprises that profit from
37 New Jersey's current, unregulated marijuana illegal market;

38 l. New Jersey must strengthen our support for evidence-based,
39 drug prevention programs that work to educate New Jerseyans,
40 particularly young New Jerseyans, about the harms of drug abuse;

41 m. New Jersey must enhance State-supported programming that
42 provides appropriate, evidence-based treatment for those who suffer
43 from the illness of drug addiction;

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

Matter underlined thus is new matter.

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- 1 n. Controlling and regulating the manufacture, distribution, and
2 sale of marijuana will strengthen our ability to keep marijuana away
3 from minors;
- 4 o. A controlled system of marijuana manufacturing,
5 distribution, and sale must be designed in a way that enhances
6 public health and minimizes harms to New Jersey communities and
7 families;
- 8 p. The regulated marijuana system in New Jersey must be
9 regulated so as to prevent persons younger than 21 years of age
10 from accessing or purchasing marijuana;
- 11 q. A marijuana arrest in New Jersey can have a debilitating
12 impact on a person's future, including consequences for one's job
13 prospects, housing access, financial health, familial integrity,
14 immigration status, and educational opportunities;
- 15 r. The tax revenue generated from a controlled marijuana
16 manufacture, distribution, and retail sales system in New Jersey will
17 generate hundreds of millions of dollars to bolster effective,
18 evidence-based drug treatment and education, and to reinvest in
19 New Jersey communities;
- 20 s. New Jersey cannot afford to sacrifice its public safety and
21 civil rights by continuing its ineffective and wasteful marijuana
22 enforcement policies.

23

24 2. (New section) Definitions.

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

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

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

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

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

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

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

46 "Household" means a housing unit and any place in or around a
47 housing unit at which the occupants of the housing unit are

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1 producing, processing or storing homegrown marijuana or
2 homemade marijuana products.

3 “Housing unit” means a house, an apartment, a mobile home, a
4 group of rooms, or a single room that is occupied as separate living
5 quarters, in which the occupants live and eat separately from any
6 other persons in the building and which have direct access from the
7 outside of the building or through a common hall.

8 “Immature marijuana plant” means a marijuana plant that is not
9 flowering.

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

14 “Licensee” means a person who holds a license issued under this
15 act that is designated as either a Class 1 Marijuana Cultivation
16 Facility license, herein also referred to as a Marijuana Producer
17 license, or a Class 1 Marijuana Product Manufacturing Facility
18 license; herein also referred to as a Marijuana Processor license, a
19 Class 2 Marijuana Wholesaler license; a Class 3 Marijuana Retailer
20 license; or a Class 4 Marijuana Transportation license.

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

24 “Local governmental entity” means a municipality.

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

32 “Marijuana Cultivation Facility” means an entity licensed to
33 cultivate marijuana and sell marijuana to marijuana producers, to
34 marijuana product manufacturing facilities, and to other marijuana
35 cultivation facilities, but not to consumers. This entity shall hold a
36 Class 1 Marijuana Cultivation Facility license.

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

40 “Marijuana extract” means a substance obtained by separating
41 resins from marijuana by: (i) a chemical extraction process using a
42 hydrocarbon-based solvent, such as butane, hexane or propane; (ii)
43 a chemical extraction process using the hydrocarbon-based solvent
44 carbon dioxide, if the process uses high heat or pressure; or (ii) Any
45 other process identified by the division by rule.

46 “Marijuana flowers” means the flowers of the plant genus
47 Cannabis within the plant family Cannabaceae.

- 1 “Marijuana items” means marijuana, marijuana products, and
2 marijuana extracts.
- 3 “Marijuana leaves” means the leaves of the plant genus Cannabis
4 within the plant family Cannabaceae.
- 5 “Marijuana paraphernalia” means any equipment, products, or
6 materials of any kind which are used, intended for use, or designed
7 for use in planting, propagating, cultivating, growing, harvesting,
8 composting, manufacturing, compounding, converting, producing,
9 processing, preparing, testing, analyzing, packaging, repackaging,
10 storing, vaporizing, or containing marijuana, or for ingesting,
11 inhaling, or otherwise introducing marijuana into the human body.
- 12 “Marijuana processor” means a person who processes marijuana
13 items in this State.
- 14 “Marijuana producer” means a person who produces marijuana
15 in this State.
- 16 “Marijuana product manufacturing facility” means an entity
17 licensed to purchase marijuana; manufacture, prepare, and package
18 marijuana items; and sell items to other marijuana product
19 manufacturing facilities and to marijuana retailers, but not to
20 consumers. This entity shall hold a Class 1 Marijuana Product
21 Manufacturing Facility license.
- 22 “Marijuana products” means a product containing marijuana or
23 marijuana extracts and other ingredients intended for human
24 consumption or use, including a product intended to be applied to
25 the skin or hair, edible products, ointments, and tinctures.
26 Marijuana products do not include: (i) marijuana by itself; or (ii)
27 marijuana extract by itself.
- 28 “Marijuana retailer” means an entity licensed to purchase
29 marijuana from marijuana cultivation facilities and marijuana items
30 from marijuana product manufacturing facilities or marijuana
31 wholesalers and to sell marijuana and marijuana products to
32 consumers. This entity shall hold a Class 3 Marijuana Retailer
33 license.
- 34 “Marijuana testing facility” means an independent, third-party
35 entity meeting accreditation requirements established by the
36 Division that is licensed to analyze and certify the safety and
37 potency of marijuana items.
- 38 “Marijuana transporter” means an entity licensed to transport
39 marijuana through and within the State of New Jersey and to
40 maintain a warehouse. This entity shall hold a Class 4 Marijuana
41 Transportation license.
- 42 “Marijuana wholesaler” means any licensed person or entity who
43 sells marijuana items or marijuana paraphernalia for the purpose of
44 resale either to a licensed marijuana wholesaler or to a licensed
45 marijuana retailer. This entity shall hold a Class 2 Marijuana
46 Wholesaler license.
- 47 “Mature marijuana plant” means a marijuana plant that is not an
48 immature marijuana plant.

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

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

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

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

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

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

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

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

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

47 “Unreasonably impracticable” means that the measures necessary
48 to comply with the regulations require such a high investment of

1 risk, money, time, or any other resource or asset that the operation
2 of a marijuana establishment is not worthy of being carried out in
3 practice by a reasonably prudent businessperson.

4
5 3. (New section) Personal use of marijuana.

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

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

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

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

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

29
30 4. (New section) Lawful operation of marijuana
31 establishments.

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

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

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

47 c. cultivating, harvesting, processing, packaging, transporting,
48 displaying, or possessing marijuana; delivery or transfer of

1 marijuana to a marijuana testing facility; selling marijuana to a
2 marijuana cultivation facility, a marijuana product manufacturing
3 facility, or a marijuana retailer; or the purchase of marijuana from a
4 marijuana cultivation facility, if the person conducting the activities
5 described in this subsection has obtained a current, valid license to
6 operate a marijuana cultivation facility or is acting in his capacity as
7 an owner, employee, or agent of a licensed marijuana cultivation
8 facility.

9 d. packaging, processing, transporting, manufacturing,
10 displaying, or possessing marijuana items; delivery or transfer of
11 marijuana items to a marijuana testing facility; selling marijuana
12 items to a marijuana retailer or a marijuana product manufacturing
13 facility; the purchase of marijuana from a marijuana cultivation
14 facility; or the purchase of marijuana items from a marijuana
15 product manufacturing facility, if the person conducting the
16 activities described in this subsection has obtained a current, valid
17 license to operate a marijuana product manufacturing facility or is
18 acting in his capacity as an owner, employee, or agent of a licensed
19 marijuana product manufacturing facility.

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

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

29

30 5. (New section) Prohibition of Persons Under the Legal Age
31 Purchasing Marijuana.

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

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

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

47 (1) That the purchaser of the marijuana or marijuana product
48 falsely represented, by producing either a United States passport;

1 driver's license or non-driver identification card issued by the New
2 Jersey Motor Vehicle Commission; a similar card issued pursuant to
3 the laws of another state; United States military identification card;
4 or a photographic identification card issued by a county clerk, that
5 he was of legal age to make the purchase;

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

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

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

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

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

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

28 (2) Gaining access to a marijuana establishment.

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

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

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

47 i. The prohibitions of this section do not apply to a person
48 under the legal age for purchasing marijuana items who is acting

1 under the direction of a licensee for the purpose of investigating
2 possible violations by employees of the licensee of laws prohibiting
3 sales of marijuana items to persons who are under the legal age for
4 purchasing marijuana items.

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

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

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

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

23

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

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

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

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

37

38 7. (New section) Powers and duties of the division.

39 a. The Division of Marijuana Enforcement shall have all
40 powers necessary or proper to enable it to carry out the division's
41 duties, functions, and powers under this act. The jurisdiction,
42 supervision, duties, functions, and powers of the division extend to
43 any person who buys, sells, produces, processes, transports, or
44 delivers any marijuana items within this State. The division may sue
45 and be sued.

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

- 1 (1) To regulate the purchase, sale, production, processing,
2 transportation and delivery of marijuana items in accordance with
3 the provisions of this act.
- 4 (2) To grant, refuse, suspend or cancel licenses for the sale,
5 processing, or production of marijuana items, or other licenses in
6 regard to marijuana items, and to permit, in the division's
7 discretion, the transfer of a license between persons.
- 8 (3) To investigate and aid in the prosecution of every violation
9 of the statutory laws of this State relating to marijuana items and to
10 cooperate in the prosecution of offenders before any State court of
11 competent jurisdiction.
- 12 (4) To adopt, amend, or repeal regulations as necessary to carry
13 out the intent and provisions of this act.
- 14 (5) To exercise all powers incidental, convenient, or necessary
15 to enable the division to administer or carry out the provisions of
16 this act, or any other law of this State that charges the division with
17 a duty, function, or power related to marijuana. Powers described in
18 this paragraph include, but are not limited to:
- 19 (a) Issuing subpoenas;
20 (b) Compelling attendance of witnesses;
21 (c) Administering oaths;
22 (d) Certifying official acts;
23 (e) Taking depositions as provided by law;
24 (f) Compelling the production of books, payrolls, accounts,
25 papers, records, documents and testimony; and
26 (g) Establishing fees in addition to the application, licensing,
27 and renewal fees, provided that any fee established by the division
28 is reasonably calculated not to exceed the cost of the activity for
29 which the fee is charged.
- 30 (6) To adopt rules regulating and prohibiting marijuana
31 producers, marijuana processors, marijuana wholesalers, and
32 marijuana retailers from advertising marijuana items in a manner
33 that is appealing to minors; that promotes excessive use; that
34 promotes illegal activity; or that otherwise presents a significant
35 risk to public health and safety.
- 36 (7) To regulate the use of marijuana items for scientific,
37 pharmaceutical, manufacturing, mechanical, industrial, and other
38 purposes.
- 39 c. The powers of the division further include the power to
40 purchase, seize, possess, and dispose of marijuana items.
- 41 (1) The division may purchase, possess, seize, or dispose of
42 marijuana items as is necessary to ensure compliance with and
43 enforcement of the provisions of this act, and any rule adopted
44 pursuant thereto.
- 45 (2) Any State officer, board, commission, corporation,
46 institution, department, or other State body, and any local officer,
47 board, commission, institution, department, or other local
48 government body, that is permitted by the statutory laws of this

1 State to perform a duty, function, or power with respect to a
2 marijuana item, may purchase, possess, seize, or dispose of the
3 marijuana item as the State officer, board, commission, corporation,
4 institution, department or other State body, or the local officer,
5 board, commission, institution, department or other local
6 government body, considers necessary to ensure compliance with
7 and enforce the applicable statutory law or any rule adopted under
8 the applicable statutory law.

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

14

15 8. (New section) Regulation of marijuana.

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

28 (1) Procedures for the application, issuance, denial, renewal,
29 suspension, and revocation of a license to operate a marijuana
30 establishment. Such procedures shall include a period of no longer
31 than 90 days by which the division must provide the applicant with
32 notice of the division's approval or denial of any fully completed
33 application for licensure or renewal and a period not to exceed 30
34 days in which a license shall be issued following approval of an
35 application.

36 (2) License application and renewal fees shall be established by
37 the division. The division shall establish licensing goals for New
38 Jersey residents. The division shall make good faith efforts to meet
39 these goals.

40 (3) The division shall establish licensing goals for New Jersey
41 residents. The division shall make good faith efforts to meet these
42 goals. Qualifications for licensure shall be directly and
43 demonstrably related to the operation of a marijuana establishment,
44 provided that the division shall make licenses available to as diverse
45 a group as possible, including, but not limited to, requirements that
46 no license of any kind shall be issued to:

47 (a) A person under the legal age to purchase marijuana items;

- 1 (b) A person doing business as a sole proprietor who has not
2 lawfully resided in the State for at least two years prior to applying
3 to receive a license;
- 4 (c) A partnership, employee cooperative, association, nonprofit
5 corporation, or corporation unless formed under the laws of this
6 State, and unless all of the members thereof are qualified to obtain a
7 license;
- 8 (d) A person whose place of business is conducted by a manager
9 or agent, unless the manager or agent possesses the same
10 qualifications required of the licensee;
- 11 (e) Should the division choose to establish criteria for licensure
12 related to an applicant's criminal history, it shall not consider
13 convictions under paragraphs (3) and (4) of subsection a. of N.J.S.
14 2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.
15 2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of
16 N.J.S.2C:35-5, or similar offenses.
- 17 (4) The division shall establish licensing goals for minority
18 owned and female owned business as these terms are defined in
19 section 3 of P.L. 1983, c.482 (C. 52:32-19). The Division shall
20 analyze the number of licenses issued in each county and compare
21 that analysis to the number of qualified minority owned and female
22 owned businesses that applied in each county. The Division shall
23 make good faith efforts to meet the goals it establishes for the
24 licensure of minority owned and female owned businesses;
- 25 (5) Security requirements for marijuana establishments;
- 26 (6) Requirements to prevent the sale or diversion of marijuana
27 and marijuana products to persons under the legal age to purchase
28 marijuana items, including, but not limited to, requirements that:
- 29 (a) All licensees and licensee representatives, before selling or
30 serving marijuana or marijuana products to any person about whom
31 there is any reasonable doubt of the person's having reached the
32 legal age to purchase marijuana items, shall require such person to
33 produce one of the following pieces of identification:
- 34 (i) The person's passport.
- 35 (ii) The person's motor vehicle driver's license, whether issued
36 by New Jersey or by any other state, provided the license displays a
37 picture of the person.
- 38 (iii) A New Jersey identification card issued by the New Jersey
39 Motor Vehicle Commission.
- 40 (iv) A United States military identification card.
- 41 (v) A photographic identification card issued by a New Jersey
42 county clerk.
- 43 (vi) Any other identification card issued by a state that bears a
44 picture of the person, the name of the person, the person's date of
45 birth and a physical description of the person.
- 46 (b) No marijuana establishment shall employ persons under the
47 legal age to purchase marijuana items nor shall any marijuana
48 retailer allow persons under the legal age to purchase marijuana

- 1 items from entering or remaining on the premises of a marijuana
2 retailer unless accompanied by a parent or legal guardian;
- 3 (c) Packaging and branding regulations to prevent marketing of
4 marijuana items and marijuana paraphernalia to people under the
5 legal age to purchase marijuana items;
- 6 (7) Labeling and packaging requirements for marijuana items
7 sold or distributed by a marijuana establishment, including, but not
8 limited to, requirements that:
- 9 (a) Packaging and branding rules which prevent marketing of
10 marijuana items and marijuana paraphernalia to people under the
11 legal age to purchase marijuana items, including, but not limited to,
12 rules that prohibit any statement, illustration, or image that:
- 13 (i) Includes false statements;
- 14 (ii) Promotes over-consumption;
- 15 (iii) Depicts a child or other person under legal age consuming
16 marijuana items; or
- 17 (iv) Includes objects, such as toys, characters, or cartoon
18 characters suggesting the presence of a person under the legal age to
19 purchase marijuana items, or any other depiction designed in any
20 manner to be especially appealing to persons under the legal age to
21 purchase marijuana items;
- 22 (b) Ensure marijuana items are packaged in child-resistant
23 containers;
- 24 (c) Marijuana items warning labels adequately inform
25 consumers about safe marijuana use and warn of the consequences
26 of misuse or overuse;
- 27 (d) Labeling rules that mandate clear identification of health and
28 safety information, including, but not limited to:
- 29 (i) Net weight;
- 30 (ii) Production date and expiration date;
- 31 (iii) An ingredient list that includes, but is not limited to, all
32 ingredients used to manufacture the marijuana product and a list of
33 all potential allergens contained within the product;
- 34 (iv) Strain or type of cannabis, listed by scientific terms, if
35 available, and generic or “slang” names;
- 36 (v) Whether the product requires refrigeration;
- 37 (vi) Growth method (whether dirt grown, hydroponic, or
38 otherwise) and an indication whether or not the cannabis was grown
39 using all-organic materials and a complete list of all nonorganic
40 pesticides, fungicides and herbicides used during the cultivation of
41 the cannabis;
- 42 (vii) Serving size, the total number of servings, and a statement
43 regarding the percentage of THC contained in the marijuana
44 product and in each serving. For example: “The serving size of
45 active THC in this product is X mg. This product contains X
46 servings of marijuana, and the total amount of active THC in this
47 product is X mg.” Serving sizes are recommended to be
48 individually wrapped.

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

- 3 -- "This product contains marijuana."
- 4 -- "This product is infused with marijuana"
- 5 -- "This product is intended for use by adults 21 years and older.
6 Keep out of the reach of children."
- 7 -- "The intoxicating effects of this product may be delayed by
8 two or more hours."
- 9 -- "There may be health risks associated with the consumption of
10 this product, including for women who are pregnant, breastfeeding,
11 or planning on becoming pregnant."
- 12 -- "Do not drive a motor vehicle or operate heavy machinery
13 while using marijuana."

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

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

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

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

31 (c) Every licensed marijuana cultivation facility and marijuana
32 product manufacturing facility must submit representative samples
33 of marijuana and marijuana products to marijuana testing facilities
34 for inspection and testing to certify compliance with health, safety,
35 and potency standards adopted by the division on a schedule set by
36 the division. Any sample remaining after testing shall be destroyed
37 or returned to the licensee;

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

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

47 (f) Provide that no licensed marijuana establishment or
48 employee of a marijuana establishment shall consume, or allow to

- 1 be consumed, any marijuana items on the establishment's premises,
2 except as otherwise permitted by the division;
- 3 (g) Set appropriate dosage, potency, and serving size limits for
4 marijuana and other marijuana products, provided that a
5 standardized serving of marijuana shall be no more than 10
6 milligrams of active THC and no individual edible retail product
7 unit for sale shall contain more than 100 milligrams of active THC,
8 and that marijuana and marijuana product packaging prevent
9 children from access;
- 10 (h) Require that each single standardized serving of marijuana
11 in a multiple-serving edible marijuana product is physically
12 demarked in a way that enables a reasonable person to determine
13 how much of the product constitutes a single serving of active THC,
14 and that each standardized serving of marijuana must be easily
15 separable to allow an average person 21 years of age and over to
16 physically separate, with minimal effort, individual servings of the
17 product;
- 18 (i) Require that, if it is impracticable to clearly demark every
19 standardized serving of marijuana or to make each standardized
20 serving easily separable in an edible marijuana product, the product
21 must contain no more than 10 milligrams of active THC per unit of
22 sale;
- 23 (j) Establish screening, hiring, training and supervising
24 requirements for retail store employees and others who manufacture
25 or handle marijuana items;
- 26 (k) Promote general sanitary requirements for the handling,
27 storage, and disposal of marijuana items, and the maintenance of
28 marijuana establishments;
- 29 (l) Provide for rigorous auditing, inspection, and monitoring of
30 marijuana establishments for compliance with health and safety
31 rules and regulations;
- 32 (m) Require the implementation of security requirements for
33 retail outlets and premises where marijuana items are produced or
34 processed, and safety protocols for marijuana establishments and
35 their employees;
- 36 (n) Prescribe reasonable restrictions on the manner, methods,
37 and means by which, licensees shall transport marijuana items
38 within the State; and
- 39 (o) Establish procedures for identification, seizure, confiscation,
40 destruction, or donation to law enforcement for training purposes of
41 all marijuana or marijuana products produced, processed, sold, or
42 offered for sale within this State which do not conform in all
43 respects to the standards prescribed by this chapter or the rules
44 adopted to implement and enforce these chapters.
- 45 (9) Restrictions on the advertising and display of marijuana
46 items and marijuana paraphernalia, including, but not limited to,
47 requirements that:

- 1 (a) Restrict advertising of marijuana items and marijuana
2 paraphernalia in ways that target or are designed to appeal to
3 individuals under the legal age to purchase marijuana items,
4 including, but not limited to depictions of a person under 21 years
5 of age consuming marijuana, or, includes objects, such as toys,
6 characters, or cartoon characters suggesting the presence of a
7 person under 21 years of age, or any other depiction designed in any
8 manner to be especially appealing to a person under 21 years of
9 age;
- 10 (b) Marijuana retailers shall not display any signage in a
11 window, on a door, or on the outside of the premises of a marijuana
12 retailer that is visible to the general public from a public right-of-
13 way, other than a single sign no larger than one thousand six
14 hundred square inches identifying the retail outlet by the licensee's
15 business trade name;
- 16 (c) No licensed marijuana establishment shall advertise any
17 marijuana items or marijuana paraphernalia on television, radio or
18 internet between the hours of 6:00am and 10:00pm.
- 19 (d) No licensed marijuana establishment shall engage in
20 advertising unless it has reliable evidence than no more than 20
21 percent of the audience for the advertisement is reasonably expected
22 to be under the legal age to purchase marijuana items.
- 23 (e) No licensed marijuana establishment may engage in
24 advertising or marketing directed towards location-based devices,
25 including but not limited to cellular phones, unless the marketing is
26 a mobile device application installed on the device by the owner of
27 the device who is 21 years of age or older and includes a permanent
28 and easy opt-out feature;
- 29 (f) No licensed marijuana establishment may sponsor a
30 charitable, sports, musical, artistic, cultural, social, or other similar
31 event or engage in advertising at or in connection with such an
32 event unless it has reliable evidence that no more than 20 percent of
33 the audience at the event is reasonably expected to be under the
34 legal age to purchase marijuana items;
- 35 (g) All advertisements must contain warnings, including but not
36 limited to one or more of the following:
- 37 (i) "This product contains marijuana;"
- 38 (ii) "Marijuana can impair concentration, coordination, and
39 judgment. Do not operate a vehicle or machinery under the
40 influence of this drug;"
- 41 (iii) "There may be health risks associated with the consumption
42 of this product;"
- 43 (iv) "For use only by adults 21 years of age and older. Keep out
44 of the reach of children."
- 45 (v) "This product was produced without regulatory oversight for
46 health, safety or efficacy."
- 47 (vi) "The intoxicating effects of this product may be delayed by
48 two or more hours."

- 1 (vii) “There may be health risks associated with the
2 consumption of this product, including for women who are
3 pregnant, breastfeeding, or planning on becoming pregnant.”
- 4 (viii) No licensed marijuana establishment shall place or
5 maintain, or cause to be placed or maintained an advertisement of
6 marijuana items or marijuana paraphernalia in any form or through
7 any medium whatsoever within 200 feet of an elementary or
8 secondary school grounds, recreation center or facility, arcade,
9 child care center, public park, playground, public swimming pool or
10 library; on or in a public transit vehicle or public transit shelter; on
11 or in publicly owned or operated property. For the purposes of this
12 section, a noncommercial message shall not be considered an
13 advertisement. This section also shall not apply to advertisements
14 within the premises of a marijuana retailer.
- 15 (10) A requirement that only marijuana items and marijuana
16 paraphernalia are available for sale at a marijuana establishment;
17 and
- 18 (11) Procedures for the division to conduct announced and
19 unannounced visits to marijuana establishments to make, or cause to
20 be made, such investigations as it shall deem proper in the
21 administration of P.L. ,c. (C.)(pending before the
22 Legislature as this bill) and any and all other laws which may
23 hereafter be enacted concerning marijuana, or the manufacture,
24 distribution or sale thereof, or the collection of taxes thereon,
25 including the inspection and search of premises for which the
26 license is sought or has been issued, of any building containing the
27 same, of licensed buildings, examination of the books, records,
28 accounts, documents and papers of the licensees or on the licensed
29 premises;
- 30 (a) The division shall be authorized, after adequate notice to the
31 owner or the agent of the owner, to make an examination of the
32 books and may at any time make an examination of the premises of
33 any person licensed under P.L. ,c. (C.)(pending before the
34 Legislature as this bill) for the purpose of determining compliance
35 with this act and the rules of the division. The division shall not
36 require the books of any licensee to be maintained on the premises
37 of the licensee.
- 38 (b) The division may, at any time, examine the books and
39 records of any marijuana producer, and may appoint auditors,
40 investigators and other employees that the division considers
41 necessary to enforce its powers and perform its duties.
- 42 (c) During any inspection of a licensed premises, the division
43 may require proof that a person performing work at the premises is
44 21 years of age or older. If the person does not provide the division
45 with acceptable proof of age upon request, the division may require
46 the person to immediately cease any activity and leave the premises
47 until the division receives acceptable proof of age.

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

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

5 (a) (i) the obligation of every marijuana producer to keep a
6 complete and accurate record of all sales of marijuana flowers,
7 marijuana leaves, and immature marijuana plants, and a complete
8 and accurate record of the number of marijuana flowers produced,
9 the number of ounces of marijuana leaves produced, the number of
10 immature marijuana plants produced, and the dates of production;
11 and

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

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

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

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

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

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

44 (14) Establishing the number of marijuana retailers:

45 (a) Assuming there are sufficient qualified applicants for
46 licensure, there shall be at least one marijuana retail store per
47 county.

1 (b) A determination of the maximum number of marijuana
2 retailers that may be licensed in each local governmental entity,
3 taking into consideration:

4 (i) population distribution, provided that the division shall
5 consider seasonal fluctuations in the population of the county and
6 shall ensure that there are adequate licensed premises to serve the
7 market demands of the county during the peak seasons;

8 (ii) the provision of adequate access to licensed sources of
9 useable marijuana and marijuana products to discourage purchases
10 from the illegal market;

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

13 b. In order to ensure that individual privacy is protected, the
14 division shall not require a consumer to provide a marijuana retailer
15 with personal information other than government-issued
16 identification to determine the consumer's age, and a marijuana
17 retailer shall not be required to acquire and record personal
18 information about consumers other than information typically
19 acquired in a financial transaction conducted by the holder of a
20 Class C retail license concerning alcoholic beverages as set forth in
21 R.S.33:1-12.

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

34 d. The division shall:

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

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

45

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

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

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

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

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

9 (4) Ensuring that taxes are collected for the purpose of being
10 distributed as described in section 10 of P.L. , ,

11 c. (C.)(pending before the Legislature as this bill);

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

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

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

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

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

23 (3) The receiving, storing and delivering of marijuana items by
24 a marijuana wholesaler;

25 (4) The sale of marijuana items by a marijuana retailer to a
26 consumer;

27 (5) The purchase and sale of marijuana items between licensees;

28 (6) The transfer of marijuana items between licensed premises;

29 (7) The collection of taxes imposed upon the retail sale of
30 marijuana items and

31 (8) Any other information that the division determines is
32 reasonably necessary to accomplish the duties, functions and
33 powers of the division.

34

35 10. (New section) Taxation.

36 a. There shall be a tax levied upon marijuana or marijuana
37 products sold or otherwise transferred by a marijuana retailer to a
38 person 21 years of age or older at a rate of seven percent. To
39 encourage early participation in and development of marijuana
40 establishments and to undermine the illegal marketplace, the tax
41 shall escalate annually over a three year period: such that in year
42 one following the enactment of P.L. , c. (C.)(pending
43 before the Legislature as this bill), the excise tax shall be seven
44 percent; and in year two, the tax shall be 10 percent; and in year
45 three, the tax rate shall be 15 percent; and in year four the tax rate
46 shall be 20 percent and in year five and beyond, the tax shall be 25
47 percent.

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

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

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

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

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

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

35 g. The tax revenue shall be collected by the Director of the
36 Division of Taxation and shall be deposited by the Director of the
37 Division of Taxation into the nonlapsing fund established pursuant
38 to section 38 of P.L., c. (C.) (pending before the Legislature as
39 this bill), and shall be used to fund the Division of Marijuana
40 Enforcement, except that during the first year the tax is collected
41 one percent shall be allocated to the local governmental entity in
42 which the marijuana establishment is located; during year two, two
43 percent shall be allocated to the local governmental entity in which
44 the marijuana establishment is located; and in year three and each
45 subsequent year thereafter, three percent shall be allocated to the
46 local governmental entity in which the marijuana establishment is
47 located.

1 11. (New section) Local governmental entity regulation or
2 ordinance.

3 a. Not later than one year following the effective date of
4 P.L. , c. (C.) (pending before the Legislature as this bill),
5 each local governmental entity shall enact an ordinance or
6 regulation specifying the entity within the local governmental entity
7 that is responsible for processing applications submitted for a
8 license to operate a marijuana establishment within the boundaries
9 of the local governmental entity and for the issuance of such
10 licenses should the issuance by the local governmental entity
11 become necessary because of a failure by the Division to adopt
12 regulations or because of a failure by the Division to process and
13 issue licenses.

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

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

19 (2) establishing procedures for the issuance, suspension, and
20 revocation of a license issued by the local governmental entity;

21 (3) establishing a schedule of annual operating, licensing, and
22 application fees for marijuana establishments, provided, the
23 application fee shall only be due if an application is submitted to a
24 local governmental entity in accordance with the provisions section
25 12 of P.L. , c. (C.) (pending before the Legislature as this bill) and
26 a licensing fee shall only be due if a license is issued by a local
27 governmental entity; and

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

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

43

44 12. (New section) Application. a. Each application for an
45 annual license to operate a marijuana establishment shall be
46 submitted to the division. A separate license shall be required for
47 each location at which a marijuana establishment seeks to operate.

1 Renewal applications may be filed up to 90 days prior to the
2 expiration of the establishment's license. The division shall:
3 (1) begin accepting and processing applications one year
4 following the effective date of P.L. , c. (C.) (pending before
5 the Legislature as this bill);
6 (2) immediately forward a copy of each application to the local
7 governmental entity in which the applicant desires to operate the
8 marijuana establishment;
9 (3) upon the approval of a license application and collection of
10 the annual license fee, issue an annual license to the applicant
11 between 45 and 90 days after receipt of an application unless the
12 division finds the applicant is not in compliance with regulations
13 enacted pursuant to the provisions of section 8 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill) or the
15 division is notified by the relevant local governmental entity that
16 the applicant is not in compliance with ordinances and regulations
17 made pursuant to the provisions of section 11 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill) and in
19 effect at the time of application, provided, where a local
20 governmental entity has enacted a numerical limit on the number of
21 marijuana establishments and a greater number of applicants seek
22 licenses, the division shall solicit and consider input from the local
23 governmental entity as to the local governmental entity's preference
24 or preferences for licensure; and
25 (4) upon denial of an application, notify the applicant in writing
26 of the specific reason for its denial.
27 b. If the division does not issue a license to an applicant within
28 90 days of receipt of the completed application filed pursuant to
29 subsection a. of this section, and does not notify the applicant of the
30 specific reason for its denial, in writing and within such time
31 period; or, if the division has adopted regulations pursuant to
32 subsection a. of section 8 of P.L. , c. , (C.) (pending before
33 the Legislature as this bill) and has accepted applications pursuant
34 to subsection a. of this section but has not issued any licenses 90
35 days after one year following the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), the
37 applicant may resubmit its application directly to the local
38 governmental entity, and the local governmental entity may issue an
39 annual license to the applicant unless the local governmental entity
40 has enacted an ordinance prohibiting the operation of a marijuana
41 establishment. A local governmental entity issuing a license to an
42 applicant shall do so within 90 days of receipt of the resubmitted
43 application unless the local governmental entity finds and notifies
44 the applicant that the applicant is not in compliance with ordinances
45 and regulations in effect at the time the application is resubmitted.
46 The local governmental entity shall notify the division if an annual
47 license has been issued to the applicant. If an application is
48 submitted to a local governmental entity under this subsection, the

1 division shall forward to the local governmental entity the
2 application fee paid by the applicant to the division upon request by
3 the local governmental entity. A license issued by a local
4 governmental entity in accordance with this subsection shall have
5 the same force and effect as a license issued by the division and the
6 holder of such license shall not be subject to regulation or
7 enforcement by the division during the term of that license. A
8 subsequent or renewed license may be issued under this subsection
9 on an annual basis only upon resubmission to the local
10 governmental entity of a new application submitted to the division.

11 c. If the division does not adopt regulations required by
12 subsection a. of section 8 of P.L. ,c. , (C.) (pending before
13 the Legislature as this bill), an applicant may submit an application
14 directly to a local governmental entity one year following the
15 effective date of P.L. , c. , (C.) (pending before the
16 Legislature as this bill), and the local governmental entity may issue
17 an annual license to the applicant. A local governmental entity
18 issuing a license to an applicant shall do so within 90 days of
19 receipt of the application unless it finds and notifies the applicant
20 that the applicant is not in compliance with ordinances and
21 regulations in effect at the time of application and shall notify the
22 division if an annual license has been issued to the applicant. A
23 license issued by a local governmental entity in accordance with
24 this subsection shall have the same force and effect as a license
25 issued by the division and the holder of such license shall not be
26 subject to regulation or enforcement by the division during the term
27 of that license. A subsequent or renewed license may be issued
28 under this subsection on an annual basis if the division has not
29 adopted regulations required by section 8 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill) at least
31 90 days prior to the date upon which such subsequent or renewed
32 license would be effective.

33 d. No employee of the division shall have any interest, directly
34 or indirectly, in the producing, processing, or sale of marijuana,
35 marijuana products, or marijuana paraphernalia, or derive any profit
36 or remuneration from the sale of marijuana, marijuana products, or
37 marijuana paraphernalia, other than the salary or wages payable to
38 him or her in respect of his or her position, or receive any gratuity
39 from any person in connection with the application for a license or
40 the sale of marijuana, marijuana products, or marijuana
41 paraphernalia.

42

43 13. (New section) A marijuana producer must have a Class 1
44 Marijuana Cultivation Facility license (Marijuana Producers
45 license) issued by the division for the premises at which the
46 marijuana is produced. The division shall determine the maximum
47 number of licenses but, providing there exist qualified applicants,
48 shall issue a sufficient number of licenses to meet the production

1 demands that implementation of P.L. , c. (C.) (pending
2 before the Legislature as this bill) requires.

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

14 a. To hold a production license under this section, a marijuana
15 producer:

16 (1) Must apply for a license in the manner described in section
17 12 of P.L. , c. (C.) (pending before the Legislature as
18 this bill);

19 (2) Must provide proof that an applicant listed on an application
20 submitted under section 12 of P.L. , c. (C.) (pending
21 before the Legislature as this bill), has been a resident of this State
22 for two or more years, and must provide proof that the applicant is
23 21 years of age or older;

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

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

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

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

45 (c) The director shall not approve an applicant for a Class 1
46 Marijuana Cultivation facility license (Marijuana Producers license)
47 if the criminal history record background information of the
48 applicant reveals any disqualifying conviction.

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

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

10 (e) The Division of State Police shall promptly notify the
11 director in the event that an individual who was the subject of a
12 criminal history record background check conducted pursuant to
13 this section is convicted of a crime or offense in this State after the
14 date the background check was performed. Upon receipt of that
15 notification, the director shall make a determination regarding the
16 continued eligibility to hold a Class 1 Marijuana Cultivation
17 Facility license (Marijuana Producers license).

18 b. The division shall adopt rules that:

19 (1) Require a marijuana producer to annually renew a license
20 issued under this section;

21 (2) Establish application, licensure, and renewal of licensure
22 fees for marijuana producers;

23 (3) Require marijuana produced by marijuana producers to be
24 tested in accordance with section 8 of P.L. ,

25 c. (C.) (pending before the Legislature as this bill);

26 (4) Require marijuana producers to submit, at the time of
27 applying for or renewing a license under section 12 of P.L. ,

28 c. (C.) (pending before the Legislature as this bill), a report
29 describing the applicant's or licensee's electrical and water usage;
30 and

31 (5) Require a marijuana producer to meet any public health and
32 safety standards, industry best practices, and all applicable
33 regulations established by the division by rule or regulation related
34 to the production of marijuana; or the propagation of immature
35 marijuana plants and the seeds of the plant Cannabis family
36 Cannabaceae. The division may not limit the number of immature
37 marijuana plants that may be possessed by a marijuana producer
38 licensed under this section; the size of the grow canopy a marijuana
39 producer licensed under this section uses to grow immature
40 marijuana plants; or the weight or size of shipments of immature
41 marijuana plants made by a marijuana producer licensed under this
42 section.

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

44 (1) Shall be in the form of a schedule that imposes a greater fee
45 for premises with more square footage or on which more mature
46 marijuana plants are grown; and

- 1 (2) Shall be deposited in the Marijuana Control and Regulation
2 Fund established under section 38 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill).
- 4 d. The director shall issue a Class 1 Marijuana Cultivation
5 Facility license if it finds that issuing such a license would be
6 consistent with the purposes of P.L. , c. (C.) (pending
7 before the Legislature as this bill) and the requirements of this
8 section are met and the information contained in the application has
9 been verified. The director shall approve or deny an application
10 within 60 days after receipt of a completed application. The denial
11 of an application shall be considered a final agency decision,
12 subject to review by the Appellate Division of the Superior Court.
13 The director may suspend or revoke a license to operate as a Class 1
14 Marijuana Cultivation Facility for cause, which shall be subject to
15 review by the Appellate Division of the Superior Court.
- 16 e. A person who has been issued a license pursuant to this
17 section shall display the license at the premises at all times when
18 marijuana is being produced.
- 19 f. A licensee shall report any change in information to the
20 Director not later than 10 days after such change, or the license
21 shall be deemed null and void.
- 22
- 23 14. (New section) a. Subject to subsection b. of this section, the
24 division shall adopt rules or regulations restricting the size of
25 mature marijuana plant grow canopies at premises for which a
26 license has been issued under section 13 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill).
- 28 b. In adopting rules under this subsection, the division shall:
- 29 (1) Limit the size of mature marijuana plant grow canopies for
30 premises where marijuana is grown outdoors and for premises
31 where marijuana is grown indoors in a manner calculated to result
32 in premises that produce the same amount of harvested marijuana
33 leaves and harvested marijuana flowers, regardless of whether the
34 marijuana is grown outdoors or indoors.
- 35 (2) Adopt a tiered system under which the permitted size of a
36 marijuana producer's mature marijuana plant grow canopy increases
37 at the time of licensure renewal, except that the permitted size of a
38 marijuana producer's mature marijuana plant grow canopy may not
39 increase following any year during which the division disciplined
40 the marijuana producer for violating a provision of or a rule adopted
41 under a provision of P.L. , c. (C.) (pending before the
42 Legislature as this bill).
- 43 (3) Take into consideration the market demand for marijuana
44 items in this state, the number of persons applying for a license
45 under section 12 of P.L. , c. (C.) (pending before the
46 Legislature as this bill), and to whom a license has been issued
47 under section 13 of P.L. , c. (C.) (pending before the

1 Legislature as this bill), and whether the availability of marijuana
2 items in this State is commensurate with the market demand.

3 c. This section shall not apply to a premises for which a license
4 has been issued under section 13 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), if the
6 premises is used only to propagate immature marijuana plants.
7

8 15. (New section) A marijuana processor must have a Class 1
9 Marijuana Product Manufacturing Facility license (Marijuana
10 Processor license) issued by the division for the premises at which
11 the marijuana is produced. The division shall determine the
12 maximum number of licenses but, providing there exist qualified
13 applicants, shall issue a sufficient number of licenses to meet the
14 production demands that implementation of P.L. ,
15 c. (C.) (pending before the Legislature as this bill)
16 requires.

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

28 a. To hold a processing license under this section, a marijuana
29 processor:

30 (1) Must apply for a license in the manner described in section
31 12 of P.L. , c. (C.) (pending before the Legislature as
32 this bill);

33 (2) Must provide proof that an applicant listed on an application
34 submitted under section 12 of P.L. , c. (C.) (pending
35 before the Legislature as this bill), has been a resident of this State
36 for two or more years, and must provide proof that the applicant is
37 21 years of age or older;

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

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

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

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

11 (c) The director shall not approve an applicant for a Class 1
12 Marijuana Product Manufacturing Facility license if the criminal
13 history record background information of the applicant reveals any
14 disqualifying conviction.

15 (d) Upon receipt of the criminal history record background
16 information from the Division of State Police and the Federal
17 Bureau of Investigation, the director shall provide written
18 notification to the applicant of his qualification for or
19 disqualification for a Class 1 Marijuana Product Manufacturing
20 Facility license.

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

25 (e) The Division of State Police shall promptly notify the
26 director in the event that an individual who was the subject of a
27 criminal history record background check conducted pursuant to
28 this section is convicted of a crime or offense in this State after the
29 date the background check was performed. Upon receipt of that
30 notification, the director shall make a determination regarding the
31 continued eligibility to hold a Class 1 Marijuana Product
32 Manufacturing Facility license (Marijuana Processers license).

33 b. The division shall adopt rules that:

34 (1) Require a marijuana processor to annually renew a license
35 issued under this section;

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

38 (3) Require marijuana produced by marijuana processors to be
39 tested in accordance with section 8 of P.L. _____ ,

40 c. (C. _____) (pending before the Legislature as this bill);

41 (4) Require marijuana processors to submit, at the time of
42 applying for or renewing a license under section 12 of P.L. _____ ,

43 c. (C. _____) (pending before the Legislature as this bill) a report
44 describing the applicant's or licensee's electrical and water usage;
45 and

46 (5) Require a marijuana processor to meet any public health and
47 safety standards, industry best practices, and all applicable

1 regulations established by the division by rule or regulation related
2 to the processing of marijuana.

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

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

6 (2) Shall be deposited in the Marijuana Control and Regulation
7 Fund established under section 38 of P.L. ,

8 c. (C.) (pending before the Legislature as this bill).

9 d. The Director shall issue a Class 1 Marijuana Product
10 Manufacturing Facility license if it finds that issuing such a license
11 would be consistent with the purposes of P.L. ,

12 c. (C.) (pending before the Legislature as this bill) and the
13 requirements of this section are met and the information contained
14 in the application has been verified. The director shall approve or
15 deny an application within 60 days after receipt of a completed
16 application. The denial of an application shall be considered a final
17 agency decision, subject to review by the Appellate Division of the
18 Superior Court. The director may suspend or revoke a license to
19 operate as marijuana production facility for cause, which shall be
20 subject to review by the Appellate Division of the Superior Court.

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

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

27

28 16. (New section) A marijuana wholesaler must have a Class 2
29 Marijuana Wholesaler license issued by the division for the
30 premises at which the marijuana is warehoused. The division shall
31 determine the maximum number of licenses but, providing there
32 exist qualified applicants, shall issue a sufficient number of licenses
33 to meet the wholesaler demands that implementation of this act
34 requires.

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

46 a. To hold a Marijuana Wholesaler license under this section, a
47 marijuana wholesaler:

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- 1 (1) Must apply for a license in the manner described in section
2 12 of P.L. , c. (C.) (pending before the Legislature as
3 this bill);
- 4 (2) Must provide proof that an applicant listed on an application
5 submitted under section 12 of P.L. , c. (C.) (pending
6 before the Legislature as this bill), has been a resident of this State
7 for two or more years, and must provide proof that the applicant is
8 21 years of age or older;
- 9 (3) Must meet the requirements of any rule or regulation
10 adopted by the Division under subsection b. of this section; and
- 11 (4) Must undergo a criminal history record background check.
- 12 (a) Pursuant to this provision, the director is authorized to
13 exchange fingerprint data with and receive criminal history record
14 background information from the Division of State Police and the
15 Federal Bureau of Investigation consistent with the provisions of
16 applicable federal and State laws, rules, and regulations. The
17 Division of State Police shall forward criminal history record
18 background information to the director in a timely manner when
19 requested pursuant to the provisions of this section.
- 20 (b) An applicant shall submit to being fingerprinted in
21 accordance with applicable State and federal laws, rules, and
22 regulations. No check of criminal history record background
23 information shall be performed pursuant to this section unless the
24 applicant has furnished his written consent to that check. An
25 applicant who refuses to consent to, or cooperate in, the securing of
26 a check of criminal history record background information shall not
27 be considered for a wholesalers license. An applicant shall bear the
28 cost for the criminal history record background check, including all
29 costs of administering and processing the check.
- 30 (c) The director shall not approve an applicant for a Class 2
31 Marijuana Wholesaler license if the criminal history record
32 background information of the applicant reveals any disqualifying
33 conviction.
- 34 (d) Upon receipt of the criminal history record background
35 information from the Division of State Police and the Federal
36 Bureau of Investigation, the director shall provide written
37 notification to the applicant of his qualification for or
38 disqualification for a Class 2 Marijuana Wholesaler license.
- 39 If the applicant is disqualified because of a disqualifying
40 conviction pursuant to the provisions of this section, the conviction
41 that constitutes the basis for the disqualification shall be identified
42 in the written notice.
- 43 (e) The Division of State Police shall promptly notify the
44 director in the event that an individual who was the subject of a
45 criminal history record background check conducted pursuant to
46 this section is convicted of a crime or offense in this State after the
47 date the background check was performed. Upon receipt of that

- 1 notification, the Director shall make a determination regarding the
2 continued eligibility to hold a Marijuana Wholesaler license.
- 3 b. The division shall adopt rules that:
- 4 (1) Require a marijuana wholesaler to annually renew a license
5 issued under this section;
- 6 (2) Establish application, licensure, and renewal of licensure
7 fees for marijuana wholesalers;
- 8 (3) Require marijuana warehoused by marijuana wholesalers to
9 be tested in accordance with section 8 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill);
- 11 (4) Require marijuana wholesalers to submit, at the time of
12 applying for or renewing a license under section 12 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill), a report
14 describing the applicant's or licensee's electrical and water usage;
15 and
- 16 (5) Require a marijuana wholesaler to meet any public health
17 and safety standards, industry best practices, and all applicable
18 regulations established by the division by rule or regulation related
19 to the warehousing of marijuana.
- 20 c. Fees adopted under subsection b. of this section:
- 21 (1) Shall be in the form of a schedule that imposes a greater fee
22 for premises with more square footage; and
- 23 (2) Shall be deposited in the Marijuana Control and Regulation
24 Fund established under section 38 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill).
- 26 d. The director shall issue a Class 2 Marijuana Wholesaler
27 license if it finds that issuing such a license would be consistent
28 with the purposes of this act and the requirements of this section are
29 met and the information contained in the application has been
30 verified. The director shall approve or deny an application within
31 60 days after receipt of a completed application. The denial of an
32 application shall be considered a final agency decision, subject to
33 review by the Appellate Division of the Superior Court. The
34 Director may suspend or revoke a Marijuana Wholesaler license for
35 cause, which shall be subject to review by the Appellate Division of
36 the Superior Court.
- 37 e. A person who has been issued a license pursuant to this
38 section shall display the license at the premises at all times when
39 marijuana is being warehoused.
- 40 f. A licensee shall report any change in information to the
41 director not later than 10 days after such change, or the license shall
42 be deemed null and void.
- 43
- 44 17. (New section) A marijuana retailer must have a Class 3
45 Marijuana Retailer license issued by the division for the premises at
46 which the marijuana is retailed. The division shall determine the
47 maximum number of licenses but, providing there exist qualified
48 applicants, shall issue a sufficient number of licenses to meet the

1 wholesaler demands that implementation of P.L. _____ ,
2 c. _____ (C. _____) (pending before the Legislature as this bill)
3 requires.

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

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

16 (1) Must apply for a license in the manner described in section
17 12 of P.L. _____ , c. _____ (C. _____) (pending before the Legislature as
18 this bill);

19 (2) Must provide proof that an applicant listed on an application
20 submitted under section 12 of P.L. _____ , c. _____ (C. _____) (pending
21 before the Legislature as this bill), has been a resident of this State
22 for two or more years, and must provide proof that the applicant is
23 21 years of age or older;

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

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

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

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

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

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

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

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

17 b. The division shall adopt rules that:

18 (1) Require a marijuana retailers to annually renew a license
19 issued under this section;

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

22 (3) Require marijuana sold by marijuana retailer to be tested in
23 accordance with section 8 of P.L. , c. (C.) (pending
24 before the Legislature as this bill);

25 (4) Require marijuana retailers to submit, at the time of applying
26 for or renewing a license under section 12 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), a report
28 describing the applicant's or licensee's electrical and water usage;
29 and

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

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

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

37 (2) Shall be deposited in the Marijuana Control and Regulation
38 Fund established under section 38 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill).

40 d. The director shall issue a Class 3 Marijuana Retailer license
41 if it finds that issuing such a license would be consistent with the
42 purposes of this act and the requirements of this section are met and
43 the information contained in the application has been verified. The
44 director shall approve or deny an application within 60 days after
45 receipt of a completed application. The denial of an application
46 shall be considered a final agency decision, subject to review by the
47 Appellate Division of the Superior Court. The director may
48 suspend or revoke a Marijuana Retailer license for cause, which

1 shall be subject to review by the Appellate Division of the Superior
2 Court.

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

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

9
10 18. (New section) A marijuana transporter must have a Class 4
11 Marijuana Transportation license issued by the division. The
12 division shall determine the maximum number of licenses but,
13 providing there exist qualified applicants, shall issue a sufficient
14 number of licenses to meet the transportation demands that
15 implementation of P.L. , c. (C.) (pending before the
16 Legislature as this bill) requires.

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

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

29 (1) Must apply for a license in the manner described in section
30 12 of P.L. , c. (C.) (pending before the Legislature as
31 this bill);

32 (2) Must provide proof that an applicant listed on an application
33 submitted under section 12 of P.L. , c. (C.) (pending
34 before the Legislature as this bill), has been a resident of this State
35 for two or more years, and must provide proof that the applicant is
36 21 years of age or older;

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

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

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

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

11 (c) The director shall not approve an applicant for a Class 4
12 Marijuana Transportation license if the criminal history record
13 background information of the applicant reveals any disqualifying
14 conviction.

15 (d) Upon receipt of the criminal history record background
16 information from the Division of State Police and the Federal
17 Bureau of Investigation, the director shall provide written
18 notification to the applicant of his qualification for or
19 disqualification for a Class 4 Marijuana Transportation license.

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

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

31 b. The division shall adopt rules that:

32 (1) Require a marijuana transporter to annually renew a license
33 issued under this section;

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

36 (3) Require marijuana that is transported by a Marijuana
37 Transportation licensee to be tested in accordance with section 8 of
38 P.L. , c. (C.) (pending before the Legislature as this
39 bill);

40 (4) Require marijuana transporter to submit, at the time of
41 applying for or renewing a license under section 12 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), a report
43 describing the applicant's or licensee's electrical and water usage;
44 and

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

- 1 c. Fees adopted under subsection b. of this section:
- 2 (1) Shall be in the form of a schedule that imposes a greater fee
- 3 for premises with more square footage; and
- 4 (2) Shall be deposited in the Marijuana Control and Regulation
- 5 Fund established under section 38 of P.L. ,
- 6 c. (C.) (pending before the Legislature as this bill).
- 7 d. The director shall issue a Class 4 Marijuana Transportation
- 8 license if it finds that issuing such a license would be consistent
- 9 with the purposes of this act and the requirements of this section are
- 10 met and the information contained in the application has been
- 11 verified. The director shall approve or deny an application within
- 12 60 days after receipt of a completed application. The denial of an
- 13 application shall be considered a final agency decision, subject to
- 14 review by the Appellate Division of the Superior Court. The
- 15 director may suspend or revoke a Marijuana Transportation license
- 16 for cause, which shall be subject to review by the Appellate
- 17 Division of the Superior Court.
- 18 e. A person who has been issued a license pursuant to this
- 19 section shall display the license at the premises at all times when
- 20 marijuana is being warehoused.
- 21 f. A licensee shall report any change in information to the
- 22 director not later than 10 days after such change, or the license shall
- 23 be deemed null and void.
- 24
- 25 19. (New section) Marijuana handlers. a. An individual who
- 26 performs work for or on behalf of a person who holds a license
- 27 under P.L. , c. (C.) (pending before the Legislature as
- 28 this bill) shall have a valid permit issued by the division under this
- 29 section if the individual participates in:
- 30 (1) the possession, securing, or selling of marijuana items at the
- 31 premises for which the license has been issued; or
- 32 (2) the recording of the possession, securing, or selling of
- 33 marijuana items at the premises for which the license has been
- 34 issued.
- 35 b. A person who holds a license under P.L. ,
- 36 c. (C.) (pending before the Legislature as this bill) shall
- 37 verify that an individual has a valid permit issued under this section
- 38 before allowing the individual to perform any work described in
- 39 subsection a. of this section at the premises for which the license
- 40 has been issued.
- 41 c. The division shall issue permits to qualified applicants to
- 42 perform work described in this section. The division shall adopt
- 43 rules and regulations establishing the qualifications for performing
- 44 work described in this section, the terms of a permit issued under
- 45 this section; procedures for applying for and renewing a permit
- 46 issued under this section; and reasonable application, issuance and
- 47 renewal fees for a permit issued under this section.

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

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

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

19 e. The division shall conduct a criminal history record
20 background check on an individual applying for a permit under this
21 section.

22 f. The division may suspend, revoke or refuse to issue or
23 renew a permit if the individual who is applying for or who holds
24 the permit violates any provision of P.L. _____,
25 c. (C. _____) (pending before the Legislature as this bill), or any
26 rule or regulation adopted under P.L. _____, c. (C. _____) (pending
27 before the Legislature as this bill); or makes a false statement to the
28 division; or refuses to cooperate in any investigation by the
29 division, or, if the individual is convicted of a crime, except that the
30 division may not consider a conviction for the manufacture or
31 delivery of marijuana if the date of the conviction is two or more
32 years before the date of the application or renewal; or if the date of
33 the last criminal conviction is more than ten years before the date of
34 the application or renewal.

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

38

39 20. (New section) Marketplace Regulation.

40 a. It shall be unlawful for any owner, part owner, stockholder,
41 officer, or director of any corporation, or any other person
42 interested in any marijuana cultivation facility, marijuana testing
43 facility, or marijuana product manufacturing facility, or any
44 wholesaler of marijuana, to conduct, own either in whole or in part,
45 or be directly or indirectly interested in the retailing of any
46 marijuana in New Jersey, and such interest shall include any
47 payments or delivery of money or property by way of loan or
48 otherwise accompanied by an agreement to sell the product of said

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1 marijuana cultivation facility, marijuana testing facility, or
2 marijuana product manufacturing facility, or any wholesaler of
3 marijuana.

4 b. It shall be unlawful for any owner, part owner, stockholder,
5 officer, or director of any corporation, or any other person
6 interested in any retailing of marijuana to conduct, own either
7 whole or in part, or to be a shareholder, officer or director of a
8 corporation or association, directly or indirectly, interested in any
9 marijuana cultivation facility, marijuana testing facility, or
10 marijuana product manufacturing facility, or any wholesaler of
11 marijuana.

12 c. No person, partnership, employee cooperative, association,
13 nonprofit corporation, corporation, or the agents thereof, shall hold
14 more than three marijuana establishment licenses at any time.

15

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

18 a. Nothing in P.L. , c. (C.) (pending before the
19 Legislature as this bill) is intended to require an employer to permit
20 or accommodate the use, consumption, possession, transfer, display,
21 transportation, sale, or growing of marijuana items in the workplace
22 or to affect the ability of employers to have policies prohibiting
23 marijuana use or intoxication by employees during work hours. No
24 employer shall refuse to hire or employ any person or shall
25 discharge from employment or take any adverse action against any
26 employee with respect to compensation, terms, conditions or other
27 privileges of employment because that person does or does not
28 smoke or use marijuana items, unless the employer has a rational
29 basis for doing so which is reasonably related to the employment,
30 including the responsibilities of the employee or prospective
31 employee.

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

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

43 d. Nothing in P.L. , c. (C.) (pending before the
44 Legislature as this bill) shall prohibit a person, or any other entity
45 that occupies, owns, or controls a property from prohibiting or
46 otherwise regulating the consumption, use, display, transfer,
47 distribution, sale, transportation or growing of marijuana items on
48 or in that property, provided that local government units may not

1 prohibit possession permitted by section 3 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill) on or
3 within a public place.

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

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

15

16 22. (New section) Medical marijuana provisions.

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

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

23 b. to permit a medical marijuana center to distribute marijuana
24 to a person who is not a medical marijuana patient except that a
25 medical marijuana center operating in good standing as of the
26 effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill) may apply for a retail license to operate
28 immediately. A license issued pursuant to this subsection may be
29 subject to annual renewal until regulations are adopted pursuant to
30 section 8 of P.L. , c. (C.) (pending before the Legislature
31 as this bill);

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

35 d. to permit any medical marijuana center licensed pursuant to
36 P.L.2009, c.307 (C.24:6I-1 et seq.) to operate on the same premises
37 as a marijuana retailer; or

38 e. to discharge the Department of Health from its duties to
39 regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
40 et seq.

41

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

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

3

4 24. (New section) Limitations.

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

7 a. To amend or affect in any way any state or federal law
8 pertaining to employment matters;

9 b. To amend or affect in any way any state or federal law
10 pertaining to landlord-tenant matters;

11 c. To prohibit a recipient of a federal grant or an applicant for a
12 federal grant from prohibiting the manufacture, delivery,
13 possession, or use of marijuana to the extent necessary to satisfy
14 federal requirements for the grant;

15 d. To prohibit a party to a federal contract or a person applying
16 to be a party to a federal contract from prohibiting the manufacture,
17 delivery, possession, or use of marijuana to the extent necessary to
18 comply with the terms and conditions of the contract or to satisfy
19 federal requirements for the contract;

20 e. To require a person to violate a federal law;

21 f. To exempt a person from a federal law or obstruct the
22 enforcement of a federal law.

23

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

25 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1
26 et seq.), or by P.L. , c. (C.) (pending before the Legislature as this
27 bill), any person who knowingly maintains or operates any
28 premises, place or facility used for the manufacture of
29 methamphetamine, lysergic acid diethylamide, phencyclidine,
30 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
31 greater than five pounds or ten plants or any substance listed in
32 Schedule I or II, or the analog of any such substance, or any person
33 who knowingly aids, promotes, finances or otherwise participates in
34 the maintenance or operations of such premises, place or facility, is
35 guilty of a crime of the first degree and shall, except as provided in
36 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
37 include the imposition of a minimum term which shall be fixed at,
38 or between, one-third and one-half of the sentence imposed, during
39 which the defendant shall be ineligible for parole. Notwithstanding
40 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
41 impose a fine not to exceed \$750,000.00 or five times the street
42 value of all controlled dangerous substances, controlled substance
43 analogs, gamma hydroxybutyrate or flunitrazepam at any time
44 manufactured or stored at such premises, place or facility,
45 whichever is greater.

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

47

48 26. (New section) Personal Use of Cannabis Resin.

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

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

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

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

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

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

28

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

30 2C:35-2. As used in this chapter:

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

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

42 "Controlled dangerous substance" means a drug, substance, or
43 immediate precursor in Schedules I through V, any substance the
44 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
45 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
46 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011,
47 c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-
48 5.3b), and any drug or substance which, when ingested, is

1 metabolized or otherwise becomes a controlled dangerous substance
2 in the human body. When any statute refers to controlled dangerous
3 substances, or to a specific controlled dangerous substance, it shall
4 also be deemed to refer to any drug or substance which, when
5 ingested, is metabolized or otherwise becomes a controlled
6 dangerous substance or the specific controlled dangerous substance,
7 and to any substance that is an immediate precursor of a controlled
8 dangerous substance or the specific controlled dangerous substance.
9 The term shall not include distilled spirits, wine, malt beverages, as
10 those terms are defined or used in R.S.33:1-1 et seq., or tobacco and
11 tobacco products. The term, wherever it appears in any law or
12 administrative regulation of this State, shall include controlled
13 substance analogs.

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

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

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

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

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

45 "Drugs" means (a) substances recognized in the official United
46 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
47 United States, or official National Formulary, or any supplement to
48 any of them; and (b) substances intended for use in the diagnosis,

1 cure, mitigation, treatment, or prevention of disease in man or other
2 animals; and (c) substances (other than food) intended to affect the
3 structure or any function of the body of man or other animals; and
4 (d) substances intended for use as a component of any article
5 specified in subsections (a), (b), and (c) of this section; but does not
6 include devices or their components, parts, or accessories.

7 "Drug or alcohol dependent person" means a person who as a
8 result of using a controlled dangerous substance or controlled
9 substance analog or alcohol has been in a state of psychic or
10 physical dependence, or both, arising from the use of that controlled
11 dangerous substance or controlled substance analog or alcohol on a
12 continuous or repetitive basis. Drug or alcohol dependence is
13 characterized by behavioral and other responses, including but not
14 limited to a strong compulsion to take the substance on a recurring
15 basis in order to experience its psychic effects, or to avoid the
16 discomfort of its absence.

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

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

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

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

1 (a) Opium, coca leaves, and opiates;

2 (b) A compound, manufacture, salt, derivative, or preparation of
3 opium, coca leaves, or opiates;

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

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

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

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

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

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

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

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

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

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

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

46 (e) "Laboratory" means a laboratory to be entrusted with the
47 custody of narcotic drugs and the use of controlled dangerous
48 substances or controlled substance analogs for scientific,

1 experimental, and medical purposes and for purposes of instruction
2 approved by the Department of Health.

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

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

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

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

25 "State" means the State of New Jersey.

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

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

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

41 "Stramonium plant" means the plant *Datura Stramonium* Linne,
42 including *Datura Tatula* Linne.

43 (cf: P.L.2013, c.35, s.1)

44

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

46 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
47 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or

1 P.L. , c. (C.) (pending before the Legislature as this bill), it
2 shall be unlawful for any person knowingly or purposely:

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

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

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

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

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

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

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

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

46 (6) Lysergic acid diethylamide, or its analog, in a quantity of
47 100 milligrams or more including any adulterants or dilutants, or
48 phencyclidine, or its analog, in a quantity of 10 grams or more

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

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

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

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

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

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

35 (b) Marijuana in a quantity of five pounds or more but less than
36 25 pounds including any adulterants or dilutants, or 10 or more but
37 fewer than 50 marijuana plants, regardless of weight, or hashish in a
38 quantity of one pound or more but less than five pounds, including
39 any adulterants and dilutants, is guilty of a crime of the second
40 degree;

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

47 (12) [Marijuana in a quantity of less than one ounce including
48 any adulterants or dilutants, or hashish in a quantity of less than five

1 grams including any adulterants or dilutants, is guilty of a crime of
2 the fourth degree; **】** (Deleted by amendment, P.L. c.) (pending
3 before the Legislature as this bill)

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

9 (14) Any Schedule V substance, or its analog, is guilty of a
10 crime of the fourth degree except that, notwithstanding the
11 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
12 \$25,000.00 may be imposed.

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

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

24
25 29. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read
26 as follows:

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

29 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
30 distributing, dispensing or possessing with intent to distribute a
31 controlled dangerous substance or controlled substance analog
32 while on any school property used for school purposes which is
33 owned by or leased to any elementary or secondary school or school
34 board, or within 1,000 feet of such school property or a school bus,
35 or while on any school bus, is guilty of a crime of the third degree
36 and shall, except as provided in N.J.S.2C:35-12, be sentenced by
37 the court to a term of imprisonment. Where the violation involves
38 less than one ounce of marijuana, the term of imprisonment shall
39 include the imposition of a minimum term which shall be fixed at,
40 or between, one-third and one-half of the sentence imposed, or one
41 year, whichever is greater, during which the defendant shall be
42 ineligible for parole. In all other cases, the term of imprisonment
43 shall include the imposition of a minimum term which shall be
44 fixed at, or between, one-third and one-half of the sentence
45 imposed, or three years, whichever is greater, during which the
46 defendant shall be ineligible for parole. Notwithstanding the
47 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to

1 \$150,000 may also be imposed upon any conviction for a violation
2 of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
6 distributing, dispensing or possessing with intent to distribute a
7 controlled dangerous substance or controlled substance analog
8 while in, on or within 500 feet of the real property comprising a
9 public housing facility, a public park, or a public building is guilty
10 of a crime of the second degree, except that it is a crime of the third
11 degree if the violation involved less than one ounce of marijuana.

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

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

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

35 e. In a prosecution under this section, a map produced or
36 reproduced by any municipal or county engineer for the purpose of
37 depicting the location and boundaries of the area on or within 500
38 feet of a public housing facility which is owned by or leased to a
39 housing authority according to the "Local Redevelopment and
40 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or
41 within 500 feet of a public park, or the area in or within 500 feet of
42 a public building, or a true copy of such a map, shall, upon proper
43 authentication, be admissible and shall constitute prima facie
44 evidence of the location and boundaries of those areas, provided
45 that the governing body of the municipality or county has adopted a
46 resolution or ordinance approving the map as official finding and
47 record of the location and boundaries of the area or areas on or
48 within 500 feet of a public housing facility, a public park, or a

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

15 f. As used in this act:

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

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

26 "Public building" means any publicly owned or leased library or
27 museum.

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

29

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

31 2C:35-10. Possession, Use or Being Under the Influence, or
32 Failure to Make Lawful Disposition.

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

41 Any person who violates this section with respect to:

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

47 (2) Any controlled dangerous substance, or its analog, classified
48 in Schedule V, is guilty of a crime of the fourth degree except that,

1 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
2 fine of up to \$15,000.00 may be imposed;

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

8 (4) Possession of **【50 grams or less】** more than one ounce
9 (28.38 grams) but less than 50 grams, of marijuana, including any
10 adulterants or dilutants, **【or five grams or less of hashish】** is a
11 disorderly person.

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

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

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

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

34

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

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

37 **【As】** Except as authorized by P.L. c. (C.) (pending before
38 the Legislature as this bill), as used in this act, "drug paraphernalia"
39 means all equipment, products and materials of any kind which are
40 used or intended for use in planting, propagating, cultivating,
41 growing, harvesting, manufacturing, compounding, converting,
42 producing, processing, preparing, testing, analyzing, packaging,
43 repackaging, storing, containing, concealing, ingesting, inhaling, or
44 otherwise introducing into the human body a controlled dangerous
45 substance, controlled substance analog or toxic chemical in
46 violation of the provisions of chapter 35 of this title. It shall
47 include, but not be limited to: a. kits used or intended for use in
48 planting, propagating, cultivating, growing or harvesting of any

1 species of plant which is a controlled dangerous substance or from
2 which a controlled dangerous substance can be derived; b. kits used
3 or intended for use in manufacturing, compounding, converting,
4 producing, processing, or preparing controlled dangerous
5 substances or controlled substance analogs; c. isomerization devices
6 used or intended for use in increasing the potency of any species of
7 plant which is a controlled dangerous substance; d. testing
8 equipment used or intended for use identifying, or in analyzing the
9 strength, effectiveness or purity of controlled dangerous substances
10 or controlled substance analogs; e. scales and balances used or
11 intended for use in weighing or measuring controlled dangerous
12 substances or controlled substance analogs; f. dilutants and
13 adulterants, such as quinine hydrochloride, mannitol, mannite,
14 dextrose and lactose, used or intended for use in cutting controlled
15 dangerous substances or controlled substance analogs; g.
16 **【**separation gins and sifters used or intended for use in removing
17 twigs and seeds from, or in otherwise cleaning or refining,
18 marihuana;**】** h. blenders, bowls, containers, spoons and mixing
19 devices used or intended for use in compounding controlled
20 dangerous substances or controlled substance analogs; i. capsules,
21 balloons, envelopes and other containers used or intended for use in
22 packaging small quantities of controlled dangerous substances or
23 controlled substance analogs; j. containers and other objects used or
24 intended for use in storing or concealing controlled dangerous
25 substances, controlled substance analogs or toxic chemicals; k.
26 objects used or intended for use in ingesting, inhaling, or otherwise
27 introducing **【**marihuana,**】** cocaine, **【**hashish, hashish oil,**】** nitrous
28 oxide or the fumes of a toxic chemical into the human body, such
29 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
30 with or without screens, permanent screens, **【**hashish heads,**】** or
31 punctured metal bowls; (2) **【**water pipes; (3)**】** carburetion tubes and
32 devices; **【**(4)**】** (3) smoking and carburetion masks; **【**(5)**】** roach clips,
33 meaning objects used to hold burning material, such as a marihuana
34 cigarette, that has become too small or too short to be held in the
35 hand; (6)**】** (4) miniature cocaine spoons, and cocaine vials; **【**(7)**】**
36 (5) chamber pipes; **【**(8)**】** (6) carburetor pipes; **【**(9)**】** (7) electric
37 pipes; **【**(10)**】** (8) air-driven pipes; **【**(11)**】** (9) chillums; **【**(12)**】** (10)
38 bongs; **【**(13)**】** (11) ice pipes or chillers; **【**(14)**】** (12) compressed gas
39 containers, such as tanks, cartridges or canisters, that contain food
40 grade or pharmaceutical grade nitrous oxide as a principal
41 ingredient; **【**(15)**】** (13) chargers or charging bottles, meaning metal,
42 ceramic or plastic devices that contain an interior pin that may be
43 used to expel compressed gas from a cartridge or canister; and
44 **【**(16)**】** (14) tubes, balloons, bags, fabrics, bottles or other containers
45 used to concentrate or hold in suspension a toxic chemical or the
46 fumes of a toxic chemical.

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

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

24

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

27 **【No】** Except as authorized by P.L. , c. (C.) (pending before
28 the Legislature as this bill), no person shall operate a motor vehicle
29 on any highway while knowingly having in his possession or in the
30 motor vehicle any controlled dangerous substance as classified in
31 Schedules I, II, III, IV and V of the "New Jersey Controlled
32 Dangerous Substances Act," P.L. 1970, c. 226 (C. 24:21-1 et seq.)
33 or any prescription legend drug, unless the person has obtained the
34 substance or drug from, or on a valid written prescription of, a duly
35 licensed physician, veterinarian, dentist or other medical
36 practitioner licensed to write prescriptions intended for the
37 treatment or prevention of disease in man or animals or unless the
38 person possesses a controlled dangerous substance pursuant to a
39 lawful order of a practitioner or lawfully possesses a Schedule V
40 substance.

41 A person who violates this section shall be fined not less than
42 **【\$50.00】** \$50 and shall forthwith forfeit his right to operate a motor
43 vehicle for a period of two years from the date of his conviction.

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

45

46 34. (New section) Consumer Protections.

47 a. Individuals and licensed marijuana establishments shall not
48 be subject to arrest, prosecution, or penalty in any manner, or

1 denied any right or privilege, including but not limited to civil
2 liability or disciplinary action by a business, occupational, or
3 professional licensing board or bureau, solely for conduct permitted
4 under this act.

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

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

13 (2) a patient, shall not constitute the use of an illicit substance
14 resulting in denial of medical care, including organ transplant, and a
15 patient's use of marijuana may only be considered with respect to
16 evidence-based clinical criteria; iii. a parent or legal guardian of a
17 child or newborn infant, or a pregnant woman, shall not form the
18 sole or primary basis for any action or proceeding by the Division
19 of Child Protection and Permanency, or any successor agencies.

20

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

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

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

36

37 36. (New section) Contract Enforceability.

38 No contract shall be unenforceable on the basis that
39 manufacturing, distributing, dispensing, possessing, or using
40 marijuana is prohibited by federal law. No contract entered into by
41 a licensee, its employees, or its agents as permitted pursuant to a
42 valid license issued by the division, or by those who allow property
43 to be used by a licensee, its employees, or its agents as permitted
44 pursuant to a valid license issued by the division, shall be deemed
45 unenforceable on the basis that the actions or conduct permitted
46 pursuant to the license are prohibited by federal law.

47

48 37. (New section) Criminal Investigation.

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

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

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

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

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

13

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

25

26 39. (New section) Marijuana Regulation Review Commission.

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

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

39 c. Meetings of commission, copies of minutes.

40 All meetings of the commission shall be open to the public and
41 all the business of the commission shall be transacted at public
42 meetings held at such time and place as the commission shall
43 prescribe. The commission shall meet at such times as determined
44 by the chairperson of the commission.

45 The secretary shall transmit to each member of the commission a
46 copy of the minutes of each meeting within twenty-four hours after
47 the adjournment thereof. The minutes of the commission shall be

1 open to inspection by any citizen of the State at all times during
2 business hours.

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

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

10 f. Annual report to Legislature. The commission shall make an
11 annual detailed report of its actions and operations to the
12 Legislature and render such other reports to the Legislature as it
13 shall from time to time require.

14 g. Powers and duties of commission.

15 The Marijuana Regulation Review Commission shall review and
16 approve regulations developed by the division pursuant to section 8
17 of P.L. , c. (C.) (pending before the Legislature as this bill) and
18 may require regulations as deemed necessary. The commission shall
19 have such other and further powers and perform such other and
20 further duties as may be conferred or imposed upon it from time to
21 time by the Legislature.

22

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

28

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

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33

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STATEMENT

35

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

38 Section 3 of the bill specifies that the following acts are not
39 unlawful and would not be an offense or a basis for seizure or
40 forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable
41 law for persons 21 years of age or older:

- 42 • possessing, using, displaying, purchasing, or transporting
43 marijuana accessories or one ounce or less of marijuana
44 and certain other related products;
- 45 • transfer of one ounce or less of marijuana or other related
46 products to a person who is 21 years of age or older;

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- 1 • consumption of marijuana, provided that nothing in the
- 2 bill would permit consumption that is conducted openly
- 3 and publicly; or
- 4 • assisting another person who is 21 years of age or older in
- 5 any of the acts described above.

6 Section 4 of the bill provides that the following acts would also
7 not be unlawful or a basis for seizure or forfeiture of assets for
8 persons 21 years of age or older:

- 9 • manufacture, possession, or purchase of marijuana
- 10 accessories or the sale of marijuana accessories to a
- 11 person who is 21 years of age or older;
- 12 • possessing, displaying, or transporting marijuana or
- 13 marijuana products; purchase of marijuana from a
- 14 marijuana cultivation facility; purchase of marijuana or
- 15 marijuana products from a marijuana product
- 16 manufacturing facility; or sale of marijuana or marijuana
- 17 products to consumers, if the person conducting the
- 18 activities has obtained a current, valid license to operate a
- 19 retail marijuana store or is acting in his capacity as an
- 20 owner, employee or agent of a licensed retail marijuana
- 21 store;
- 22 • cultivating, harvesting, processing, packaging,
- 23 transporting, displaying, or possessing marijuana;
- 24 delivery or transfer of marijuana to a marijuana testing
- 25 facility; selling marijuana to a marijuana cultivation
- 26 facility, a marijuana product manufacturing facility, or a
- 27 retail marijuana store; or the purchase of marijuana from
- 28 a marijuana cultivation facility, if the person conducting
- 29 the activities has obtained a current, valid license to
- 30 operate a marijuana cultivation facility or is acting in his
- 31 capacity as an owner, employee, or agent of a licensed
- 32 marijuana cultivation facility;
- 33 • packaging, processing, transporting, manufacturing,
- 34 displaying, or possessing marijuana or marijuana
- 35 products; delivery or transfer of marijuana or marijuana
- 36 products to a marijuana testing facility; selling marijuana
- 37 or marijuana products to a retail marijuana store or a
- 38 marijuana product manufacturing facility; the purchase of
- 39 marijuana from a marijuana cultivation facility; or the
- 40 purchase of marijuana or marijuana products from a
- 41 marijuana product manufacturing facility, if the person
- 42 conducting the activities has obtained a current, valid
- 43 license to operate a marijuana product manufacturing
- 44 facility or is acting in his capacity as an owner, employee,
- 45 or agent of a licensed marijuana product manufacturing
- 46 facility;
- 47 • possessing, cultivating, processing, repackaging, storing,
- 48 transporting, displaying, transferring or delivering

1 marijuana or marijuana products if the person has
2 obtained a current, valid license to operate a marijuana
3 testing facility or is acting in his capacity as an owner,
4 employee, or agent of a licensed marijuana testing
5 facility;

- 6 • leasing or otherwise allowing the use of property owned,
7 occupied or controlled by any person, corporation or
8 other entity for any of the activities conducted lawfully.

9 Sections 7 and 8 describe the powers and duties of the newly
10 created Division of Marijuana Enforcement and the regulation of
11 marijuana generally. The bill provides for the division to adopt
12 rules and regulations necessary for implementation of the bill. The
13 regulations could not prohibit the operation of marijuana
14 establishments, either expressly or through regulations that make
15 their operation unreasonably impracticable. The bill would require
16 regulations to include the following: procedures for the application,
17 issuance, denial, renewal, suspension, and revocation of a license to
18 operate a marijuana establishment; the establishment by the division
19 of license application fees. Additional required regulations must
20 include licensing goals for minority owned and female owned
21 businesses under the act; security requirements for marijuana
22 establishments; requirements to prevent the sale or diversion of
23 marijuana and marijuana products to underage persons; labeling and
24 packaging requirements; health and safety regulations and standards
25 for the manufacture and sale of marijuana products; advertisement
26 restrictions; procedures for the division to conduct unannounced
27 visits to marijuana establishments; a requirement that only
28 marijuana, marijuana based products and paraphernalia be available
29 for sale at a marijuana establishment; and civil penalties for the
30 failure to comply with established regulations.

31 Section 9 mandates that the division develop a system for
32 tracking the transfer of marijuana items between licensed premises
33 capable, at a minimum, of tracking among other categories, the
34 propagation of immature marijuana plants, the processing of
35 marijuana by a processor, the receiving, storing and delivering of
36 marijuana items by a wholesaler, the sale of marijuana items by a
37 marijuana retailer to a consumer; the purchase and sale of marijuana
38 items between licensees, the transfer of marijuana items between
39 licensed premises; and the collection of taxes imposed upon the
40 retail sale of marijuana items.

41 Section 10 of the bill establishes a tax levied upon marijuana
42 sold or otherwise transferred by a marijuana cultivation facility to a
43 marijuana product manufacturing facility or to a retail marijuana
44 store. To encourage early participation in and development of
45 marijuana establishments and to undermine the illegal market, the
46 bill proposes an escalating tax rate of seven percent in the first year;
47 10 percent in year two; 15% in year three; 20% in year four; and

1 25% in year five and beyond. The Department of the Treasury
2 would establish procedures for the collection of all taxes levied.

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

7 Section 11 provides for local governmental entity regulations or
8 ordinances. The bill provides that each local governmental entity
9 shall enact an ordinance or regulation specifying the entity within
10 the local governmental entity that is responsible for processing
11 applications submitted for a license to operate a marijuana
12 establishment within the boundaries of the local governmental
13 entity and for the issuance of such licenses, should the issuance by
14 the local governmental entity become necessary because of a failure
15 by the division to adopt regulations or to process and issue licenses.

16 The local governmental entity may enact ordinances or
17 regulations, not in conflict with the provisions of the bill, that
18 address the following:

19 -- governing the time, place, manner and number of marijuana
20 establishment operations;

21 -- establishing procedures for the issuance, suspension, and
22 revocation of a license issued by the local governmental entity;

23 -- establishing a schedule of annual operating, licensing, and
24 application fees for marijuana establishments, provided, the
25 application fee shall only be due if an application is submitted to a
26 local governmental entity in accordance with the provisions of the
27 bill and a licensing fee shall only be due if a license is issued by a
28 local governmental entity; and

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

32 The bill provides that a local governmental entity may prohibit
33 the operation of marijuana cultivation facilities, marijuana product
34 manufacturing facilities, marijuana testing facilities, or retail
35 marijuana stores through the enactment of an ordinance. Under the
36 bill, the failure of a local governmental entity to enact an ordinance
37 prohibiting the operation of a marijuana establishment shall thereby
38 permit the operation of a marijuana retail establishment within the
39 local governmental entity for a period of five years, at the end of
40 which five year period, and every five year period thereafter, the
41 local governmental entity shall again be permitted to prohibit the
42 operation of a marijuana establishment.

43 Section 12 establishes the application process. Under the bill,
44 each application for an annual license to operate a marijuana
45 establishment would be submitted to the division. A separate
46 license shall be required for each location at which a marijuana
47 establishment seeks to operate. Renewal applications may be filed
48 up to 90 days prior to the expiration of the establishment’s license.

1 Sections 13 through 18 establish the different classes of licenses
2 and the requirements to obtain licensure.

3 A marijuana producer must have a Class 1 Marijuana Cultivation
4 Facility license issued by the division for the premises at which the
5 marijuana is produced.

6 A marijuana processor must have a Class 1 Marijuana Product
7 Manufacturing Facility license issued by the division for the
8 premises at which the marijuana is processed.

9 A marijuana wholesaler must have a Class 2 Marijuana
10 Wholesaler license issued by the division for the premises at which
11 the marijuana is warehoused.

12 A marijuana retailer must have a Class 3 Marijuana Retailer
13 license issued by the division for the premises at which the
14 marijuana is retailed.

15 A marijuana transporter must have a Class 4 Marijuana
16 Transportation license issued by the division.

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

20 Section 22 provides that a currently operating medical marijuana
21 facility operating in good standing can immediately apply for a
22 license to operate to distribute marijuana to a person who is not a
23 medical marijuana patient.

24 Section 23 permits a person convicted of marijuana possession to
25 present an application for expungement to the Superior Court.

26 Sections 25 through 33 update existing sections of law to reflect
27 the decriminalization of marijuana under the bill.

28 Section 38 establishes that all fees and penalties collected by the
29 Director of the Division of Marijuana Enforcement shall be
30 forwarded to the State Treasurer for deposit in a special nonlapsing
31 fund which shall be known as the Marijuana Control and Regulation
32 Fund. Monies in the fund shall be used exclusively for the
33 operation of the Division of Marijuana Enforcement and for
34 reimbursement of all additional costs of enforcement

35 Section 39 establishes a Marijuana Regulation Review
36 Commission which shall be responsible to review and approve
37 regulations developed by the division. The commission shall
38 consist of three members as follows: one member appointed by the
39 Governor, who shall be the presiding officer, one member
40 appointed by the President of the Senate, who shall be a member of
41 the Senate, and one member appointed by the Speaker of the
42 General Assembly, who shall be a member of the General
43 Assembly. The concurrence of two of the members of the
44 commission shall be necessary to validate all acts of the
45 commission.

46 Section 40 provides that following enactment of the legislation
47 but prior to the effective date, established as one year following
48 enactment, the possession of up to 50 grams of marijuana shall

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1 constitute a civil violation not subject to arrest, and limited to a fine
2 of up to \$100.

3 The bill shall take effect on the 360th day following enactment,
4 but the director may take such anticipatory action as may be
5 necessary to effectuate the provisions.