

AN ACT concerning marijuana, amending various parts of the statutory law, and supplementing Title 24 of the Revised Statutes.

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

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

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

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

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

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

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

(4) Possession of more than 15 grams but less than 50 grams **[or less]** of marijuana, including any adulterants or dilutants, or five grams or less of hashish is a disorderly person.

(5) Possession of 15 grams or less of marijuana is not a violation of this title, but shall be subject to the penalties set forth in section 5 of P.L. , c. (C.)(pending before the Legislature as this bill).

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

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.

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

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

c. Any person who knowingly obtains or possesses a controlled dangerous substance or controlled substance analog in violation of subsection a. of this section and who fails to voluntarily deliver the substance to the nearest law enforcement officer is guilty of a disorderly persons offense. Nothing in this subsection shall be construed to preclude a prosecution or conviction for any other offense defined in this title or any other statute. This subsection shall not apply to possession of 15 grams or less of marijuana.

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

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

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

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

Use, or possession with intent to use, drug paraphernalia for personal use of 15 grams or less of marijuana is not a violation of this title but shall be subject to the penalties set forth in section 6 of P.L. , c. (C.)(pending before the Legislature as this bill).

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

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

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

a. Violations of county or municipal ordinances;

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

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

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

A person who violates this section shall be fined not less than \$50.00 and shall forthwith forfeit his right to operate a motor vehicle for a period of two years from the date of his conviction. This section shall not apply to possession of 15 grams or less of marijuana.

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

5. (New section) a. Any person who possesses 15 grams or less of marijuana, as defined in N.J.S.2C:35-2, except as authorized by P.L.2009, c.307 (C.24:6I-1 et al.), shall be subject to the following civil penalties:

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

The penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. A penalty recovered under the provisions of this section shall be recovered by and in the name of the State by the local municipality. The penalty shall be paid into the treasury of

the municipality in which the violation occurred for the general uses of the municipality.

b. In addition to any fine imposed, a person who is 21 years of age or older who commits a third or subsequent violation shall be referred to a drug education program approved by the Division of Mental Health and Addiction Services in the Department of Human Services. The person who committed the violation shall pay any costs associated with his participation in a drug education program consistent with the nature and extent of his assets and his ability to pay.

c. In addition to any fine imposed, a person who commits a violation who is less than 21 years of age at the time of the violation shall be referred to a drug education program approved by the Division of Mental Health and Addiction Services in the Department of Human Services. The person who committed the violation shall pay any costs associated with his participation in a drug education program consistent with the nature and extent of his assets and his ability to pay.

d. Any person who is under the age of 18 who commits a violation of this section shall be referred to the Superior Court, Chancery Division, Family Part for an appropriate disposition.

e. A violation of this section shall be proved by a preponderance of the evidence.

6. (New section) Any person who possesses drug paraphernalia, as defined in N.J.S.2C:36-1, for personal use of 15 grams or less of marijuana, as defined in N.J.S.2C:35-2, except as authorized by P.L.2009, c.307 (C.24:6I-1 et al.), shall be subject to a \$100 civil penalty.

The penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. A penalty recovered under the provisions of this section shall be recovered by and in the name of the State by the local municipality. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

A violation of this section shall be proved by a preponderance of the evidence.

7. (New section) The Commissioner of Human Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of section 5 of P.L. , c. (C.)(pending before the Legislature as this bill).

8. This act shall take effect on the first day of the fourth month following enactment.

STATEMENT

This bill would decriminalize possession of 15 grams or less of marijuana. A person who is found to possess 15 grams or less of marijuana would be subject to a \$150 fine for a first violation, a \$200 fine for a second violation, and a \$500 fine for a third or subsequent violation. All fines would be recovered by and in the name of the State by the local municipality and would be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

In addition, any person who is 21 years of age or older who commits a third or subsequent violation would be referred to a drug education program approved by the Division of Mental Health and Addition Services in the Department of Human Services. A person who is less than 21 years of age at the time of the violation shall be referred to an approved drug education program following any violation. The person would be responsible for paying any costs associated with his participation in the program, consistent with his ability to pay. If the violation is committed by a person under the age of 18, the person would be referred to the Family Part of the Chancery Division of the Superior Court for an appropriate disposition.

A person who possesses drug paraphernalia for the personal use of 15 grams or less of marijuana would no longer have committed a criminal violation but would be subject to a \$100 civil penalty.

Additionally, this bill would establish that it is no longer a disorderly persons offense to be under the influence of marijuana or to fail to voluntarily deliver 15 grams or less of marijuana to the nearest law enforcement officer. This bill would also eliminate the requirement that a person who operates a motor vehicle while in possession of 15 grams or less of marijuana must pay a \$50 fine and forfeit the right to operate a motor vehicle for a period of two years.

The Commissioner of Human Services would adopt any rules and regulations necessary to effectuate the purposes of section 5 of this bill. This bill would not apply to persons who are in compliance with the "New Jersey Compassionate Use Medical Marijuana Act," N.J.S.A.24:6I-1 et al.

Decriminalizes possession of 15 grams or less of marijuana.