

2A:170-77.8 thru 77.11

January 7, 1970

LEGISLATIVE HISTORY OF R.S. 2A:170-77.8 thru 77.11
(Unlawful possession and sale of prescription legend drugs)

COPY NO. 2

- L. 1962, Chapter 113 - S27
Introduced January 9 by Senator Fox.
Bill had statement (copy of original bill with statement enclosed).
February 5 - Passed Senate.
May 7 - Passed Assembly amended (amendment enclosed).
June 4 - Assembly amendment passed Senate.
August 17 - Approved.

This law was amended by the following two laws:

- L. 1964, Chapter 225 - A42
January 20 - Introduced by Beadleston & 4 others.
Not amended during passage.
No statement.
- L. 1966, Chapter 314 - A548
Not amended during passage.
Bill had statement (copy of original bill with statement enclosed).

For general background on this legislation see:

- | | |
|--------|---------------------------------|
| 974.90 | N.J. Legislature. Narcotic Drug |
| N222 | Study Commission. |
| 1964 | An interim report ... 1964. |
| 974.90 | N.J. Legislature. Narcotic Drug |
| N222 | Study Commission. |
| 1964a | Public hearing ... 1964. |
| 974.90 | N.J. Legislature. Narcotic Drug |
| N222 | Study Commission. |
| 1965 | An interim report ... 1965. |

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SENATE, No. 27

STATE OF NEW JERSEY

INTRODUCED JANUARY 9, 1962

By Senator FOX

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning disorderly persons and supplementing chapter 170 of Title
2A of the New Jersey Statutes.

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

1 1. Except as hereinafter provided, any person who possesses or has under
2 his control, in any form, amphetamine, barbiturate, barbital, hypnotic or
3 somnifacient drugs, tranquilizers or any legend drug other than a narcotic,
4 unless obtained from, or on a valid written prescription of, a duly licensed
5 physician, veterinarian or dentist, is a disorderly person.

1 2. Except as hereinafter provided, any person who sells, dispenses or
2 gives away amphetamine, barbiturate, barbital, hypnotic or somnifacient
3 drugs, tranquilizers or any legend drug other than a narcotic, in any form,
4 is a disorderly person.

1 3. The provisions of sections 1 and 2 of this act shall not apply to a duly
2 licensed physician, dentist, registered pharmacist, veterinarian, nurse,
3 podiatrist, interne or resident physician of a hospital, sanitarium or other
4 medical institution; or to a hospital, sanitarium, clinical laboratory or any
5 other medical institution; or to a State or governmental agency; or to any
6 manufacturer, wholesaler, retailer or regular dealer in drugs.

1 4. The provisions of section 1 of this act shall not apply to common
2 carriers or to warehousemen while engaged in lawfully transporting or stor-

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STATEMENT

The purpose of this bill is to make it a disorderly persons offense to possess without valid prescription or to sell, dispense or to give away certain drugs which are not now covered by the criminal law of the State of New Jersey. The bill does not apply to those who, by the nature of their occupation, need to possess, dispense or sell such drugs. The possession of these drugs and their sale is highly dangerous to the people of this State, since the excessive use thereof can become habit forming, and thus just as dangerous to the user as narcotics.

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ASSEMBLY COMMITTEE AMENDMENTS TO

SENATE, No. 27

STATE OF NEW JERSEY

ADOPTED APRIL 30, 1962

Amend page 1, section 1, line 3, delete "any legend drug other than a narcotic", and insert in lieu thereof "any prescription legend drug which is not a narcotic drug within the meaning of section 24:18-2 of the Revised Statutes".

Amend page 1, section 2, line 3, delete "any legend drug other than a narcotic", and insert in lieu thereof "any prescription legend drug which is not a narcotic drug within the meaning of section 24:18-2 of the Revised Statutes".

ASSEMBLY AMENDMENT TO

SENATE, No. 27

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 7, 1962

Amend page 1, section 1, line 4, delete the word "written".

CHAPTER 113 LAWS OF N. J. 19 62

APPROVED 7-17-62

[OFFICIAL COPY REPRINT]

SENATE, No. 27

STATE OF NEW JERSEY

INTRODUCED JANUARY 9, 1962

By Senators FOX, OZZARD and HARPER

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning disorderly persons and supplementing chapter 170 of Title
2A of the New Jersey Statutes.

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

1 1. Except as hereinafter provided, any person who possesses or has under
2 his control, in any form, amphetamine, barbiturate, barbitol, hypnotic or
3 somnifacient drugs, tranquilizers or **[any legend drug other than a narcotic]**
4 *any prescription legend drug which is not a narcotic drug within the meaning*
5 *of section 24:18-2 of the Revised Statutes*, unless obtained from, or on a valid
6 **[written]** prescription of, a duly licensed physician, veterinarian or dentist,
7 is a disorderly person.

1 2. Except as hereinafter provided, any person who sells, dispenses or
2 gives away amphetamine, barbiturate, barbitol, hypnotic or somnifacient
3 drugs, tranquilizers or **[any legend drug other than a narcotic]** *any prescrip-*
4 *tion legend drug which is not a narcotic drug within the meaning of section*
5 *24:18-2 of the Revised Statutes*, in any form, is a disorderly person.

1 3. The provisions of sections 1 and 2 of this act shall not apply to a duly
2 licensed physician, dentist, registered pharmacist, veterinarian, nurse,
3 podiatrist, interne or resident physician of a hospital, sanitarium or other
4 medical institution; or to a hospital, sanitarium, clinical laboratory or any

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

5 other medical institution; or to a State or governmental agency; or to any
6 manufacturer, wholesaler, retailer or regular dealer in drugs.

1 4. The provisions of section 1 of this act shall not apply to common
2 carriers or to warehousemen while engaged in lawfully transporting or stor-
3 ing such drugs or to any employee of the same acting within the scope of his
4 employment; or to public officers or employees in the performance of their
5 official duties requiring possession or control of these drugs; or to temporary
6 incidental possession by employees or agents of persons lawfully entitled to
7 possession; or to persons whose possession is for the purpose of aiding public
8 officers in performing their official duties.

1 5. This act shall take effect immediately.

STATEMENT BY GOVERNOR RICHARD J. HUGHES
ON SIGNING SENATE BILLS 26 AND 27

FOR IMMEDIATE RELEASE
July 17, 1962

I have today signed two bills which further strengthen the New Jersey laws controlling the use of narcotics drugs.

Senate Bill No. 26 grants to the Commissioner of Health the authority to include within the class of narcotics drugs certain synthetic preparations which possess an addiction-forming or addiction-sustaining liability similar to that of narcotics drugs.

Senate Bill No. 27, commonly referred to as the "goof ball" bill, provides a criminal sanction against ^{unauthorized} persons who possess certain hypnotic or sleep-inducing pills or barbiturates, which are not within the technical class of narcotics drugs.

These bills together will provide a powerful new weapon to law enforcement authorities in containing the tragic spread of narcotics addiction. They will supplement New Jersey's already potent arsenal of narcotics enforcement laws, including the law providing a life sentence for illegal sale of narcotics to minors.

While industry representatives have raised certain questions and many conferences have been held with Counsel to the Governor with respect to possible amendments, the situation brooks no delay. I therefore sign the bills with the knowledge that our able Commissioner of Health will execute them wisely and that any technical deficiency may be remedied by future amendment.

The sponsors of these bills, including Senators Fox, Harper and Ozzard, as well as the other legislators who voted for them, are entitled to the thanks of the public. Senator Fox regrettably is unable to be present today because he is in Europe, and he is represented here by his professional associate, Edward F. Neagle, Jr.

So, too, I am happy that another advocate of this legislation, former Speaker of the House, LeRoy J. D'Aloia, is also present, now as Sheriff of Essex County.

The presence of other officials is significant also, including Lt. Leonard Iatesta, in charge of the narcotics enforcement of our State Police; and Dr. Lloyd W. McCorkle, Chairman of the State Narcotics Control Commission. I am also happy to greet here the new and obviously able Police Director of the City of Newark, Dominick Spina, who is greatly concerned with the responsibilities facing him in this area of law enforcement.

It is my purpose, as it is the purpose of these law enforcement officials, that we shall never rest while the possibility of improvement in our laws may exist. I hope that the New Jersey Senate, when it returns, will take action, which it should have taken long since, in passing Assembly Bill No. 120, increasing to 15 years the maximum penalty for stealing narcotics drugs. This bill is not subject to the vice of mandatory legislation, well known to every Judge and legal authority, but increases the capacity of the Courts to deal out very heavy sentences in such cases. I would also hope that the Senate will finally pass an appropriate version of Senate Bill No. 36, prohibiting the sale of codeine without a prescription.

We should all remember, however, that laws alone will not solve the problem of narcotics addiction. Treatment is equally necessary; and it is my hope that one day, as an outgrowth of a program which I am now studying and preparing for legislative proposal, that New Jersey will have a network of treatment centers to fill this other obvious need.

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ASSEMBLY, No. 548

STATE OF NEW JERSEY

INTRODUCED MARCH 14, 1966

By Assemblymen POLICASTRO and McDERMOTT

(Without Reference)

AN Act to protect the public health by regulating and controlling the handling, sale and distribution of depressant and stimulant drugs, amending sections 24:5-18 and 24:17-1 of the Revised Statutes, chapter 52 of the laws of 1961 and chapter 113 of the laws of 1962, supplementing Title 24 of the Revised Statutes and making an appropriation.

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

1 1. For the purpose of this act:

2 (a) The term "depressant or stimulant drug" means:

2A (1) any drug which contains any quantity of

3 (A) barbituric acid or any of the salts of barbituric acid; or

4 (B) any derivative of barbituric acid which has been designated by
5 the secretary as habit-forming; or

6 (2) any drug which contains any quantity of

7 (A) amphetamine or any of its optical isomers; or

8 (B) any salt of amphetamine or any salt of an optical isomer of
9 amphetamine; or

10 (C) any substance which the secretary, after investigation, has
11 found to be, and by regulation designated as, habit-forming because of
12 its stimulant effect on the central nervous system; or

13 (3) any drug which contains any quantity of a substance which the
14 secretary, after investigation, has found to have, and by regulation desig-
15 nated as having, a potential for abuse because of its depressant or stimulant
16 effect on the central nervous system or its hallucinogenic effect; or

17 (4) any drug which contains any quantity of a substance which the com-
18 missioner, after investigation, has found, and by regulation designated as
19 posing a threat to the public health by virtue of its record of actual abuse
20 within this State because of its depressant or stimulant effect on the central
21 nervous system or its hallucinogenic effect.

22 (b) The term "secretary" means the Secretary of Health, Education and
23 Welfare, acting under the authority of 21 U. S. C. 321 (v).

24 (c) The term "commissioner" means the Commissioner of the State
25 Department of Health or his designated representative.

26 (d) The term "wholesaling, jobbing or distribution of depressant or
27 stimulant drugs" means the selling or distribution of any depressant or
28 stimulant drug to any person who is not the ultimate user or consumer of
29 such drug.

1 2. (a) No person shall manufacture, compound, or process (which shall
2 include repackaging or otherwise changing the container, wrapper, or label-
3 ing of any drug package in the furtherance of the distribution of the drug
4 from the original place of manufacture to the person who makes final de-
5 livery or sale to the ultimate consumer) in this State any depressant or
6 stimulant drug, except that this prohibition shall not apply to the following
7 persons whose activities in connection with any such drug are solely as speci-
8 fied in this section:

9 (1) Manufacturers, compounders and processors registered under P. L.
10 1961, chapter 52 (C. 24:6B-1 etc.) who are regularly engaged in preparing
11 pharmaceutical chemicals or prescription drugs for distribution through
12 branch outlets, through wholesale druggists, or by direct shipment:

13 (A) to pharmacies or to hospitals, clinics, public health agencies
14 or physicians for dispensing by registered pharmacists upon prescrip-

15 tions, or for use by or under the supervision of practitioners licensed
16 by law to administer such drugs in the course of their professional
17 practice; or

18 (B) to laboratories or research or educational institutions for their
19 use in research, teaching or chemical analysis.

20 (2) Wholesale druggists registered under P. L. 1961, chapter 52
21 (C. 24:6B-1 etc.) who are regularly engaged in supplying prescription
22 drugs:

23 (A) to pharmacies, or to hospitals, clinics, public health agencies,
24 or physicians, for dispensing by registered pharmacists upon prescrip-
25 tions or for use by or under the supervision of practitioners licensed
26 by law to administer such drugs in the course of their professional
27 practice, or

28 (B) to laboratories or research or educational institutions for their
29 use in research, teaching or clinical analysis.

30 (3) Pharmacies registered under chapter 14 of Title 45, hospitals, clinics
31 and public health agencies, all of which are registered as hereinafter pro-
32 vided, which are regularly engaged in dispensing prescriptions upon in-
33 structions of practitioners licensed to administer such drugs for patients
34 under the care of such practitioners in the course of their professional
35 practice.

36 (4) Practitioners licensed by law to prescribe or administer depressant
37 or stimulant drugs, while acting in the course of their professional practice.

38 (5) Persons who use depressant or stimulant drugs in research, teach-
39 ing or chemical analysis and not for sale.

40 (6) Officers and employees of this State, or of a political subdivision of
41 this State, or of the United States while acting in the course of their official
42 duties.

43 (7) An employee of any person described in paragraph (1) through
44 paragraph (5) of this section, and a nurse or other medical technician
45 under the supervision of a practitioner licensed by law to administer de-

46 pressant or stimulant drugs, while such employee, nurse or medical tech-
47 nician is acting in the course of his employment or occupation and not on
48 his own account.

49 (b) The Attorney General or his designated representative in the De-
50 partment of Law and Public Safety shall, within 30 days after the effec-
51 tive date of this act furnish the commissioner with a list of the names
52 and locations of pharmacies registered under chapter 14 of Title 45 and
53 shall thereafter periodically, but no less frequently than annually, furnish
54 the commissioner with revisions of such list.

55 (c) Any hospital, clinic or public health agency (the phrase "hospital,
56 clinic, or public health agency" is deemed to include nursing homes, homes
57 for the aged, convalescent homes and other facilities whose function re-
58 quires possession of depressant or stimulant drugs) claiming exemption
59 under this section with respect to activities pertaining to depressant or stim-
60 ulant drugs shall first file a completed registration statement with the de-
61 partment.

62 (1) such registration statement shall be signed and verified by the in-
63 dividual having actual administrative responsibility for such hospital, clinic
64 or public health agency and shall be on forms prescribed and furnished by
65 the commissioner and shall state such information, in addition to the name
66 and each location of such hospital, clinic or public health agency, as the com-
67 missioner may require as being necessary and proper for the enforcement
68 of this act.

69 (2) a registration statement shall be filed prior to February 1 in each
70 calendar year following the calendar year of original registration.

71 (3) if any location of a registered hospital, clinic, or public health
72 agency is to be changed, the registrant shall prior to the change give the
73 department written notice of the address of such new location and the name
74 and address of the individual to be in charge thereof.

75 (4) No fee shall be paid for such registration.

76 Provided, however, no registration shall be required for any hospital,
77 clinic, or public health agency subject to the supervision of the Department
78 of Institutions and Agencies or other official department of this State for
79 which the Commissioner of Institutions and Agencies or head of such other
80 department has first filed with the commissioner a list setting forth the
81 names and locations of such hospital, clinic, or public health agency, which
82 list shall be periodically, but no less frequently than annually, revised as
83 necessary.

84 (d) No person other than:

85 (1) a person described in subsection (a), while such person is acting
86 in the ordinary course of his business, profession, occupation or employ-
87 ment, or

88 (2) an employee, acting in the ordinary course of his employment, of an
89 out of State manufacturer or wholesaler duly registered under Section 510
90 of the Federal Food, Drug and Cosmetic Act.

91 (3) a common or contract carrier or warehouseman, or an employee
92 thereof, whose possession of any depressant or stimulant drug is in the
93 usual course of his business or employment as such, shall sell, deliver or
94 otherwise dispose of any depressant or stimulant drug to any other person.

95 (e) No person described in subsection (a) shall sell, deliver or other-
96 wise dispose of any depressant or stimulant drug as salvage or distress
97 merchandise resulting from fire, flood, exposure to extreme heat or cold or
98 other causes or from an establishment closed by bankruptcy or otherwise
99 going out of business without prior notification to the Department of Health.
100 Such information coming to the attention of the State agencies in subsec-
101 tions (b) and (c) of this section shall be promptly forwarded by such
102 agency to the Department of Health.

103 (f) No person, other than a person described in subsection (a) or sub-
104 section (d)(2) or (d)(3) shall possess any depressant or stimulant drug
105 otherwise than: (1) for the personal use of himself or of a member of his
106 family or household, or (2) for administration to an animal owned by him

107 or a member of his household. In any criminal prosecution for possession
108 of a depressant or stimulant drug in violation of this section, the State shall
109 have the burden of proof that possession involved does not come within
110 the exceptions contained in clauses (1) and (2) of the preceding sentence.

111 (g)(1)(A) Every person engaged in manufacturing, compounding, proc-
112 essing, selling, delivering, or otherwise disposing of any depressant or stim-
113 ulant drug shall, upon the effective date of this act, prepare a complete and
114 accurate record of all stocks of each such drug on hand and shall keep such
115 record for 3 years. On and after the effective date of this section, every
116 person manufacturing, compounding, or processing any depressant or stim-
117 ulant drug shall prepare and keep, for not less than 3 years, a complete
118 and accurate record of the kind and quantity of each such drug manufac-
119 tured, compounded, or processed and the date of such manufacture, com-
120 pounding, or processing; and every person selling, delivering, or otherwise
121 disposing of any depressant or stimulant drug shall prepare or obtain, and
122 keep for not less than 3 years, a complete and accurate record of the kind
123 and quantity of each such drug received, sold, delivered, or otherwise dis-
124 posed of, the name and address of the person from whom it was received
125 and to whom it was sold, delivered, or otherwise disposed of, and the
126 date of such transaction. No separate records, nor set form or forms for
127 any of the foregoing records, shall be required as long as records con-
128 taining the required information are available. Records maintained in com-
129 pliance with the record-keeping requirements of Section 511 of the Federal
130 Food, Drug and Cosmetic Act and regulations issued thereunder by the
131 secretary shall be deemed to be adequate records for compliance with this
132 section.

133 (B) Records which must be kept pursuant to this subsection shall, upon
134 the request of any officer or employee of the department or any State police
135 officer engaged in the enforcement of this act, be made immediately available
136 to such officer or employee for inspection or copying. For the purposes of
137 verification of such records and of enforcement of this section, such officers

138 or employees, upon presenting appropriate credentials and a written notice
139 to the owner, operator or agent in charge, may enter, at reasonable times,
140 any factory, warehouse, establishment, or vehicle in which any depressant
141 or stimulant drug is (or in which such officer or employee has reasonable
142 grounds to believe that it is) manufactured, compounded, processed, held,
143 sold, delivered or otherwise disposed of, and to inspect, within reasonable
144 limits and in a reasonable manner, such factory, warehouse, establishment,
145 or vehicle, and all pertinent equipment, finished and unfinished material, con-
146 tainers and labeling therein, and all things therein (including records, files,
147 papers, processes, controls and facilities) bearing on violation of this chap-
148 ter; and to inventory any stock of any such drug therein and obtain samples
149 of any such drug. If a sample is thus obtained, the officer or employee mak-
150 ing the inspection shall do so in conformity with the provisions of chapter
151 3 of Title 24 of the Revised Statutes.

152 (2) No inspection authorized by subparagraph (1) of this subsection
153 shall extend to (A) financial data, (B) sales data other than shipment data,
154 (C) pricing data, (D) personnel data, or (E) research data.

155 (3) The provisions of subparagraph (1) of this subsection shall not
156 apply to a licensed practitioner described in subsection (a)(4) with respect
157 to any depressant or stimulant drug received, prepared, processed, adminis-
158 tered, or dispensed by him in the course of his professional practice, unless
159 such practitioner regularly engages in dispensing any such drug or drugs
160 to his patients for which they are charged, either separately or together
161 with charges for other professional services.

162 (4) No prescription (issued before or after the effective date of this
163 section) for any depressant or stimulant drug may be filled or refilled more
164 than 6 months after the date on which such prescription was issued and no
165 such prescription which is authorized to be refilled may be refilled more
166 than 5 times, except that any prescription for such a drug after 6 months
167 after the date of issue or after being refilled 5 times may be renewed by
168 the practitioner issuing it either in writing, or orally (if promptly reduced

169 to writing and filed by the pharmacist filling it); provided, however, that
170 nothing herein shall authorize the refilling of such prescription if otherwise
171 restricted.

172 (h) (1) The commissioner may, by regulation, exempt any depressant
173 or stimulant drug from the application of all or part of this section when
174 he finds that regulation of its manufacture, compounding, processing, pos-
175 session, and disposition as provided in this section, or in such part thereof,
176 is not necessary for the protection of the public health.

177 (2) The commissioner shall, by regulation, exempt any depressant or
178 stimulant drug from the application of this section, if—

179 (A) such drug may, under the laws of this State, be sold over the
180 counter without a prescription; or

181 (B) he finds that such drug includes one or more substances not
182 having a depressant or stimulant effect on the central nervous system
183 or a hallucinogenic effect and such substance or substances are presented
184 therein in such combination, quantity, proportion, or concentration as
185 to prevent the substance or substances therein which do have such an
186 effect from being ingested or absorbed in sufficient amounts or concentra-
187 tions as, within the meaning of section (1)(a) of this act to—

188 (i) be habit forming because of their stimulant effect on the
189 central nervous system, or

190 (ii) have a potential for abuse because of their depressant or
191 stimulant effect on the central nervous system or their hallucino-
192 genic effect.

193 (C) any such drug is found by the secretary to be exempt under
194 Section 511(f) of the Federal Act.

1 3. Any person who violates any of the provisions of this chapter is a
2 disorderly person.

1 4. Section 2 of P. L. 1961, chapter 52 (C. 24:6B-2) is amended to read
2 as follows:

3 2. The registration statement shall be signed and verified by the indi-
4 viduals specified in subsection (c) hereof, shall be made on forms prescribed
5 and furnished by the commissioner and shall state such information necessary
6 and proper to the enforcement of this act as the commissioner may require,
7 including:

8 (a) The name under which the business is conducted.

9 (b) The address of each location in New Jersey at which the business
10 is to be conducted. If a wholesale drug business is not to be conducted from
11 a location within the State, the statement shall give the name and address
12 of an agent resident in this State on whom process against the registrant may
13 be served.

14 (c) If the registrant is a proprietorship, the name and address of the
15 proprietor; if a partnership, the names and addresses of all partners; if a
16 corporation, the date and place of incorporation, the names and addresses of
17 the president and secretary thereof and the name and address of the desig-
18 nated registered agent in this State; or if any other type of business associa-
19 tion, the names and addresses of the principals of such association.

20 (d) The names and addresses of those individuals having actual admin-
21 istrative responsibility, which in the case of a proprietorship shall be the
22 managing proprietor; partnership, the managing partners; corporation, the
23 officers and directors; or if any other type of association, those having
24 similar administrative responsibilities.

25 (e) If the business is to be conducted at more than one location in this
26 State, the name and address of the individual in charge of each such location.

27 (f) A description of the business engaged in and the drug products
28 manufactured for sale or wholesaled.

29 (g) The name and address of the individual or individuals on whom
30 orders of the commissioner may be served.

31 (h) *A statement as to whether the registrant engages in manufacturing,*
32 *compounding, processing, wholesaling, jobbing or distribution of depressant*
33 *or stimulant drugs as defined pursuant to law.*

1 5. Section 1 of P. L. 1962, chapter 113 (C. 2A:170-77.8) is amended to
2 read as follows:

3 1. Except as hereinafter provided, any person who uses or is under the
4 influence of, or who possesses or has under his control, *in any form, any*
5 *depressant or stimulant drug as defined pursuant to law* [amphetamine,
6 barbiturate, barbital, hypnotic or somnifacient drugs, tranquilizers] or any
7 *other* prescription legend drug [, in any form,] which is not a narcotic drug
8 within the meaning of *chapter 18 of Title 24* [section 24:18-2] of the Revised
9 Statutes, unless obtained from, or on a valid prescription of, a duly licensed
10 physician, veterinarian or dentist, is a disorderly person.

11 In a prosecution under this act, it shall not be necessary for the State
12 to prove that the accused did use or was under the influence of any specific
13 drug or drugs, but it shall be sufficient for a conviction under this act for the
14 State to prove that the accused did use or was under the influence of some
15 drug or drugs as aforesaid by proving that the accused did manifest physical
16 and physiological symptoms or reactions caused by the use of any such drug.

1 6. Section 2 of P. L. 1962, chapter 113 (C. 2A:170-77.9) is amended to
2 read as follows:

3 2. Except as hereinafter provided, any person who sells, dispenses or
4 gives away, *in any form, any depressant or stimulant drug as defined pursuant*
5 *to law* [amphetamine, barbiturate, barbital, hypnotic or somnifacient drugs,
6 tranquilizers] or any *other* prescription legend drug which is not a narcotic
7 within the meaning of *chapter 18 of Title 24* [section 24:18-2] of the Revised
8 Statutes, [in any form] is a disorderly person.

1 7. Any person, who shall obtain, or attempt to obtain, possession of, or
2 procure, or attempt to procure, the administration of, in any form, any de-
3 pressant or stimulant drug, as defined pursuant to law, or any other prescrip-
4 tion legend drug, which is not a narcotic drug within the meaning of chapter
5 18 of Title 24 of the Revised Statutes, (a) by fraud, deceit, misrepresentation,
6 or subterfuge; or (b) by the forgery or alteration of a prescription or of any
7 written order; or (c) by the concealment of a material fact; or (d) by the use
8 of a false name or the giving of a false address, is a disorderly person.

1 8. Section 24:5-18 of the Revised Statutes is amended to read as follows:

2 24:5-18. For the purposes of this subtitle a drug or device shall also
3 be deemed to be misbranded:

4 a. If its labeling is false or misleading in any particular.

5 b. If in package form unless it bears a label containing the name and
6 place of business of the manufacturer, packer, or distributor.

7 c. If any word, statement or other information required by or under
8 authority of this subtitle to appear on the label or labeling is not prominently
9 placed thereon with such conspicuousness (as compared with other words,
10 statements or designs in the labeling) and in such terms as to render it
11 likely to be read and understood by the ordinary individual under cus-
12 tomary conditions of purchase and use.

13 d. If it is for use by man and contains any quantity of the narcotic or
14 hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, can-
15 nabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, mor-
16 phine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical
17 derivative of such substance, which derivative has been by the Department
18 of Health of the State of New Jersey after investigation found to be, and
19 by regulations under this subtitle designated as, habit forming; unless its
20 label bears the name and quantity or proportion of such substance, or de-
21 rivative and in juxtaposition therewith, the statement "Warning—May be
22 habit forming."

23 e. If it is a drug and is not designated solely by a name recognized in
24 an official compendium, unless its label bears (1) the common or usual name
25 of the drug, if such there be; and (2) in case it is fabricated from 2 or more
26 ingredients, the common or usual name of each active ingredient, including
27 the kind and quantity or proportion of any alcohol, and also including, whether
28 active or not, the name and quantity or proportion of any bromides, ether,
29 chloroform, acetanilid, acetphanetidin, amidopyrine, antipyrine, atropine,
30 hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury,
31 ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation

32 of any such substances, contained therein; provided, that to the extent that
33 compliance with the requirements of clause (2) of this paragraph is imprac-
34 ticable, exemptions may be established by regulations promulgated by the
35 State department.

36 f. Unless its labeling bears (1) adequate directions for use; and (2)
37 such adequate warnings against use in those pathological conditions or by
38 children where its use may be dangerous to health, or against unsafe dosage
39 or methods or duration of administration or application, in such manner and
40 form, as are necessary for the protection of users; provided, that where any
41 requirement of clause (1) of this paragraph, as applied to any drug or de-
42 vice, is not necessary for the protection of the public health, the Department
43 of Health of the State of New Jersey may promulgate regulations exempting
44 such drug or device from such requirement.

45 g. If it purports to be a drug the name of which is recognized in an
46 official compendium, unless it is packaged and labeled as prescribed therein;
47 provided, that the method of packing may be modified with the consent of
48 the State department. Whenever a drug is recognized in both the United
49 States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United
50 States it shall be subject to the requirements of the United States Pharma-
51 copoeia unless it is labeled and offered for sale as a homeopathic drug, in
52 which case it shall be subject to the provisions of the Homeopathic Phar-
53 macopoeia of the United States and not to those of the United States
54 Pharmacopoeia.

55 h. If it has been found by the Department of Health of the State of New
56 Jersey to be a drug liable to deterioration, unless it is packaged in such form
57 and manner, and its label bears a statement of such precautions, as the
58 Department of Health of the State of New Jersey may by regulations require
59 as necessary for the protection of the public health. No such regulation shall
60 be established for any drug recognized in an official compendium until the
61 State department shall have informed the appropriate body charged with
62 the revision of such compendium of the need for such packaging or labeling

63 requirements and such body shall have failed within a reasonable time to pre-
64 scribe such requirements.

65 i. (1) If it is a drug and its container is so made, formed or filled as
66 to be misleading; or (2) if it is an imitation of another drug; or (3) if it is
67 offered for sale under the name of another drug.

68 j. If it is dangerous to health when used in the dosage, or with the fre-
69 quency or duration prescribed, recommended, or suggested in the labeling
70 thereof.

71 k. *If it is a depressant or stimulant drug as defined pursuant to law*
72 *and not in the possession or control of a person specified by law as entitled*
73 *to possession or control of such depressant or stimulant drug. Any depres-*
74 *sant or stimulant drug misbranded under the preceding sentence shall be*
75 *deemed dangerous or fraudulent for purposes of marking and detaining*
76 *under the provisions of section 24:4-12 of this Title.*

1 9. Section 24:17-1 of the Revised Statutes is amended to read as follows:

2 24:17-1. (a) Any person who shall violate any provision of this subtitle,
3 or any rule or regulation of the State department made pursuant thereto,
4 or who shall refuse to comply with any lawful order or direction of the de-
5 partment, shall be liable to the following penalties, unless otherwise speci-
6 fically provided:

7 **[a.]** (1) For each first offense a penalty of \$50.00;

8 **[b.]** (2) For each second offense a penalty of \$100.00;

9 **[c.]** (3) For each third and every subsequent offense a penalty of
10 \$200.00.

11 (b) *Any person who shall remove or dispose of any depressant or stim-*
12 *ulant drug as defined pursuant to law in violation of section 24:4-12 of this*
13 *Title is guilty of a misdemeanor.*

1 10. There is hereby appropriated the sum of \$50,000.00 to the Depart-
2 ment of Health for the purpose of enforcing the provisions of this act.

1 11. This act shall take effect on approval except for section 2 which
2 shall take effect 180 days after approval.

STATEMENT

This bill is designed to furnish health and law enforcement officials with the means of controlling the increasing illicit distribution of depressant and stimulant drugs often referred to as "pepp pills" or "goofballs." The Congress of the United States enacted H. R. 2, effective February, 1966, to provide Federal health authorities and law enforcement officials with the means for controlling the interstate aspects of this problem. This bill complements and supplements the Federal law by affording comparable regulatory authority to State health and law enforcement officials.

Section 1 supplements Title 24 of the Revised Statutes by adding a new chapter controlling the handling and sale of depressant and stimulant drugs. The necessity for uniformity of definition between the Federal and State law for proper enforcement is recognized by following closely Federal law in the definitions of the terms. The Federal definition is supplemented, however, to provide for control of additional drugs, the record of actual abuse of which demonstrates a threat to the public health of the people of this State. The methods of controlling and provisions for exemptions are comparable to Federal law and are designed to control the abuse while simultaneously permitting the continued legitimate distribution and use of essential pharmaceutical preparations.

Enforcement requires proper co-ordination and a centralized authority having knowledge of all legitimate operations involving depressant and stimulant drugs. To accomplish this the bill is interrelated with existing law pertaining to the registration of manufacturers and wholesalers of drugs with the Department of Health through section 2, the registration of pharmacies with the Board of Pharmacy, and the listing of certain hospitals and public health agencies under the Department of Institutions and Agencies. Registration of all others would now be required.

Sections 3 and 4 of the bill would clarify earlier enacted sections of the disorderly persons statute to eliminate uncertainties and ambiguities and make it clear that depressant and stimulant drugs are included. Obtaining or attempt-

ing to obtain the administration of or possession of these drugs by fraud, deceit or misrepresentation would similarly be a disorderly person's offense.

While possession in violation of this bill would be a disorderly person's offense, under existing provisions of the New Jersey Food and Drug law, immediate confiscation would be difficult. To correct this section 24:5-18 is amended to provide that the unlawful possession of depressant and stimulant drugs would constitute such drugs as being misbranded, subject to embargo, with further distribution in violation of the embargo being made a misdemeanor.

The additional responsibilities placed on the Department of Health for proper enforcement of this bill makes necessary the appropriation of an additional sum of \$50,000.00 to such department. This amount is a realistic evaluation of the minimum amount needed to hire additional enforcement officials and inspectors and provide the corresponding administrative overhead attributable to the increased personnel and responsibilities.