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)

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.
Billhhad statement (copy of original bill with statement enclosed).

For general background on this legislation see:

974.90 N222 1964 — N.J. Legislature. Narcotic Drug Study Commission. An interim report ... 1964.

974.90 N222 1964a — N.J. Legislature. Narcotic Drug Study Commission. Public hearing ... 1964.

974.90 N222 1965 — N.J. Legislature. Narcotic Drug Study Commission. An interim report ... 1965.

JH/PC

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.

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

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

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

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

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

ing such drugs or to any employee of the same acting within the scope of his employment; or to public officers or employees in the performance of their official duties requiring possession or control of these drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession; or to persons whose possession is for the purpose of aiding public officers in performing their official duties.

5. This act shall take effect immediately.

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.

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. 1962

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.

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

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

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

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

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

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

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.

####

CHAPTER 314 LAWS OF N. J. 1966
APPROVED 12/29/66

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.

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

1. For the purpose of this act:

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

(1) any drug which contains any quantity of

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

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

(2) any drug which contains any quantity of

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

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

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

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

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

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

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

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

2. (a) No person shall manufacture, compound, or process (which shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package in the furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer) in this State any depressant or stimulant drug, except that this prohibition shall not apply to the following persons whose activities in connection with any such drug are solely as specified in this section:

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

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

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

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

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

(A) to pharmacies, or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon prescriptions or for use by or under the supervision of practitioners licensed by law to administer such drugs in the course of their professional practice, or

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

(3) Pharmacies registered under chapter 14 of Title 45, hospitals, clinics and public health agencies, all of which are registered as hereinafter provided, which are regularly engaged in dispensing prescriptions upon instructions of practitioners licensed to administer such drugs for patients under the care of such practitioners in the course of their professional practice.

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

(5) Persons who use depressant or stimulant drugs in research, teaching or chemical analysis and not for sale.

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

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

pressant or stimulant drugs, while such employee, nurse or medical technician is acting in the course of his employment or occupation and not on his own account.

(b) The Attorney General or his designated representative in the Department of Law and Public Safety shall, within 30 days after the effective date of this act furnish the commissioner with a list of the names and locations of pharmacies registered under chapter 14 of Title 45 and shall thereafter periodically, but no less frequently than annually, furnish the commissioner with revisions of such list.

(c) Any hospital, clinic or public health agency (the phrase "hospital, clinic, or public health agency" is deemed to include nursing homes, homes for the aged, convalescent homes and other facilities whose function requires possession of depressant or stimulant drugs) claiming exemption under this section with respect to activities pertaining to depressant or stimulant drugs shall first file a completed registration statement with the department.

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

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

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

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

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

(d) No person other than:

(1) a person described in subsection (a), while such person is acting in the ordinary course of his business, profession, occupation or employment, or

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

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

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

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

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

(g)(1)(A) Every person engaged in manufacturing, compounding, processing, selling, delivering, or otherwise disposing of any depressant or stimulant drug shall, upon the effective date of this act, prepare a complete and accurate record of all stocks of each such drug on hand and shall keep such record for 3 years. On and after the effective date of this section, every person manufacturing, compounding, or processing any depressant or stimulant drug shall prepare and keep, for not less than 3 years, a complete and accurate record of the kind and quantity of each such drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any depressant or stimulant drug shall prepare or obtain, and keep for not less than 3 years, a complete and accurate record of the kind and quantity of each such drug received, sold, delivered, or otherwise disposed of, the name and address of the person from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction. No separate records, nor set form or forms for any of the foregoing records, shall be required as long as records containing the required information are available. Records maintained in compliance with the record-keeping requirements of Section 511 of the Federal Food, Drug and Cosmetic Act and regulations issued thereunder by the secretary shall be deemed to be adequate records for compliance with this section.

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

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

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

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

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

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

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

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

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

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

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

(ii) have a potential for abuse because of their depressant or stimulant effect on the central nervous system or their hallucinogenic effect.

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

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

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

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

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

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

(c) If the registrant is a proprietorship, the name and address of the proprietor; if a partnership, the names and addresses of all partners; if a corporation, the date and place of incorporation, the names and addresses of the president and secretary thereof and the name and address of the designated registered agent in this State; or if any other type of business association, the names and addresses of the principals of such association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. If it is for use by man and contains any quantity of the narcotic or hynotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the Department of Health of the State of New Jersey after investigation found to be, and by regulations under this subtitle designated as, habit forming; unless its label bears the name and quantity or proportion of such substance, or derivative and in juxtaposition therewith, the statement "Warning—May be habit forming."

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

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

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

g. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the State department. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

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

requirements and such body shall have failed within a reasonable time to prescribe such requirements.

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

j. If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

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

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

24:17–1. *(a)* Any person who shall violate any provision of this subtitle, or any rule or regulation of the State department made pursuant thereto, or who shall refuse to comply with any lawful order or direction of the department, shall be liable to the following penalties, unless otherwise specifically provided:

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

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

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

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

10. There is hereby appropriated the sum of $50,000.00 to the Department of Health for the purpose of enforcing the provisions of this act.

11. This act shall take effect on approval except for section 2 which 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 "pep 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.

R.S. 25:5-18 ET SEQ.

LEGISLATIVE FACT SHEET

ON

N.J.R.S. 25:5-18 et seq (Narcotic drugs - Reg.)
(1966 Amendment)

LAWS OF 1966 CHAPTER 314

~~SENATE~~ ASSEMBLY 548

INTRODUCED Mar. 14, 1966 BY Policastro [and 3 others]

STATEMENT	(YES)	NO
AMENDED DURING PASSAGE	YES	(NO)
HEARING		
VETO		

7-22-68 L3/RSL

CHAPTER 314 LAWS OF N. J. 1966
APPROVED 12/29/66

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.

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

1. For the purpose of this act:

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

(1) any drug which contains any quantity of

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

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

(2) any drug which contains any quantity of

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

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

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

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

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

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

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

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

2. (a) No person shall manufacture, compound, or process (which shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package in the furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer) in this State any depressant or stimulant drug, except that this prohibition shall not apply to the following persons whose activities in connection with any such drug are solely as specified in this section:

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

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

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

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

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

(A) to pharmacies, or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon prescriptions or for use by or under the supervision of practitioners licensed by law to administer such drugs in the course of their professional practice, or

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

(3) Pharmacies registered under chapter 14 of Title 45, hospitals, clinics and public health agencies, all of which are registered as hereinafter provided, which are regularly engaged in dispensing prescriptions upon instructions of practitioners licensed to administer such drugs for patients under the care of such practitioners in the course of their professional practice.

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

(5) Persons who use depressant or stimulant drugs in research, teaching or chemical analysis and not for sale.

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

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

pressant or stimulant drugs, while such employee, nurse or medical technician is acting in the course of his employment or occupation and not on his own account.

(b) The Attorney General or his designated representative in the Department of Law and Public Safety shall, within 30 days after the effective date of this act furnish the commissioner with a list of the names and locations of pharmacies registered under chapter 14 of Title 45 and shall thereafter periodically, but no less frequently than annually, furnish the commissioner with revisions of such list.

(c) Any hospital, clinic or public health agency (the phrase "hospital, clinic, or public health agency" is deemed to include nursing homes, homes for the aged, convalescent homes and other facilities whose function requires possession of depressant or stimulant drugs) claiming exemption under this section with respect to activities pertaining to depressant or stimulant drugs shall first file a completed registration statement with the department.

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

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

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

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

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

(d) No person other than:

(1) a person described in subsection (a), while such person is acting in the ordinary course of his business, profession, occupation or employment, or

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

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

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

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

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

(g)(1)(A) Every person engaged in manufacturing, compounding, processing, selling, delivering, or otherwise disposing of any depressant or stimulant drug shall, upon the effective date of this act, prepare a complete and accurate record of all stocks of each such drug on hand and shall keep such record for 3 years. On and after the effective date of this section, every person manufacturing, compounding, or processing any depressant or stimulant drug shall prepare and keep, for not less than 3 years, a complete and accurate record of the kind and quantity of each such drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any depressant or stimulant drug shall prepare or obtain, and keep for not less than 3 years, a complete and accurate record of the kind and quantity of each such drug received, sold, delivered, or otherwise disposed of, the name and address of the person from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction. No separate records, nor set form or forms for any of the foregoing records, shall be required as long as records containing the required information are available. Records maintained in compliance with the record-keeping requirements of Section 511 of the Federal Food, Drug and Cosmetic Act and regulations issued thereunder by the secretary shall be deemed to be adequate records for compliance with this section.

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

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

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

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

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

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

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

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

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

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

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

(ii) have a potential for abuse because of their depressant or stimulant effect on the central nervous system or their hallucinogenic effect.

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

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

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

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

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

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

(c) If the registrant is a proprietorship, the name and address of the proprietor; if a partnership, the names and addresses of all partners; if a corporation, the date and place of incorporation, the names and addresses of the president and secretary thereof and the name and address of the designated registered agent in this State; or if any other type of business association, the names and addresses of the principals of such association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. If it is for use by man and contains any quantity of the narcotic or hynotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the Department of Health of the State of New Jersey after investigation found to be, and by regulations under this subtitle designated as, habit forming; unless its label bears the name and quantity or proportion of such substance, or derivative and in juxtaposition therewith, the statement "Warning—May be habit forming."

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

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

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

g. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the State department. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

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

requirements and such body shall have failed within a reasonable time to prescribe such requirements.

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

j. If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

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

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

24:17–1. *(a)* Any person who shall violate any provision of this subtitle, or any rule or regulation of the State department made pursuant thereto, or who shall refuse to comply with any lawful order or direction of the department, shall be liable to the following penalties, unless otherwise specifically provided:

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

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

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

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

10. There is hereby appropriated the sum of $50,000.00 to the Department of Health for the purpose of enforcing the provisions of this act.

11. This act shall take effect on approval except for section 2 which 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 "pep 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.