

HEARINGS:

No

NEWSPAPER ARTICLES:

No

SENATE, No. 631

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

SYNOPSIS

Clarifies penalty for possession of 50 or more marijuana plants with intent to distribute.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S631 MATHEUSSEN

2

1 AN ACT concerning the penalties for certain drug-related crimes and
2 amending N.J.S.2C:35-5.

3

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

6

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

8 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
9 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
10 unlawful for any person knowingly or purposely:

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

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

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

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

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

35 (3) A substance referred to paragraph (1) of this subsection in a
36 quantity less than one-half ounce including any adulterants or dilutants
37 is guilty of a crime of the third degree except that, notwithstanding the
38 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
39 \$75,000.00 may be imposed;

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

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

Matter underlined thus is new matter.

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

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

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

23 (8) Methamphetamine, or its analog, or phenyl-2-propanone (P2P),
24 in a quantity of five ounces or more including any adulterants or
25 dilutants is guilty of a crime of the first degree. Notwithstanding the
26 provisions of subsection a. of N.J.S.2C:43-3, a fine of up to
27 \$300,000.00 may be imposed;

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

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

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

43 (b) Marijuana in a quantity of five pounds or more but less than 25
44 pounds including any adulterants or dilutants, or 10 or more but fewer
45 than 50 marijuana plants, regardless of weight, or hashish in a quantity
46 of one pound or more but less than five pounds, including any

1 adulterants and dilutants, is guilty of a crime of the second degree;

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

8 (12) Marijuana in a quantity of less than one ounce including any
9 adulterants or dilutants, or hashish in a quantity of less than five grams
10 including any adulterants or dilutants, is guilty of a crime of the fourth
11 degree;

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

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

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

30 (cf: P.L.1997, c.186, s.3)

31

32 2. This act shall take effect immediately.

33

34

35 STATEMENT

36

37 This bill would clarify that under the provisions of N.J.S.2C:35-5,
38 possession of 50 or more marijuana plants with intent to distribute is
39 punishable as a crime of the first degree. As presently worded, N.J.S.
40 2C:35-5 provides that possession of more than 50 marijuana plants
41 with intent to distribute is graded as a crime of first degree while
42 possession of more than 10 but less than 50 marijuana plants with
43 intent to distribute is graded as a crime of the second degree.

44 This bill is intended to remove any ambiguity as to the appropriate
45 penalty if an individual is arrested in possession of exactly 50
46 marijuana plants.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 631

STATE OF NEW JERSEY

DATED: JANUARY 31, 2000

The Senate Judiciary Committee reports favorably Senate Bill No. 631.

The bill would clarify that under the provisions of N.J.S.2C:35-5, possession of 50 or more marijuana plants with intent to distribute is punishable as a crime of the first degree. As presently worded, N.J.S.2C:35-5 provides that possession of more than 50 marijuana plants with intent to distribute is graded as a crime of the first degree while possession of more than 10 but less than 50 marijuana plants with intent to distribute is graded as a crime of the second degree. The bill is intended to remove any ambiguity as to the appropriate penalty if an individual is arrested in possession of exactly 50 marijuana plants.

This bill was prefiled for introduction in the 2000 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE, No. 631

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator ROBERT W. SINGER

District 30 (Burlington, Monmouth and Ocean)

Co-Sponsored by:

Senators Inverso, Sinagra, Bucco, Kosco, Robertson and Allen

SYNOPSIS

Clarifies penalty for possession of 50 or more marijuana plants with intent to distribute.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee with technical review.



(Sponsorship Updated As Of: 2/8/2000)

1 AN ACT concerning the penalties for certain drug-related crimes and
2 amending N.J.S.2C:35-5.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2C:35-5 is amended to read as follows:

8 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
9 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be
10 unlawful for any person knowingly or purposely:

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12 under his control with intent to manufacture, distribute or dispense, a
13 controlled dangerous substance or controlled substance analog; or

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

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

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

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

35 (3) A substance referred to paragraph (1) of this subsection in a
36 quantity less than one-half ounce including any adulterants or dilutants
37 is guilty of a crime of the third degree except that, notwithstanding the
38 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
39 \$75,000.00 may be imposed;

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

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20 quantity of less than 10 grams including any adulterants or dilutants,
21 or where the amount is undetermined, is guilty of a crime of the
22 second degree;

23 (8) Methamphetamine, or its analog, or phenyl-2-propanone (P2P),
24 in a quantity of five ounces or more including any adulterants or
25 dilutants is guilty of a crime of the first degree. Notwithstanding the
26 provisions of subsection a. of N.J.S.2C:43-3, a fine of up to
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30 ounces including any adulterants or dilutants is guilty of a crime of the
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34 adulterants or dilutants is guilty of a crime of the third degree except
35 that notwithstanding the provisions of subsection b. of N.J.S.2C:43-3,
36 a fine of up to \$75,000.00 may be imposed;

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

43 (b) Marijuana in a quantity of five pounds or more but less than 25
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16 (14) Any Schedule V substance, or its analog, is guilty of a crime
17 of the fourth degree except that, notwithstanding the provisions of
18 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be
19 imposed.

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

30 (cf: P.L.1997, c.186, s.3)

31

32 2. This act shall take effect immediately.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 631

STATE OF NEW JERSEY

DATED: MARCH 20, 2000

The Assembly Law and Public Safety Committee reports favorably Senate Bill No. 631.

Senate Bill No. 631 clarifies that under the provisions of N.J.S.2C:35-5, possession of 50 or more marijuana plants with intent to distribute is punishable as a crime of the first degree.

As presently worded, N.J.S.2C:35-5 provides that possession of more than 50 marijuana plants with intent to distribute is graded as a crime of the first degree while possession of more than 10 but less than 50 marijuana plants with intent to distribute is graded as a crime of the second degree. The bill is intended to remove any ambiguity as to the appropriate penalty if an individual is arrested in possession of exactly 50 marijuana plants.

As reported, this bill is identical to Assembly Bill No. 2247, also reported on this date.

[Corrected Copy]

SENATE, No. 631

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator ROBERT W. SINGER

District 30 (Burlington, Monmouth and Ocean)

Co-Sponsored by:

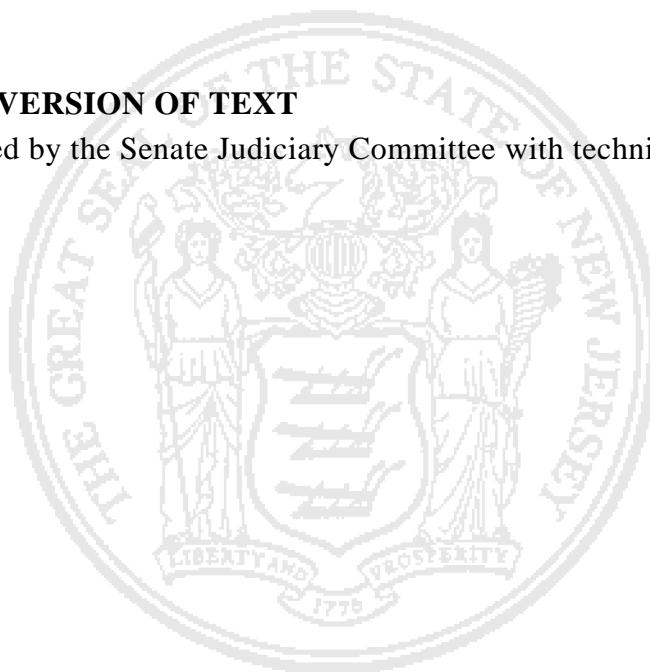
**Senators Inverso, Sinagra, Bucco, Kosco, Robertson, Allen, Assemblymen
Holzapfel and Moran**

SYNOPSIS

Clarifies penalty for possession of 50 or more marijuana plants with intent to distribute.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee with technical review.



(Sponsorship Updated As Of: 10/6/2000)

1 AN ACT concerning the penalties for certain drug-related crimes and
2 amending N.J.S.2C:35-5.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2C:35-5 is amended to read as follows:

8 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
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12 under his control with intent to manufacture, distribute or dispense, a
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25 N.J.S.2C:35-12, be sentenced to a term of imprisonment by the court.
26 The term of imprisonment shall include the imposition of a minimum
27 term which shall be fixed at, or between, one-third and one-half of the
28 sentence imposed, during which the defendant shall be ineligible for
29 parole. Notwithstanding the provisions of subsection a. of
30 N.J.S.2C:43-3, a fine of up to \$500,000.00 may be imposed;

31 (2) A substance referred to in paragraph (1) of this subsection, in
32 a quantity of one-half ounce or more but less than five ounces,
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34 degree;

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38 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
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41 other than those specifically covered in this section, or the analog of
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EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

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2 other than those specifically covered in this section, or the analog of
3 any such substance, in a quantity of less than one ounce including any
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14 sentence imposed by the court, during which the defendant shall be
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20 quantity of less than 10 grams including any adulterants or dilutants,
21 or where the amount is undetermined, is guilty of a crime of the
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23 (8) Methamphetamine, or its analog, or phenyl-2-propanone (P2P),
24 in a quantity of five ounces or more including any adulterants or
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42 N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;

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44 pounds including any adulterants or dilutants, or 10 or more but fewer
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46 of one pound or more but less than five pounds, including any

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23 so provides, the quantity involved in individual acts of manufacturing,
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25 aggregated in determining the grade of the offense, whether
26 distribution or dispensing is to the same person or several persons,
27 provided that each individual act of manufacturing, distribution,
28 dispensing or possession with intent to distribute was committed
29 within the applicable statute of limitations.

30 (cf: P.L.1997, c.186, s.3)

31

32 2. This act shall take effect immediately.

P.L. 2000, CHAPTER 136, *approved November 1, 2000*
Senate, No. 631 (Corrected Copy)

1 AN ACT concerning the penalties for certain drug-related crimes and
2 amending N.J.S.2C:35-5.

3

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

6

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12 under his control with intent to manufacture, distribute or dispense, a
13 controlled dangerous substance or controlled substance analog; or

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

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

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

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

35 (3) A substance referred to paragraph (1) of this subsection in a
36 quantity less than one-half ounce including any adulterants or dilutants
37 is guilty of a crime of the third degree except that, notwithstanding the
38 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
39 \$75,000.00 may be imposed;

40 (4) A substance classified as a narcotic drug in Schedule I or II

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

Matter underlined thus is new matter.

1 other than those specifically covered in this section, or the analog of
2 any such substance, in a quantity of one ounce or more including any
3 adulterants or dilutants is guilty of a crime of the second degree;

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

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

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

26 (8) Methamphetamine, or its analog, or phenyl-2-propanone (P2P),
27 in a quantity of five ounces or more including any adulterants or
28 dilutants is guilty of a crime of the first degree. Notwithstanding the
29 provisions of subsection a. of N.J.S.2C:43-3, a fine of up to
30 \$300,000.00 may be imposed;

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

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

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

46 (b) Marijuana in a quantity of five pounds or more but less than 25

1 pounds including any adulterants or dilutants, or 10 or more but fewer
2 than 50 marijuana plants, regardless of weight, or hashish in a quantity
3 of one pound or more but less than five pounds, including any
4 adulterants and dilutants, is guilty of a crime of the second degree;

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

11 (12) Marijuana in a quantity of less than one ounce including any
12 adulterants or dilutants, or hashish in a quantity of less than five grams
13 including any adulterants or dilutants, is guilty of a crime of the fourth
14 degree;

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

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

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

33 (cf: P.L.1997, c.186, s.3)

34

35 2. This act shall take effect immediately.

36

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38

39

40 Clarifies penalty for possession of 50 or more marijuana plants with
41 intent to distribute.

CHAPTER 136

AN ACT concerning the penalties for certain drug-related crimes and amending N.J.S.2C:35-5.

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

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

Manufacturing, distributing or dispensing.

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

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

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

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

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

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

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

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

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

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

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

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

(9) (a) Methamphetamine, or its analog, or phenyl-2-propanone (P2P), in a quantity of

one-half ounce or more but less than five ounces including any adulterants or dilutants is guilty of a crime of the second degree;

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

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

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

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

(12) Marijuana in a quantity of less than one ounce including any adulterants or dilutants, or hashish in a quantity of less than five grams including any adulterants or dilutants, is guilty of a crime of the fourth degree;

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

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

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

2. This act shall take effect immediately.

Approved November 1, 2000.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Laura Otterbourg
609-777-2600

RELEASE: November 1, 2000

Governor Christie Whitman today signed the following legislation:

A-2122, sponsored by Assembly Members Wolfe (R-Monmouth/Ocean) and Malone (R-Burlington/Monmouth/Ocean) and Senators Palaia (R-Monmouth) and Turner (D-Mercer), establishes a Commission on Early Childhood Education in but not of the Department of Education. The bill incorporates recommendations made by the Governor in a conditional veto.

A-2123, sponsored by Assembly Members Wolfe (R-Monmouth/Ocean) and Malone (R-Burlington/Monmouth/Ocean) and Senators Palaia (R-Monmouth) and Turner (D-Mercer), establishes an Office on Early Childhood Education in the Department of Education. The bill incorporates recommendations made by the Governor in a conditional veto.

A-52, sponsored by Assembly Members Jones (D-Essex) and Bateman (R-Morris/Somerset), increases the maximum number of votes of a member of a mutual savings and loan association.

A-2265, sponsored by Assembly Members Bateman (R-Morris/Somerset) and Augustine (R-Middlesex/Morris/Somerset/Union) and Senator Bennett (R-Monmouth), allows banks, savings banks and savings and loan associations to act as title insurance producers.

S-631, sponsored by Senators Matheussen (R-Camden/Gloucester) and Singer (R-Burlington/Monmouth/Ocean) and Assembly Members Holzapfel (R-Monmouth/Ocean) and Moran (R-Atlantic/Burlington/Ocean), clarifies penalty for possession of 50 or more marijuana plants with intent to distribute.