



**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

**SENATE, No. 631**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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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:

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;

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5 that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3,  
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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  
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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  
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28 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone  
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31 second degree;

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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  
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46 of one pound or more but less than five pounds, including any

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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

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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**

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**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:**

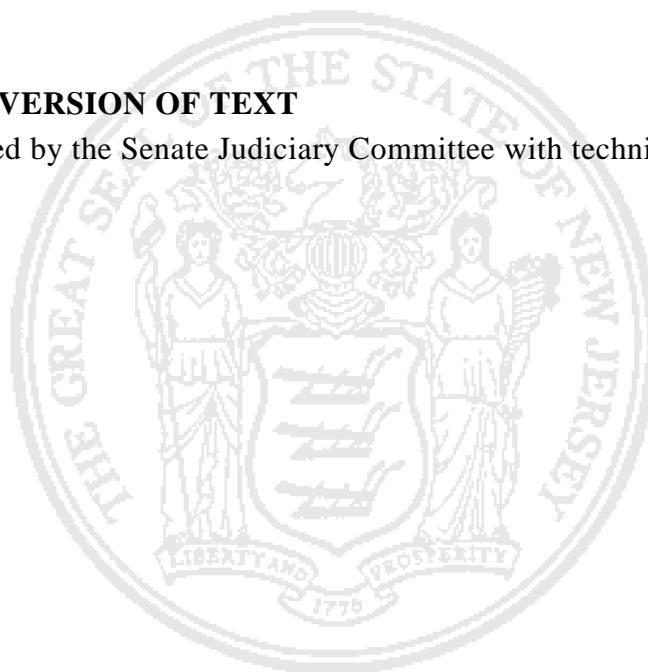
**Senators Inverso, Sinagra, Bucco, Kosco, Robertson, Allen, Assemblymen  
Holzapfel and Moran**

**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.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
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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.

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

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

**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

37

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.