

LEGISLATIVE FISCAL ESTIMATE:

Yes 6/26/2019

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"NJ can now have an industrial hemp program,"
NJBIZ (New Brunswick, NJ) - August 9, 2019

"Could hemp be coming to county? Hemp Marijuana's staid cousin just got green light in N.J.,"
Hunterdon County Democrat (Flemington, NJ) - August 15, 2019

"Hemp gets green light in New Jersey,"
Warren Reporter, The (Hackettstown, NJ) - August 16, 2019

"Oroho hemp bill signed into law - BUSINESS. Crops can now include hemp in New Jersey,"
Advertiser-News, The (Sussex County, NJ) - August 10, 2019

RWH/JA

Title 4.
Chapter 28.
(Rename)
Hemp
§§1-8
C.4:28-6 to
4:28-13
§9-C.24:5-23
§15-Repealer

(CORRECTED COPY)

P.L. 2019, CHAPTER 238, *approved August 9, 2019*

Assembly, No. 5322 (*Second Reprint*)

1 **AN ACT** concerning the cultivation, handling, processing, transport,
2 and sale of hemp, supplementing Title 4 and 24 of the Revised
3 Statutes, amending various parts of the statutory law, and
4 repealing P.L.2018, c.139.

5

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

8

9 1. (New section) Sections 1 through 9 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be known and may
11 be cited as the “New Jersey Hemp Farming Act.”

12

13 2. (New section) The Legislature finds and declares that hemp
14 is a viable agricultural crop and a potentially valuable agricultural
15 commodity in the State, and that hemp should be cultivated,
16 handled, processed, transported, and sold in the State to the
17 maximum extent permitted by federal law. It is the purpose of
18 P.L. , c. (C.) (pending before the Legislature as this bill) to:
19 promote the cultivation and processing of hemp; develop new
20 commercial markets for farmers and businesses through the sale of
21 hemp products; promote the expansion of the State’s hemp industry
22 to the maximum extent permitted by federal law; allow farmers and
23 businesses to cultivate, handle, and process hemp, and to sell hemp
24 products for commercial purposes; and to move the State and its
25 citizens to the forefront of the hemp industry.

26

27 3. (New section) As used in sections 1 through 9 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), unless
29 the context otherwise requires:

30 “Agent” means an employee or contractor of a hemp producer.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 20, 2019.

²Senate SBA committee amendments adopted June 17, 2019.

1 “Applicant” means a person, or for a business entity, any person
2 authorized to act on behalf of the business entity, who applies to the
3 department to be a hemp producer in the State.

4 “Commercial sale” means the sale of a product in the stream of
5 commerce at retail, at wholesale, or on the Internet.

6 “Cultivate” means to plant, water, grow, or harvest a plant or
7 crop.

8 “Department” means the New Jersey Department of Agriculture.

9 “Federally defined THC level for hemp” means a delta-9
10 tetrahydrocannabinol concentration of not more than 0.3 percent on
11 a dry weight basis for hemp or in a hemp product.

12 “Handle” means to possess or store a hemp plant on premises
13 owned, operated, or controlled by a hemp producer for any period
14 of time or in a vehicle for any period of time other than during the
15 actual transport of the plant between premises owned, operated, or
16 controlled by hemp producers or persons or entities authorized to
17 produce hemp pursuant to 7 U.S.C. s.1639o et seq. and any state
18 law or rule or regulation adopted pursuant thereto. “Handle” does
19 not mean possession or storage of finished hemp products.

20 “Hemp” means the plant *Cannabis sativa* L. and any part of that
21 plant, including the seeds of the plant and all derivatives, extracts,
22 cannabinoids, isomers, acids, salts, and salts of isomers, whether
23 growing or not, with a delta-9 tetrahydrocannabinol concentration
24 of not more than 0.3 percent on a dry weight basis. Hemp and
25 hemp-derived cannabinoids, including cannabidiol, shall be
26 considered an agricultural commodity and not a controlled
27 substance ²due to the presence of hemp or hemp-derived
28 cannabinoids².

29 “Hemp producer” means a person or business entity authorized
30 by the department to cultivate, handle, or process hemp in the State.

31 “Hemp product” means a finished product with a delta-9
32 tetrahydrocannabinol concentration of not more than 0.3 percent
33 that is derived from or made by processing a hemp plant or plant
34 part and prepared in a form available for commercial sale. The term
35 includes cosmetics, personal care products, food intended for
36 human or animal consumption, cloth, cordage, fiber, fuel, paint,
37 paper, particleboard, plastics, and any product containing one or
38 more hemp-derived cannabinoids such as cannabidiol. Hemp
39 products shall not be considered controlled substances ²due to the
40 presence of hemp or hemp-derived cannabinoids².

41 “Process” means to convert hemp into a marketable form.

42 “Secretary” means the Secretary of the New Jersey Department
43 of Agriculture.

44 “Transport” means the movement or shipment of hemp by a
45 hemp producer, a person or entity authorized to produce hemp
46 pursuant to 7 U.S.C. s.1639o et seq. and any state law or rule or
47 regulation adopted pursuant thereto, or a hemp producer’s or

1 authorized entity's third-party carrier or agent. "Transport" shall
2 not mean the movement or shipment of hemp products.

3
4 4. (New section) a. Notwithstanding any other provision of
5 law, or rule or regulation adopted pursuant thereto to the contrary, it
6 is lawful for a hemp producer or its agent to cultivate, handle, or
7 process hemp or hemp products in the State. Nothing in P.L. ,
8 c. (C.) (pending before the Legislature as this bill) authorizes
9 any person to violate a federal or State law, or rule or regulation
10 adopted pursuant thereto. Notwithstanding any other provision of
11 law, or rule or regulation adopted pursuant thereto to the contrary, it
12 is lawful to possess, transport, sell, and purchase legally-produced
13 hemp products in the State.

14 b. It is unlawful for a person or entity that is not a hemp
15 producer or an agent of a hemp producer to cultivate, handle, or
16 process living hemp plants or viable seeds, leaf materials, or floral
17 materials derived from hemp. A person or entity that is not a hemp
18 producer or an agent of a hemp producer, but who cultivates,
19 handles, or processes living hemp plants or viable seeds, leaf
20 materials, or floral materials derived from hemp, shall be subject to
21 the same penalties as those related to marijuana.

22
23 5. (New section) a. Pursuant to 7 U.S.C. s.1639p, and to
24 designate itself as the primary regulatory authority over the
25 production of hemp in the State, the department, in consultation
26 with the Governor and the Attorney General, shall promulgate
27 regulations for submission, along with P.L. , c. (C.)
28 (pending before the Legislature as this bill), to the Secretary of the
29 United States Department of Agriculture, as a plan under which the
30 State monitors and regulates hemp production.

31 b. No later than 90 days after the effective date of
32 P.L. , c. (C.) (pending before the Legislature as this bill)
33 and notwithstanding the provisions of the "Administrative
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
35 contrary, the department, after consultation with the Governor and
36 Attorney General shall, immediately upon filing proper notice with
37 the Office of Administrative Law, adopt interim rules and
38 regulations to implement P.L. , c. (C.) (pending before the
39 Legislature as this bill) and to meet the requirements for federal
40 approval as a state plan pursuant to 7 U.S.C. s.1639o et seq. The
41 regulations shall be effective as regulations immediately upon filing
42 with the Office of Administrative Law and shall be in effect for a
43 period not to exceed 18 months, and shall, thereafter, be amended,
44 adopted, or readopted by the department in accordance with the
45 provisions of the "Administrative Procedure Act." The rules and
46 regulations adopted pursuant to this section shall include the
47 following:

48 (1) a procedure to maintain relevant information regarding land,
49 fields, greenhouses, or any other location where hemp is produced

- 1 in the State, including a legal description of the land and global
 2 positioning system coordinates, for a period of at least three
 3 calendar years;
- 4 (2) a procedure for testing, including by third parties, using
 5 post-decarboxylation or another similarly reliable method, that the
 6 delta-9 tetrahydrocannabinol concentration of hemp produced in the
 7 State does not exceed the federally defined THC level for hemp,
 8 and that hemp products do not exceed the federally defined THC
 9 level for hemp when made available to the public ¹]. A hemp
 10 producer shall begin harvesting any hemp within 30 days of
 11 sampling¹ ;
- 12 (3) ¹provisions that permit a hemp producer to begin harvest of
 13 mature hemp plants within 30 days after the date of sampling,
 14 provided that the department may require any plant that is not
 15 harvested within 30 days after sampling to undergo retesting;
- 16 (4) provisions that allow a hemp producer to have testing
 17 performed by a third-party laboratory to demonstrate compliance
 18 with the federally defined THC level for hemp, provided the
 19 laboratory:
- 20 (a) is registered and accredited in accordance with State and
 21 federal law;
- 22 (b) is registered with the State hemp program;
- 23 (c) agrees to comply with the department’s approved testing
 24 procedures;
- 25 (d) transmits laboratory results directly to the department; and
- 26 (e) submits to random quality assurance testing by the
 27 department to validate the accuracy of testing results;
- 28 (5) provisions that allow a hemp producer to test its own hemp
 29 for the purposes of providing information about hemp’s delta-9
 30 tetrahydrocannabinol levels and to certify label statements for a
 31 hemp product, as long as the producer’s laboratory meets the
 32 requirements in paragraph (4) of this subsection;
- 33 (6) ²provisions that require the department to certify that hemp
 34 and hemp products produced pursuant to the State hemp program
 35 comply with federal law, and any rule or regulation adopted
 36 pursuant thereto;
- 37 (7)¹² a procedure for the effective disposal of hemp plants,
 38 whether growing or not, that are produced in violation of 7 U.S.C.
 39 s.1639o et seq., and products derived from those plants;
- 40 ¹[(4)] ²[(8)¹] (7)² a procedure to comply with the enforcement
 41 procedures in section 7 of P.L. , c. (C.) (pending before the
 42 Legislature as this bill), pursuant to 7 U.S.C. s.1639p, and to
 43 provide due process for hemp producers;
- 44 ¹[(5)] ²[(9)¹] (8)² a procedure for conducting annual
 45 inspections of, at a minimum, a random sample of hemp producers
 46 to verify that hemp is not produced in violation of 7 U.S.C. s.1639o
 47 et seq.; ²and²

1 ¹[(6)] ²[(10)]¹ (9)² a procedure for submitting the information
 2 described in 7 U.S.C. s.1639q, as applicable, to the Secretary of the
 3 United States Department of Agriculture not later than 30 days after
 4 the date the information is received ²]; and] ².

5 c. Upon adoption of rules and regulations pursuant to
 6 subsection b. of this section, subsection c. of section 6, and
 7 subsection c. of section 7 of P.L. , c. (C.) (pending before
 8 the Legislature as this bill), the department, after consultation with
 9 the Governor and the Attorney General, shall submit the rules and
 10 regulations, along with P.L. , c. (C.) (pending before the
 11 Legislature as this bill), for approval to the Secretary of the United
 12 States Department of Agriculture as a state plan for monitoring and
 13 regulating the production of hemp in the State pursuant to 7 U.S.C.
 14 s.1639o et seq.

15 d. (1) If the plan submitted by the department is disapproved
 16 by the Secretary of the United States Department of Agriculture, the
 17 department, after consultation with the Governor and the Attorney
 18 General, shall amend the rules promulgated pursuant to
 19 P.L. , c. (C.) (pending before the Legislature as this bill) as
 20 needed to obtain approval and shall thereafter submit an amended
 21 plan.

22 (2) The department shall, as necessary, consult with and seek
 23 technical assistance from the Secretary of the United States
 24 Department of Agriculture in crafting a satisfactory state plan
 25 pursuant to 7 U.S.C. s.1639o et seq.

26 (3) If a plan submitted by the department is disapproved by the
 27 Secretary of the United States Department of Agriculture, nothing
 28 in P.L. , c. (C.) (pending before the Legislature as this bill)
 29 shall prohibit the production of hemp in the State pursuant to 7
 30 U.S.C. s.1639q or any other federal law, or rule or regulation
 31 adopted pursuant thereto, if the production of hemp is not otherwise
 32 prohibited by the State.

33 (4) As part of the State plan adopted pursuant to subsection b. of
 34 this section, the department shall also submit a certification that the
 35 State has the resources and personnel to implement the practices
 36 and procedures as provided in P.L. , c. (C.) (pending before
 37 the Legislature as this bill), pursuant to 7 U.S.C. s.1639p.

38
 39 6. (New section) a. Except as otherwise provided,
 40 P.L. , c. (C.) (pending before the Legislature as this bill)
 41 does not apply to the possession, transportation, or sale of hemp
 42 products or extracts, including those containing one or more hemp-
 43 derived cannabinoids, including cannabidiol.

44 b. In adopting rules and regulations pursuant to
 45 P.L. , c. (C.) (pending before the Legislature as this bill),
 46 the department ¹[shall] may¹ consult with relevant public agencies
 47 as well as private, nonprofit associations in the hemp industry that
 48 promote standards, best practices, and self-regulation in the
 49 production of hemp.

1 c. In addition to the rules and regulations required for a state
2 plan consistent with the requirements of 7 U.S.C. s.1639o et seq.
3 and section 5 of P.L. , c. (C.) (pending before the
4 Legislature as this bill), no later than 90 days after the effective date
5 of P.L. , c. (C.) (pending before the Legislature as this bill)
6 and notwithstanding the provisions of the “Administrative
7 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
8 contrary, the department, after consultation with the Governor and
9 Attorney General, shall immediately upon filing proper notice with
10 the Office of Administrative Law, adopt interim rules and
11 regulations to promote the cultivating and processing of hemp and
12 the commercial sale of hemp products, while regulating hemp
13 production in the State pursuant to 7 U.S.C. s.1639o et seq. and
14 P.L. , c. (C.) (pending before the Legislature as this bill).
15 The rules and regulations shall be effective immediately upon filing
16 with the Office of Administrative Law and shall be in effect for a
17 period not to exceed 18 months, and shall, thereafter, be amended,
18 adopted, or readopted by the department in accordance with the
19 provisions of the “Administrative Procedure Act.” The rules and
20 regulations shall:

21 (1) establish requirements by which the department authorizes
22 an applicant to be a hemp producer to cultivate, handle, or process
23 or any combination thereof, hemp;

24 (2) provide due process, including an appeal process with
25 retesting, to ensure that hemp producers are not subject to the
26 consequences of inaccurate test results;

27 (3) establish procedures for the department, not more than 30
28 days after receiving and compiling the following information, to
29 provide the information to the United States Secretary of
30 Agriculture: (a) the hemp producer’s name, telephone number,
31 email address, residential address, mailing address, or another form
32 of contact information; (b) the legal description and global
33 positioning system coordinates for each field, facility, or other place
34 where hemp is to be cultivated, processed, or handled; and (c)
35 whether the hemp producer is in compliance with the rules and
36 regulations for the production of hemp in the State. The department
37 shall provide updates to this information as needed;

38 (4) ¹define classes or categories of hemp products that are
39 eligible for sale, transfer, or distribution to members of the public;

40 (5) ¹establish non-refundable application, licensure, and
41 renewal fees in amounts that are reasonable and necessary to cover
42 the costs of administering and enforcing the State hemp program,
43 which shall be deposited in the State hemp program account
44 pursuant to section 8 of P.L. , c. (C.) (pending before the
45 Legislature as this bill); and

46 ¹~~(6)~~ (5) ¹establish procedures governing hemp shipment within
47 the State and across state lines by third-party transporters who are
48 not authorized hemp producers. The regulations shall include a
49 requirement that all shipments need only be accompanied by a proof

1 of authorization to engage in the commercial sale of hemp, either
2 under a state plan pursuant to 7 U.S.C. s.1639p or the United States
3 Department of Agriculture plan pursuant to 7 U.S.C. 1639q in a
4 state where a state plan has not been approved from the producer of
5 hemp, as well as a travel manifest that lists the origin, destination,
6 product description, and date of transport. In no case shall the
7 department require third-party carriers to be authorized hemp
8 producers in order to transport hemp.

9 d. Except as provided by section 9 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), a person or business
11 entity may not cultivate, handle, or process hemp, or cause an agent
12 to cultivate, handle or process, in this State or transport, or cause an
13 agent to transport, hemp outside of this State unless that person or
14 business entity is authorized by the department to participate in the
15 State hemp program as a hemp producer. All applicants must apply
16 to the department on a form and in the manner prescribed by the
17 department as described in P.L. , c. (C.) (pending before the
18 Legislature as this bill). Upon approval of the State plan by the
19 United States Department of Agriculture, the department shall begin
20 authorizing participation in the State hemp program established
21 pursuant to P.L. , c. (C.) (pending before the Legislature as
22 this bill).

23 (1) In addition to any other information deemed necessary by
24 the department, an application shall include:

25 (a) a legal description and the global positioning system
26 coordinates for each location where an applicant intends to cultivate
27 or process hemp;

28 (b) written consent allowing the department, the Department of
29 Law and Public Safety, and any other State or local law
30 enforcement agency to enter onto all premises where hemp is
31 cultivated, handled, or processed to conduct a physical inspection or
32 to ensure compliance with P.L. , c. (C.) (pending before the
33 Legislature as this bill) and rules and regulation adopted pursuant
34 ¹to P.L. , c. (C.) (pending before the Legislature as this
35 bill) thereto¹ ;

36 (c) the payment of any fees required by the department;

37 (d) a criminal history record background check on all applicants
38 at the applicant's expense; and

39 (e) any other information required pursuant to rules and
40 regulations adopted by the department.

41 (2) If the department determines that an applicant meets the
42 State hemp program participation requirements, the department
43 shall authorize the applicant to participate in the program as a hemp
44 producer.

45 (3) An applicant who materially falsifies any information
46 contained in an application submitted to the department may not
47 participate in the State hemp program as a hemp producer.

1 7. (New section) a. If the department determines that a hemp
2 producer negligently violated P.L. , c. (C.) (pending before
3 the Legislature as this bill) or any rule or regulation adopted
4 pursuant thereto, the department shall enforce the violation in the
5 manner provided by 7 U.S.C. s.1639p ¹【as follows】¹ :

6 (1) The hemp producer shall not be subject to a ¹【civil or】¹
7 ²civil or² criminal penalty under subsection a. of this section. A
8 hemp producer shall be required to implement a corrective action
9 plan if the department determines that the person or business entity
10 negligently violated State hemp laws or regulations, including by
11 negligently:

12 (a) Failing to disclose, or provide required information about, a
13 site where hemp is cultivated, handled, or processed;

14 (b) Failing to obtain a necessary license from the department or
15 a necessary authorization from the State or a federal agency other
16 than those required to be a hemp producer; or

17 (c) Producing Cannabis sativa L. with more than the federally
18 defined THC level for hemp.

19 (2) A corrective action plan required pursuant to paragraph (1)
20 of this subsection shall include:

21 (a) A reasonable date by which a hemp producer shall correct
22 the negligent violation; ²【and】²

23 (b) A requirement for periodic reports from the hemp producer
24 to the department about the hemp producer's compliance with the
25 corrective action plan, statutes, and any rules or regulations adopted
26 pursuant thereto, for a period of at least two years from the date of
27 the corrective action plan ²; and

28 (c) any other measure that the department determines necessary
29 to ensure that the hemp producer complies with the corrective
30 action plan² .

31 (3) A hemp producer that negligently violates any law ^{1,1} or any
32 rule or regulation adopted pursuant thereto, governing that person's
33 or business entity's participation in the hemp program shall not be
34 subject to a criminal or civil enforcement action by the State or a
35 local government other than an enforcement action authorized
36 pursuant to this section ²; provided that the department may adopt
37 rules and regulations establishing measures to ensure compliance
38 with a corrective action plan required pursuant to paragraph (1) of
39 this subsection² .

40 (4) A person or business entity found by the department to have
41 negligently violated any law, or rule or regulation governing the
42 person's or business entity's participation in the hemp program
43 three times in a five year period shall be ineligible to participate in
44 the State hemp program as a hemp producer for a period of five
45 years beginning on the date of the third violation.

46 b. If the department determines that a hemp producer has
47 violated P.L. , c. (C.) (pending before the Legislature as
48 this bill) or a rule or regulation adopted pursuant thereto with a

1 culpable mental state greater than negligence, subsection a. of this
 2 section shall not apply and the department shall report the hemp
 3 producer immediately to the United States Attorney General and the
 4 Attorney General of the State, who may, on behalf of the
 5 department, investigate the violation and institute proceedings for
 6 injunctive or other appropriate relief ²including civil or civil
 7 administrative penalties, ² or report the matter to an appropriate law
 8 enforcement agency.

9 c. In addition to the rules and regulations adopted pursuant to
 10 sections 5 and 6 of P.L. , c. (C.) (pending before the
 11 Legislature as this bill), no later than 90 days after the effective date
 12 of P.L. , c. (C.) (pending before the Legislature as this bill)
 13 and notwithstanding the provisions of the “Administrative
 14 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
 15 contrary, the department, after consulting with the Governor and the
 16 Attorney General, shall immediately upon filing proper notice with
 17 the Office of Administrative Law, adopt interim rules and
 18 regulations establishing a schedule of ²civil and ¹civil
 19 administrative ¹ penalties for violations of P.L. , c. (C.)
 20 (pending before the Legislature as this bill) or a rule or regulation
 21 adopted pursuant thereto that do not conflict with 7 U.S.C. s.1639o
 22 et seq. ²or P.L. , c. (C.) (pending before the Legislature as this
 23 bill), ² ¹and provide notice and appeals processes for hemp
 24 producers. ¹ The regulations shall be effective as regulations
 25 immediately upon filing with the Office of Administrative Law and
 26 shall be in effect for a period not to exceed 18 months, and shall,
 27 thereafter, be amended, adopted, or readopted by the department in
 28 accordance with the provisions of the “Administrative Procedure
 29 Act.” Any penalty collected pursuant to P.L. , c. (C.)
 30 (pending before the Legislature as this bill) shall be deposited in the
 31 “New Jersey Hemp Farming Fund” established pursuant to section 8
 32 P.L. , c. (C.) (pending before the Legislature as this bill).

33 d. A person who is or has been convicted of an offense relating
 34 to a controlled substance under State or federal law may not
 35 participate in the State hemp program established pursuant to
 36 P.L. , c. (C.) (pending before the Legislature as this bill) or
 37 produce hemp in the State under any other law for a period of at
 38 least 10 years following the date of the person's conviction. This
 39 prohibition shall not apply to any person growing hemp lawfully
 40 with a license, registration, or authorization under a ¹**[pilot]** ¹
 41 program authorized pursuant to 7 U.S.C. s.5940 before the date of
 42 enactment of P.L. , c. (C.) (pending before the Legislature
 43 as this bill).

44
 45 8. (New section) a. There is established in the Department of
 46 Agriculture a special nonlapsing fund to be known as the “New
 47 Jersey Hemp Farming Fund.” Moneys in the fund shall be used for

1 the administration and enforcement of P.L. , c. (C.)
2 (pending before the Legislature as this bill).

3 b. The fund shall be credited with:

4 (1) penalties and fees collected by the department pursuant to
5 P.L. , c. (C.) (pending before the Legislature as this bill);

6 (2) moneys as are appropriated by the Legislature;

7 (3) moneys made available to the department for the purposes of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 including federal funds; and

10 (4) any return on investment of moneys deposited in the fund.

11

12 9. (New section) a. A State agency may not prohibit a person
13 or business entity that processes or manufactures a product
14 regulated by the agency from applying for or obtaining a permit or
15 other authorization to process or manufacture the product solely on
16 the basis that the person or business entity intends to process or
17 manufacture the product with hemp.

18 b. ²[Notwithstanding any other law, or rule or regulation
19 adopted pursuant thereto to the contrary, derivatives of hemp,
20 including hemp-derived cannabidiol, may be added to cosmetics,
21 personal care products, and products intended for human or animal
22 consumption to the maximum extent permitted by federal law]
23 Hemp, hemp products, and hemp derivatives, including hemp-
24 derived cannabidiol, produced in accordance with
25 P.L. , c. (C.)(pending before the Legislature as this bill) and
26 any rules or regulations adopted pursuant thereto, shall not be
27 considered controlled substances or additives and hemp, hemp
28 products, or hemp derivatives, including hemp-derived cannabidiol
29 may be added as an ingredient to cosmetics, personal care products,
30 or products intended for human or animal consumption² .

31 c. The provisions of P.L. , c. (C.) (pending before the
32 Legislature as this bill) applicable to hemp producers shall not
33 apply to the possession, handling, transport, or sale of hemp
34 products, including those containing one or more hemp-derived
35 cannabinoids, including cannabidiol. Notwithstanding any other
36 law, a person or business entity may possess, transport, sell, and
37 purchase legally produced hemp products in this State. As part of
38 the rules and regulations adopted pursuant to P.L. , c. (C.)
39 (pending before the Legislature as this bill), the Department of
40 Agriculture shall provide to a retailer of hemp products notice of a
41 potential violation concerning hemp products sold by the retailer
42 and shall provide an opportunity to cure a violation committed
43 unintentionally or negligently.

44 d. The Department of Agriculture, in consultation with the
45 Department of Health, may adopt rules and regulations only to
46 regulate the sale of hemp products that provide that:

47 (1) hemp-derived cannabinoids, including cannabidiol, are not
48 considered controlled substances or adulterants; and

1 (2) products containing one or more hemp-derived
2 cannabinoids, such as cannabidiol, intended for ingestion are to be
3 considered foods, not controlled substances or adulterated products
4 to the maximum extent permitted by federal law.

5 e. Retail sales of hemp products processed outside the State
6 may be conducted in the State when the products and the hemp used
7 in the products were processed and cultivated legally in another
8 state or jurisdiction that has the same or substantially similar
9 requirements for processing hemp products or cultivating hemp as
10 provided by P.L. , c. (C.) (pending before the Legislature as
11 this bill).

12 f. Hemp products may be legally transported across State lines
13 and exported to foreign countries in a manner that is consistent with
14 federal law and the laws of respective foreign countries.

15
16 10. N.J.S.2C:35-2 is amended to read as follows:

17 2C:35-2. As used in this chapter:

18 “Administer” means the direct application of a controlled
19 dangerous substance or controlled substance analog, whether by
20 injection, inhalation, ingestion, or any other means, to the body of a
21 patient or research subject by: (1) a practitioner (or, in his presence,
22 by his lawfully authorized agent), or (2) the patient or research
23 subject at the lawful direction and in the presence of the
24 practitioner.

25 “Agent” means an authorized person who acts on behalf of or at
26 the direction of a manufacturer, distributor, or dispenser but does
27 not include a common or contract carrier, public warehouseman, or
28 employee thereof.

29 “Controlled dangerous substance” means a drug, substance, or
30 immediate precursor in Schedules I through V, any substance the
31 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
32 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
33 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120
34 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b),
35 and any drug or substance which, when ingested, is metabolized or
36 otherwise becomes a controlled dangerous substance in the human
37 body. When any statute refers to controlled dangerous substances,
38 or to a specific controlled dangerous substance, it shall also be
39 deemed to refer to any drug or substance which, when ingested, is
40 metabolized or otherwise becomes a controlled dangerous substance
41 or the specific controlled dangerous substance, and to any substance
42 that is an immediate precursor of a controlled dangerous substance
43 or the specific controlled dangerous substance. The term shall not
44 include distilled spirits, wine, malt beverages, as those terms are
45 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
46 products. The term, wherever it appears in any law or
47 administrative regulation of this State, shall include controlled
48 substance analogs.

1 “Controlled substance analog” means a substance that has a
2 chemical structure substantially similar to that of a controlled
3 dangerous substance and that was specifically designed to produce
4 an effect substantially similar to that of a controlled dangerous
5 substance. The term shall not include a substance manufactured or
6 distributed in conformance with the provisions of an approved new
7 drug application or an exemption for investigational use within the
8 meaning of section 505 of the “Federal Food, Drug and Cosmetic
9 Act,” 52 Stat. 1052 (21 U.S.C. s.355).

10 “Counterfeit substance” means a controlled dangerous substance
11 or controlled substance analog which, or the container or labeling of
12 which, without authorization, bears the trademark, trade name, or
13 other identifying mark, imprint, number, or device, or any likeness
14 thereof, of a manufacturer, distributor, or dispenser other than the
15 person or persons who in fact manufactured, distributed, or
16 dispensed the substance and which thereby falsely purports or is
17 represented to be the product of, or to have been distributed by,
18 such other manufacturer, distributor, or dispenser.

19 “Deliver” or “delivery” means the actual, constructive, or
20 attempted transfer from one person to another of a controlled
21 dangerous substance or controlled substance analog, whether or not
22 there is an agency relationship.

23 “Dispense” means to deliver a controlled dangerous substance or
24 controlled substance analog to an ultimate user or research subject
25 by or pursuant to the lawful order of a practitioner, including the
26 prescribing, administering, packaging, labeling, or compounding
27 necessary to prepare the substance for that delivery. “Dispenser”
28 means a practitioner who dispenses.

29 “Distribute” means to deliver other than by administering or
30 dispensing a controlled dangerous substance or controlled substance
31 analog. “Distributor” means a person who distributes.

32 “Drugs” means (a) substances recognized in the official United
33 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
34 United States, or official National Formulary, or any supplement to
35 any of them; and (b) substances intended for use in the diagnosis,
36 cure, mitigation, treatment, or prevention of disease in man or other
37 animals; and (c) substances (other than food) intended to affect the
38 structure or any function of the body of man or other animals; and
39 (d) substances intended for use as a component of any article
40 specified in subsections (a), (b), and (c) of this section; but does not
41 include devices or their components, parts, or accessories.

42 “Drug or alcohol dependent person” means a person who as a
43 result of using a controlled dangerous substance or controlled
44 substance analog or alcohol has been in a state of psychic or
45 physical dependence, or both, arising from the use of that controlled
46 dangerous substance or controlled substance analog or alcohol on a
47 continuous or repetitive basis. Drug or alcohol dependence is
48 characterized by behavioral and other responses, including but not
49 limited to a strong compulsion to take the substance on a recurring

1 basis in order to experience its psychic effects, or to avoid the
2 discomfort of its absence.

3 “Hashish” means the resin extracted from any part of the plant
4 Genus Cannabis L. and any compound, manufacture, salt,
5 derivative, mixture, or preparation of such resin. “Hashish” shall
6 not mean **[industrial] hemp or a hemp product** cultivated, handled,
7 processed, transported, or sold pursuant to the **[New Jersey**
8 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
9 **(C.4:28-1 et al.)]** “New Jersey Hemp Farming Act,” P.L. _____,
10 c. (C. _____) (pending before the Legislature as this bill) .

11 “Manufacture” means the production, preparation, propagation,
12 compounding, conversion, or processing of a controlled dangerous
13 substance or controlled substance analog, either directly or by
14 extraction from substances of natural origin, or independently by
15 means of chemical synthesis, or by a combination of extraction and
16 chemical synthesis, and includes any packaging or repackaging of
17 the substance or labeling or relabeling of its container, except that
18 this term does not include the preparation or compounding of a
19 controlled dangerous substance or controlled substance analog by
20 an individual for his own use or the preparation, compounding,
21 packaging, or labeling of a controlled dangerous substance: (1) by
22 a practitioner as an incident to his administering or dispensing of a
23 controlled dangerous substance or controlled substance analog in
24 the course of his professional practice, or (2) by a practitioner (or
25 under his supervision) for the purpose of, or as an incident to,
26 research, teaching, or chemical analysis and not for sale.

27 “Marijuana” means all parts of the plant Genus Cannabis L.,
28 whether growing or not; the seeds thereof, and every compound,
29 manufacture, salt, derivative, mixture, or preparation of the plant or
30 its seeds, except those containing resin extracted from the plant; but
31 shall not include the mature stalks of the plant, fiber produced from
32 the stalks, oil, or cake made from the seeds of the plant, any other
33 compound, manufacture, salt, derivative, mixture, or preparation of
34 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant
35 which is incapable of germination. “Marijuana” shall not mean
36 **[industrial] hemp or a hemp product** cultivated, handled,
37 processed, transported, or sold pursuant to the **[New Jersey**
38 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
39 **(C.4:28-1 et al.)]** “New Jersey Hemp Farming Act,” P.L. _____,
40 c. (C. _____) (pending before the Legislature as this bill) .

41 “Narcotic drug” means any of the following, whether produced
42 directly or indirectly by extraction from substances of vegetable
43 origin, or independently by means of chemical synthesis, or by a
44 combination of extraction and chemical synthesis:

- 45 (a) Opium, coca leaves, and opiates;
46 (b) A compound, manufacture, salt, derivative, or preparation of
47 opium, coca leaves, or opiates;

1 (c) A substance (and any compound, manufacture, salt,
2 derivative, or preparation thereof) which is chemically identical
3 with any of the substances referred to in subsections (a) and (b),
4 except that the words “narcotic drug” as used in this act shall not
5 include decocainized coca leaves or extracts of coca leaves, which
6 extracts do not contain cocaine or ecogine.

7 “Opiate” means any dangerous substance having an addiction-
8 forming or addiction-sustaining liability similar to morphine or
9 being capable of conversion into a drug having such addiction-
10 forming or addiction-sustaining liability. It does not include, unless
11 specifically designated as controlled pursuant to the provisions of
12 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
13 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
14 It does include its racemic and levorotatory forms.

15 “Opium poppy” means the plant of the species *Papaver*
16 *somniferum* L., except the seeds thereof.

17 “Person” means any corporation, association, partnership, trust,
18 other institution or entity, or one or more individuals.

19 “Plant” means an organism having leaves and a readily
20 observable root formation, including, but not limited to, a cutting
21 having roots, a rootball or root hairs.

22 “Poppy straw” means all parts, except the seeds, of the opium
23 poppy, after mowing.

24 “Practitioner” means a physician, dentist, veterinarian, scientific
25 investigator, laboratory, pharmacy, hospital, or other person
26 licensed, registered, or otherwise permitted to distribute, dispense,
27 conduct research with respect to, or administer a controlled
28 dangerous substance or controlled substance analog in the course of
29 professional practice or research in this State.

30 (a) “Physician” means a physician authorized by law to practice
31 medicine in this or any other state and any other person authorized
32 by law to treat sick and injured human beings in this or any other
33 state.

34 (b) “Veterinarian” means a veterinarian authorized by law to
35 practice veterinary medicine in this State.

36 (c) “Dentist” means a dentist authorized by law to practice
37 dentistry in this State.

38 (d) “Hospital” means any federal institution, or any institution
39 for the care and treatment of the sick and injured, operated or
40 approved by the appropriate State department as proper to be
41 entrusted with the custody and professional use of controlled
42 dangerous substances or controlled substance analogs.

43 (e) “Laboratory” means a laboratory to be entrusted with the
44 custody of narcotic drugs and the use of controlled dangerous
45 substances or controlled substance analogs for scientific,
46 experimental, and medical purposes and for purposes of instruction
47 approved by the Department of Health.

1 “Production” includes the manufacture, planting, cultivation,
2 growing, or harvesting of a controlled dangerous substance or
3 controlled substance analog.

4 “Immediate precursor” means a substance which the Division of
5 Consumer Affairs in the Department of Law and Public Safety has
6 found to be and by regulation designates as being the principal
7 compound commonly used or produced primarily for use, and
8 which is an immediate chemical intermediary used or likely to be
9 used in the manufacture of a controlled dangerous substance or
10 controlled substance analog, the control of which is necessary to
11 prevent, curtail, or limit such manufacture.

12 “Residential treatment facility” means any facility licensed and
13 approved by the Department of Human Services and which is
14 approved by any county probation department for the inpatient
15 treatment and rehabilitation of drug or alcohol dependent persons.

16 “Schedules I, II, III, IV, and V” are the schedules set forth in
17 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
18 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
19 by any regulations issued by the Director of the Division of
20 Consumer Affairs in the Department of Law and Public Safety
21 pursuant to the director’s authority as provided in section 3 of
22 P.L.1970, c.226 (C.24:21-3).

23 “State” means the State of New Jersey.

24 “Ultimate user” means a person who lawfully possesses a
25 controlled dangerous substance or controlled substance analog for
26 his own use or for the use of a member of his household or for
27 administration to an animal owned by him or by a member of his
28 household.

29 “Prescription legend drug” means any drug which under federal
30 or State law requires dispensing by prescription or order of a
31 licensed physician, veterinarian, or dentist and is required to bear
32 the statement “Rx only” or similar wording indicating that such
33 drug may be sold or dispensed only upon the prescription of a
34 licensed medical practitioner and is not a controlled dangerous
35 substance or stramonium preparation.

36 “Stramonium preparation” means a substance prepared from any
37 part of the stramonium plant in the form of a powder, pipe mixture,
38 cigarette, or any other form with or without other ingredients.

39 “Stramonium plant” means the plant *Datura Stramonium* Linne,
40 including *Datura Tatula* Linne.

41 (cf: P.L.2018, c.139, s.6)

42

43 11. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read
44 as follows:

45 2. As used in **[this act]** P.L.1970, c.226 (C.24:21-1 et seq.) :

46 “Administer” means the direct application of a controlled
47 dangerous substance, whether by injection, inhalation, ingestion, or
48 any other means, to the body of a patient or research subject by: (1)
49 a practitioner (or, in the practitioner’s presence, by the

1 practitioner's lawfully authorized agent), or (2) the patient or
2 research subject at the lawful direction and in the presence of the
3 practitioner.

4 "Agent" means an authorized person who acts on behalf of or at
5 the direction of a manufacturer, distributor, or dispenser but does
6 not include a common or contract carrier, public warehouseman, or
7 employee thereof.

8 "Commissioner" means the Commissioner of Health.

9 "Controlled dangerous substance" means a drug, substance, or
10 immediate precursor in Schedules I through V of article 2 of
11 P.L.1970, c.226 (C.24:21-1 et seq.). The term shall not include
12 distilled spirits, wine, malt beverages, as those terms are defined or
13 used in R.S.33:1-1 et seq., or tobacco and tobacco products.

14 "Counterfeit substance" means a controlled dangerous substance
15 which, or the container or labeling of which, without authorization,
16 bears the trademark, trade name, or other identifying mark, imprint,
17 number or device, or any likeness thereof, of a manufacturer,
18 distributor, or dispenser other than the person or persons who in fact
19 manufactured, distributed, or dispensed such substance and which
20 thereby falsely purports or is represented to be the product of, or to
21 have been distributed by, such other manufacturer, distributor, or
22 dispenser.

23 "Deliver" or "delivery" means the actual, constructive, or
24 attempted transfer from one person to another of a controlled
25 dangerous substance, whether or not there is an agency relationship.

26 "Director" means the Director of the Division of Consumer
27 Affairs in the Department of Law and Public Safety.

28 "Dispense" means to deliver a controlled dangerous substance to
29 an ultimate user or research subject by or pursuant to the lawful
30 order of a practitioner, including the prescribing, administering,
31 packaging, labeling, or compounding necessary to prepare the
32 substance for that delivery.

33 "Dispenser" means a practitioner who dispenses.

34 "Distribute" means to deliver other than by administering or
35 dispensing a controlled dangerous substance.

36 "Distributor" means a person who distributes.

37 "Division" means the Division of Consumer Affairs in the
38 Department of Law and Public Safety.

39 "Drug Enforcement Administration" means the Drug
40 Enforcement Administration in the United States Department of
41 Justice.

42 "Drugs" means (a) substances recognized in the official United
43 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
44 United States, or official National Formulary, or any supplement to
45 any of them; and (b) substances intended for use in the diagnosis,
46 cure, mitigation, treatment, or prevention of disease in man or other
47 animals; and (c) substances (other than food) intended to affect the
48 structure or any function of the body of man or other animals; and
49 (d) substances intended for use as a component of any article

1 specified in subsections (a), (b), and (c) of this section; but does not
2 include devices or their components, parts or accessories. “Drugs”
3 shall not mean **【industrial】** hemp or a hemp product cultivated ,
4 handled, processed, transported, or sold pursuant to the **【New**
5 **Jersey Industrial Hemp Pilot Program established by P.L.2018,**
6 **c.139 (C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. _____,
7 c. (C. _____) (pending before the Legislature as this bill) .

8 “Hashish” means the resin extracted from any part of the plant
9 genus Cannabis and any compound, manufacture, salt, derivative,
10 mixture, or preparation of such resin. “Hashish” shall not mean
11 **【industrial】** hemp or a hemp product cultivated , handled,
12 processed, transported, or sold pursuant to the **【New Jersey**
13 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
14 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. _____,
15 c. (C. _____) (pending before the Legislature as this bill) .

16 “Marihuana” means all parts of the plant genus Cannabis,
17 whether growing or not; the seeds thereof; and every compound,
18 manufacture, salt, derivative, mixture, or preparation of the plant or
19 its seeds, except those containing resin extracted from the plant; but
20 shall not include the mature stalks of the plant, fiber produced from
21 the stalks, oil or cake made from the seeds of the plant, any other
22 compound, manufacture, salt, derivative, mixture, or preparation of
23 such mature stalks, fiber, oil, or cake, or the sterilized seed of the
24 plant which is incapable of germination. “Marihuana” shall not
25 mean **【industrial】** hemp or a hemp product cultivated , handled,
26 processed, transported, or sold pursuant to the **【New Jersey**
27 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
28 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. _____,
29 c. (C. _____) (pending before the Legislature as this bill) .

30 “Manufacture” means the production, preparation, propagation,
31 compounding, conversion, or processing of a controlled dangerous
32 substance, either directly or by extraction from substances of
33 natural origin, or independently by means of chemical synthesis, or
34 by a combination of extraction and chemical synthesis, and includes
35 any packaging or repackaging of the substance or labeling or
36 relabeling of its container, except that this term does not include the
37 preparation or compounding of a controlled dangerous substance by
38 an individual for the individual’s own use or the preparation,
39 compounding, packaging, or labeling of a controlled dangerous
40 substance: (1) by a practitioner as an incident to the practitioner’s
41 administering or dispensing of a controlled dangerous substance in
42 the course of the practitioner’s professional practice, or (2) by a
43 practitioner (or under the practitioner’s supervision) for the purpose
44 of, or as an incident to, research, teaching, or chemical analysis and
45 not for sale.

46 “Narcotic drug” means any of the following, whether produced
47 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a
2 combination of extraction and chemical synthesis:

3 (a) Opium, coca leaves, and opiates;

4 (b) A compound, manufacture, salt, derivative, or preparation of
5 opium, coca leaves, or opiates;

6 (c) A substance (and any compound, manufacture, salt,
7 derivative, or preparation thereof) which is chemically identical
8 with any of the substances referred to in subsections (a) and (b),
9 except that the words “narcotic drug” as used in **[this act]**
10 P.L.1970, c.226 (C.24:21-1 et seq.) shall not include decocainized
11 coca leaves or extracts of coca leaves, which extracts do not contain
12 cocaine or ecgonine.

13 “Official written order” means an order written on a form
14 provided for that purpose by the Attorney General of the United
15 States or his delegate, under any laws of the United States making
16 provisions therefor, if such order forms are authorized and required
17 by the federal law, and if no such form is provided, then on an
18 official form provided for that purpose by the division. If authorized
19 by the Attorney General of the United States or the division, the
20 term shall also include an order transmitted by electronic means.

21 “Opiate” means any dangerous substance having an addiction-
22 forming or addiction-sustaining liability similar to morphine or
23 being capable of conversion into a drug having such addiction-
24 forming or addiction-sustaining liability. It does not include, unless
25 specifically designated as controlled under section 3 of **[this act]**
26 P.L.1970, c.226 (C.24:21-1 et seq.) , the dextrorotatory isomer of
27 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It
28 does include its racemic and levorotatory forms.

29 “Opium poppy” means the plant of the species *Papaver*
30 *somniferum* L., except the seeds thereof.

31 “Person” means any corporation, association, partnership, trust,
32 other institution or entity, or one or more individuals.

33 “Pharmacist” means a registered pharmacist of this State.

34 “Pharmacy owner” means the owner of a store or other place of
35 business where controlled dangerous substances are compounded or
36 dispensed by a registered pharmacist; but nothing in this chapter
37 contained shall be construed as conferring on a person who is not
38 registered or licensed as a pharmacist any authority, right, or
39 privilege that is not granted to the person by the pharmacy laws of
40 this State.

41 “Poppy straw” means all parts, except the seeds, of the opium
42 poppy, after mowing.

43 “Practitioner” means a physician, dentist, veterinarian, scientific
44 investigator, laboratory, pharmacy, hospital, or other person
45 licensed, registered, or otherwise permitted to distribute, dispense,
46 conduct research with respect to, or administer a controlled
47 dangerous substance in the course of professional practice or
48 research in this State.

1 (a) "Physician" means a physician authorized by law to practice
2 medicine in this or any other state.

3 (b) "Veterinarian" means a veterinarian authorized by law to
4 practice veterinary medicine in this State.

5 (c) "Dentist" means a dentist authorized by law to practice
6 dentistry in this State.

7 (d) "Hospital" means any federal institution, or any institution
8 for the care and treatment of the sick and injured, operated or
9 approved by the appropriate State department as proper to be
10 entrusted with the custody and professional use of controlled
11 dangerous substances.

12 (e) "Laboratory" means a laboratory to be entrusted with the
13 custody of narcotic drugs and the use of controlled dangerous
14 substances for scientific, experimental, and medical purposes and
15 for purposes of instruction approved by the Department of Health.

16 "Production" includes the manufacture, planting, cultivation,
17 growing, or harvesting of a controlled dangerous substance.

18 "Immediate precursor" means a substance which the division has
19 found to be and by regulation designates as being the principal
20 compound commonly used or produced primarily for use, and
21 which is an immediate chemical intermediary used or likely to be
22 used in the manufacture of a controlled dangerous substance, the
23 control of which is necessary to prevent, curtail, or limit such
24 manufacture.

25 "Substance use disorder involving drugs" means taking or using
26 a drug or controlled dangerous substance, as defined in this chapter,
27 in association with a state of psychic or physical dependence, or
28 both, arising from the use of that drug or controlled dangerous
29 substance on a continuous basis. A substance use disorder is
30 characterized by behavioral and other responses, including, but not
31 limited to, a strong compulsion to take the substance on a recurring
32 basis in order to experience its psychic effects, or to avoid the
33 discomfort of its absence.

34 "Ultimate user" means a person who lawfully possesses a
35 controlled dangerous substance for the person's own use or for the
36 use of a member of the person's household or for administration to
37 an animal owned by the person or by a member of the person's
38 household.

39 (cf: P.L.2018, c.138, s.7)

40

41 12. Section 5 of P.L.1970, c.226 (C.24:21-5) is amended to read
42 as follows:

43 5. Schedule I.

44 a. Tests. The director shall place a substance in Schedule I if he
45 finds that the substance: (1) has high potential for abuse; and (2)
46 has no accepted medical use in treatment in the United States; or
47 lacks accepted safety for use in treatment under medical
48 supervision.

1 b. The controlled dangerous substances listed in this section are
2 included in Schedule I, subject to any revision and republishing by
3 the director pursuant to subsection d. of section 3 of P.L.1970,
4 c.226 (C.24:21-3), and except to the extent provided in any other
5 schedule.

6 c. Any of the following opiates, including their isomers, esters,
7 and ethers, unless specifically excepted, whenever the existence of
8 such isomers, esters, ethers and salts is possible within the specific
9 chemical designation:

- 10 (1) Acetylmethadol
- 11 (2) Allylprodine
- 12 (3) Alphacetylmethadol
- 13 (4) Alphameprodine
- 14 (5) Alphamethadol
- 15 (6) Benzethidine
- 16 (7) Betacetylmethadol
- 17 (8) Betameprodine
- 18 (9) Betamethadol
- 19 (10) Betaprodine
- 20 (11) Clonitazene
- 21 (12) Dextromoramide
- 22 (13) Dextrorphan
- 23 (14) Diampromide
- 24 (15) Diethylthiambutene
- 25 (16) Dimenoxadol
- 26 (17) Dimepheptanol
- 27 (18) Dimethylthiambutene
- 28 (19) Dioxaphetyl butyrate
- 29 (20) Dipipanone
- 30 (21) Ethylmethylthiambutene
- 31 (22) Etonitazene
- 32 (23) Etoxidine
- 33 (24) Furethidine
- 34 (25) Hydroxypethidine
- 35 (26) Ketobemidone
- 36 (27) Levomoramide
- 37 (28) Levophenacilmorphan
- 38 (29) Morpheridine
- 39 (30) Noracymethadol
- 40 (31) Norlevorphanol
- 41 (32) Normethadone
- 42 (33) Norpipanone
- 43 (34) Phenadoxone
- 44 (35) Phenampromide
- 45 (36) Phenomorphan
- 46 (37) Phenoperidine
- 47 (38) Piritramide
- 48 (39) Proheptazine
- 49 (40) Properidine

- 1 (41) Racemoramide
- 2 (42) Trimeperidine.
- 3 d. Any of the following narcotic substances, their salts, isomers
- 4 and salts of isomers, unless specifically excepted, whenever the
- 5 existence of such salts, isomers and salts of isomers is possible
- 6 within the specific chemical designation:
 - 7 (1) Acetorphine
 - 8 (2) Acetylcodeine
 - 9 (3) Acetyldihydrocodeine
 - 10 (4) Benzylmorphine
 - 11 (5) Codeine methylbromide
 - 12 (6) Codeine-N-Oxide
 - 13 (7) Cyprenorphine
 - 14 (8) Desomorphine
 - 15 (9) Dihydromorphine
 - 16 (10) Etorphine
 - 17 (11) Heroin
 - 18 (12) Hydromorphanol
 - 19 (13) Methyldesorphine
 - 20 (14) Methylhydromorphine
 - 21 (15) Morphine methylbromide
 - 22 (16) Morphine methylsulfonate
 - 23 (17) Morphine-N-Oxide
 - 24 (18) Myorphine
 - 25 (19) Nicocodeine
 - 26 (20) Nicomorphine
 - 27 (21) Normorphine
 - 28 (22) Phocloine
 - 29 (23) Thebacon.
- 30 e. Any material, compound, mixture or preparation which
- 31 contains any quantity of the following hallucinogenic substances,
- 32 their salts, isomers and salts of isomers, unless specifically
- 33 excepted, whenever the existence of such salts, isomers, and salts of
- 34 isomers is possible within the specific chemical designation:
 - 35 (1) 3,4-methylenedioxy amphetamine
 - 36 (2) 5-methoxy-3,4-methylenedioxy amphetamine
 - 37 (3) 3,4,5-trimethoxy amphetamine
 - 38 (4) Bufotenine
 - 39 (5) Diethyltryptamine
 - 40 (6) Dimethyltryptamine
 - 41 (7) 4-methyl-2,5-dimethoxylamphetamine
 - 42 (8) Ibogaine
 - 43 (9) Lysergic acid diethylamide
 - 44 (10) Marihuana
 - 45 (11) Mescaline
 - 46 (12) Peyote
 - 47 (13) N-ethyl-3-piperidyl benzilate
 - 48 (14) N-methyl-3-piperidyl benzilate
 - 49 (15) Psilocybin

1 (16) Psilocyn

2 (17) Tetrahydrocannabinols, except when found in **【industrial】**
3 hemp or a hemp product cultivated , handled, processed,
4 transported, or sold pursuant to the **【New Jersey Industrial Hemp**
5 **Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)】**
6 “New Jersey Hemp Farming Act,” P.L. , c. (C.) (pending
7 before the Legislature as this bill) .
8 (cf: P.L.2018, c.139, s.8)

9
10 13. Section 1 of P.L.1939, c.248 (C.26:2-81) is amended to read
11 as follows:

12 1. In order to protect the health, morals and welfare of the State
13 of New Jersey, whenever the county prosecutor of any county of the
14 State of New Jersey receives credible information that wild,
15 cultivated , or hidden growth or beds of alleged Marihuana weed are
16 located anywhere within the county, the county prosecutor shall
17 immediately communicate such information to the Department of
18 Health. The Department of Health, upon receipt of such
19 information, shall immediately dispatch one of its agents to the
20 location who shall make an examination and determination of the
21 alleged Marihuana weed so as to determine the existence or
22 nonexistence of Marihuana weed at the location, and the
23 Department of Health shall immediately communicate by writing its
24 determination to the aforesaid county prosecutor and the
25 Department of Agriculture . “Marihuana” shall not mean
26 **【industrial】** hemp or a hemp product cultivated , handled,
27 processed, transported, or sold pursuant to the **【New Jersey**
28 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
29 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. ,
30 c. (C.) (pending before the Legislature as this bill) .
31 (cf: P.L.2018, c.139, s.9)

32
33 14. Section 2 of P.L.1939, c.248 (C.26:2-82) is amended to read
34 as follows:

35 2. Upon certification by the Department of Health of the
36 existence of Marihuana weed at the location examined by the
37 Department of Health, then the county prosecutor is hereby
38 empowered to dispatch one of the prosecutor’s agents to the
39 location so certified and the agent shall destroy the Marihuana weed
40 and the county prosecutor or the agent shall not be civilly
41 responsible in any manner whatsoever for destruction of the
42 Marihuana weed. “Marihuana” shall not mean **【industrial】** hemp or
43 a hemp product cultivated , handled, processed, transported, and
44 sold pursuant to the **【New Jersey Industrial Hemp Pilot Program**
45 **established by P.L.2018, c.139 (C.4:28-1 et al.)】** “New Jersey
46 Hemp Farming Act,” P.L. , c. (C.) (pending before the
47 Legislature as this bill) .
48 (cf: P.L.2018, c.139, s.10)

1 15. Sections 1 through 5 of P.L.2018, c.139 (C.4:28-1 through
2 C.4:28-5) are repealed.

3

4 16. This act shall take effect immediately.

5

6

7

8

9 Establishes program for cultivation, handling, processing,
10 transport, and sale of hemp; repeals New Jersey Industrial Hemp
11 Pilot Program.

ASSEMBLY, No. 5322

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblyman MATTHEW W. MILAM

District 1 (Atlantic, Cape May and Cumberland)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblyman Dancer and Assemblywoman Vainieri Huttle

SYNOPSIS

Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/21/2019)

1 AN ACT concerning the cultivation, handling, processing, transport,
2 and sale of hemp, supplementing Title 4 and 24 of the Revised
3 Statutes, amending various parts of the statutory law, and
4 repealing P.L.2018, c.139.

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

8
9 1. (New section) Sections 1 through 9 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be known and may
11 be cited as the “New Jersey Hemp Farming Act.”

12
13 2. (New section) The Legislature finds and declares that hemp
14 is a viable agricultural crop and a potentially valuable agricultural
15 commodity in the State, and that hemp should be cultivated,
16 handled, processed, transported, and sold in the State to the
17 maximum extent permitted by federal law. It is the purpose of
18 P.L. , c. (C.) (pending before the Legislature as this bill) to:
19 promote the cultivation and processing of hemp; develop new
20 commercial markets for farmers and businesses through the sale of
21 hemp products; promote the expansion of the State’s hemp industry
22 to the maximum extent permitted by federal law; allow farmers and
23 businesses to cultivate, handle, and process hemp, and to sell hemp
24 products for commercial purposes; and to move the State and its
25 citizens to the forefront of the hemp industry.

26
27 3. (New section) As used in sections 1 through 9 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), unless
29 the context otherwise requires:

30 “Agent” means an employee or contractor of a hemp producer.

31 “Applicant” means a person, or for a business entity, any person
32 authorized to act on behalf of the business entity, who applies to the
33 department to be a hemp producer in the State.

34 “Commercial sale” means the sale of a product in the stream of
35 commerce at retail, at wholesale, or on the Internet.

36 “Cultivate” means to plant, water, grow, or harvest a plant or
37 crop.

38 “Department” means the New Jersey Department of Agriculture.

39 “Federally defined THC level for hemp” means a delta-9
40 tetrahydrocannabinol concentration of not more than 0.3 percent on
41 a dry weight basis for hemp or in a hemp product.

42 “Handle” means to possess or store a hemp plant on premises
43 owned, operated, or controlled by a hemp producer for any period
44 of time or in a vehicle for any period of time other than during the
45 actual transport of the plant between premises owned, operated, or

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

Matter underlined thus is new matter.

1 controlled by hemp producers or persons or entities authorized to
2 produce hemp pursuant to 7 U.S.C. s.1639o et seq. and any state
3 law or rule or regulation adopted pursuant thereto. “Handle” does
4 not mean possession or storage of finished hemp products.

5 “Hemp” means the plant *Cannabis sativa* L. and any part of that
6 plant, including the seeds of the plant and all derivatives, extracts,
7 cannabinoids, isomers, acids, salts, and salts of isomers, whether
8 growing or not, with a delta-9 tetrahydrocannabinol concentration
9 of not more than 0.3 percent on a dry weight basis. Hemp and
10 hemp-derived cannabinoids, including cannabidiol, shall be
11 considered an agricultural commodity and not a controlled
12 substance.

13 “Hemp producer” means a person or business entity authorized
14 by the department to cultivate, handle, or process hemp in the State.

15 “Hemp product” means a finished product with a delta-9
16 tetrahydrocannabinol concentration of not more than 0.3 percent
17 that is derived from or made by processing a hemp plant or plant
18 part and prepared in a form available for commercial sale. The term
19 includes cosmetics, personal care products, food intended for
20 human or animal consumption, cloth, cordage, fiber, fuel, paint,
21 paper, particleboard, plastics, and any product containing one or
22 more hemp-derived cannabinoids such as cannabidiol. Hemp
23 products shall not be considered controlled substances.

24 “Process” means to convert hemp into a marketable form.

25 “Secretary” means the Secretary of the New Jersey Department
26 of Agriculture.

27 “Transport” means the movement or shipment of hemp by a
28 hemp producer, a person or entity authorized to produce hemp
29 pursuant to 7 U.S.C. s.1639o et seq. and any state law or rule or
30 regulation adopted pursuant thereto, or a hemp producer’s or
31 authorized entity’s third-party carrier or agent. “Transport” shall
32 not mean the movement or shipment of hemp products.

33

34 4. (New section) a. Notwithstanding any other provision of
35 law, or rule or regulation adopted pursuant thereto to the contrary, it
36 is lawful for a hemp producer or its agent to cultivate, handle, or
37 process hemp or hemp products in the State. Nothing in P.L. ,
38 c. (C.) (pending before the Legislature as this bill) authorizes
39 any person to violate a federal or State law, or rule or regulation
40 adopted pursuant thereto. Notwithstanding any other provision of
41 law, or rule or regulation adopted pursuant thereto to the contrary, it
42 is lawful to possess, transport, sell, and purchase legally-produced
43 hemp products in the State.

44 b. It is unlawful for a person or entity that is not a hemp
45 producer or an agent of a hemp producer to cultivate, handle, or
46 process living hemp plants or viable seeds, leaf materials, or floral
47 materials derived from hemp. A person or entity that is not a hemp
48 producer or an agent of a hemp producer, but who cultivates,
49 handles, or processes living hemp plants or viable seeds, leaf

1 materials, or floral materials derived from hemp, shall be subject to
2 the same penalties as those related to marijuana.

3
4 5. (New section) a. Pursuant to 7 U.S.C. s.1639p, and to
5 designate itself as the primary regulatory authority over the
6 production of hemp in the State, the department, in consultation
7 with the Governor and the Attorney General, shall promulgate
8 regulations for submission, along with P.L. , c. (C.)
9 (pending before the Legislature as this bill), to the Secretary of the
10 United States Department of Agriculture, as a plan under which the
11 State monitors and regulates hemp production.

12 b. No later than 90 days after the effective date of P.L. ,
13 c. (C.) (pending before the Legislature as this bill) and
14 notwithstanding the provisions of the “Administrative Procedure
15 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
16 department, after consultation with the Governor and Attorney
17 General shall, immediately upon filing proper notice with the Office
18 of Administrative Law, adopt interim rules and regulations to
19 implement P.L. , c. (C.) (pending before the Legislature as
20 this bill) and to meet the requirements for federal approval as a state
21 plan pursuant to 7 U.S.C. s.1639o et seq. The regulations shall be
22 effective as regulations immediately upon filing with the Office of
23 Administrative Law and shall be in effect for a period not to exceed
24 18 months, and shall, thereafter, be amended, adopted, or readopted
25 by the department in accordance with the provisions of the
26 “Administrative Procedure Act.” The rules and regulations adopted
27 pursuant to this section shall include the following:

28 (1) a procedure to maintain relevant information regarding land,
29 fields, greenhouses, or any other location where hemp is produced
30 in the State, including a legal description of the land and global
31 positioning system coordinates, for a period of at least three
32 calendar years;

33 (2) a procedure for testing, including by third parties, using
34 post-decarboxylation or another similarly reliable method, that the
35 delta-9 tetrahydrocannabinol concentration of hemp produced in the
36 State does not exceed the federally defined THC level for hemp,
37 and that hemp products do not exceed the federally defined THC
38 level for hemp when made available to the public. A hemp
39 producer shall begin harvesting any hemp within 30 days of
40 sampling;

41 (3) a procedure for the effective disposal of hemp plants,
42 whether growing or not, that are produced in violation of 7 U.S.C.
43 s.1639o et seq., and products derived from those plants;

44 (4) a procedure to comply with the enforcement procedures in
45 section 7 of P.L. , c. (C.) (pending before the Legislature as
46 this bill), pursuant to 7 U.S.C. s.1639p, and to provide due process
47 for hemp producers;

1 (5) a procedure for conducting annual inspections of, at a
2 minimum, a random sample of hemp producers to verify that hemp
3 is not produced in violation of 7 U.S.C. s.1639o et seq.;

4 (6) a procedure for submitting the information described in 7
5 U.S.C. s.1639q, as applicable, to the Secretary of the United States
6 Department of Agriculture not later than 30 days after the date the
7 information is received; and

8 c. Upon adoption of rules and regulations pursuant to
9 subsection b. of this section, subsection c. of section 6, and
10 subsection c. of section 7 of P.L. , c. (C.) (pending before
11 the Legislature as this bill), the department, after consultation with
12 the Governor and the Attorney General, shall submit the rules and
13 regulations, along with P.L. , c. (C.) (pending before the
14 Legislature as this bill), for approval to the Secretary of the United
15 States Department of Agriculture as a state plan for monitoring and
16 regulating the production of hemp in the State pursuant to 7 U.S.C.
17 s.1639o et seq.

18 d. (1) If the plan submitted by the department is disapproved by
19 the Secretary of the United States Department of Agriculture, the
20 department, after consultation with the Governor and the Attorney
21 General, shall amend the rules promulgated pursuant to P.L. ,
22 c. (C.) (pending before the Legislature as this bill) as needed
23 to obtain approval and shall thereafter submit an amended plan.

24 (2) The department shall, as necessary, consult with and seek
25 technical assistance from the Secretary of the United States
26 Department of Agriculture in crafting a satisfactory state plan
27 pursuant to 7 U.S.C. s.1639o et seq.

28 (3) If a plan submitted by the department is disapproved by the
29 Secretary of the United States Department of Agriculture, nothing
30 in P.L. , c. (C.) (pending before the Legislature as this bill)
31 shall prohibit the production of hemp in the State pursuant to 7
32 U.S.C. s1639q or any other federal law, or rule or regulation
33 adopted pursuant thereto, if the production of hemp is not otherwise
34 prohibited by the State.

35 (4) As part of the State plan adopted pursuant to subsection b. of
36 this section, the department shall also submit a certification that the
37 State has the resources and personnel to implement the practices
38 and procedures as provided in P.L. , c. (C.) (pending before
39 the Legislature as this bill), pursuant to 7 U.S.C. s.1639p.
40

41 6. (New section) a. Except as otherwise provided, P.L. ,
42 c. (C.) (pending before the Legislature as this bill) does not
43 apply to the possession, transportation, or sale of hemp products or
44 extracts, including those containing one or more hemp-derived
45 cannabinoids, including cannabidiol.

46 b. In adopting rules and regulations pursuant to P.L. ,
47 c. (C.) (pending before the Legislature as this bill), the
48 department shall consult with relevant public agencies as well as
49 private, nonprofit associations in the hemp industry that promote

1 standards, best practices, and self-regulation in the production of
2 hemp.

3 c. In addition to the rules and regulations required for a state
4 plan consistent with the requirements of 7 U.S.C. s.1639o et seq.
5 and section 5 of P.L. , c. (C.) (pending before the
6 Legislature as this bill), no later than 90 days after the effective date
7 of P.L. , c. (C.) (pending before the Legislature as this bill)
8 and notwithstanding the provisions of the “Administrative
9 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
10 contrary, the department, after consultation with the Governor and
11 Attorney General, shall immediately upon filing proper notice with
12 the Office of Administrative Law, adopt interim rules and
13 regulations to promote the cultivating and processing of hemp and
14 the commercial sale of hemp products, while regulating hemp
15 production in the State pursuant to 7 U.S.C. s.1639o et seq. and
16 P.L. , c. (C.) (pending before the Legislature as this bill).
17 The rules and regulations shall be effective immediately upon filing
18 with the Office of Administrative Law and shall be in effect for a
19 period not to exceed 18 months, and shall, thereafter, be amended,
20 adopted, or readopted by the department in accordance with the
21 provisions of the “Administrative Procedure Act.” The rules and
22 regulations shall:

23 (1) establish requirements by which the department authorizes
24 an applicant to be a hemp producer to cultivate, handle, or process
25 or any combination thereof, hemp;

26 (2) provide due process, including an appeal process with
27 retesting, to ensure that hemp producers are not subject to the
28 consequences of inaccurate test results;

29 (3) establish procedures for the department, not more than 30
30 days after receiving and compiling the following information, to
31 provide the information to the United States Secretary of
32 Agriculture: (a) the hemp producer’s name, telephone number,
33 email address, residential address, mailing address, or another form
34 of contact information; (b) the legal description and global
35 positioning system coordinates for each field, facility, or other place
36 where hemp is to be cultivated, processed, or handled; and (c)
37 whether the hemp producer is in compliance with the rules and
38 regulations for the production of hemp in the State. The department
39 shall provide updates to this information as needed;

40 (4) define classes or categories of hemp products that are
41 eligible for sale, transfer, or distribution to members of the public;

42 (5) establish non-refundable application, licensure, and renewal
43 fees in amounts that are reasonable and necessary to cover the costs
44 of administering and enforcing the State hemp program, which shall
45 be deposited in the State hemp program account pursuant to section
46 8 of P.L. , c. (C.) (pending before the Legislature as this
47 bill); and

48 (6) establish procedures governing hemp shipment within the
49 State and across state lines by third-party transporters who are not

1 authorized hemp producers. The regulations shall include a
2 requirement that all shipments need only be accompanied by a proof
3 of authorization to engage in the commercial sale of hemp, either
4 under a state plan pursuant to 7 U.S.C. s.1639p or the United States
5 Department of Agriculture plan pursuant to 7 U.S.C. 1639q in a
6 state where a state plan has not been approved from the producer of
7 hemp, as well as a travel manifest that lists the origin, destination,
8 product description, and date of transport. In no case shall the
9 department require third-party carriers to be authorized hemp
10 producers in order to transport hemp.

11 d. Except as provided by section 9 of P.L. , c. (C.)
12 (pending before the Legislature as this bill), a person or business
13 entity may not cultivate, handle, or process hemp, or cause an agent
14 to cultivate, handle or process, in this State or transport, or cause an
15 agent to transport, hemp outside of this State unless that person or
16 business entity is authorized by the department to participate in the
17 State hemp program as a hemp producer. All applicants must apply
18 to the department on a form and in the manner prescribed by the
19 department as described in P.L. , c. (C.) (pending before the
20 Legislature as this bill). Upon approval of the State plan by the
21 United States Department of Agriculture, the department shall begin
22 authorizing participation in the State hemp program established
23 pursuant to P.L. , c. (C.) (pending before the Legislature as
24 this bill).

25 (1) In addition to any other information deemed necessary by
26 the department, an application shall include:

27 (a) a legal description and the global positioning system
28 coordinates for each location where an applicant intends to cultivate
29 or process hemp;

30 (b) written consent allowing the department, the Department of
31 Law and Public Safety, and any other State or local law
32 enforcement agency to enter onto all premises where hemp is
33 cultivated, handled, or processed to conduct a physical inspection or
34 to ensure compliance with P.L. , c. (C.) (pending before the
35 Legislature as this bill) and rules and regulation adopted pursuant to
36 P.L. , c. (C.) (pending before the Legislature as this bill);

37 (c) the payment of any fees required by the department;

38 (d) a criminal history record background check on all applicants
39 at the applicant's expense; and

40 (e) any other information required pursuant to rules and
41 regulations adopted by the department.

42 (2) If the department determines that an applicant meets the
43 State hemp program participation requirements, the department
44 shall authorize the applicant to participate in the program as a hemp
45 producer.

46 (3) An applicant who materially falsifies any information
47 contained in an application submitted to the department may not
48 participate in the State hemp program as a hemp producer.

1 7. (New section) a. If the department determines that a hemp
2 producer negligently violated P.L. , c. (C.) (pending before
3 the Legislature as this bill) or any rule or regulation adopted
4 pursuant thereto, the department shall enforce the violation in the
5 manner provided by 7 U.S.C. s.1639p as follows:

6 (1) The hemp producer shall not be subject to a civil or criminal
7 penalty under subsection a. of this section. A hemp producer shall
8 be required to implement a corrective action plan if the department
9 determines that the person or business entity negligently violated
10 State hemp laws or regulations, including by negligently:

11 (a) Failing to disclose, or provide required information about, a
12 site where hemp is cultivated, handled, or processed;

13 (b) Failing to obtain a necessary license from the department or
14 a necessary authorization from the State or a federal agency other
15 than those required to be a hemp producer; or

16 (c) Producing Cannabis sativa L. with more than the federally
17 defined THC level for hemp.

18 (2) A corrective action plan required pursuant to paragraph (1)
19 of this subsection shall include:

20 (a) A reasonable date by which a hemp producer shall correct
21 the negligent violation; and

22 (b) A requirement for periodic reports from the hemp producer
23 to the department about the hemp producer's compliance with the
24 corrective action plan, statutes, and any rules or regulations adopted
25 pursuant thereto, for a period of at least two years from the date of
26 the corrective action plan.

27 (3) A hemp producer that negligently violates any law or any
28 rule or regulation adopted pursuant thereto, governing that person's
29 or business entity's participation in the hemp program shall not be
30 subject to a criminal or civil enforcement action by the State or a
31 local government other than an enforcement action authorized
32 pursuant to this section.

33 (4) A person or business entity found by the department to have
34 negligently violated any law, or rule or regulation governing the
35 person's or business entity's participation in the hemp program
36 three times in a five year period shall be ineligible to participate in
37 the State hemp program as a hemp producer for a period of five
38 years beginning on the date of the third violation.

39 b. If the department determines that a hemp producer has
40 violated P.L. , c. (C.) (pending before the Legislature as
41 this bill) or a rule or regulation adopted pursuant thereto with a
42 culpable mental state greater than negligence, subsection a. of this
43 section shall not apply and the department shall report the hemp
44 producer immediately to the United States Attorney General and the
45 Attorney General of the State, who may, on behalf of the
46 department, investigate the violation and institute proceedings for
47 injunctive or other appropriate relief or report the matter to an
48 appropriate law enforcement agency.

1 c. In addition to the rules and regulations adopted pursuant to
2 sections 5 and 6 of P.L. , c. (C.) (pending before the
3 Legislature as this bill), no later than 90 days after the effective date
4 of P.L. , c. (C.) (pending before the Legislature as this bill)
5 and notwithstanding the provisions of the “Administrative
6 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
7 contrary, the department, after consulting with the Governor and the
8 Attorney General, shall immediately upon filing proper notice with
9 the Office of Administrative Law, adopt interim rules and
10 regulations establishing a schedule of penalties for violations of
11 P.L. , c. (C.) (pending before the Legislature as this bill) or
12 a rule or regulation adopted pursuant thereto that do not conflict
13 with 7 U.S.C. s.1639o et seq. The regulations shall be effective as
14 regulations immediately upon filing with the Office of
15 Administrative Law and shall be in effect for a period not to exceed
16 18 months, and shall, thereafter, be amended, adopted, or readopted
17 by the department in accordance with the provisions of the
18 “Administrative Procedure Act.” Any penalty collected pursuant to
19 P.L. , c. (C.) (pending before the Legislature as this bill)
20 shall be deposited in the “New Jersey Hemp Farming Fund”
21 established pursuant to section 8 P.L. , c. (C.) (pending
22 before the Legislature as this bill).

23 d. A person who is or has been convicted of an offense relating
24 to a controlled substance under State or federal law may not
25 participate in the State hemp program established pursuant to
26 P.L. , c. (C.) (pending before the Legislature as this bill) or
27 produce hemp in the State under any other law for a period of at
28 least 10 years following the date of the person's conviction. This
29 prohibition shall not apply to any person growing hemp lawfully
30 with a license, registration, or authorization under a pilot program
31 authorized pursuant to 7 U.S.C. s.5940 before the date of enactment
32 of P.L. , c. (C.) (pending before the Legislature as this bill).

33
34 8. (New section) a. There is established in the Department of
35 Agriculture a special nonlapsing fund to be known as the “New
36 Jersey Hemp Farming Fund.” Moneys in the fund shall be used for
37 the administration and enforcement of P.L. , c. (C.)
38 (pending before the Legislature as this bill).

39 b. The fund shall be credited with:

- 40 (1) penalties and fees collected by the department pursuant to
41 P.L. , c. (C.) (pending before the Legislature as this bill);
- 42 (2) moneys as are appropriated by the Legislature;
- 43 (3) moneys made available to the department for the purposes of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 including federal funds; and
- 46 (4) any return on investment of moneys deposited in the fund.

47
48 9. (New section) a. A State agency may not prohibit a person
49 or business entity that processes or manufactures a product

1 regulated by the agency from applying for or obtaining a permit or
2 other authorization to process or manufacture the product solely on
3 the basis that the person or business entity intends to process or
4 manufacture the product with hemp.

5 b. Notwithstanding any other law, or rule or regulation adopted
6 pursuant thereto to the contrary, derivatives of hemp, including
7 hemp-derived cannabidiol, may be added to cosmetics, personal
8 care products, and products intended for human or animal
9 consumption to the maximum extent permitted by federal law.

10 c. The provisions of P.L. , c. (C.) (pending before the
11 Legislature as this bill) applicable to hemp producers shall not
12 apply to the possession, handling, transport, or sale of hemp
13 products, including those containing one or more hemp-derived
14 cannabinoids, including cannabidiol. Notwithstanding any other
15 law, a person or business entity may possess, transport, sell, and
16 purchase legally produced hemp products in this State. As part of
17 the rules and regulations adopted pursuant to P.L. , c. (C.)
18 (pending before the Legislature as this bill), the Department of
19 Agriculture shall provide to a retailer of hemp products notice of a
20 potential violation concerning hemp products sold by the retailer
21 and shall provide an opportunity to cure a violation committed
22 unintentionally or negligently.

23 d. The Department of Agriculture, in consultation with the
24 Department of Health, may adopt rules and regulations only to
25 regulate the sale of hemp products that provide that:

26 (1) hemp-derived cannabinoids, including cannabidiol, are not
27 considered controlled substances or adulterants; and

28 (2) products containing one or more hemp-derived cannabinoids,
29 such as cannabidiol, intended for ingestion are to be considered
30 foods, not controlled substances or adulterated products to the
31 maximum extent permitted by federal law.

32 e. Retail sales of hemp products processed outside the State
33 may be conducted in the State when the products and the hemp used
34 in the products were processed and cultivated legally in another
35 state or jurisdiction that has the same or substantially similar
36 requirements for processing hemp products or cultivating hemp as
37 provided by P.L. , c. (C.) (pending before the Legislature as
38 this bill).

39 f. Hemp products may be legally transported across State lines
40 and exported to foreign countries in a manner that is consistent with
41 federal law and the laws of respective foreign countries.

42

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

44 2C:35-2. As used in this chapter:

45 “Administer” means the direct application of a controlled
46 dangerous substance or controlled substance analog, whether by
47 injection, inhalation, ingestion, or any other means, to the body of a
48 patient or research subject by: (1) a practitioner (or, in his
49 presence, by his lawfully authorized agent), or (2) the patient or

1 research subject at the lawful direction and in the presence of the
2 practitioner.

3 “Agent” means an authorized person who acts on behalf of or at
4 the direction of a manufacturer, distributor, or dispenser but does
5 not include a common or contract carrier, public warehouseman, or
6 employee thereof.

7 “Controlled dangerous substance” means a drug, substance, or
8 immediate precursor in Schedules I through V, any substance the
9 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
10 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
11 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120
12 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b),
13 and any drug or substance which, when ingested, is metabolized or
14 otherwise becomes a controlled dangerous substance in the human
15 body. When any statute refers to controlled dangerous substances,
16 or to a specific controlled dangerous substance, it shall also be
17 deemed to refer to any drug or substance which, when ingested, is
18 metabolized or otherwise becomes a controlled dangerous substance
19 or the specific controlled dangerous substance, and to any substance
20 that is an immediate precursor of a controlled dangerous substance
21 or the specific controlled dangerous substance. The term shall not
22 include distilled spirits, wine, malt beverages, as those terms are
23 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
24 products. The term, wherever it appears in any law or
25 administrative regulation of this State, shall include controlled
26 substance analogs.

27 “Controlled substance analog” means a substance that has a
28 chemical structure substantially similar to that of a controlled
29 dangerous substance and that was specifically designed to produce
30 an effect substantially similar to that of a controlled dangerous
31 substance. The term shall not include a substance manufactured or
32 distributed in conformance with the provisions of an approved new
33 drug application or an exemption for investigational use within the
34 meaning of section 505 of the “Federal Food, Drug and Cosmetic
35 Act,” 52 Stat. 1052 (21 U.S.C. s.355).

36 “Counterfeit substance” means a controlled dangerous substance
37 or controlled substance analog which, or the container or labeling of
38 which, without authorization, bears the trademark, trade name, or
39 other identifying mark, imprint, number, or device, or any likeness
40 thereof, of a manufacturer, distributor, or dispenser other than the
41 person or persons who in fact manufactured, distributed, or
42 dispensed the substance and which thereby falsely purports or is
43 represented to be the product of, or to have been distributed by,
44 such other manufacturer, distributor, or dispenser.

45 “Deliver” or “delivery” means the actual, constructive, or
46 attempted transfer from one person to another of a controlled
47 dangerous substance or controlled substance analog, whether or not
48 there is an agency relationship.

1 “Dispense” means to deliver a controlled dangerous substance or
2 controlled substance analog to an ultimate user or research subject
3 by or pursuant to the lawful order of a practitioner, including the
4 prescribing, administering, packaging, labeling, or compounding
5 necessary to prepare the substance for that delivery. “Dispenser”
6 means a practitioner who dispenses.

7 “Distribute” means to deliver other than by administering or
8 dispensing a controlled dangerous substance or controlled substance
9 analog. “Distributor” means a person who distributes.

10 “Drugs” means (a) substances recognized in the official United
11 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
12 United States, or official National Formulary, or any supplement to
13 any of them; and (b) substances intended for use in the diagnosis,
14 cure, mitigation, treatment, or prevention of disease in man or other
15 animals; and (c) substances (other than food) intended to affect the
16 structure or any function of the body of man or other animals; and
17 (d) substances intended for use as a component of any article
18 specified in subsections (a), (b), and (c) of this section; but does not
19 include devices or their components, parts, or accessories.

20 “Drug or alcohol dependent person” means a person who as a
21 result of using a controlled dangerous substance or controlled
22 substance analog or alcohol has been in a state of psychic or
23 physical dependence, or both, arising from the use of that controlled
24 dangerous substance or controlled substance analog or alcohol on a
25 continuous or repetitive basis. Drug or alcohol dependence is
26 characterized by behavioral and other responses, including but not
27 limited to a strong compulsion to take the substance on a recurring
28 basis in order to experience its psychic effects, or to avoid the
29 discomfort of its absence.

30 “Hashish” means the resin extracted from any part of the plant
31 Genus Cannabis L. and any compound, manufacture, salt,
32 derivative, mixture, or preparation of such resin. “Hashish” shall
33 not mean **【industrial】** hemp or a hemp product cultivated, handled,
34 processed, transported, or sold pursuant to the **【New Jersey**
35 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
36 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. _____,
37 c. (C. _____) (pending before the Legislature as this bill) .

38 “Manufacture” means the production, preparation, propagation,
39 compounding, conversion, or processing of a controlled dangerous
40 substance or controlled substance analog, either directly or by
41 extraction from substances of natural origin, or independently by
42 means of chemical synthesis, or by a combination of extraction and
43 chemical synthesis, and includes any packaging or repackaging of
44 the substance or labeling or relabeling of its container, except that
45 this term does not include the preparation or compounding of a
46 controlled dangerous substance or controlled substance analog by
47 an individual for his own use or the preparation, compounding,
48 packaging, or labeling of a controlled dangerous substance: (1) by
49 a practitioner as an incident to his administering or dispensing of a

1 controlled dangerous substance or controlled substance analog in
2 the course of his professional practice, or (2) by a practitioner (or
3 under his supervision) for the purpose of, or as an incident to,
4 research, teaching, or chemical analysis and not for sale.

5 “Marijuana” means all parts of the plant Genus Cannabis L.,
6 whether growing or not; the seeds thereof, and every compound,
7 manufacture, salt, derivative, mixture, or preparation of the plant or
8 its seeds, except those containing resin extracted from the plant; but
9 shall not include the mature stalks of the plant, fiber produced from
10 the stalks, oil, or cake made from the seeds of the plant, any other
11 compound, manufacture, salt, derivative, mixture, or preparation of
12 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant
13 which is incapable of germination. “Marijuana” shall not mean
14 **【industrial】** hemp or a hemp product cultivated, handled,
15 processed, transported, or sold pursuant to the **【New Jersey**
16 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
17 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. _____,
18 c. (C. _____) (pending before the Legislature as this bill) .

19 “Narcotic drug” means any of the following, whether produced
20 directly or indirectly by extraction from substances of vegetable
21 origin, or independently by means of chemical synthesis, or by a
22 combination of extraction and chemical synthesis:

23 (a) Opium, coca leaves, and opiates;

24 (b) A compound, manufacture, salt, derivative, or preparation of
25 opium, coca leaves, or opiates;

26 (c) A substance (and any compound, manufacture, salt,
27 derivative, or preparation thereof) which is chemically identical
28 with any of the substances referred to in subsections (a) and (b),
29 except that the words “narcotic drug” as used in this act shall not
30 include decocainized coca leaves or extracts of coca leaves, which
31 extracts do not contain cocaine or ecogine.

32 “Opiate” means any dangerous substance having an addiction-
33 forming or addiction-sustaining liability similar to morphine or
34 being capable of conversion into a drug having such addiction-
35 forming or addiction-sustaining liability. It does not include, unless
36 specifically designated as controlled pursuant to the provisions of
37 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
38 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
39 It does include its racemic and levorotatory forms.

40 “Opium poppy” means the plant of the species Papaver
41 somniferum L., except the seeds thereof.

42 “Person” means any corporation, association, partnership, trust,
43 other institution or entity, or one or more individuals.

44 “Plant” means an organism having leaves and a readily
45 observable root formation, including, but not limited to, a cutting
46 having roots, a rootball or root hairs.

47 “Poppy straw” means all parts, except the seeds, of the opium
48 poppy, after mowing.

1 “Practitioner” means a physician, dentist, veterinarian, scientific
2 investigator, laboratory, pharmacy, hospital, or other person
3 licensed, registered, or otherwise permitted to distribute, dispense,
4 conduct research with respect to, or administer a controlled
5 dangerous substance or controlled substance analog in the course of
6 professional practice or research in this State.

7 (a) “Physician” means a physician authorized by law to practice
8 medicine in this or any other state and any other person authorized
9 by law to treat sick and injured human beings in this or any other
10 state.

11 (b) “Veterinarian” means a veterinarian authorized by law to
12 practice veterinary medicine in this State.

13 (c) “Dentist” means a dentist authorized by law to practice
14 dentistry in this State.

15 (d) “Hospital” means any federal institution, or any institution
16 for the care and treatment of the sick and injured, operated or
17 approved by the appropriate State department as proper to be
18 entrusted with the custody and professional use of controlled
19 dangerous substances or controlled substance analogs.

20 (e) “Laboratory” means a laboratory to be entrusted with the
21 custody of narcotic drugs and the use of controlled dangerous
22 substances or controlled substance analogs for scientific,
23 experimental, and medical purposes and for purposes of instruction
24 approved by the Department of Health.

25 “Production” includes the manufacture, planting, cultivation,
26 growing, or harvesting of a controlled dangerous substance or
27 controlled substance analog.

28 “Immediate precursor” means a substance which the Division of
29 Consumer Affairs in the Department of Law and Public Safety has
30 found to be and by regulation designates as being the principal
31 compound commonly used or produced primarily for use, and
32 which is an immediate chemical intermediary used or likely to be
33 used in the manufacture of a controlled dangerous substance or
34 controlled substance analog, the control of which is necessary to
35 prevent, curtail, or limit such manufacture.

36 “Residential treatment facility” means any facility licensed and
37 approved by the Department of Human Services and which is
38 approved by any county probation department for the inpatient
39 treatment and rehabilitation of drug or alcohol dependent persons.

40 “Schedules I, II, III, IV, and V” are the schedules set forth in
41 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
42 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
43 by any regulations issued by the Director of the Division of
44 Consumer Affairs in the Department of Law and Public Safety
45 pursuant to the director’s authority as provided in section 3 of
46 P.L.1970, c.226 (C.24:21-3).

47 “State” means the State of New Jersey.

48 “Ultimate user” means a person who lawfully possesses a
49 controlled dangerous substance or controlled substance analog for

1 his own use or for the use of a member of his household or for
2 administration to an animal owned by him or by a member of his
3 household.

4 “Prescription legend drug” means any drug which under federal
5 or State law requires dispensing by prescription or order of a
6 licensed physician, veterinarian, or dentist and is required to bear
7 the statement “Rx only” or similar wording indicating that such
8 drug may be sold or dispensed only upon the prescription of a
9 licensed medical practitioner and is not a controlled dangerous
10 substance or stramonium preparation.

11 “Stramonium preparation” means a substance prepared from any
12 part of the stramonium plant in the form of a powder, pipe mixture,
13 cigarette, or any other form with or without other ingredients.

14 “Stramonium plant” means the plant *Datura Stramonium* Linne,
15 including *Datura Tatula* Linne.

16 (cf: P.L.2018, c.139, s.6)

17

18 11. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read
19 as follows:

20 2. As used in **[this act]** P.L.1970, c.226 (C.24:21-1 et seq.) :

21 “Administer” means the direct application of a controlled
22 dangerous substance, whether by injection, inhalation, ingestion, or
23 any other means, to the body of a patient or research subject by: (1)
24 a practitioner (or, in the practitioner’s presence, by the
25 practitioner’s lawfully authorized agent), or (2) the patient or
26 research subject at the lawful direction and in the presence of the
27 practitioner.

28 “Agent” means an authorized person who acts on behalf of or at
29 the direction of a manufacturer, distributor, or dispenser but does
30 not include a common or contract carrier, public warehouseman, or
31 employee thereof.

32 “Commissioner” means the Commissioner of Health.

33 “Controlled dangerous substance” means a drug, substance, or
34 immediate precursor in Schedules I through V of article 2 of
35 P.L.1970, c.226 (C.24:21-1 et seq.). The term shall not include
36 distilled spirits, wine, malt beverages, as those terms are defined or
37 used in R.S.33:1-1 et seq., or tobacco and tobacco products.

38 “Counterfeit substance” means a controlled dangerous substance
39 which, or the container or labeling of which, without authorization,
40 bears the trademark, trade name, or other identifying mark, imprint,
41 number or device, or any likeness thereof, of a manufacturer,
42 distributor, or dispenser other than the person or persons who in fact
43 manufactured, distributed, or dispensed such substance and which
44 thereby falsely purports or is represented to be the product of, or to
45 have been distributed by, such other manufacturer, distributor, or
46 dispenser.

47 “Deliver” or “delivery” means the actual, constructive, or
48 attempted transfer from one person to another of a controlled
49 dangerous substance, whether or not there is an agency relationship.

1 “Director” means the Director of the Division of Consumer
2 Affairs in the Department of Law and Public Safety.

3 “Dispense” means to deliver a controlled dangerous substance to
4 an ultimate user or research subject by or pursuant to the lawful
5 order of a practitioner, including the prescribing, administering,
6 packaging, labeling, or compounding necessary to prepare the
7 substance for that delivery.

8 “Dispenser” means a practitioner who dispenses.

9 “Distribute” means to deliver other than by administering or
10 dispensing a controlled dangerous substance.

11 “Distributor” means a person who distributes.

12 “Division” means the Division of Consumer Affairs in the
13 Department of Law and Public Safety.

14 “Drug Enforcement Administration” means the Drug
15 Enforcement Administration in the United States Department of
16 Justice.

17 “Drugs” means (a) substances recognized in the official United
18 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
19 United States, or official National Formulary, or any supplement to
20 any of them; and (b) substances intended for use in the diagnosis,
21 cure, mitigation, treatment, or prevention of disease in man or other
22 animals; and (c) substances (other than food) intended to affect the
23 structure or any function of the body of man or other animals; and
24 (d) substances intended for use as a component of any article
25 specified in subsections (a), (b), and (c) of this section; but does not
26 include devices or their components, parts or accessories. “Drugs”
27 shall not mean **【industrial】** hemp or a hemp product cultivated ,
28 handled, processed, transported, or sold pursuant to the **【New**
29 **Jersey Industrial Hemp Pilot Program established by P.L.2018,**
30 **c.139 (C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. ,
31 c. (C.) (pending before the Legislature as this bill) .

32 “Hashish” means the resin extracted from any part of the plant
33 genus Cannabis and any compound, manufacture, salt, derivative,
34 mixture, or preparation of such resin. “Hashish” shall not mean
35 **【industrial】** hemp or a hemp product cultivated , handled,
36 processed, transported, or sold pursuant to the **【New Jersey**
37 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
38 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,” P.L. ,
39 c. (C.) (pending before the Legislature as this bill) .

40 “Marihuana” means all parts of the plant genus Cannabis,
41 whether growing or not; the seeds thereof; and every compound,
42 manufacture, salt, derivative, mixture, or preparation of the plant or
43 its seeds, except those containing resin extracted from the plant; but
44 shall not include the mature stalks of the plant, fiber produced from
45 the stalks, oil or cake made from the seeds of the plant, any other
46 compound, manufacture, salt, derivative, mixture, or preparation of
47 such mature stalks, fiber, oil, or cake, or the sterilized seed of the
48 plant which is incapable of germination. “Marihuana” shall not

1 mean **industrial** hemp or a hemp product cultivated , handled,
2 processed, transported, or sold pursuant to the **New Jersey**
3 Industrial Hemp Pilot Program established by P.L.2018, c.139
4 (C.4:28-1 et al.) **New Jersey Hemp Farming Act,** P.L. _____,
5 c. (C. _____) (pending before the Legislature as this bill) .

6 “Manufacture” means the production, preparation, propagation,
7 compounding, conversion, or processing of a controlled dangerous
8 substance, either directly or by extraction from substances of
9 natural origin, or independently by means of chemical synthesis, or
10 by a combination of extraction and chemical synthesis, and includes
11 any packaging or repackaging of the substance or labeling or
12 relabeling of its container, except that this term does not include the
13 preparation or compounding of a controlled dangerous substance by
14 an individual for the individual’s own use or the preparation,
15 compounding, packaging, or labeling of a controlled dangerous
16 substance: (1) by a practitioner as an incident to the practitioner’s
17 administering or dispensing of a controlled dangerous substance in
18 the course of the practitioner’s professional practice, or (2) by a
19 practitioner (or under the practitioner’s supervision) for the purpose
20 of, or as an incident to, research, teaching, or chemical analysis and
21 not for sale.

22 “Narcotic drug” means any of the following, whether produced
23 directly or indirectly by extraction from substances of vegetable
24 origin, or independently by means of chemical synthesis, or by a
25 combination of extraction and chemical synthesis:

26 (a) Opium, coca leaves, and opiates;

27 (b) A compound, manufacture, salt, derivative, or preparation of
28 opium, coca leaves, or opiates;

29 (c) A substance (and any compound, manufacture, salt,
30 derivative, or preparation thereof) which is chemically identical
31 with any of the substances referred to in subsections (a) and (b),
32 except that the words “narcotic drug” as used in **this act**
33 P.L.1970, c.226 (C.24:21-1 et seq.) shall not include decocainized
34 coca leaves or extracts of coca leaves, which extracts do not contain
35 cocaine or ecgonine.

36 “Official written order” means an order written on a form
37 provided for that purpose by the Attorney General of the United
38 States or his delegate, under any laws of the United States making
39 provisions therefor, if such order forms are authorized and required
40 by the federal law, and if no such form is provided, then on an
41 official form provided for that purpose by the division. If
42 authorized by the Attorney General of the United States or the
43 division, the term shall also include an order transmitted by
44 electronic means.

45 “Opiate” means any dangerous substance having an addiction-
46 forming or addiction-sustaining liability similar to morphine or
47 being capable of conversion into a drug having such addiction-
48 forming or addiction-sustaining liability. It does not include, unless

1 specifically designated as controlled under section 3 of **[this act]**
2 P.L.1970, c.226 (C.24:21-1 et seq.) , the dextrorotatory isomer of
3 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It
4 does include its racemic and levorotatory forms.

5 “Opium poppy” means the plant of the species *Papaver*
6 *somniferum* L., except the seeds thereof.

7 “Person” means any corporation, association, partnership, trust,
8 other institution or entity, or one or more individuals.

9 “Pharmacist” means a registered pharmacist of this State.

10 “Pharmacy owner” means the owner of a store or other place of
11 business where controlled dangerous substances are compounded or
12 dispensed by a registered pharmacist; but nothing in this chapter
13 contained shall be construed as conferring on a person who is not
14 registered or licensed as a pharmacist any authority, right, or
15 privilege that is not granted to the person by the pharmacy laws of
16 this State.

17 “Poppy straw” means all parts, except the seeds, of the opium
18 poppy, after mowing.

19 “Practitioner” means a physician, dentist, veterinarian, scientific
20 investigator, laboratory, pharmacy, hospital, or other person
21 licensed, registered, or otherwise permitted to distribute, dispense,
22 conduct research with respect to, or administer a controlled
23 dangerous substance in the course of professional practice or
24 research in this State.

25 (a) “Physician” means a physician authorized by law to practice
26 medicine in this or any other state.

27 (b) “Veterinarian” means a veterinarian authorized by law to
28 practice veterinary medicine in this State.

29 (c) “Dentist” means a dentist authorized by law to practice
30 dentistry in this State.

31 (d) “Hospital” means any federal institution, or any institution
32 for the care and treatment of the sick and injured, operated or
33 approved by the appropriate State department as proper to be
34 entrusted with the custody and professional use of controlled
35 dangerous substances.

36 (e) “Laboratory” means a laboratory to be entrusted with the
37 custody of narcotic drugs and the use of controlled dangerous
38 substances for scientific, experimental, and medical purposes and
39 for purposes of instruction approved by the Department of Health.

40 “Production” includes the manufacture, planting, cultivation,
41 growing, or harvesting of a controlled dangerous substance.

42 “Immediate precursor” means a substance which the division has
43 found to be and by regulation designates as being the principal
44 compound commonly used or produced primarily for use, and
45 which is an immediate chemical intermediary used or likely to be
46 used in the manufacture of a controlled dangerous substance, the
47 control of which is necessary to prevent, curtail, or limit such
48 manufacture.

1 “Substance use disorder involving drugs” means taking or using
2 a drug or controlled dangerous substance, as defined in this chapter,
3 in association with a state of psychic or physical dependence, or
4 both, arising from the use of that drug or controlled dangerous
5 substance on a continuous basis. A substance use disorder is
6 characterized by behavioral and other responses, including, but not
7 limited to, a strong compulsion to take the substance on a recurring
8 basis in order to experience its psychic effects, or to avoid the
9 discomfort of its absence.

10 “Ultimate user” means a person who lawfully possesses a
11 controlled dangerous substance for the person’s own use or for the
12 use of a member of the person’s household or for administration to
13 an animal owned by the person or by a member of the person’s
14 household.

15 (cf: P.L.2018, c.138, s.7)

16

17 12. Section 5 of P.L.1970, c.226 (C.24:21-5) is amended to read
18 as follows:

19 5. Schedule I.

20 a. Tests. The director shall place a substance in Schedule I if he
21 finds that the substance: (1) has high potential for abuse; and (2)
22 has no accepted medical use in treatment in the United States; or
23 lacks accepted safety for use in treatment under medical
24 supervision.

25 b. The controlled dangerous substances listed in this section are
26 included in Schedule I, subject to any revision and republishing by
27 the director pursuant to subsection d. of section 3 of P.L.1970,
28 c.226 (C.24:21-3), and except to the extent provided in any other
29 schedule.

30 c. Any of the following opiates, including their isomers, esters,
31 and ethers, unless specifically excepted, whenever the existence of
32 such isomers, esters, ethers and salts is possible within the specific
33 chemical designation:

- 34 (1) Acetylmethadol
- 35 (2) Allylprodine
- 36 (3) Alphacetylmethadol
- 37 (4) Alphameprodine
- 38 (5) Alphamethadol
- 39 (6) Benzethidine
- 40 (7) Betacetylmethadol
- 41 (8) Betameprodine
- 42 (9) Betamethadol
- 43 (10) Betaprodine
- 44 (11) Clonitazene
- 45 (12) Dextromoramide
- 46 (13) Dextrorphan
- 47 (14) Diampromide
- 48 (15) Diethylthiambutene
- 49 (16) Dimenoxadol

- 1 (17) Dimepheptanol
- 2 (18) Dimethylthiambutene
- 3 (19) Dioxaphetyl butyrate
- 4 (20) Dipipanone
- 5 (21) Ethylmethylthiambutene
- 6 (22) Etonitazene
- 7 (23) Etoxeridine
- 8 (24) Furethidine
- 9 (25) Hydroxypethidine
- 10 (26) Ketobemidone
- 11 (27) Levomoramide
- 12 (28) Levophenacylmorphin
- 13 (29) Morpheridine
- 14 (30) Noracymethadol
- 15 (31) Norlevorphanol
- 16 (32) Normethadone
- 17 (33) Norpipanone
- 18 (34) Phenadoxone
- 19 (35) Phenampromide
- 20 (36) Phenomorphan
- 21 (37) Phenoperidine
- 22 (38) Piritramide
- 23 (39) Proheptazine
- 24 (40) Properidine
- 25 (41) Racemoramide
- 26 (42) Trimeperidine.
- 27 d. Any of the following narcotic substances, their salts, isomers
- 28 and salts of isomers, unless specifically excepted, whenever the
- 29 existence of such salts, isomers and salts of isomers is possible
- 30 within the specific chemical designation:
- 31 (1) Acetorphine
- 32 (2) Acetylcodone
- 33 (3) Acetyldihydrocodeine
- 34 (4) Benzylmorphine
- 35 (5) Codeine methylbromide
- 36 (6) Codeine-N-Oxide
- 37 (7) Cyprenorphine
- 38 (8) Desomorphine
- 39 (9) Dihydromorphine
- 40 (10) Etorphine
- 41 (11) Heroin
- 42 (12) Hydromorphanol
- 43 (13) Methyldesorphine
- 44 (14) Methylhydromorphine
- 45 (15) Morphine methylbromide
- 46 (16) Morphine methylsulfonate
- 47 (17) Morphine-N-Oxide
- 48 (18) Myrophine
- 49 (19) Nicocodeine

1 (20) Nicomorphine

2 (21) Normorphine

3 (22) Phoclodine

4 (23) Thebacon.

5 e. Any material, compound, mixture or preparation which
6 contains any quantity of the following hallucinogenic substances,
7 their salts, isomers and salts of isomers, unless specifically
8 excepted, whenever the existence of such salts, isomers, and salts of
9 isomers is possible within the specific chemical designation:

10 (1) 3,4-methylenedioxy amphetamine

11 (2) 5-methoxy-3,4-methylenedioxy amphetamine

12 (3) 3,4,5-trimethoxy amphetamine

13 (4) Bufotenine

14 (5) Diethyltryptamine

15 (6) Dimethyltryptamine

16 (7) 4-methyl-2,5-dimethoxylamphetamine

17 (8) Ibogaine

18 (9) Lysergic acid diethylamide

19 (10) Marihuana

20 (11) Mescaline

21 (12) Peyote

22 (13) N-ethyl-3-piperidyl benzilate

23 (14) N-methyl-3-piperidyl benzilate

24 (15) Psilocybin

25 (16) Psilocyn

26 (17) Tetrahydrocannabinols, except when found in **industrial**
27 hemp or a hemp product cultivated, handled, processed,
28 transported, or sold pursuant to the **New Jersey Industrial Hemp**
29 **Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)**
30 “New Jersey Hemp Farming Act,” P.L. , c. (C.) (pending
31 before the Legislature as this bill) .

32 (cf: P.L.2018, c.139, s.8)

33

34 13. Section 1 of P.L.1939, c.248 (C.26:2-81) is amended to read
35 as follows:

36 1. In order to protect the health, morals and welfare of the State
37 of New Jersey, whenever the county prosecutor of any county of the
38 State of New Jersey receives credible information that wild,
39 cultivated, or hidden growth or beds of alleged Marihuana weed are
40 located anywhere within the county, the county prosecutor shall
41 immediately communicate such information to the Department of
42 Health. The Department of Health, upon receipt of such
43 information, shall immediately dispatch one of its agents to the
44 location who shall make an examination and determination of the
45 alleged Marihuana weed so as to determine the existence or
46 nonexistence of Marihuana weed at the location, and the
47 Department of Health shall immediately communicate by writing its
48 determination to the aforesaid county prosecutor and the
49 Department of Agriculture . “Marihuana” shall not mean

1 【industrial】 hemp or a hemp product cultivated , handled,
2 processed, transported, or sold pursuant to the 【New Jersey
3 Industrial Hemp Pilot Program established by P.L.2018, c.139
4 (C.4:28-1 et al.)】 “New Jersey Hemp Farming Act,” P.L. _____,
5 c. (C. _____) (pending before the Legislature as this bill) .
6 (cf: P.L.2018, c.139, s.9)

7
8 14. Section 2 of P.L.1939, c.248 (C.26:2-82) is amended to read
9 as follows:

10 2. Upon certification by the Department of Health of the
11 existence of Marihuana weed at the location examined by the
12 Department of Health, then the county prosecutor is hereby
13 empowered to dispatch one of the prosecutor’s agents to the
14 location so certified and the agent shall destroy the Marihuana weed
15 and the county prosecutor or the agent shall not be civilly
16 responsible in any manner whatsoever for destruction of the
17 Marihuana weed. “Marihuana” shall not mean 【industrial】 hemp or
18 a hemp product cultivated , handled, processed, transported, and
19 sold pursuant to the 【New Jersey Industrial Hemp Pilot Program
20 established by P.L.2018, c.139 (C.4:28-1 et al.)】 “New Jersey
21 Hemp Farming Act,” P.L. _____, c. (C. _____) (pending before the
22 Legislature as this bill) .
23 (cf: P.L.2018, c.139, s.10)

24
25 15. Sections 1 through 5 of P.L.2018, c.139 (C.4:28-1 through
26 C.4:28-5) are repealed.

27
28 16. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill would establish a program for the cultivation, handling,
34 processing, transport, and sale of hemp and hemp products in the
35 State in accordance with federal law.

36 The federal “Agricultural Improvement Act of 2018” (commonly
37 known as the 2018 Farm Bill) was enacted in December 2018 and
38 contains changes to the regulation of the production of hemp by the
39 federal government. The 2018 Farm Bill significantly expands the
40 states’ ability to regulate hemp production, and provides an
41 eventual repeal of the section of the 2014 Farm Bill that allowed for
42 hemp pilot programs in the states. As New Jersey’s law
43 establishing a hemp pilot program was consistent with the provision
44 of the 2014 Farm Bill that will eventually be repealed, an update to
45 State law is required to ensure the production of hemp in the State.

46 The bill would repeal New Jersey’s hemp pilot program, and
47 replace it with a permanent program, administered by the
48 Department of Agriculture (department), that complies with federal

1 law. The bill would define “hemp” as the plant *Cannabis sativa* L.,
2 any part of the plant, and all derivatives thereof with a delta-9
3 tetrahydrocannabinol concentration of not more than 0.3 percent,
4 consistent with federal law. The bill would define hemp producer
5 as a person or business entity authorized by the department to
6 cultivate, handle, or process hemp in the State. The bill would
7 define “hemp product” as a finished product with a delta-9
8 tetrahydrocannabinol concentration of not more than 0.3 percent
9 that is derived from or made by processing a hemp plant or plant
10 part and prepared in a form available for commercial sale, and
11 would include cannabidiol.

12 The bill would make it lawful for a hemp producer to cultivate,
13 handle, or process hemp or hemp products in the State, and for any
14 person to possess, transport, sell, and purchase legally-produced
15 hemp products in the State. Any unauthorized person who
16 cultivates, handles, or processes hemp would be subject to the same
17 penalties as those related to marijuana.

18 The bill would require the department to adopt regulations and
19 submit a state plan for the regulation of hemp consistent with
20 federal requirements. The regulations would include: maintaining
21 information about hemp producers; an inspection, testing and
22 disposal of noncompliant hemp program; provisions for
23 enforcement of the bill; information sharing as required by federal
24 law; and a certification that the department has the resources to
25 implement the program. If the United States Department of
26 Agriculture disapproves the State plan, the department would be
27 required to amend the State plan and resubmit it to gain federal
28 approval. The bill would not prevent any person from participating
29 in a federally-administered hemp program if the State does not have
30 an approved State plan.

31 Additionally, the department would be required to adopt rules
32 and regulations to: establish requirements to be a hemp producer,
33 establish an appeal process with retesting, to collect and share
34 information about hemp producers pursuant to federal law, to define
35 classes hemp products that are eligible for sale, establish a licensing
36 fee structure, and establish procedures governing hemp shipment
37 within the State. The regulations would include a requirement that
38 all shipments need only be accompanied by the originating hemp
39 producer’s proof of authorization to engage in the commercial sale
40 of hemp, as well as a travel manifest that lists the origin,
41 destination, product description, and date of transport. In no case
42 shall the department require third-party carriers to be authorized
43 hemp producers in order to transport hemp.

44 If a hemp producer negligently violates the bill or any rules or
45 regulations adopted pursuant thereto, the producer would be subject
46 to a corrective action plan designed to bring the producer into
47 compliance with the hemp program. Three negligent violations in a
48 five year period would result in a five year ban from participating in
49 the hemp program. Any intentional violations would be referred to

1 the Attorney General, and the United States Attorney General. The
2 department would be required to adopt rules and regulations
3 establishing a penalty fee structure for violations of the act.

4 The bill would establish a separate fund called the “New Jersey
5 Hemp Farming Fund” to collect all license fees, penalties collected
6 by the department, donations, and sums appropriated by the
7 Legislature to implement the hemp program.

8 The bill would provide that a person may possess, transport, buy,
9 and sell hemp products in the State, including products containing
10 cannabidiol derived from hemp, to the maximum extent permitted
11 by federal law. The department, in consultation with the
12 Department of Health, would be permitted to adopt rules and
13 regulations only to regulate the sale of hemp products that provide
14 that hemp-derived cannabinoids, including cannabidiol, are not
15 considered controlled substances or adulterants. Retail sales of
16 hemp products processed outside the State may be conducted in the
17 State when the products and the hemp used in the products were
18 processed and cultivated legally in another state or jurisdiction that
19 has substantially similar requirements for processing hemp products
20 or cultivating hemp as the bill.

21 The bill would also amend various sections of statutory law to
22 remove references to the New Jersey Industrial Hemp Pilot
23 Program, and replace them with the New Jersey Hemp Farming Act.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5322

STATE OF NEW JERSEY

DATED: MAY 16, 2019

The Assembly Agriculture and Natural Resources Committee favorably reports Assembly Bill No. 5322.

This bill would establish a program for the cultivation, handling, processing, transport, and sale of hemp and hemp products in the State in accordance with federal law.

The bill would repeal New Jersey's hemp pilot program, and replace it with a permanent program, administered by the Department of Agriculture (department), that complies with federal law. The bill would define "hemp" as the plant *Cannabis sativa L.*, any part of the plant, and all derivatives thereof with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent, consistent with federal law. The bill would define hemp producer as a person or business entity authorized by the department to cultivate, handle, or process hemp in the State. The bill would define "hemp product" as a finished product with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale, and would include cannabidiol.

The bill would make it lawful for a hemp producer to cultivate, handle, or process hemp or hemp products in the State, and for any person to possess, transport, sell, and purchase legally produced hemp products in the State. Any person who is not a hemp producer or an agent of one and cultivates, handles, or processes living hemp would be subject to the same penalties as those related to marijuana.

The bill would require the department to adopt regulations and submit a State plan for approval by the United States Department of Agriculture for the regulation of hemp consistent with federal requirements. The regulations would include: maintaining information about hemp producers; an inspection, testing and disposal of noncompliant hemp program; provisions for enforcement of the bill; information sharing as required by federal law; and a certification that the department has the resources to implement the program. If the United States Department of Agriculture disapproves the State plan, the department would be required to amend the State plan and resubmit it to gain federal approval. The bill would not prevent any

person from participating in a federally administered hemp program if the State does not have an approved State plan.

Additionally, the department would be required to adopt rules and regulations to: establish requirements to be a hemp producer, establish an appeal process with retesting, to collect and share information about hemp producers pursuant to federal law, to define classes of hemp products that are eligible for sale, establishing a licensing fee structure, and establish procedures governing hemp shipment within the State. The regulations would include a requirement that all shipments be accompanied by the originating hemp producer's proof of authorization to engage in the commercial sale of hemp, and a travel manifest that lists the origin, destination, product description, and date of transport. The department would be prohibited from requiring third-party carriers to be authorized hemp producers in order to transport hemp.

If a hemp producer negligently violates the provisions in the bill or any rules or regulations adopted pursuant thereto, the producer would be subject to a corrective action plan designed to bring the producer into compliance with the hemp program. Three negligent violations in a five year period would result in a five-year ban from participating in the hemp program. Any intentional violations would be referred to the State Attorney General and the Attorney General of the United States. The department would be required to adopt rules and regulations establishing a penalty fee structure for violations of the act.

The bill would establish a separate fund called the "New Jersey Hemp Farming Fund." All license fees, penalties collected by the department, monies made available to the department for the purposes of the bill including federal funds, and sums appropriated by the Legislature to implement the hemp program would be deposited into the fund.

The bill would provide that a person may possess, transport, buy, and sell hemp products in the State, including products containing cannabidiol derived from hemp, to the maximum extent permitted by federal law. The Department of Agriculture, in consultation with the Department of Health, would be permitted to adopt rules and regulations to regulate the sale of hemp products that provide that hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants. Hemp products processed outside of the State may be sold in the State if the products and the hemp used in the products were processed and cultivated legally in another state that has substantially similar requirements for the processing of hemp products or cultivating hemp as provided in the bill.

The bill would also amend various sections of statutory law to replace references to the "New Jersey Industrial Hemp Pilot Program" with the New Jersey Hemp Farming Act.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5322

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5322, with committee amendments.

Assembly Bill No. 5322, as amended, would establish a program for the cultivation, handling, processing, transport, and sale of hemp and hemp products in the State in accordance with federal law.

The federal “Agricultural Improvement Act of 2018” (commonly known as the 2018 Farm Bill) was enacted in December 2018 and contains changes to the regulation of the production of hemp by the federal government. The 2018 Farm Bill significantly expands the states’ ability to regulate hemp production, and provides for an eventual repeal of the section of the 2014 Farm Bill that allowed for hemp pilot programs in the states. As New Jersey’s law establishing a hemp pilot program was consistent with the provision of the 2014 Farm Bill that will be repealed, an update to State law is required to ensure that the State’s law regulating hemp is consistent with federal law.

The bill would repeal New Jersey’s hemp pilot program, and replace it with a permanent program, administered by the Department of Agriculture (department), that complies with federal law. The bill would define “hemp” as the plant *Cannabis sativa* L., any part of the plant, and all derivatives thereof with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent, consistent with federal law. The bill would define “hemp producer” as a person or business entity authorized by the department to cultivate, handle, or process hemp in the State. The bill would define “hemp product” as a finished product with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale, and would include cannabidiol.

The bill would make it lawful for a hemp producer to cultivate, handle, or process hemp or hemp products in the State, and for any person to possess, transport, sell, and purchase legally-produced hemp products in the State. Any unauthorized person who cultivates, handles, or processes hemp would be subject to the same penalties as those related to marijuana.

The bill, as amended, would require the department to adopt regulations and submit a State plan for the regulation of hemp consistent with federal requirements. The regulations would be required to include: a procedure for maintaining information about hemp producers; provisions for the inspection and testing of hemp and disposal of noncompliant hemp; provisions for enforcement of the bill; a procedure for information sharing as required by federal law; provisions that require the department to certify that hemp and hemp products produced pursuant to the State program comply with federal law; and a certification that the department has the resources to implement the program. If the United States Department of Agriculture disapproves the State plan, the department would be required to amend the State plan and resubmit it for federal approval. The bill would not prevent any person from participating in a federally-administered hemp program if the State does not have an approved State plan.

Additionally, the department would be required to adopt rules and regulations to: establish application requirements for hemp producers; establish an appeal process with retesting; collect and share information about hemp producers pursuant to federal law; establish a licensing fee structure; and establish procedures governing hemp shipments within the State. The regulations would include a requirement that all shipments need only be accompanied by the originating hemp producer's proof of authorization to engage in the commercial sale of hemp, as well as a travel manifest that lists the origin, destination, product description, and date of transport. The bill prohibits the department from requiring third-party carriers to be authorized hemp producers in order to transport hemp.

If a hemp producer negligently violates the provisions in the bill or any rules or regulations adopted pursuant thereto, the producer would be subject to a corrective action plan designed to bring the producer into compliance with the hemp program. Three negligent violations in a five year period would result in a five year ban from participating in the hemp program. Any intentional violations would be referred to the Attorney General and the United States Attorney General. The department would be required to adopt rules and regulations establishing a penalty fee structure for violations under the bill.

The bill would establish a separate fund called the "New Jersey Hemp Farming Fund" which would be credited with all license fees, penalties, moneys made available to the department, including federal funds, for the purposes of the bill, any return on investment of moneys in the fund, and moneys appropriated by the Legislature to implement the hemp program.

The bill would provide that a person may possess, transport, buy, and sell hemp products in the State, including products containing cannabidiol derived from hemp, to the maximum extent permitted by federal law. The department, in consultation with the Department of

Health, would be permitted to adopt rules and regulations only to regulate the sale of hemp products that provide that hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants. Retail sales of hemp products processed outside the State may be conducted in the State when the products and the hemp used in the products were processed and cultivated legally in another state or jurisdiction that has substantially similar requirements for processing hemp products or cultivating hemp as provided in the bill.

The bill would also amend various sections of statutory law to remove references to the New Jersey Industrial Hemp Pilot Program, and replace them with the New Jersey Hemp Farming Act.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) provide that a hemp producer may begin harvest of mature hemp plants within 30 days after the date of sampling, provided that the department may require any plant that is not harvested within thirty days after sampling to undergo retesting;

(2) add a provision that would allow hemp producers to use third-party laboratories, or their own laboratories for testing hemp and hemp products, provided that the laboratories meet certain registration and accreditation requirements;

(3) provide that the department may, but is not required to, consult with public agencies as well as private, nonprofit associations in the hemp industry when developing the rules and regulations necessary to implement the bill;

(4) remove the requirement for the department to define classes or categories of hemp products that are eligible for sale in the State;

(5) clarify that the department may impose civil administrative penalties for negligent violations of the bill;

(6) make technical corrections.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill would result in an indeterminate increase in annual State expenditures arising from the development and implementation of a program to regulate hemp and the concomitant research, planning, administrative, and enforcement responsibilities for the Department of Agriculture. However, because the bill authorizes the imposition of application and licensing fees from hemp producers, the revenue from the fees will balance some or all of the administrative costs of the program.

In addition, the Department of Agriculture is authorized to impose civil administrative penalties for certain violations under the bill which will result in recurring revenue gains from those penalties. However, violations resulting from more serious violations may constitute an offense under existing criminal laws, and would be referred to the

Attorney General for prosecution. Thus, the bill may increase the expenditures of the Department of Law and Public Safety, the Judiciary, and the Department of Corrections for prosecuting, trying, and possibly incarcerating violators.

The OLS estimates that the bill will result in an increase in the Sales and Use Tax, Corporation Business Tax, and Gross Income Tax revenues by an indeterminate amount from permitting persons and businesses to sell products that are not currently legally produced or sold in the State, including hemp and hemp products such as cannabidiol (CBD). However, due to insufficient information, the OLS is unable to estimate the increase for several reasons. Agricultural producers of hemp will likely replace currently grown crops with hemp if hemp is estimated to be more profitable. However, the net impact is difficult to gauge without more information. Moreover, certain products derived from hemp such as CBD products intended for ingestion are not currently legally sold but are widely available. Thus, a certain amount of tax revenue from those sales may already be collected. However, the explicit legalization of hemp products may result in a greater willingness of sellers and buyers to enter the market for hemp products. Finally, CBD is an ingredient in several approved pharmaceuticals and as research advances in the area, and the federal Food and Drug Administration continues to evaluate its regulation of those products, the uses may expand, resulting in increased revenues in that sector of the economy.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5322

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5322 (1R).

As amended and reported, Assembly Bill No. 5322 establishes a program for the cultivation, handling, processing, transport, and sale of hemp and hemp products in the State in accordance with federal law.

The federal “Agricultural Improvement Act of 2018” (commonly known as the 2018 Farm Bill) was enacted in December 2018 and contains changes to the regulation of the production of hemp by the federal government. The 2018 Farm Bill significantly expands the states’ ability to regulate hemp production, and provides for an eventual repeal of the section of the 2014 Farm Bill that allowed for hemp pilot programs in the states. As New Jersey’s law establishing a hemp pilot program was consistent with the provision of the 2014 Farm Bill that will be repealed, an update to State law is required to ensure that the State’s law regulating hemp is consistent with federal law.

The bill repeals New Jersey’s hemp pilot program, and replaces it with a permanent program, administered by the Department of Agriculture (department), that complies with federal law. The bill defines “hemp” as the plant *Cannabis sativa* L., any part of the plant, and all derivatives thereof with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent, consistent with federal law. The bill defines “hemp producer” as a person or business entity authorized by the department to cultivate, handle, or process hemp in the State. The bill defines “hemp product” as a finished product with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale, and would include cannabidiol.

The bill makes it lawful for a hemp producer to cultivate, handle, or process hemp or hemp products in the State, and for any person to possess, transport, sell, and purchase legally-produced hemp products in the State. Any unauthorized person who cultivates, handles, or

processes hemp is to be subject to the same penalties as those related to marijuana.

The bill, requires the department to adopt regulations and submit a State plan for the regulation of hemp consistent with federal requirements. The regulations are required to include: a procedure for maintaining information about hemp producers; provisions for the inspection and testing of hemp and disposal of noncompliant hemp; provisions for enforcement of the bill; a procedure for information sharing as required by federal law; and a certification that the department has the resources to implement the program. If the United States Department of Agriculture disapproves the State plan, the department would be required to amend the State plan and resubmit it for federal approval. The bill does not prevent any person from participating in a federally-administered hemp program if the State does not have an approved State plan.

Additionally, the department is required to adopt rules and regulations to: establish application requirements for hemp producers; establish an appeal process with retesting; collect and share information about hemp producers pursuant to federal law; establish a licensing fee structure; and establish procedures governing hemp shipments within the State. The regulations are to include a requirement that all shipments need only be accompanied by the originating hemp producer's proof of authorization to engage in the commercial sale of hemp, as well as a travel manifest that lists the origin, destination, product description, and date of transport. The bill prohibits the department from requiring third-party carriers to be authorized hemp producers in order to transport hemp.

If a hemp producer negligently violates the provisions in the bill or any rules or regulations adopted pursuant thereto, the producer is to be subject to a corrective action plan designed to bring the producer into compliance with the hemp program. Three negligent violations in a five year period are to result in a five year ban from participating in the hemp program. Any other violations are to be referred to the Attorney General and the United States Attorney General. The department is required to adopt rules and regulations establishing a penalty fee structure for violations under the bill, but in order to impose a penalty on a violator, the violator is required to have had a culpable mental state greater than negligence. The bill specifies that interim rules and regulations establishing civil and civil administrative penalties for violations under the bill do not conflict with the provisions of the bill.

The bill is to establish a separate fund called the "New Jersey Hemp Farming Fund" which would be credited with all license fees, penalties, moneys made available to the department, including federal funds, for the purposes of the bill, any return on investment of moneys in the fund, and moneys appropriated by the Legislature to implement the hemp program.

The bill provides that a person may possess, transport, buy, and sell hemp products in the State, including products containing cannabidiol derived from hemp. The department, in consultation with the Department of Health, is permitted to adopt rules and regulations only to regulate the sale of hemp products that provide that hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants. Retail sales of hemp products processed outside the State may be conducted in the State when the products and the hemp used in the products were processed and cultivated legally in another state or jurisdiction that has substantially similar requirements for processing hemp products or cultivating hemp as provided in the bill.

The bill also amends various sections of statutory law to remove references to the New Jersey Industrial Hemp Pilot Program, and replace them with the New Jersey Hemp Farming Act.

As amended and reported by the committee, Assembly Bill No. 5322 (1R) is identical to Senate Bill No. 3686 (1R), which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS

The committee amendments:

(1) clarify in the definitions of “hemp” and “hemp product” that they are not controlled substances due to the presence of hemp or hemp derived cannabinoids;

(2) delete a requirement that the Department of Agriculture certify that hemp or hemp products produced under the State program comply with federal law and any rule or regulation adopted pursuant thereto;

(3) allow the Department of Agriculture to adopt measures that may be included in a corrective action plan to ensure compliance with the plan;

(4) prohibit the imposition of civil penalties for negligent violations of the provisions of the bill;

(5) provide that the interim rules and regulations establishing civil and civil administrative penalties for violations under the bill do not conflict with the provisions of the bill;

(6) authorize the imposition of civil or civil administrative penalties for a violation of the provisions in the bill with a greater mental state than negligence;

(7) clarify that hemp and hemp products are not controlled substances or additives and may be added as an ingredient to cosmetics, personal care products, or products intended for human or animal consumption; and

(8) make technical corrections to the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in annual State expenditure

arising from new research, planning, administrative, and enforcement responsibilities for the Department of Agriculture (department).

The OLS estimates that the bill will result in State revenue increases from the collection of application and licensing fees from hemp producers. The bill provides for fees to cover the cost of administering a program to cultivate, handle, process, transport, and sell hemp in the State.

Additionally, the OLS estimates the bill will result in an indeterminate increase in sales tax, corporation business tax, and gross income tax revenue as it permits the sale of products that are not currently legally produced or sold in the State, including hemp and hemp products.

The OLS estimates there may be recurring revenue gains from civil penalties associated with the bill. However, as certain violations may constitute an offense under criminal law, the bill may increase the expenditures of the Department of Law and Public Safety, the Judiciary, and the Department of Corrections for prosecuting, trying and possibly incarcerating violators.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5322

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MAY 28, 2019

SUMMARY

- Synopsis:** Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.
- Type of Impact:** Annual expenditure increase from the General Fund, State revenue increase.
- Agencies Affected:** Department of Agriculture, Department of Law and Public Safety, the Judiciary, Department of Corrections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in annual State expenditure arising from new research, planning, administrative, and enforcement responsibilities for the Department of Agriculture (department).
- The OLS estimates that the bill will result in State revenue increases from the collection of application and licensing fees from hemp producers. The bill provides for fees to cover the cost of administering a program to cultivate, handle, process, transport, and sell hemp in the State.
- Additionally, the OLS estimates the bill will result in an indeterminate increase in sales tax, corporation business tax, and gross income tax revenue as it permits the sale of products that are not currently legally produced or sold in the State, including hemp and hemp products.
- The OLS estimates there may be recurring revenue gains from civil penalties associated with the bill. However, as certain violations may constitute an offense under criminal law, the bill may increase the expenditures of the Department of Law and Public Safety, the Judiciary, and the Department of Corrections for prosecuting, trying and possibly incarcerating violators.

BILL DESCRIPTION

This bill would establish a program for cultivation, handling, processing, transport, and sale of hemp to be administered by the Department of Agriculture. The bill would require the department to submit a plan for approval by the United States Department of Agriculture before hemp cultivation and processing may begin in the State. Additionally, the bill would require the department to create an approval process for hemp producers; establish a licensing, testing, and inspection program; establish an appeals process for violators; and establish procedures for the transport of hemp.

The bill would also require the department to maintain relevant information about hemp producers and the land on which hemp is grown, and to submit that information to the United States Department of Agriculture. The department would be required to develop a procedure for the testing of hemp to ensure compliance with federal law including testing by third-party laboratories and producer-owned laboratories if licensed and accredited, to effectively dispose of non-compliant hemp and hemp products, and to perform random annual inspections of hemp producers. The bill allows the department to establish application, licensure, and renewal fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the State hemp program. The department would be required to develop a corrective action plan for negligent violators of the bill, which would include periodic reports from the hemp producer to ensure compliance with a corrective action plan. If the department determines that a hemp producer has violated the bill with a mental culpability greater than negligence, the department would be required to report the violation to the Attorney General's office and the United States Attorney General's office. The bill would also give the department the authority to establish a schedule of penalties for violations of the bill that do not conflict with federal law concerning hemp.

The bill would establish a "New Jersey Hemp Farming Fund" which would be credited with (1) all penalties and fees collected by the department pursuant to the bill; (2) moneys appropriated by the Legislature; (3) moneys made available to the department for implementing the bill, including any federal funds; and (4) any return on investment of moneys deposited in the fund. Moneys in the fund would be required to be used for the administration and enforcement of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an indeterminate increase in annual State expenditures and an indeterminate increase in State revenue. The OLS cannot quantify this increase due to the unavailability of pertinent information, but estimates a net increase in State revenue.

The bill requires the department to establish a new program to regulate hemp production in the State, to submit that plan to the United States Department of Agriculture, and to engage in ongoing testing and monitoring operations. The federal "Agriculture and Improvement Act of 2018," Pub.L.115-334 (commonly known as the 2018 Farm Bill) was enacted in December

2018. The 2018 Farm Bill significantly expanded the states' ability to regulate hemp production, and legalized the production of a class of products that were previously illegal to possess or sell under federal law. This bill would direct the department to create a program to permit the cultivation of hemp in accord with the provisions of the 2018 Farm Bill.

In order to estimate the potential size of a hemp cultivation program in the State, the OLS used Kentucky, which is widely viewed as a leader in hemp production, as a comparator state. Kentucky approved 1,035 individual applications (out of 1,115 applications filed) to grow hemp in 2019, which included 42,086 acres of land and 2.9 million square feet of greenhouse space. Kentucky has an estimated 75,100 farm operations compared to New Jersey's 9,900, so if individuals in New Jersey apply to be hemp producers at a similar rate per farming operation, the department would receive 146 applications. Kentucky's approved acreage of 42,086 acres represents 0.3% of Kentucky's estimated 12,900,000 farmed acres. At a similar rate, New Jersey, with an estimated 750,000 farmed acres, may be expected to convert 2,447 acres of farmland to hemp production. This calculation does not include the fact that New Jersey farming operations are, on average, less than half the size of a Kentucky farming operation, nor does it differentiate between the different cultivars of hemp that may be grown in the State. Additionally, Kentucky's program in 2019 operated under the provisions of the 2014 Farm Bill which allowed for limited hemp pilot programs. Programs operating under the more permissive 2018 Farm Bill could be much larger. Furthermore, the number of applications to grow hemp in a greenhouse may be largely independent from the number of farming operations in the State, as a greenhouse operation does not have the same soil and climate constraints as a typical farming operation. Further, there may be more applications due to the increased interest in hydroponic growing in the State.

In addition to authorizing the cultivation of hemp, the bill would allow persons to process raw hemp into hemp products. The number of applicants to process hemp is also difficult to estimate, as there are many factors that could increase or decrease the attractiveness of the State to host hemp processing, as with any manufacturing. New Jersey's location, seaports and airports, access to international markets, and well-educated labor force make the State a potentially attractive location for receiving raw hemp materials for processing into hemp products. However, the relative cost of land in the State, the cost of living and wages, and distance from larger agricultural production areas in other states might also decrease the number of applicants to engage in the processing of hemp. Kentucky received a total of 109 new and renewal applications for hemp processors in 2019. Under the assumption that acreage of hemp roughly equates to the number of expected processing applications (1 processor for every 386 acres of hemp), the OLS estimates the State may expect 6 applications for hemp processing, using the assumption that the State may grow 2,447 acres of hemp. Combined with the potential number of hemp cultivation applications, the OLS estimates the State may expect a total of 152 applications for hemp cultivation and processing in the short term, subject to changes as the market matures.

The department will incur initial administrative costs to develop the rules and regulations necessary to implement the provisions of the bill and to submit the rules and regulations to the United States Department of Agriculture. However, the bill provides a mechanism for the program to be revenue neutral over time. The bill explicitly provides that the department may charge application and licensing fees that are reasonable and necessary to cover the costs of administering and enforcing the State hemp program.

The OLS also estimates that there may be an increase in the revenue generated by the corporation business tax, the individual income tax, and the sales tax; however, the amount generated by each of these sources is difficult to estimate. By most measures, the demand for hemp products is growing; reports from the hemp industry estimated a total of \$700 million in

United States sales in 2016. Hemp products valued at \$67 million were imported into the United States in 2017, which represents a particular area of opportunity for domestic production under the expanded cultivation programs under the 2018 Farm Bill. Whether the net tax revenue is realized in the corporation business tax, gross income tax, or sales tax will largely depend on the corporate structure of the entities that choose to produce hemp, and the transactional structure of taking hemp from raw materials to market.

A person may not choose to produce hemp over another crop unless that person believes that hemp is a more profitable option. The viability of the hemp market in the State is subject to factors including the price of the commodity on the regional, national, and international market, and environmental factors that may make the product easier or more difficult to grow. Additionally, whether a person grows hemp in New Jersey depends on factors such as the expected yield of hemp cultivated in New Jersey's climate and soil conditions compared to another crop, the price and demand for hemp products, and the individual cultivar and cultivation technique that a person produces. New Jersey growers will also compete with other states' growers as well as growers from France and Canada which already have robust hemp production industries. Without additional data, it is difficult to determine if the State has any relative climate and soil advantages or disadvantages compared to other production areas.

The OLS expects a modest increase in sales tax revenue; however, the net impact is also difficult to gauge. Many types of hemp products (i.e. those made from stalks and non-germinating seeds of hemp) have been legal to sell in the State for many years, despite the fact that growing the hemp plant itself remained illegal. With the increased availability of raw hemp as a result of the changed regulatory structure, the relative costs of manufacturing a product similar to the ones already available for sale in the State is likely to decrease, so one may expect a modest increase in amount of hemp product sales. However, it is unclear if the purchase of these products would be in substitution of other products not containing hemp, or if it represents a more fundamental shift in demand.

Additionally, the State may expect a modest revenue increase from the sale of newly legal products, however this is also difficult to estimate. The bill would legalize the sale of products made from all parts of the hemp plant, not just the non-germinating seeds and stalks as is the case under present law. This includes the legalization of cannabinoids such as cannabidiol (CBD). The increased economic activity attributed to the bill itself is difficult to measure, in part due to the fact that CBD is already widely available for sale in the State at businesses that are likely to be charging sales tax (as opposed to fully illegal markets where no tax is collected). While the explicit legalization of CBD at both the State and federal level is likely to convince some concerned business owners and consumers to enter the market for CBD, it is not clear how much of the total demand for CBD in the State is already met by the presently illegal sales of the product. Additionally, the federal Food and Drug Administration (FDA) has maintained that the addition of CBD to food and animal products violates federal law, despite the widespread marketing of CBD intended for ingestion. While there has not been wide scale enforcement of this prohibition, the FDA has undertaken some enforcement actions, including against New Jersey businesses advertising alleged medical applications of CBD that have not been approved by the FDA. The FDA is presently evaluating its treatment of CBD, and exploring potential pathways for dietary supplements and conventional foods containing CBD to be lawfully marketed. There are many purported health benefits of CBD, and the chemical has the potential to become a part of the pharmaceutical industry. However, at present, the state of the CBD market is legally uncertain at best. The State's legalization of CBD pursuant to this bill, if matched by a concomitant opening of the market by the FDA would be likely to increase sales tax revenues for CBD product sales, and may increase other sources of State revenue by

increasing the amount of CBD processed in the State. However, if enforcement increases against CBD retailers, revenues could decrease from their present levels.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Bryan Marco
Associate Counsel*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5322

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 25, 2019

SUMMARY

- Synopsis:** Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.
- Type of Impact:** Annual expenditure increase from the General Fund, State revenue increase.
- Agencies Affected:** Department of Agriculture, Department of Law and Public Safety, The Judiciary, Department of Corrections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in annual State expenditure arising from new research, planning, administrative, and enforcement responsibilities for the Department of Agriculture (department).
- The OLS estimates that the bill will result in State revenue increases from the collection of application and licensing fees from hemp producers. The bill provides for fees to cover the cost of administering a program to cultivate, handle, process, transport, and sell hemp in the State.
- Additionally, the OLS estimates the bill will result in an indeterminate increase in sales tax, corporation business tax, and gross income tax revenue as it permits the sale of products that are not currently legally produced or sold in the State, including hemp and hemp products.
- The OLS estimates there may be recurring revenue gains from civil or civil administrative penalties associated with the bill. However, as certain violations may constitute an offense under criminal law, the bill may increase the expenditures of the Department of Law and

Public Safety, the Judiciary, and the Department of Corrections for prosecuting, trying and possibly incarcerating violators.

BILL DESCRIPTION

This bill would establish a program for cultivation, handling, processing, transport, and sale of hemp to be administered by the Department of Agriculture. The bill would require the department to submit a plan for approval by the United States Department of Agriculture before hemp cultivation and processing may begin in the State. Additionally, the bill would require the department to create an approval process for hemp producers; establish a licensing, testing, and inspection program; establish an appeals process for violators; and establish procedures for the transport of hemp.

The bill would also require the department to maintain relevant information about hemp producers and the land on which hemp is grown, and to submit that information to the United States Department of Agriculture. The department would be required to develop a procedure for the testing of hemp to ensure compliance with federal law including testing by third-party laboratories and producer-owned laboratories if licensed and accredited, to effectively dispose of non-compliant hemp and hemp products, and to perform random annual inspections of hemp producers. The bill allows the department to establish application, licensure, and renewal fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the State hemp program. The department would be required to develop a corrective action plan for negligent violators of the bill, which would include periodic reports from the hemp producer to ensure compliance with a corrective action plan. If the department determines that a hemp producer has violated the bill with a mental culpability greater than negligence, the department would be required to report the violation to the Attorney General's office and the United States Attorney General's office. The bill would also give the department the authority to establish a schedule of penalties for violations of the bill with a mental culpability greater than negligence that do not conflict with federal law concerning hemp.

The bill would establish a "New Jersey Hemp Farming Fund" which would be credited with (1) all penalties and fees collected by the department pursuant to the bill; (2) moneys appropriated by the Legislature; (3) moneys made available to the department for implementing the bill, including any federal funds; and (4) any return on investment of moneys deposited in the fund. Moneys in the fund would be required to be used for the administration and enforcement of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an indeterminate increase in annual State expenditures and an indeterminate increase in State revenue. The OLS cannot quantify this increase due to the unavailability of pertinent information, but estimates a net increase in State revenue.

The bill requires the department to establish a new program to regulate hemp production in the State, to submit that plan to the United States Department of Agriculture, and to engage in ongoing testing and monitoring operations. The federal “Agriculture and Improvement Act of 2018,” Pub.L.115-334 (commonly known as the 2018 Farm Bill) was enacted in December 2018. The 2018 Farm Bill significantly expanded the states’ ability to regulate hemp production, and legalized the production of a class of products that were previously illegal to possess or sell under federal law. This bill would direct the department to create a program to permit the cultivation of hemp in accord with the provisions of the 2018 Farm Bill.

In order to estimate the potential size of a hemp cultivation program in the State, the OLS used Kentucky, which is widely viewed as a leader in hemp production, as a comparator state. Kentucky approved 1,035 individual applications (out of 1,115 applications filed) to grow hemp in 2019, which included 42,086 acres of land and 2.9 million square feet of greenhouse space. Kentucky has an estimated 75,100 farm operations compared to New Jersey’s 9,900, so if individuals in New Jersey apply to be hemp producers at a similar rate per farming operation, the department would receive 146 applications. Kentucky’s approved acreage of 42,086 acres represents 0.3% of Kentucky’s estimated 12,900,000 farmed acres. At a similar rate, New Jersey, with an estimated 750,000 farmed acres, may be expected to convert 2,447 acres of farmland to hemp production. This calculation does not include the fact that New Jersey farming operations are, on average, less than half the size of a Kentucky farming operation, nor does it differentiate between the different cultivars of hemp that may be grown in the State. Additionally, Kentucky’s program in 2019 operated under the provisions of the 2014 Farm Bill which allowed for limited hemp pilot programs. Programs operating under the more permissive 2018 Farm Bill could be much larger. Furthermore, the number of applications to grow hemp in a greenhouse may be largely independent from the number of farming operations in the State, as a greenhouse operation does not have the same soil and climate constraints as a typical farming operation. Further, there may be more applications due to the increased interest in hydroponic growing in the State.

In addition to authorizing the cultivation of hemp, the bill would allow persons to process raw hemp into hemp products. The number of applicants to process hemp is also difficult to estimate, as there are many factors that could increase or decrease the attractiveness of the State to host hemp processing, as with any manufacturing. New Jersey’s location, seaports and airports, access to international markets, and well-educated labor force make the State a potentially attractive location for receiving raw hemp materials for processing into hemp products. However, the relative cost of land in the State, the cost of living and wages, and distance from larger agricultural production areas in other states might also decrease the number of applicants to engage in the processing of hemp. Kentucky received a total of 109 new and renewal applications for hemp processors in 2019. Under the assumption that acreage of hemp roughly equates to the number of expected processing applications (1 processor for every 386 acres of hemp), the OLS estimates the State may expect 6 applications for hemp processing, using the assumption that the State may grow 2,447 acres of hemp. Combined with the potential number of hemp cultivation applications, the OLS estimates the State may expect a total of 152 applications for hemp cultivation and processing in the short term, subject to changes as the market matures.

The department will incur initial administrative costs to develop the rules and regulations necessary to implement the provisions of the bill and to submit the rules and regulations to the United States Department of Agriculture. However, the bill provides a mechanism for the program to be revenue neutral over time. The bill explicitly provides that the department may charge application and licensing fees that are reasonable and necessary to cover the costs of administering and enforcing the State hemp program.

The OLS also estimates that there may be an increase in the revenue generated by the corporation business tax, the individual income tax, and the sales tax; however, the amount generated by each of these sources is difficult to estimate. By most measures, the demand for hemp products is growing; reports from the hemp industry estimated a total of \$700 million in United States sales in 2016. Hemp products valued at \$67 million were imported into the United States in 2017, which represents a particular area of opportunity for domestic production pursuant to the expanded cultivation programs under the 2018 Farm Bill. Whether the net tax revenue is realized in the corporation business tax, gross income tax, or sales tax will largely depend on the corporate structure of the entities that choose to produce hemp, and the transactional structure of taking hemp from raw materials to market.

A person may not choose to produce hemp over another crop unless that person believes that hemp is a more profitable option. The viability of the hemp market in the State is subject to factors including the price of the commodity on the regional, national, and international market, and environmental factors that may make the product easier or more difficult to grow. Additionally, whether a person grows hemp in New Jersey depends on factors such as the expected yield of hemp cultivated in New Jersey's climate and soil conditions compared to another crop, the price and demand for hemp products, and the individual cultivar and cultivation technique that a person employs. New Jersey growers will also compete with other states' growers as well as growers from France and Canada which already have robust hemp production industries. Without additional data, it is difficult to determine if the State has any relative climate and soil advantages or disadvantages compared to other production areas.

The OLS expects a modest increase in sales tax revenue; however, the net impact is also difficult to gauge. Many types of hemp products (i.e. those made from stalks and non-germinating seeds of hemp) have been legal to sell in the State for many years, despite the fact that growing the hemp plant itself remained illegal. With the increased availability of raw hemp as a result of the changed regulatory structure, the relative costs of manufacturing a product similar to the ones already available for sale in the State is likely to decrease, so one may expect a modest increase in amount of hemp product sales. However, it is unclear if the purchase of these products would be in substitution of other products not containing hemp, or if it represents a more fundamental shift in demand.

Additionally, the State may expect a modest revenue increase from the sale of newly legal products, however this is also difficult to estimate. The bill would legalize the sale of products made from all parts of the hemp plant, not just the non-germinating seeds and stalks as is the case under present law. This includes the legalization of cannabinoids such as cannabidiol (CBD). The increased economic activity attributed to the bill itself is difficult to measure, in part due to the fact that CBD is already widely available for sale in the State at businesses that are likely to be charging sales tax (as opposed to fully illegal markets where no tax is collected). While the explicit legalization of CBD at both the State and federal level is likely to convince some concerned business owners and consumers to enter the market for CBD, it is not clear how much of the total demand for CBD in the State is already met by the presently illegal sales of the product. Additionally, the federal Food and Drug Administration (FDA) has maintained that the addition of CBD to food and animal products violates federal law, despite the widespread marketing of CBD intended for ingestion. While there has not been wide scale enforcement of this prohibition, the FDA has undertaken some enforcement actions, including against New Jersey businesses advertising alleged medical applications of CBD that have not been approved by the FDA. The FDA is presently evaluating its treatment of CBD, and exploring potential pathways for dietary supplements and conventional foods containing CBD to be lawfully marketed. There are many purported health benefits of CBD, and the chemical has the potential to become a part of the pharmaceutical industry. However, at present, the state of the CBD

market is legally uncertain at best. The State's legalization of CBD pursuant to this bill, if matched by a concomitant opening of the market by the FDA would be likely to increase sales tax revenues for CBD product sales, and may increase other sources of State revenue by increasing the amount of CBD processed in the State. However, if enforcement increases against CBD retailers, revenues could decrease from their present levels.

Finally, the bill allows for the collection of civil or civil administrative penalties resulting from violations of the bill, to be deposited into the "New Jersey Hemp Farming Fund" created by the bill, which will result in an indeterminate increase in revenue. However, the OLS notes that money in the fund is to be used for the administration and enforcement of the bill, and it is possible that the penalties collected on behalf of the department would be used to offset other costs of the program.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Bryan Marco
Associate Counsel*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3686

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator JAMES BEACH

District 6 (Burlington and Camden)

Senator BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Senators Turner, Cardinale and O'Scanlon

SYNOPSIS

Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/18/2019)

1 AN ACT concerning the cultivation, handling, processing, transport,
2 and sale of hemp, supplementing Title 4 and 24 of the Revised
3 Statutes, amending various parts of the statutory law, and
4 repealing P.L.2018, c.139.

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

8
9 1. (New section) Sections 1 through 9 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be known and may
11 be cited as the “New Jersey Hemp Farming Act.”

12
13 2. (New section) The Legislature finds and declares that hemp
14 is a viable agricultural crop and a potentially valuable agricultural
15 commodity in the State, and that hemp should be cultivated,
16 handled, processed, transported, and sold in the State to the
17 maximum extent permitted by federal law. It is the purpose of
18 P.L. , c. (C.) (pending before the Legislature as this bill) to:
19 promote the cultivation and processing of hemp; develop new
20 commercial markets for farmers and businesses through the sale of
21 hemp products; promote the expansion of the State’s hemp industry
22 to the maximum extent permitted by federal law; allow farmers and
23 businesses to cultivate, handle, and process hemp, and to sell hemp
24 products for commercial purposes; and to move the State and its
25 citizens to the forefront of the hemp industry.

26
27 3. (New section) As used in sections 1 through 9 of
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 unless the context otherwise requires:

30 “Agent” means an employee or contractor of a hemp producer.

31 “Applicant” means a person, or for a business entity, any person
32 authorized to act on behalf of the business entity, who applies to the
33 department to be a hemp producer in the State.

34 “Commercial sale” means the sale of a product in the stream of
35 commerce at retail, at wholesale, or on the Internet.

36 “Cultivate” means to plant, water, grow, or harvest a plant or
37 crop.

38 “Department” means the New Jersey Department of Agriculture.

39 “Federally defined THC level for hemp” means a delta-9
40 tetrahydrocannabinol concentration of not more than 0.3 percent on
41 a dry weight basis for hemp or in a hemp product.

42 “Handle” means to possess or store a hemp plant on premises
43 owned, operated, or controlled by a hemp producer for any period
44 of time or in a vehicle for any period of time other than during the
45 actual transport of the plant between premises owned, operated, or

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

Matter underlined thus is new matter.

1 controlled by hemp producers or persons or entities authorized to
2 produce hemp pursuant to 7 U.S.C. s.1639o et seq. and any state
3 law or rule or regulation adopted pursuant thereto. “Handle” does
4 not mean possession or storage of finished hemp products.

5 “Hemp” means the plant *Cannabis sativa* L. and any part of that
6 plant, including the seeds of the plant and all derivatives, extracts,
7 cannabinoids, isomers, acids, salts, and salts of isomers, whether
8 growing or not, with a delta-9 tetrahydrocannabinol concentration
9 of not more than 0.3 percent on a dry weight basis. Hemp and
10 hemp-derived cannabinoids, including cannabidiol, shall be
11 considered an agricultural commodity and not a controlled
12 substance.

13 “Hemp producer” means a person or business entity authorized
14 by the department to cultivate, handle, or process hemp in the State.

15 “Hemp product” means a finished product with a delta-9
16 tetrahydrocannabinol concentration of not more than 0.3 percent
17 that is derived from or made by processing a hemp plant or plant
18 part and prepared in a form available for commercial sale. The term
19 includes cosmetics, personal care products, food intended for
20 human or animal consumption, cloth, cordage, fiber, fuel, paint,
21 paper, particleboard, plastics, and any product containing one or
22 more hemp-derived cannabinoids such as cannabidiol. Hemp
23 products shall not be considered controlled substances.

24 “Process” means to convert hemp into a marketable form.

25 “Secretary” means the Secretary of the New Jersey Department
26 of Agriculture.

27 “Transport” means the movement or shipment of hemp by a
28 hemp producer, a person or entity authorized to produce hemp
29 pursuant to 7 U.S.C. s.1639o et seq. and any state law or rule or
30 regulation adopted pursuant thereto, or a hemp producer’s or
31 authorized entity’s third-party carrier or agent. “Transport” shall
32 not mean the movement or shipment of hemp products.

33

34 4. (New section) a. Notwithstanding any other provision of
35 law, or rule or regulation adopted pursuant thereto to the contrary, it
36 is lawful for a hemp producer or its agent to cultivate, handle, or
37 process hemp or hemp products in the State. Nothing in
38 P.L. , c. (C.) (pending before the Legislature as this bill)
39 authorizes any person to violate a federal or State law, or rule or
40 regulation adopted pursuant thereto. Notwithstanding any other
41 provision of law, or rule or regulation adopted pursuant thereto to
42 the contrary, it is lawful to possess, transport, sell, and purchase
43 legally-produced hemp products in the State.

44 b. It is unlawful for a person or entity that is not a hemp
45 producer or an agent of a hemp producer to cultivate, handle, or
46 process living hemp plants or viable seeds, leaf materials, or floral
47 materials derived from hemp. A person or entity that is not a hemp
48 producer or an agent of a hemp producer, but who cultivates,

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1 handles, or processes living hemp plants or viable seeds, leaf
2 materials, or floral materials derived from hemp, shall be subject to
3 the same penalties as those related to marijuana.

4
5 5. (New section) a. Pursuant to 7 U.S.C. s.1639p, and to
6 designate itself as the primary regulatory authority over the
7 production of hemp in the State, the department, in consultation
8 with the Governor and the Attorney General, shall promulgate
9 regulations for submission, along with P.L. , c. (C.)
10 (pending before the Legislature as this bill), to the Secretary of the
11 United States Department of Agriculture, as a plan under which the
12 State monitors and regulates hemp production.

13 b. No later than 90 days after the effective date of
14 P.L. , c. (C.) (pending before the Legislature as this bill)
15 and notwithstanding the provisions of the “Administrative
16 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
17 contrary, the department, after consultation with the Governor and
18 Attorney General shall, immediately upon filing proper notice with
19 the Office of Administrative Law, adopt interim rules and
20 regulations to implement P.L. , c. (C.) (pending before the
21 Legislature as this bill) and to meet the requirements for federal
22 approval as a state plan pursuant to 7 U.S.C. s.1639o et seq. The
23 regulations shall be effective as regulations immediately upon filing
24 with the Office of Administrative Law and shall be in effect for a
25 period not to exceed 18 months, and shall, thereafter, be amended,
26 adopted, or readopted by the department in accordance with the
27 provisions of the “Administrative Procedure Act.” The rules and
28 regulations adopted pursuant to this section shall include the
29 following:

30 (1) a procedure to maintain relevant information regarding land,
31 fields, greenhouses, or any other location where hemp is produced
32 in the State, including a legal description of the land and global
33 positioning system coordinates, for a period of at least three
34 calendar years;

35 (2) a procedure for testing, including by third parties, using
36 post-decarboxylation or another similarly reliable method, that the
37 delta-9 tetrahydrocannabinol concentration of hemp produced in the
38 State does not exceed the federally defined THC level for hemp,
39 and that hemp products do not exceed the federally defined THC
40 level for hemp when made available to the public. A hemp
41 producer shall begin harvesting any hemp within 30 days of
42 sampling;

43 (3) a procedure for the effective disposal of hemp plants,
44 whether growing or not, that are produced in violation of 7 U.S.C.
45 s.1639o et seq., and products derived from those plants;

46 (4) a procedure to comply with the enforcement procedures in
47 section 7 of P.L. , c. (C.) (pending before the Legislature as

1 this bill), pursuant to 7 U.S.C. s.1639p, and to provide due process
2 for hemp producers;

3 (5) a procedure for conducting annual inspections of, at a
4 minimum, a random sample of hemp producers to verify that hemp
5 is not produced in violation of 7 U.S.C. s.1639o et seq.;

6 (6) a procedure for submitting the information described in 7
7 U.S.C. s.1639q, as applicable, to the Secretary of the United States
8 Department of Agriculture not later than 30 days after the date the
9 information is received; and

10 c. Upon adoption of rules and regulations pursuant to
11 subsection b. of this section, subsection c. of section 6, and
12 subsection c. of section 7 of P.L. , c. (C.) (pending before
13 the Legislature as this bill), the department, after consultation with
14 the Governor and the Attorney General, shall submit the rules and
15 regulations, along with P.L. , c. (C.) (pending before the
16 Legislature as this bill), for approval to the Secretary of the United
17 States Department of Agriculture as a state plan for monitoring and
18 regulating the production of hemp in the State pursuant to 7 U.S.C.
19 s.1639o et seq.

20 d. (1) If the plan submitted by the department is disapproved by
21 the Secretary of the United States Department of Agriculture, the
22 department, after consultation with the Governor and the Attorney
23 General, shall amend the rules promulgated pursuant to
24 P.L. , c. (C.) (pending before the Legislature as this bill) as
25 needed to obtain approval and shall thereafter submit an amended
26 plan.

27 (2) The department shall, as necessary, consult with and seek
28 technical assistance from the Secretary of the United States
29 Department of Agriculture in crafting a satisfactory state plan
30 pursuant to 7 U.S.C. s.1639o et seq.

31 (3) If a plan submitted by the department is disapproved by the
32 Secretary of the United States Department of Agriculture, nothing
33 in P.L. , c. (C.) (pending before the Legislature as this bill)
34 shall prohibit the production of hemp in the State pursuant to 7
35 U.S.C. s1639q or any other federal law, or rule or regulation
36 adopted pursuant thereto, if the production of hemp is not otherwise
37 prohibited by the State.

38 (4) As part of the State plan adopted pursuant to subsection b. of
39 this section, the department shall also submit a certification that the
40 State has the resources and personnel to implement the practices
41 and procedures as provided in P.L. , c. (C.) (pending before
42 the Legislature as this bill), pursuant to 7 U.S.C. s.1639p.

43
44 6. (New section) a. Except as otherwise provided,
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 does not apply to the possession, transportation, or sale of hemp
47 products or extracts, including those containing one or more hemp-
48 derived cannabinoids, including cannabidiol.

1 b. In adopting rules and regulations pursuant to
2 P.L. , c. (C.) (pending before the Legislature as this bill),
3 the department shall consult with relevant public agencies as well as
4 private, nonprofit associations in the hemp industry that promote
5 standards, best practices, and self-regulation in the production of
6 hemp.

7 c. In addition to the rules and regulations required for a state
8 plan consistent with the requirements of 7 U.S.C. s.1639o et seq.
9 and section 5 of P.L. , c. (C.) (pending before the
10 Legislature as this bill), no later than 90 days after the effective date
11 of P.L. , c. (C.) (pending before the Legislature as this bill)
12 and notwithstanding the provisions of the “Administrative
13 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
14 contrary, the department, after consultation with the Governor and
15 Attorney General, shall immediately upon filing proper notice with
16 the Office of Administrative Law, adopt interim rules and
17 regulations to promote the cultivating and processing of hemp and
18 the commercial sale of hemp products, while regulating hemp
19 production in the State pursuant to 7 U.S.C. s.1639o et seq. and
20 P.L. , c. (C.) (pending before the Legislature as this bill).
21 The rules and regulations shall be effective immediately upon filing
22 with the Office of Administrative Law and shall be in effect for a
23 period not to exceed 18 months, and shall, thereafter, be amended,
24 adopted, or readopted by the department in accordance with the
25 provisions of the “Administrative Procedure Act.” The rules and
26 regulations shall:

27 (1) establish requirements by which the department authorizes
28 an applicant to be a hemp producer to cultivate, handle, or process
29 or any combination thereof, hemp;

30 (2) provide due process, including an appeal process with
31 retesting, to ensure that hemp producers are not subject to the
32 consequences of inaccurate test results;

33 (3) establish procedures for the department, not more than 30
34 days after receiving and compiling the following information, to
35 provide the information to the United States Secretary of
36 Agriculture: (a) the hemp producer’s name, telephone number,
37 email address, residential address, mailing address, or another form
38 of contact information; (b) the legal description and global
39 positioning system coordinates for each field, facility, or other place
40 where hemp is to be cultivated, processed, or handled; and (c)
41 whether the hemp producer is in compliance with the rules and
42 regulations for the production of hemp in the State. The department
43 shall provide updates to this information as needed;

44 (4) define classes or categories of hemp products that are
45 eligible for sale, transfer, or distribution to members of the public;

46 (5) establish non-refundable application, licensure, and renewal
47 fees in amounts that are reasonable and necessary to cover the costs
48 of administering and enforcing the State hemp program, which shall

1 be deposited in the State hemp program account pursuant to section
2 8 of P.L. , c. (C.) (pending before the Legislature as this
3 bill); and

4 (6) establish procedures governing hemp shipment within the
5 State and across state lines by third-party transporters who are not
6 authorized hemp producers. The regulations shall include a
7 requirement that all shipments need only be accompanied by a proof
8 of authorization to engage in the commercial sale of hemp, either
9 under a state plan pursuant to 7 U.S.C. s.1639p or the United States
10 Department of Agriculture plan pursuant to 7 U.S.C. 1639q in a
11 state where a state plan has not been approved from the producer of
12 hemp, as well as a travel manifest that lists the origin, destination,
13 product description, and date of transport. In no case shall the
14 department require third-party carriers to be authorized hemp
15 producers in order to transport hemp.

16 d. Except as provided by section 9 of P.L. , c. (C.)
17 (pending before the Legislature as this bill), a person or business
18 entity may not cultivate, handle, or process hemp, or cause an agent
19 to cultivate, handle or process, in this State or transport, or cause an
20 agent to transport, hemp outside of this State unless that person or
21 business entity is authorized by the department to participate in the
22 State hemp program as a hemp producer. All applicants must apply
23 to the department on a form and in the manner prescribed by the
24 department as described in P.L. , c. (C.) (pending before the
25 Legislature as this bill). Upon approval of the State plan by the
26 United States Department of Agriculture, the department shall begin
27 authorizing participation in the State hemp program established
28 pursuant to P.L. , c. (C.) (pending before the Legislature as
29 this bill).

30 (1) In addition to any other information deemed necessary by
31 the department, an application shall include:

32 (a) a legal description and the global positioning system
33 coordinates for each location where an applicant intends to cultivate
34 or process hemp;

35 (b) written consent allowing the department, the Department of
36 Law and Public Safety, and any other State or local law
37 enforcement agency to enter onto all premises where hemp is
38 cultivated, handled, or processed to conduct a physical inspection or
39 to ensure compliance with P.L. , c. (C.) (pending before the
40 Legislature as this bill) and rules and regulation adopted pursuant to
41 P.L. , c. (C.) (pending before the Legislature as this bill);

42 (c) the payment of any fees required by the department;

43 (d) a criminal history record background check on all applicants
44 at the applicant's expense; and

45 (e) any other information required pursuant to rules and
46 regulations adopted by the department.

47 (2) If the department determines that an applicant meets the
48 State hemp program participation requirements, the department

1 shall authorize the applicant to participate in the program as a hemp
2 producer.

3 (3) An applicant who materially falsifies any information
4 contained in an application submitted to the department may not
5 participate in the State hemp program as a hemp producer.

6
7 7. (New section) a. If the department determines that a hemp
8 producer negligently violated P.L. , c. (C.) (pending before
9 the Legislature as this bill) or any rule or regulation adopted
10 pursuant thereto, the department shall enforce the violation in the
11 manner provided by 7 U.S.C. s.1639p as follows:

12 (1) The hemp producer shall not be subject to a civil or criminal
13 penalty under subsection a. of this section. A hemp producer shall
14 be required to implement a corrective action plan if the department
15 determines that the person or business entity negligently violated
16 State hemp laws or regulations, including by negligently:

17 (a) Failing to disclose, or provide required information about, a
18 site where hemp is cultivated, handled, or processed;

19 (b) Failing to obtain a necessary license from the department or
20 a necessary authorization from the State or a federal agency other
21 than those required to be a hemp producer; or

22 (c) Producing Cannabis sativa L. with more than the federally
23 defined THC level for hemp.

24 (2) A corrective action plan required pursuant to paragraph (1)
25 of this subsection shall include:

26 (a) A reasonable date by which a hemp producer shall correct
27 the negligent violation; and

28 (b) A requirement for periodic reports from the hemp producer
29 to the department about the hemp producer's compliance with the
30 corrective action plan, statutes, and any rules or regulations adopted
31 pursuant thereto, for a period of at least two years from the date of
32 the corrective action plan.

33 (3) A hemp producer that negligently violates any law or any
34 rule or regulation adopted pursuant thereto, governing that person's
35 or business entity's participation in the hemp program shall not be
36 subject to a criminal or civil enforcement action by the State or a
37 local government other than an enforcement action authorized
38 pursuant to this section.

39 (4) A person or business entity found by the department to have
40 negligently violated any law, or rule or regulation governing the
41 person's or business entity's participation in the hemp program
42 three times in a five year period shall be ineligible to participate in
43 the State hemp program as a hemp producer for a period of five
44 years beginning on the date of the third violation.

45 b. If the department determines that a hemp producer has
46 violated P.L. , c. (C.) (pending before the Legislature as
47 this bill) or a rule or regulation adopted pursuant thereto with a
48 culpable mental state greater than negligence, subsection a. of this

1 section shall not apply and the department shall report the hemp
2 producer immediately to the United States Attorney General and the
3 Attorney General of the State, who may, on behalf of the
4 department, investigate the violation and institute proceedings for
5 injunctive or other appropriate relief or report the matter to an
6 appropriate law enforcement agency.

7 c. In addition to the rules and regulations adopted pursuant to
8 sections 5 and 6 of P.L. , c. (C.) (pending before the
9 Legislature as this bill), no later than 90 days after the effective date
10 of P.L. , c. (C.) (pending before the Legislature as this bill)
11 and notwithstanding the provisions of the “Administrative
12 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
13 contrary, the department, after consulting with the Governor and the
14 Attorney General, shall immediately upon filing proper notice with
15 the Office of Administrative Law, adopt interim rules and
16 regulations establishing a schedule of penalties for violations of
17 P.L. , c. (C.) (pending before the Legislature as this bill) or
18 a rule or regulation adopted pursuant thereto that do not conflict
19 with 7 U.S.C. s.1639o et seq. The regulations shall be effective as
20 regulations immediately upon filing with the Office of
21 Administrative Law and shall be in effect for a period not to exceed
22 18 months, and shall, thereafter, be amended, adopted, or readopted
23 by the department in accordance with the provisions of the
24 “Administrative Procedure Act.” Any penalty collected pursuant to
25 P.L. , c. (C.) (pending before the Legislature as this bill)
26 shall be deposited in the “New Jersey Hemp Farming Fund”
27 established pursuant to section 8 P.L. , c. (C.) (pending
28 before the Legislature as this bill).

29 d. A person who is or has been convicted of an offense relating
30 to a controlled substance under State or federal law may not
31 participate in the State hemp program established pursuant to
32 P.L. , c. (C.) (pending before the Legislature as this bill) or
33 produce hemp in the State under any other law for a period of at
34 least 10 years following the date of the person's conviction. This
35 prohibition shall not apply to any person growing hemp lawfully
36 with a license, registration, or authorization under a pilot program
37 authorized pursuant to 7 U.S.C. s.5940 before the date of enactment
38 of P.L. , c. (C.) (pending before the Legislature as this bill).

39

40 8. (New section) a. There is established in the Department of
41 Agriculture a special nonlapsing fund to be known as the “New
42 Jersey Hemp Farming Fund.” Moneys in the fund shall be used for
43 the administration and enforcement of P.L. , c. (C.)
44 (pending before the Legislature as this bill).

45 b. The fund shall be credited with:

46 (1) penalties and fees collected by the department pursuant to
47 P.L. , c. (C.) (pending before the Legislature as this bill);

48 (2) moneys as are appropriated by the Legislature;

1 (3) moneys made available to the department for the purposes of
2 P.L. , c. (C.) (pending before the Legislature as this bill),
3 including federal funds; and

4 (4) any return on investment of moneys deposited in the fund.
5

6 9. (New section) a. A State agency may not prohibit a person
7 or business entity that processes or manufactures a product
8 regulated by the agency from applying for or obtaining a permit or
9 other authorization to process or manufacture the product solely on
10 the basis that the person or business entity intends to process or
11 manufacture the product with hemp.

12 b. Notwithstanding any other law, or rule or regulation adopted
13 pursuant thereto to the contrary, derivatives of hemp, including
14 hemp-derived cannabidiol, may be added to cosmetics, personal
15 care products, and products intended for human or animal
16 consumption to the maximum extent permitted by federal law.

17 c. The provisions of P.L. , c. (C.) (pending before the
18 Legislature as this bill) applicable to hemp producers shall not
19 apply to the possession, handling, transport, or sale of hemp
20 products, including those containing one or more hemp-derived
21 cannabinoids, including cannabidiol. Notwithstanding any other
22 law, a person or business entity may possess, transport, sell, and
23 purchase legally produced hemp products in this State. As part of
24 the rules and regulations adopted pursuant to P.L. , c. (C.)
25 (pending before the Legislature as this bill), the Department of
26 Agriculture shall provide to a retailer of hemp products notice of a
27 potential violation concerning hemp products sold by the retailer
28 and shall provide an opportunity to cure a violation committed
29 unintentionally or negligently.

30 d. The Department of Agriculture, in consultation with the
31 Department of Health, may adopt rules and regulations only to
32 regulate the sale of hemp products that provide that:

33 (1) hemp-derived cannabinoids, including cannabidiol, are not
34 considered controlled substances or adulterants; and

35 (2) products containing one or more hemp-derived
36 cannabinoids, such as cannabidiol, intended for ingestion are to be
37 considered foods, not controlled substances or adulterated products
38 to the maximum extent permitted by federal law.

39 e. Retail sales of hemp products processed outside the State
40 may be conducted in the State when the products and the hemp used
41 in the products were processed and cultivated legally in another
42 state or jurisdiction that has the same or substantially similar
43 requirements for processing hemp products or cultivating hemp as
44 provided by P.L. , c. (C.) (pending before the Legislature as
45 this bill).

46 f. Hemp products may be legally transported across State lines
47 and exported to foreign countries in a manner that is consistent with
48 federal law and the laws of respective foreign countries.

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

2 2C:35-2. As used in this chapter:

3 “Administer” means the direct application of a controlled
4 dangerous substance or controlled substance analog, whether by
5 injection, inhalation, ingestion, or any other means, to the body of a
6 patient or research subject by: (1) a practitioner (or, in his
7 presence, by his lawfully authorized agent), or (2) the patient or
8 research subject at the lawful direction and in the presence of the
9 practitioner.

10 “Agent” means an authorized person who acts on behalf of or at
11 the direction of a manufacturer, distributor, or dispenser but does
12 not include a common or contract carrier, public warehouseman, or
13 employee thereof.

14 “Controlled dangerous substance” means a drug, substance, or
15 immediate precursor in Schedules I through V, any substance the
16 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
17 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
18 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120
19 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b),
20 and any drug or substance which, when ingested, is metabolized or
21 otherwise becomes a controlled dangerous substance in the human
22 body. When any statute refers to controlled dangerous substances,
23 or to a specific controlled dangerous substance, it shall also be
24 deemed to refer to any drug or substance which, when ingested, is
25 metabolized or otherwise becomes a controlled dangerous substance
26 or the specific controlled dangerous substance, and to any substance
27 that is an immediate precursor of a controlled dangerous substance
28 or the specific controlled dangerous substance. The term shall not
29 include distilled spirits, wine, malt beverages, as those terms are
30 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
31 products. The term, wherever it appears in any law or
32 administrative regulation of this State, shall include controlled
33 substance analogs.

34 “Controlled substance analog” means a substance that has a
35 chemical structure substantially similar to that of a controlled
36 dangerous substance and that was specifically designed to produce
37 an effect substantially similar to that of a controlled dangerous
38 substance. The term shall not include a substance manufactured or
39 distributed in conformance with the provisions of an approved new
40 drug application or an exemption for investigational use within the
41 meaning of section 505 of the “Federal Food, Drug and Cosmetic
42 Act,” 52 Stat. 1052 (21 U.S.C. s.355).

43 “Counterfeit substance” means a controlled dangerous substance
44 or controlled substance analog which, or the container or labeling of
45 which, without authorization, bears the trademark, trade name, or
46 other identifying mark, imprint, number, or device, or any likeness
47 thereof, of a manufacturer, distributor, or dispenser other than the
48 person or persons who in fact manufactured, distributed, or

1 dispensed the substance and which thereby falsely purports or is
2 represented to be the product of, or to have been distributed by,
3 such other manufacturer, distributor, or dispenser.

4 “Deliver” or “delivery” means the actual, constructive, or
5 attempted transfer from one person to another of a controlled
6 dangerous substance or controlled substance analog, whether or not
7 there is an agency relationship.

8 “Dispense” means to deliver a controlled dangerous substance or
9 controlled substance analog to an ultimate user or research subject
10 by or pursuant to the lawful order of a practitioner, including the
11 prescribing, administering, packaging, labeling, or compounding
12 necessary to prepare the substance for that delivery. “Dispenser”
13 means a practitioner who dispenses.

14 “Distribute” means to deliver other than by administering or
15 dispensing a controlled dangerous substance or controlled substance
16 analog. “Distributor” means a person who distributes.

17 “Drugs” means (a) substances recognized in the official United
18 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
19 United States, or official National Formulary, or any supplement to
20 any of them; and (b) substances intended for use in the diagnosis,
21 cure, mitigation, treatment, or prevention of disease in man or other
22 animals; and (c) substances (other than food) intended to affect the
23 structure or any function of the body of man or other animals; and
24 (d) substances intended for use as a component of any article
25 specified in subsections (a), (b), and (c) of this section; but does not
26 include devices or their components, parts, or accessories.

27 “Drug or alcohol dependent person” means a person who as a
28 result of using a controlled dangerous substance or controlled
29 substance analog or alcohol has been in a state of psychic or
30 physical dependence, or both, arising from the use of that controlled
31 dangerous substance or controlled substance analog or alcohol on a
32 continuous or repetitive basis. Drug or alcohol dependence is
33 characterized by behavioral and other responses, including but not
34 limited to a strong compulsion to take the substance on a recurring
35 basis in order to experience its psychic effects, or to avoid the
36 discomfort of its absence.

37 “Hashish” means the resin extracted from any part of the plant
38 Genus Cannabis L. and any compound, manufacture, salt,
39 derivative, mixture, or preparation of such resin. “Hashish” shall
40 not mean **[industrial] hemp or a hemp product cultivated, handled,**
41 **processed, transported, or sold** pursuant to the **[New Jersey**
42 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
43 **(C.4:28-1 et al.)] “New Jersey Hemp Farming Act,”**
44 **P.L. , c. (C.) (pending before the Legislature as this bill) .**

45 “Manufacture” means the production, preparation, propagation,
46 compounding, conversion, or processing of a controlled dangerous
47 substance or controlled substance analog, either directly or by
48 extraction from substances of natural origin, or independently by

1 means of chemical synthesis, or by a combination of extraction and
2 chemical synthesis, and includes any packaging or repackaging of
3 the substance or labeling or relabeling of its container, except that
4 this term does not include the preparation or compounding of a
5 controlled dangerous substance or controlled substance analog by
6 an individual for his own use or the preparation, compounding,
7 packaging, or labeling of a controlled dangerous substance: (1) by
8 a practitioner as an incident to his administering or dispensing of a
9 controlled dangerous substance or controlled substance analog in
10 the course of his professional practice, or (2) by a practitioner (or
11 under his supervision) for the purpose of, or as an incident to,
12 research, teaching, or chemical analysis and not for sale.

13 “Marijuana” means all parts of the plant Genus Cannabis L.,
14 whether growing or not; the seeds thereof, and every compound,
15 manufacture, salt, derivative, mixture, or preparation of the plant or
16 its seeds, except those containing resin extracted from the plant; but
17 shall not include the mature stalks of the plant, fiber produced from
18 the stalks, oil, or cake made from the seeds of the plant, any other
19 compound, manufacture, salt, derivative, mixture, or preparation of
20 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant
21 which is incapable of germination. “Marijuana” shall not mean
22 **【industrial】** hemp or a hemp product cultivated, handled,
23 processed, transported, or sold pursuant to the **【New Jersey**
24 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
25 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,”
26 P.L. , c. (C.) (pending before the Legislature as this bill) .

27 “Narcotic drug” means any of the following, whether produced
28 directly or indirectly by extraction from substances of vegetable
29 origin, or independently by means of chemical synthesis, or by a
30 combination of extraction and chemical synthesis:

- 31 (a) Opium, coca leaves, and opiates;
32 (b) A compound, manufacture, salt, derivative, or preparation of
33 opium, coca leaves, or opiates;
34 (c) A substance (and any compound, manufacture, salt,
35 derivative, or preparation thereof) which is chemically identical
36 with any of the substances referred to in subsections (a) and (b),
37 except that the words “narcotic drug” as used in this act shall not
38 include decocainized coca leaves or extracts of coca leaves, which
39 extracts do not contain cocaine or ecogine.

40 “Opiate” means any dangerous substance having an addiction-
41 forming or addiction-sustaining liability similar to morphine or
42 being capable of conversion into a drug having such addiction-
43 forming or addiction-sustaining liability. It does not include, unless
44 specifically designated as controlled pursuant to the provisions of
45 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
46 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
47 It does include its racemic and levorotatory forms.

- 1 “Opium poppy” means the plant of the species *Papaver*
2 *somniferum* L., except the seeds thereof.
- 3 “Person” means any corporation, association, partnership, trust,
4 other institution or entity, or one or more individuals.
- 5 “Plant” means an organism having leaves and a readily
6 observable root formation, including, but not limited to, a cutting
7 having roots, a rootball or root hairs.
- 8 “Poppy straw” means all parts, except the seeds, of the opium
9 poppy, after mowing.
- 10 “Practitioner” means a physician, dentist, veterinarian, scientific
11 investigator, laboratory, pharmacy, hospital, or other person
12 licensed, registered, or otherwise permitted to distribute, dispense,
13 conduct research with respect to, or administer a controlled
14 dangerous substance or controlled substance analog in the course of
15 professional practice or research in this State.
- 16 (a) “Physician” means a physician authorized by law to practice
17 medicine in this or any other state and any other person authorized
18 by law to treat sick and injured human beings in this or any other
19 state.
- 20 (b) “Veterinarian” means a veterinarian authorized by law to
21 practice veterinary medicine in this State.
- 22 (c) “Dentist” means a dentist authorized by law to practice
23 dentistry in this State.
- 24 (d) “Hospital” means any federal institution, or any institution
25 for the care and treatment of the sick and injured, operated or
26 approved by the appropriate State department as proper to be
27 entrusted with the custody and professional use of controlled
28 dangerous substances or controlled substance analogs.
- 29 (e) “Laboratory” means a laboratory to be entrusted with the
30 custody of narcotic drugs and the use of controlled dangerous
31 substances or controlled substance analogs for scientific,
32 experimental, and medical purposes and for purposes of instruction
33 approved by the Department of Health.
- 34 “Production” includes the manufacture, planting, cultivation,
35 growing, or harvesting of a controlled dangerous substance or
36 controlled substance analog.
- 37 “Immediate precursor” means a substance which the Division of
38 Consumer Affairs in the Department of Law and Public Safety has
39 found to be and by regulation designates as being the principal
40 compound commonly used or produced primarily for use, and
41 which is an immediate chemical intermediary used or likely to be
42 used in the manufacture of a controlled dangerous substance or
43 controlled substance analog, the control of which is necessary to
44 prevent, curtail, or limit such manufacture.
- 45 “Residential treatment facility” means any facility licensed and
46 approved by the Department of Human Services and which is
47 approved by any county probation department for the inpatient
48 treatment and rehabilitation of drug or alcohol dependent persons.

1 “Schedules I, II, III, IV, and V” are the schedules set forth in
2 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
3 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
4 by any regulations issued by the Director of the Division of
5 Consumer Affairs in the Department of Law and Public Safety
6 pursuant to the director’s authority as provided in section 3 of
7 P.L.1970, c.226 (C.24:21-3).

8 “State” means the State of New Jersey.

9 “Ultimate user” means a person who lawfully possesses a
10 controlled dangerous substance or controlled substance analog for
11 his own use or for the use of a member of his household or for
12 administration to an animal owned by him or by a member of his
13 household.

14 “Prescription legend drug” means any drug which under federal
15 or State law requires dispensing by prescription or order of a
16 licensed physician, veterinarian, or dentist and is required to bear
17 the statement “Rx only” or similar wording indicating that such
18 drug may be sold or dispensed only upon the prescription of a
19 licensed medical practitioner and is not a controlled dangerous
20 substance or stramonium preparation.

21 “Stramonium preparation” means a substance prepared from any
22 part of the stramonium plant in the form of a powder, pipe mixture,
23 cigarette, or any other form with or without other ingredients.

24 “Stramonium plant” means the plant *Datura Stramonium* Linne,
25 including *Datura Tatula* Linne.

26 (cf: P.L.2018, c.139, s.6)

27

28 11. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read
29 as follows:

30 2. As used in **[this act]** P.L.1970, c.226 (C.24:21-1 et seq.) :

31 “Administer” means the direct application of a controlled
32 dangerous substance, whether by injection, inhalation, ingestion, or
33 any other means, to the body of a patient or research subject by: (1)
34 a practitioner (or, in the practitioner’s presence, by the
35 practitioner’s lawfully authorized agent), or (2) the patient or
36 research subject at the lawful direction and in the presence of the
37 practitioner.

38 “Agent” means an authorized person who acts on behalf of or at
39 the direction of a manufacturer, distributor, or dispenser but does
40 not include a common or contract carrier, public warehouseman, or
41 employee thereof.

42 “Commissioner” means the Commissioner of Health.

43 “Controlled dangerous substance” means a drug, substance, or
44 immediate precursor in Schedules I through V of article 2 of
45 P.L.1970, c.226 (C.24:21-1 et seq.). The term shall not include
46 distilled spirits, wine, malt beverages, as those terms are defined or
47 used in R.S.33:1-1 et seq., or tobacco and tobacco products.

1 “Counterfeit substance” means a controlled dangerous substance
2 which, or the container or labeling of which, without authorization,
3 bears the trademark, trade name, or other identifying mark, imprint,
4 number or device, or any likeness thereof, of a manufacturer,
5 distributor, or dispenser other than the person or persons who in fact
6 manufactured, distributed, or dispensed such substance and which
7 thereby falsely purports or is represented to be the product of, or to
8 have been distributed by, such other manufacturer, distributor, or
9 dispenser.

10 “Deliver” or “delivery” means the actual, constructive, or
11 attempted transfer from one person to another of a controlled
12 dangerous substance, whether or not there is an agency relationship.

13 “Director” means the Director of the Division of Consumer
14 Affairs in the Department of Law and Public Safety.

15 “Dispense” means to deliver a controlled dangerous substance to
16 an ultimate user or research subject by or pursuant to the lawful
17 order of a practitioner, including the prescribing, administering,
18 packaging, labeling, or compounding necessary to prepare the
19 substance for that delivery.

20 “Dispenser” means a practitioner who dispenses.

21 “Distribute” means to deliver other than by administering or
22 dispensing a controlled dangerous substance.

23 “Distributor” means a person who distributes.

24 “Division” means the Division of Consumer Affairs in the
25 Department of Law and Public Safety.

26 “Drug Enforcement Administration” means the Drug
27 Enforcement Administration in the United States Department of
28 Justice.

29 “Drugs” means (a) substances recognized in the official United
30 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
31 United States, or official National Formulary, or any supplement to
32 any of them; and (b) substances intended for use in the diagnosis,
33 cure, mitigation, treatment, or prevention of disease in man or other
34 animals; and (c) substances (other than food) intended to affect the
35 structure or any function of the body of man or other animals; and
36 (d) substances intended for use as a component of any article
37 specified in subsections (a), (b), and (c) of this section; but does not
38 include devices or their components, parts or accessories. “Drugs”
39 shall not mean **[industrial] hemp or a hemp product cultivated ,**
40 **handled, processed, transported, or sold** pursuant to the **[New**
41 **Jersey Industrial Hemp Pilot Program established by P.L.2018,**
42 **c.139 (C.4:28-1 et al.)]** **“New Jersey Hemp Farming Act,”**
43 **P.L. , c. (C.) (pending before the Legislature as this bill) .**

44 “Hashish” means the resin extracted from any part of the plant
45 genus Cannabis and any compound, manufacture, salt, derivative,
46 mixture, or preparation of such resin. “Hashish” shall not mean
47 **[industrial] hemp or a hemp product cultivated , handled,**

1 processed, transported, or sold pursuant to the **【New Jersey**
2 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
3 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,”
4 P.L. , c. (C.) (pending before the Legislature as this bill) .

5 “Marihuana” means all parts of the plant genus Cannabis,
6 whether growing or not; the seeds thereof; and every compound,
7 manufacture, salt, derivative, mixture, or preparation of the plant or
8 its seeds, except those containing resin extracted from the plant; but
9 shall not include the mature stalks of the plant, fiber produced from
10 the stalks, oil or cake made from the seeds of the plant, any other
11 compound, manufacture, salt, derivative, mixture, or preparation of
12 such mature stalks, fiber, oil, or cake, or the sterilized seed of the
13 plant which is incapable of germination. “Marihuana” shall not
14 mean **【industrial】** hemp or a hemp product cultivated , handled,
15 processed, transported, or sold pursuant to the **【New Jersey**
16 **Industrial Hemp Pilot Program established by P.L.2018, c.139**
17 **(C.4:28-1 et al.)】** “New Jersey Hemp Farming Act,”
18 P.L. , c. (C.) (pending before the Legislature as this bill) .

19 “Manufacture” means the production, preparation, propagation,
20 compounding, conversion, or processing of a controlled dangerous
21 substance, either directly or by extraction from substances of
22 natural origin, or independently by means of chemical synthesis, or
23 by a combination of extraction and chemical synthesis, and includes
24 any packaging or repackaging of the substance or labeling or
25 relabeling of its container, except that this term does not include the
26 preparation or compounding of a controlled dangerous substance by
27 an individual for the individual’s own use or the preparation,
28 compounding, packaging, or labeling of a controlled dangerous
29 substance: (1) by a practitioner as an incident to the practitioner’s
30 administering or dispensing of a controlled dangerous substance in
31 the course of the practitioner’s professional practice, or (2) by a
32 practitioner (or under the practitioner’s supervision) for the purpose
33 of, or as an incident to, research, teaching, or chemical analysis and
34 not for sale.

35 “Narcotic drug” means any of the following, whether produced
36 directly or indirectly by extraction from substances of vegetable
37 origin, or independently by means of chemical synthesis, or by a
38 combination of extraction and chemical synthesis:

39 (a) Opium, coca leaves, and opiates;

40 (b) A compound, manufacture, salt, derivative, or preparation of
41 opium, coca leaves, or opiates;

42 (c) A substance (and any compound, manufacture, salt,
43 derivative, or preparation thereof) which is chemically identical
44 with any of the substances referred to in subsections (a) and (b),
45 except that the words “narcotic drug” as used in **【this act】**
46 P.L.1970, c.226 (C.24:21-1 et seq.) shall not include decocainized

1 coca leaves or extracts of coca leaves, which extracts do not contain
2 cocaine or ecgonine.

3 “Official written order” means an order written on a form
4 provided for that purpose by the Attorney General of the United
5 States or his delegate, under any laws of the United States making
6 provisions therefor, if such order forms are authorized and required
7 by the federal law, and if no such form is provided, then on an
8 official form provided for that purpose by the division. If
9 authorized by the Attorney General of the United States or the
10 division, the term shall also include an order transmitted by
11 electronic means.

12 “Opiate” means any dangerous substance having an addiction-
13 forming or addiction-sustaining liability similar to morphine or
14 being capable of conversion into a drug having such addiction-
15 forming or addiction-sustaining liability. It does not include, unless
16 specifically designated as controlled under section 3 of **[this act]**
17 P.L.1970, c.226 (C.24:21-1 et seq.), the dextrorotatory isomer of 3-
18 methoxy-n-methylmorphinan and its salts (dextromethorphan). It
19 does include its racemic and levorotatory forms.

20 “Opium poppy” means the plant of the species *Papaver*
21 *somniferum* L., except the seeds thereof.

22 “Person” means any corporation, association, partnership, trust,
23 other institution or entity, or one or more individuals.

24 “Pharmacist” means a registered pharmacist of this State.

25 “Pharmacy owner” means the owner of a store or other place of
26 business where controlled dangerous substances are compounded or
27 dispensed by a registered pharmacist; but nothing in this chapter
28 contained shall be construed as conferring on a person who is not
29 registered or licensed as a pharmacist any authority, right, or
30 privilege that is not granted to the person by the pharmacy laws of
31 this State.

32 “Poppy straw” means all parts, except the seeds, of the opium
33 poppy, after mowing.

34 “Practitioner” means a physician, dentist, veterinarian, scientific
35 investigator, laboratory, pharmacy, hospital, or other person
36 licensed, registered, or otherwise permitted to distribute, dispense,
37 conduct research with respect to, or administer a controlled
38 dangerous substance in the course of professional practice or
39 research in this State.

40 (a) “Physician” means a physician authorized by law to practice
41 medicine in this or any other state.

42 (b) “Veterinarian” means a veterinarian authorized by law to
43 practice veterinary medicine in this State.

44 (c) “Dentist” means a dentist authorized by law to practice
45 dentistry in this State.

46 (d) “Hospital” means any federal institution, or any institution
47 for the care and treatment of the sick and injured, operated or
48 approved by the appropriate State department as proper to be

1 entrusted with the custody and professional use of controlled
2 dangerous substances.

3 (e) “Laboratory” means a laboratory to be entrusted with the
4 custody of narcotic drugs and the use of controlled dangerous
5 substances for scientific, experimental, and medical purposes and
6 for purposes of instruction approved by the Department of Health.

7 “Production” includes the manufacture, planting, cultivation,
8 growing, or harvesting of a controlled dangerous substance.

9 “Immediate precursor” means a substance which the division has
10 found to be and by regulation designates as being the principal
11 compound commonly used or produced primarily for use, and
12 which is an immediate chemical intermediary used or likely to be
13 used in the manufacture of a controlled dangerous substance, the
14 control of which is necessary to prevent, curtail, or limit such
15 manufacture.

16 “Substance use disorder involving drugs” means taking or using
17 a drug or controlled dangerous substance, as defined in this chapter,
18 in association with a state of psychic or physical dependence, or
19 both, arising from the use of that drug or controlled dangerous
20 substance on a continuous basis. A substance use disorder is
21 characterized by behavioral and other responses, including, but not
22 limited to, a strong compulsion to take the substance on a recurring
23 basis in order to experience its psychic effects, or to avoid the
24 discomfort of its absence.

25 “Ultimate user” means a person who lawfully possesses a
26 controlled dangerous substance for the person’s own use or for the
27 use of a member of the person’s household or for administration to
28 an animal owned by the person or by a member of the person’s
29 household.

30 (cf: P.L.2018, c.138, s.7)

31

32 12. Section 5 of P.L.1970, c.226 (C.24:21-5) is amended to read
33 as follows:

34 5. Schedule I.

35 a. Tests. The director shall place a substance in Schedule I if he
36 finds that the substance: (1) has high potential for abuse; and (2)
37 has no accepted medical use in treatment in the United States; or
38 lacks accepted safety for use in treatment under medical
39 supervision.

40 b. The controlled dangerous substances listed in this section are
41 included in Schedule I, subject to any revision and republishing by
42 the director pursuant to subsection d. of section 3 of P.L.1970,
43 c.226 (C.24:21-3), and except to the extent provided in any other
44 schedule.

45 c. Any of the following opiates, including their isomers, esters,
46 and ethers, unless specifically excepted, whenever the existence of
47 such isomers, esters, ethers and salts is possible within the specific
48 chemical designation:

- 1 (1) Acetylmethadol
- 2 (2) Allylprodine
- 3 (3) Alphacetylmethadol
- 4 (4) Alphameprodine
- 5 (5) Alphamethadol
- 6 (6) Benzethidine
- 7 (7) Betacetylmethadol
- 8 (8) Betameprodine
- 9 (9) Betamethadol
- 10 (10) Betaprodine
- 11 (11) Clonitazene
- 12 (12) Dextromoramide
- 13 (13) Dextrorphan
- 14 (14) Diampromide
- 15 (15) Diethylthiambutene
- 16 (16) Dimenoxadol
- 17 (17) Dimepheptanol
- 18 (18) Dimethylthiambutene
- 19 (19) Dioxaphetyl butyrate
- 20 (20) Dipipanone
- 21 (21) Ethylmethylthiambutene
- 22 (22) Etonitazene
- 23 (23) Etoxidine
- 24 (24) Furethidine
- 25 (25) Hydroxypethidine
- 26 (26) Ketobemidone
- 27 (27) Levomoramide
- 28 (28) Levophenacymorphan
- 29 (29) Morpheridine
- 30 (30) Noracymethadol
- 31 (31) Norlevorphanol
- 32 (32) Normethadone
- 33 (33) Norpipanone
- 34 (34) Phenadoxone
- 35 (35) Phenampromide
- 36 (36) Phenomorphan
- 37 (37) Phenoperidine
- 38 (38) Piritramide
- 39 (39) Proheptazine
- 40 (40) Properidine
- 41 (41) Racemoramide
- 42 (42) Trimeperidine.
- 43 d. Any of the following narcotic substances, their salts, isomers
- 44 and salts of isomers, unless specifically excepted, whenever the
- 45 existence of such salts, isomers and salts of isomers is possible
- 46 within the specific chemical designation:
- 47 (1) Acetorphine
- 48 (2) Acetylcodone

- 1 (3) Acetyldihydrocodeine
- 2 (4) Benzylmorphine
- 3 (5) Codeine methylbromide
- 4 (6) Codeine-N-Oxide
- 5 (7) Cyprenorphine
- 6 (8) Desomorphine
- 7 (9) Dihydromorphine
- 8 (10) Etorphine
- 9 (11) Heroin
- 10 (12) Hydromorphanol
- 11 (13) Methyldesorphine
- 12 (14) Methylhydromorphine
- 13 (15) Morphine methylbromide
- 14 (16) Morphine methylsulfonate
- 15 (17) Morphine-N-Oxide
- 16 (18) Myrophine
- 17 (19) Nicocodeine
- 18 (20) Nicomorphine
- 19 (21) Normorphine
- 20 (22) Phoclodine
- 21 (23) Thebacon.

22 e. Any material, compound, mixture or preparation which
23 contains any quantity of the following hallucinogenic substances,
24 their salts, isomers and salts of isomers, unless specifically
25 excepted, whenever the existence of such salts, isomers, and salts of
26 isomers is possible within the specific chemical designation:

- 27 (1) 3,4-methylenedioxy amphetamine
- 28 (2) 5-methoxy-3,4-methylenedioxy amphetamine
- 29 (3) 3,4,5-trimethoxy amphetamine
- 30 (4) Bufotenine
- 31 (5) Diethyltryptamine
- 32 (6) Dimethyltryptamine
- 33 (7) 4-methyl-2,5-dimethoxylamphetamine
- 34 (8) Ibogaine
- 35 (9) Lysergic acid diethylamide
- 36 (10) Marihuana
- 37 (11) Mescaline
- 38 (12) Peyote
- 39 (13) N-ethyl-3-piperidyl benzilate
- 40 (14) N-methyl-3-piperidyl benzilate
- 41 (15) Psilocybin
- 42 (16) Psilocyn
- 43 (17) Tetrahydrocannabinols, except when found in **【industrial】**
44 hemp or a hemp product cultivated , handled, processed,
45 transported, or sold pursuant to the 【New Jersey Industrial Hemp
46 Pilot Program established by P.L.2018, c.139 (C.4:28-1 et al.)】

1 “New Jersey Hemp Farming Act,” P.L. , c. (C.) (pending
2 before the Legislature as this bill) .

3 (cf: P.L.2018, c.139, s.8)

4

5 13. Section 1 of P.L.1939, c.248 (C.26:2-81) is amended to read
6 as follows:

7 1. In order to protect the health, morals and welfare of the State
8 of New Jersey, whenever the county prosecutor of any county of the
9 State of New Jersey receives credible information that wild,
10 cultivated , or hidden growth or beds of alleged Marihuana weed are
11 located anywhere within the county, the county prosecutor shall
12 immediately communicate such information to the Department of
13 Health. The Department of Health, upon receipt of such
14 information, shall immediately dispatch one of its agents to the
15 location who shall make an examination and determination of the
16 alleged Marihuana weed so as to determine the existence or
17 nonexistence of Marihuana weed at the location, and the
18 Department of Health shall immediately communicate by writing its
19 determination to the aforesaid county prosecutor and the
20 Department of Agriculture . “Marihuana” shall not mean
21 **【industrial】** hemp or a hemp product cultivated , handled,
22 processed, transported, or sold pursuant to the **【New Jersey**
23 **Industrial Hemp Pilot Program** established by P.L.2018, c.139
24 (C.4:28-1 et al.) **】** “New Jersey Hemp Farming
25 Act,” P.L. , c. (C.) (pending before the Legislature as this
26 bill) .

27 (cf: P.L.2018, c.139, s.9)

28

29 14. Section 2 of P.L.1939, c.248 (C.26:2-82) is amended to read
30 as follows:

31 2. Upon certification by the Department of Health of the
32 existence of Marihuana weed at the location examined by the
33 Department of Health, then the county prosecutor is hereby
34 empowered to dispatch one of the prosecutor’s agents to the
35 location so certified and the agent shall destroy the Marihuana weed
36 and the county prosecutor or the agent shall not be civilly
37 responsible in any manner whatsoever for destruction of the
38 Marihuana weed. “Marihuana” shall not mean **【industrial】** hemp or
39 a hemp product cultivated , handled, processed, transported, and
40 sold pursuant to the **【New Jersey Industrial Hemp Pilot Program**
41 **established by P.L.2018, c.139 (C.4:28-1 et al.)】** “New Jersey
42 Hemp Farming Act,” P.L. , c. (C.) (pending before the
43 Legislature as this bill) .

44 (cf: P.L.2018, c.139, s.10)

45

46 15. Sections 1 through 5 of P.L.2018, c.139 (C.4:28-1 through
47 C.4:28-5) are repealed.

1 16. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would establish a program for the cultivation, handling,
7 processing, transport, and sale of hemp and hemp products in the
8 State in accordance with federal law.

9 The federal “Agricultural Improvement Act of 2018” (commonly
10 known as the 2018 Farm Bill) was enacted in December 2018 and
11 contains changes to the regulation of the production of hemp by the
12 federal government. The 2018 Farm Bill significantly expands the
13 states’ ability to regulate hemp production, and provides an
14 eventual repeal of the section of the 2014 Farm Bill that allowed for
15 hemp pilot programs in the states. As New Jersey’s law
16 establishing a hemp pilot program was consistent with the provision
17 of the 2014 Farm Bill that will eventually be repealed, an update to
18 State law is required to ensure the production of hemp in the State.

19 The bill would repeal New Jersey’s hemp pilot program, and
20 replace it with a permanent program, administered by the
21 Department of Agriculture (department), that complies with federal
22 law. The bill would define “hemp” as the plant *Cannabis sativa* L.,
23 any part of the plant, and all derivatives thereof with a delta-9
24 tetrahydrocannabinol concentration of not more than 0.3 percent,
25 consistent with federal law. The bill would define hemp producer
26 as a person or business entity authorized by the department to
27 cultivate, handle, or process hemp in the State. The bill would
28 define “hemp product” as a finished product with a delta-9
29 tetrahydrocannabinol concentration of not more than 0.3 percent
30 that is derived from or made by processing a hemp plant or plant
31 part and prepared in a form available for commercial sale, and
32 would include cannabidiol.

33 The bill would make it lawful for a hemp producer to cultivate,
34 handle, or process hemp or hemp products in the State, and for any
35 person to possess, transport, sell, and purchase legally-produced
36 hemp products in the State. Any unauthorized person who
37 cultivates, handles, or processes hemp would be subject to the same
38 penalties as those related to marijuana.

39 The bill would require the department to adopt regulations and
40 submit a state plan for the regulation of hemp consistent with
41 federal requirements. The regulations would include: maintaining
42 information about hemp producers; an inspection, testing and
43 disposal of noncompliant hemp program; provisions for
44 enforcement of the bill; information sharing as required by federal
45 law; and a certification that the department has the resources to
46 implement the program. If the United States Department of
47 Agriculture disapproves the State plan, the department would be
48 required to amend the State plan and resubmit it to gain federal

1 approval. The bill would not prevent any person from participating
2 in a federally-administered hemp program if the State does not have
3 an approved State plan.

4 Additionally, the department would be required to adopt rules
5 and regulations to: establish requirements to be a hemp producer,
6 establish an appeal process with retesting, to collect and share
7 information about hemp producers pursuant to federal law, to define
8 classes hemp products that are eligible for sale, establish a licensing
9 fee structure, and establish procedures governing hemp shipment
10 within the State. The regulations would include a requirement that
11 all shipments need only be accompanied by the originating hemp
12 producer's proof of authorization to engage in the commercial sale
13 of hemp, as well as a travel manifest that lists the origin,
14 destination, product description, and date of transport. In no case
15 shall the department require third-party carriers to be authorized
16 hemp producers in order to transport hemp.

17 If a hemp producer negligently violates the bill or any rules or
18 regulations adopted pursuant thereto, the producer would be subject
19 to a corrective action plan designed to bring the producer into
20 compliance with the hemp program. Three negligent violations in a
21 five year period would result in a five year ban from participating in
22 the hemp program. Any intentional violations would be referred to
23 the Attorney General, and the United States Attorney General. The
24 department would be required to adopt rules and regulations
25 establishing a penalty fee structure for violations of the act.

26 The bill would establish a separate fund called the "New Jersey
27 Hemp Farming Fund" to collect all license fees, penalties collected
28 by the department, donations, and sums appropriated by the
29 Legislature to implement the hemp program.

30 The bill would provide that a person may possess, transport, buy,
31 and sell hemp products in the State, including products containing
32 cannabidiol derived from hemp, to the maximum extent permitted
33 by federal law. The department, in consultation with the
34 Department of Health, would be permitted to adopt rules and
35 regulations only to regulate the sale of hemp products that provide
36 that hemp-derived cannabinoids, including cannabidiol, are not
37 considered controlled substances or adulterants. Retail sales of
38 hemp products processed outside the State may be conducted in the
39 State when the products and the hemp used in the products were
40 processed and cultivated legally in another state or jurisdiction that
41 has substantially similar requirements for processing hemp products
42 or cultivating hemp as the bill.

43 The bill would also amend various sections of statutory law to
44 remove references to the New Jersey Industrial Hemp Pilot
45 Program, and replace them with the New Jersey Hemp Farming Act.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO .

SENATE, No. 3686

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3686, with committee amendments.

As amended and reported, Senate Bill No. 3686 establishes a program for the cultivation, handling, processing, transport, and sale of hemp and hemp products in the State in accordance with federal law.

The federal “Agricultural Improvement Act of 2018” (commonly known as the 2018 Farm Bill) was enacted in December 2018 and contains changes to the regulation of the production of hemp by the federal government. The 2018 Farm Bill significantly expands the states’ ability to regulate hemp production, and provides for an eventual repeal of the section of the 2014 Farm Bill that allowed for hemp pilot programs in the states. As New Jersey’s law establishing a hemp pilot program was consistent with the provision of the 2014 Farm Bill that will be repealed, an update to State law is required to ensure that the State’s law regulating hemp is consistent with federal law.

The bill repeals New Jersey’s hemp pilot program, and replaces it with a permanent program, administered by the Department of Agriculture (department), that complies with federal law. The bill defines “hemp” as the plant *Cannabis sativa* L., any part of the plant, and all derivatives thereof with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent, consistent with federal law. The bill defines “hemp producer” as a person or business entity authorized by the department to cultivate, handle, or process hemp in the State. The bill defines “hemp product” as a finished product with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale, and would include cannabidiol.

The bill makes it lawful for a hemp producer to cultivate, handle, or process hemp or hemp products in the State, and for any person to possess, transport, sell, and purchase legally-produced hemp products in the State. Any unauthorized person who cultivates, handles, or processes hemp is to be subject to the same penalties as those related to marijuana.

The bill, requires the department to adopt regulations and submit a State plan for the regulation of hemp consistent with federal requirements. The regulations are required to include: a procedure for maintaining information about hemp producers; provisions for the inspection and testing of hemp and disposal of noncompliant hemp; provisions for enforcement of the bill; a procedure for information sharing as required by federal law; and a certification that the department has the resources to implement the program. If the United States Department of Agriculture disapproves the State plan, the department would be required to amend the State plan and resubmit it for federal approval. The bill does not prevent any person from participating in a federally-administered hemp program if the State does not have an approved State plan.

Additionally, the department is required to adopt rules and regulations to: establish application requirements for hemp producers; establish an appeal process with retesting; collect and share information about hemp producers pursuant to federal law; establish a licensing fee structure; and establish procedures governing hemp shipments within the State. The regulations are to include a requirement that all shipments need only be accompanied by the originating hemp producer's proof of authorization to engage in the commercial sale of hemp, as well as a travel manifest that lists the origin, destination, product description, and date of transport. The bill prohibits the department from requiring third-party carriers to be authorized hemp producers in order to transport hemp.

If a hemp producer negligently violates the provisions in the bill or any rules or regulations adopted pursuant thereto, the producer is to be subject to a corrective action plan designed to bring the producer into compliance with the hemp program. Three negligent violations in a five year period are to result in a five year ban from participating in the hemp program. Any other violations are to be referred to the Attorney General and the United States Attorney General. The department is required to adopt rules and regulations establishing a penalty fee structure for violations under the bill, but in order to impose a penalty on a violator, the violator is required to have had a culpable mental state greater than negligence. The bill specifies that interim rules and regulations establishing civil and civil administrative penalties for violations under the bill do not conflict with the provisions of the bill.

The bill is to establish a separate fund called the "New Jersey Hemp Farming Fund" which would be credited with all license fees, penalties, moneys made available to the department, including federal funds, for the purposes of the bill, any return on investment of moneys in the fund, and moneys appropriated by the Legislature to implement the hemp program.

The bill provides that a person may possess, transport, buy, and sell hemp products in the State, including products containing cannabidiol derived from hemp. The department, in consultation with

the Department of Health, is permitted to adopt rules and regulations only to regulate the sale of hemp products that provide that hemp-derived cannabinoids, including cannabidiol, are not considered controlled substances or adulterants. Retail sales of hemp products processed outside the State may be conducted in the State when the products and the hemp used in the products were processed and cultivated legally in another state or jurisdiction that has substantially similar requirements for processing hemp products or cultivating hemp as provided in the bill.

The bill also amends various sections of statutory law to remove references to the New Jersey Industrial Hemp Pilot Program, and replace them with the New Jersey Hemp Farming Act.

As amended and reported by the committee, Senate Bill No. 3686 is identical to Assembly Bill No. 5322 (2R), which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS

The committee amendments:

(1) clarify in the definitions of “hemp” and “hemp product” that they are not considered controlled substances due to the presence of hemp or hemp derived cannabinoids;

(2) add more specific regulatory authority for the Department of Agriculture on the rules governing the harvesting and testing of hemp;

(3) delete the requirement that the Department of Agriculture in their rules define classes or categories of hemp products eligible for sale transfer or distribution to members of the public;

(4) allow the Department of Agriculture to adopt measures that may be included in a corrective action plan to ensure compliance with the plan;

(5) authorize the imposition of civil or civil administrative penalties for a violation of the provisions in the bill with a greater mental state than negligence;

(6) provide that the interim rules and regulations establishing civil and civil administrative penalties for violations under the bill do not conflict with the provisions of the bill;

(7) require the department to provide for notice and appeals processes;

(8) clarify that hemp and hemp products are not controlled substances or additives and may be added as an ingredient to cosmetics, personal care products, or products intended for human or animal consumption; and

(9) make technical corrections to the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in annual State expenditure

arising from new research, planning, administrative, and enforcement responsibilities for the Department of Agriculture (department).

The OLS estimates that the bill will result in State revenue increases from the collection of application and licensing fees from hemp producers. The bill provides for fees to cover the cost of administering a program to cultivate, handle, process, transport, and sell hemp in the State.

Additionally, the OLS estimates the bill will result in an indeterminate increase in sales tax, corporation business tax, and gross income tax revenue as it permits the sale of products that are not currently legally produced or sold in the State, including hemp and hemp products.

The OLS estimates there may be recurring revenue gains from civil penalties associated with the bill. However, as certain violations may constitute an offense under criminal law, the bill may increase the expenditures of the Department of Law and Public Safety, the Judiciary, and the Department of Corrections for prosecuting, trying and possibly incarcerating violators.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 3686

STATE OF NEW JERSEY

DATED: MAY 16, 2019

The Senate Economic Growth Committee reports favorably Senate Bill No. 3686.

As reported, this bill establishes a program for the cultivation, handling, processing, transport, and sale of hemp and hemp products in the State in accordance with federal law.

The federal “Agricultural Improvement Act of 2018” (commonly known as the 2018 Farm Bill) was enacted in December 2018 and contains changes to the regulation of the production of hemp by the federal government. The 2018 Farm Bill significantly expands states’ ability to regulate hemp production, and provides an eventual repeal of the section of the 2014 Farm Bill that allows for hemp pilot programs in the states. As New Jersey’s law establishing a hemp pilot program is currently consistent with the provision of the 2014 Farm Bill that will eventually be repealed, an update to State law is required to ensure the production of hemp in the State.

The bill repeals New Jersey’s hemp pilot program, and replaces it with a permanent program, administered by the Department of Agriculture (department), that complies with federal law. The bill defines “hemp” as the plant *Cannabis sativa* L., any part of the plant, and all derivatives thereof with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent, consistent with federal law. The bill defines hemp producer as a person or business entity authorized by the department to cultivate, handle, or process hemp in the State.

The bill makes it lawful for a hemp producer to cultivate, handle, or process hemp or hemp products in the State, and for any person to possess, transport, sell, and purchase legally-produced hemp products in the State. Any unauthorized person who cultivates, handles, or processes hemp is subject to the same penalties as those related to marijuana.

If a hemp producer negligently violates the bill or any rules or regulations adopted pursuant thereto, the producer is subject to a corrective action plan designed to bring the producer into compliance with the hemp program. Three negligent violations in a five year period results in a five year ban from participating in the hemp program. Any intentional violations are to be referred to the Attorney General, and the United States Attorney General.

The bill also amends various sections of statutory law to remove references to the New Jersey Industrial Hemp Pilot Program, and replace them with the New Jersey Hemp Farming Act.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3686

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 26, 2019

SUMMARY

- Synopsis:** Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.
- Type of Impact:** Annual expenditure increase from the General Fund, State revenue increase.
- Agencies Affected:** Department of Agriculture, Department of Law and Public Safety, The Judiciary, Department of Corrections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in annual State expenditure arising from new research, planning, administrative, and enforcement responsibilities for the Department of Agriculture (department).
- The OLS estimates that the bill will result in State revenue increases from the collection of application and licensing fees from hemp producers. The bill provides for fees to cover the cost of administering a program to cultivate, handle, process, transport, and sell hemp in the State.
- Additionally, the OLS estimates the bill will result in an indeterminate increase in sales tax, corporation business tax, and gross income tax revenue as it permits the sale of products that are not currently legally produced or sold in the State, including hemp and hemp products.
- The OLS estimates there may be recurring revenue gains from civil or civil administrative penalties associated with the bill. However, as certain violations may constitute an offense under criminal law, the bill may increase the expenditures of the Department of Law and Public Safety, the Judiciary, and the Department of Corrections for prosecuting, trying and possibly incarcerating violators.

BILL DESCRIPTION

This bill would establish a program for cultivation, handling, processing, transport, and sale of hemp to be administered by the Department of Agriculture. The bill would require the department to submit a plan for approval by the United States Department of Agriculture before hemp cultivation and processing may begin in the State. Additionally, the bill would require the department to create an approval process for hemp producers; establish a licensing, testing, and inspection program; establish an appeals process for violators; and establish procedures for the transport of hemp.

The bill would also require the department to maintain relevant information about hemp producers and the land on which hemp is grown, and to submit that information to the United States Department of Agriculture. The department would be required to develop a procedure for the testing of hemp to ensure compliance with federal law including testing by third-party laboratories and producer-owned laboratories if licensed and accredited, to effectively dispose of non-compliant hemp and hemp products, and to perform random annual inspections of hemp producers. The bill allows the department to establish application, licensure, and renewal fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing the State hemp program. The department would be required to develop a corrective action plan for negligent violators of the bill, which would include periodic reports from the hemp producer to ensure compliance with a corrective action plan. If the department determines that a hemp producer has violated the bill with a mental culpability greater than negligence, the department would be required to report the violation to the Attorney General's office and the United States Attorney General's office. The bill would also give the department the authority to establish a schedule of penalties for violations of the bill with a mental culpability greater than negligence that do not conflict with federal law concerning hemp.

The bill would establish a "New Jersey Hemp Farming Fund" which would be credited with (1) all penalties and fees collected by the department pursuant to the bill; (2) moneys appropriated by the Legislature; (3) moneys made available to the department for implementing the bill, including any federal funds; and (4) any return on investment of moneys deposited in the fund. Moneys in the fund would be required to be used for the administration and enforcement of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an indeterminate increase in annual State expenditures and an indeterminate increase in State revenue. The OLS cannot quantify this increase due to the unavailability of pertinent information, but estimates a net increase in State revenue.

The bill requires the department to establish a new program to regulate hemp production in the State, to submit that plan to the United States Department of Agriculture, and to engage in ongoing testing and monitoring operations. The federal "Agriculture and Improvement Act of 2018," Pub.L.115-334 (commonly known as the 2018 Farm Bill) was enacted in December 2018. The 2018 Farm Bill significantly expanded the states' ability to regulate hemp production,

and legalized the production of a class of products that were previously illegal to possess or sell under federal law. This bill would direct the department to create a program to permit the cultivation of hemp in accord with the provisions of the 2018 Farm Bill.

In order to estimate the potential size of a hemp cultivation program in the State, the OLS used Kentucky, which is widely viewed as a leader in hemp production, as a comparator state. Kentucky approved 1,035 individual applications (out of 1,115 applications filed) to grow hemp in 2019, which included 42,086 acres of land and 2.9 million square feet of greenhouse space. Kentucky has an estimated 75,100 farm operations compared to New Jersey's 9,900, so if individuals in New Jersey apply to be hemp producers at a similar rate per farming operation, the department would receive 146 applications. Kentucky's approved acreage of 42,086 acres represents 0.3% of Kentucky's estimated 12,900,000 farmed acres. At a similar rate, New Jersey, with an estimated 750,000 farmed acres, may be expected to convert 2,447 acres of farmland to hemp production. This calculation does not include the fact that New Jersey farming operations are, on average, less than half the size of a Kentucky farming operation, nor does it differentiate between the different cultivars of hemp that may be grown in the State. Additionally, Kentucky's program in 2019 operated under the provisions of the 2014 Farm Bill which allowed for limited hemp pilot programs. Programs operating under the more permissive 2018 Farm Bill could be much larger. Furthermore, the number of applications to grow hemp in a greenhouse may be largely independent from the number of farming operations in the State, as a greenhouse operation does not have the same soil and climate constraints as a typical farming operation. Further, there may be more applications due to the increased interest in hydroponic growing in the State.

In addition to authorizing the cultivation of hemp, the bill would allow persons to process raw hemp into hemp products. The number of applicants to process hemp is also difficult to estimate, as there are many factors that could increase or decrease the attractiveness of the State to host hemp processing, as with any manufacturing. New Jersey's location, seaports and airports, access to international markets, and well-educated labor force make the State a potentially attractive location for receiving raw hemp materials for processing into hemp products. However, the relative cost of land in the State, the cost of living and wages, and distance from larger agricultural production areas in other states might also decrease the number of applicants to engage in the processing of hemp. Kentucky received a total of 109 new and renewal applications for hemp processors in 2019. Under the assumption that acreage of hemp roughly equates to the number of expected processing applications (1 processor for every 386 acres of hemp), the OLS estimates the State may expect 6 applications for hemp processing, using the assumption that the State may grow 2,447 acres of hemp. Combined with the potential number of hemp cultivation applications, the OLS estimates the State may expect a total of 152 applications for hemp cultivation and processing in the short term, subject to changes as the market matures.

The department will incur initial administrative costs to develop the rules and regulations necessary to implement the provisions of the bill and to submit the rules and regulations to the United States Department of Agriculture. However, the bill provides a mechanism for the program to be revenue neutral over time. The bill explicitly provides that the department may charge application and licensing fees that are reasonable and necessary to cover the costs of administering and enforcing the State hemp program.

The OLS also estimates that there may be an increase in the revenue generated by the corporation business tax, the individual income tax, and the sales tax; however, the amount generated by each of these sources is difficult to estimate. By most measures, the demand for hemp products is growing; reports from the hemp industry estimated a total of \$700 million in United States sales in 2016. Hemp products valued at \$67 million were imported into the United

States in 2017, which represents a particular area of opportunity for domestic production pursuant to the expanded cultivation programs under the 2018 Farm Bill. Whether the net tax revenue is realized in the corporation business tax, gross income tax, or sales tax will largely depend on the corporate structure of the entities that choose to produce hemp, and the transactional structure of taking hemp from raw materials to market.

A person may not choose to produce hemp over another crop unless that person believes that hemp is a more profitable option. The viability of the hemp market in the State is subject to factors including the price of the commodity on the regional, national, and international market, and environmental factors that may make the product easier or more difficult to grow. Additionally, whether a person grows hemp in New Jersey depends on factors such as the expected yield of hemp cultivated in New Jersey's climate and soil conditions compared to another crop, the price and demand for hemp products, and the individual cultivar and cultivation technique that a person employs. New Jersey growers will also compete with other states' growers as well as growers from France and Canada which already have robust hemp production industries. Without additional data, it is difficult to determine if the State has any relative climate and soil advantages or disadvantages compared to other production areas.

The OLS expects a modest increase in sales tax revenue; however, the net impact is also difficult to gauge. Many types of hemp products (i.e. those made from stalks and non-germinating seeds of hemp) have been legal to sell in the State for many years, despite the fact that growing the hemp plant itself remained illegal. With the increased availability of raw hemp as a result of the changed regulatory structure, the relative costs of manufacturing a product similar to the ones already available for sale in the State is likely to decrease, so one may expect a modest increase in amount of hemp product sales. However, it is unclear if the purchase of these products would be in substitution of other products not containing hemp, or if it represents a more fundamental shift in demand.

Additionally, the State may expect a modest revenue increase from the sale of newly legal products, however this is also difficult to estimate. The bill would legalize the sale of products made from all parts of the hemp plant, not just the non-germinating seeds and stalks as is the case under present law. This includes the legalization of cannabinoids such as cannabidiol (CBD). The increased economic activity attributed to the bill itself is difficult to measure, in part due to the fact that CBD is already widely available for sale in the State at businesses that are likely to be charging sales tax (as opposed to fully illegal markets where no tax is collected). While the explicit legalization of CBD at both the State and federal level is likely to convince some concerned business owners and consumers to enter the market for CBD, it is not clear how much of the total demand for CBD in the State is already met by the presently illegal sales of the product. Additionally, the federal Food and Drug Administration (FDA) has maintained that the addition of CBD to food and animal products violates federal law, despite the widespread marketing of CBD intended for ingestion. While there has not been wide scale enforcement of this prohibition, the FDA has undertaken some enforcement actions, including against New Jersey businesses advertising alleged medical applications of CBD that have not been approved by the FDA. The FDA is presently evaluating its treatment of CBD, and exploring potential pathways for dietary supplements and conventional foods containing CBD to be lawfully marketed. There are many purported health benefits of CBD, and the chemical has the potential to become a part of the pharmaceutical industry. However, at present, the state of the CBD market is legally uncertain at best. The State's legalization of CBD pursuant to this bill, if matched by a concomitant opening of the market by the FDA would be likely to increase sales tax revenues for CBD product sales, and may increase other sources of State revenue by increasing the amount of CBD processed in the State. However, if enforcement increases against CBD retailers, revenues could decrease from their present levels.

Finally, the bill allows for the collection of civil or civil administrative penalties resulting from violations of the bill, to be deposited into the “New Jersey Hemp Farming Fund” created by the bill, which will result in an indeterminate increase in revenue. However, the OLS notes that money in the fund is to be used for the administration and enforcement of the bill, and it is possible that the penalties collected on behalf of the department would be used to offset other costs of the program.

Section: Environment, Agriculture, Energy and Natural Resources

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

08/9/2019

TRENTON - Today, Governor Phil Murphy signed the following bills into law:

A312 (Pinkin, Conaway, Giblin, Holley, Danielsen, Mukherji, Wimberly/Vitale, Rice) - Requires certain health care facilities to provide information concerning palliative care and hospice care services.

A841 (Land, Calabrese/Andrzejczak) - Provides for establishment of county college certificate programs to meet needs of certain regional employers.

A1700 (Dancer, Vainieri Huttie, Calabrese/Cruz-Perez, Cunningham) - Expands eligibility criteria for designating certain areas as being in need of redevelopment.

A2004 (Karabinchak, Mazzeo, Pinkin, Coughlin/Diegnan) - Requires municipality to pay certain nonresidential property tax appeal refunds in equal installments over period of three years.

A3937 (DeAngelo, Reynolds-Jackson, Verrelli/Turner) - Allows local government water system employees to reside in all municipalities served by water system.

A4115 (Benson, DeAngelo, Holley/Greenstein) - Clarifies that certain students are eligible for NJ STARS and NJ STARS II scholarship upon initial enrollment at institution of higher education on part-time basis.

A4223 (Johnson, Rooney/Weinberg, Lagana) - Requires State Treasurer to pay county prosecutor's expenses for overseeing certain law enforcement agencies.

A4938 (Tucker, Pinkin, Vainieri Huttie/Ruiz, Greenstein) - Requires DOH to establish "My Life, My Plan" program to support women of childbearing age in developing reproductive life plan.

A5021 (Quijano, Bramnick, Reynolds-Jackson, Pinkin, Downey/Vitale, Kean) - Requires Medicaid coverage for group prenatal care services under certain circumstances.

A5322 (Burzichelli, Milam, Houghtaling, Taliaferro/Sweeney, Oroho, Beach, Andrzejczak) - Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.

A5392 (Quijano, Murphy/Vitale, Scutari) - Establishes new liability standards in sexual abuse lawsuits filed against public entities and public employees.

A5595 (Milam, Houghtaling, Dancer, Wirths/Oroho, Pennacchio) - Expands eligibility for EDA small business loan program to specifically include certain farming operations and qualified dairy farmers.

S601 (Smith, Greenstein/Pinkin, McKeon) - Establishes "New Jersey Solar Panel Recycling Commission."

S781 (Sarlo, O'Scanlon/Giblin, DiMaso, Handlin) - Revises penalties for certain violations of law by public movers and warehousemen.

S984 (Vitale, Singleton/Conaway, Mukherji, Murphy) - Establishes certain requirements, including allowable fees, for provision of medical records to patients, legally authorized representatives, and authorized third parties.

S1109 (Ruiz/Munoz, Quijano) - Renames "Physician Orders for Life-Sustaining Treatment Act" as "Practitioner Orders for Life-Sustaining Treatment Act"; permits physician assistants to sign and modify POLST forms; requires continuing education concerning end-of-life care.

S1739 (Oroho, Andrzejczak/Land, Space, Milam) - Renames county corrections officers as county correctional police officers.

S2807 (Cryan, Cruz-Perez/Pinkin, Moriarty, Zwicker) - Concerns service of food or refreshments on mortuary premises.

S2858 (Gopal, Diegnan/Houghtaling, Downey, Johnson) - Prohibits issuance of certain badges to NJT board members, PANYNJ commissioners, and local and State elected officials.

S3212 (Ruiz, Rice/Pintor Marin, Holley) - Permits municipalities to establish temporary supplemental zoning boards of adjustment to address application backlogs.

S3334 (Diegnan, Vitale/Conaway, Pinkin) - Exempts certain surgical technologists from general educational and training requirements.