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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH 4/9/08

P.L. 2007, CHAPTER 31, *approved January 29, 2007*
Senate, No. 1280

1 AN ACT concerning toxic chemicals and amending section 7 of
2 P.L.1999, c.90, N.J.S.2C:36-1, N.J.S.2C:36-2 and N.J.S.2C:36-3.

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

6
7 1. Section 7 of P.L.1999, c.90 (C.2C:35-10.4) is amended to
8 read as follows:

9 7. Toxic Chemicals a. As used in this section the term "toxic
10 chemical" means any chemical or substance having the property of
11 releasing toxic fumes **[and includes the following chemicals:]**.
12 "Toxic chemical" includes, but is not limited to, acetone, acetate,
13 benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl
14 alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide,
15 pentachlorophenol, petroleum ether, toluol, **[or]** toluene and any
16 glue, cement, adhesive, paint remover or other substance containing
17 a chemical capable of releasing vapors or fumes causing a condition
18 of intoxication, inebriation, excitement, stupefaction, or dulling of
19 the brain or nervous system.

20 b. A person commits a disorderly persons offense if the person:
21 (1) inhales the fumes of any toxic chemical for the purpose of
22 causing a condition of intoxication; or
23 (2) possesses any toxic chemical for the purpose of causing a
24 condition of intoxication.

25 This subsection shall not apply to the possession and use of
26 nitrous oxide or any material containing nitrous oxide for the
27 purpose of medical, surgical, or dental care by a person duly
28 licensed to administer nitrous oxide.

29 c. A person commits a fourth degree offense if the persons
30 sells, or offers to sell, any substance containing a toxic chemical
31 knowing that the intended use of the product is to cause a condition
32 of intoxication, or knowing that the product does not include an
33 additive required by the Commissioner of the State Department of
34 Health and Senior Services to discourage the inhalation of vapors of
35 toxic chemicals for the purpose of causing a condition of
36 intoxication. This subsection does not apply to adhesives
37 manufactured only for industrial application or to the sale of nitrous
38 oxide or any material containing nitrous oxide lawfully distributed
39 pursuant to sections 1 through 6 of P.L.1982, c.127 (C.24:6G-1 et
40 seq.).

41 (cf: P.L.1999,c.90, s.7)

42
43 2. N.J.S.2C:36-1 is amended to read as follows:

44 2C:36-1. Drug paraphernalia, defined; determination.

45 As used in this act, "drug paraphernalia" means all equipment,

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 products and materials of any kind which are used or intended for
2 use in planting, propagating, cultivating, growing, harvesting,
3 manufacturing, compounding, converting, producing, processing,
4 preparing, testing, analyzing, packaging, repackaging, storing,
5 containing, concealing, ingesting, inhaling, or otherwise introducing
6 into the human body a controlled dangerous substance [or] ,
7 controlled substance analog or toxic chemical in violation of the
8 provisions of chapter 35 of this title. It shall include, but not be
9 limited to: a. kits used or intended for use in planting, propagating,
10 cultivating, growing or harvesting of any species of plant which is a
11 controlled dangerous substance or from which a controlled
12 dangerous substance can be derived; b. kits used or intended for use
13 in manufacturing, compounding, converting, producing, processing,
14 or preparing controlled dangerous substances or controlled
15 substance analogs; c. isomerization devices used or intended for use
16 in increasing the potency of any species of plant which is a
17 controlled dangerous substance; d. testing equipment used or
18 intended for use identifying, or in analyzing the strength,
19 effectiveness or purity of controlled dangerous substances or
20 controlled substance analogs; e. scales and balances used or
21 intended for use in weighing or measuring controlled dangerous
22 substances or controlled substance analogs; f. dilutants and
23 adulterants, such as quinine hydrochloride, mannitol, mannite,
24 dextrose and lactose, used or intended for use in cutting controlled
25 dangerous substances or controlled substance analogs; g. separation
26 gins and sifters used or intended for use in removing twigs and
27 seeds from, or in otherwise cleaning or refining, marihuana; h.
28 blenders, bowls, containers, spoons and mixing devices used or
29 intended for use in compounding controlled dangerous substances
30 or controlled substance analogs; i. capsules, balloons, envelopes
31 and other containers used or intended for use in packaging small
32 quantities of controlled dangerous substances or controlled
33 substance analogs; j. containers and other objects used or intended
34 for use in storing or concealing controlled dangerous substances
35 [or], controlled substance analogs or toxic chemicals; k. objects
36 used or intended for use in ingesting, inhaling, or otherwise
37 introducing marihuana, cocaine, hashish, [or], hashish oil, nitrous
38 oxide or the fumes of a toxic chemical into the human body, such
39 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
40 with or without screens, permanent screens, hashish heads, or
41 punctured metal bowls; (2) water pipes; (3) carburetion tubes and
42 devices; (4) smoking and carburetion masks; (5) roach clips,
43 meaning objects used to hold burning material, such as a marihuana
44 cigarette, that has become too small or too short to be held in the
45 hand; (6) miniature cocaine spoons, and cocaine vials; (7) chamber
46 pipes; (8) carburetor pipes; (9) electric pipes; (10) air-driven pipes;
47 (11) chillums; (12) bongos; [and] (13) ice pipes or chillers; (14)
48 compressed gas containers, such as tanks, cartridges or canisters,

1 that contain food grade or pharmaceutical grade nitrous oxide as a
2 principal ingredient; (15) chargers or charging bottles, meaning
3 metal, ceramic or plastic devices that contain an interior pin that
4 may be used to expel compressed gas from a cartridge or canister;
5 and (16) tubes, balloons, bags, fabrics, bottles or other containers
6 used to concentrate or hold in suspension a toxic chemical or the
7 fumes of a toxic chemical.

8 In determining whether or not an object is drug paraphernalia,
9 the trier of fact, in addition to or as part of the proofs, may consider
10 the following factors: a. statements by an owner or by anyone in
11 control of the object concerning its use; b. the proximity of the
12 object of illegally possessed controlled dangerous substances **[or]**,
13 controlled substance analogs or toxic chemicals; c. the existence of
14 any residue of illegally possessed controlled dangerous substances
15 **[or]**, controlled substance analogs or toxic chemicals on the object;
16 d. direct or circumstantial evidence of the intent of an owner, or of
17 anyone in control of the object, to deliver it to persons whom he
18 knows intend to use the object to facilitate a violation of this act;
19 the innocence of an owner, or of anyone in control of the object, as
20 to a direct violation of this act shall not prevent a finding that the
21 object is intended for use as drug paraphernalia; e. instructions, oral
22 or written, provided with the object concerning its use; f.
23 descriptive materials accompanying the object which explain or
24 depict its use; g. national or local advertising whose purpose the
25 person knows or should know is to promote the sale of objects
26 intended for use as drug paraphernalia; h. the manner in which the
27 object is displayed for sale; i. the existence and scope of legitimate
28 uses for the object in the community; and j. expert testimony
29 concerning its use.

30 (cf: N.J.S.2C:36-1)

31

32 3. N.J.S.2C:36-2 is amended to read as follows:

33 2C:36-2. Use or possession with intent to use, disorderly persons
34 offense.

35 It shall be unlawful for any person to use, or to possess with
36 intent to use, drug paraphernalia to plant, propagate, cultivate,
37 grow, harvest, manufacture, compound, convert, produce, process,
38 prepare, test, analyze, pack, repack, store, contain, conceal, ingest,
39 inhale, or otherwise introduce into the human body a controlled
40 dangerous substance **[or]**, controlled substance analog or toxic
41 chemical in violation of the provisions of chapter 35 of this title.
42 Any person who violates this section is guilty of a disorderly
43 persons offense.

44 (cf: N.J.S.2C:36-2)

45

46 4. N.J.S.2C:36-3 is amended to read as follows:

47 2C:36-3. Distribute, dispense or **[possession]** possess with intent
48 to distribute or manufacture, crime of fourth degree.

1 It shall be unlawful for any person to distribute or dispense, or
2 possess with intent to distribute or dispense, or manufacture with
3 intent to distribute or dispense, drug paraphernalia, knowing that it
4 will be used to plant, propagate, cultivate, grow, harvest,
5 manufacture, compound, convert, produce, process, prepare, test,
6 analyze, pack, repack, store, contain, conceal, ingest, inhale or
7 otherwise introduce into the human body a controlled dangerous
8 substance **[or]**, controlled substance analog or toxic chemical in
9 violation of the provisions of chapter 35 of this title. Any person
10 who violates this section commits a crime of the fourth degree.

11 (cf: N.J.S.2C:36-3)

12

13 5. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill strengthens the prohibition on inhalation abuse, known
19 as "huffing," by broadening the definition of "toxic chemical" in
20 N.J.S.A.2C:35-10.4.

21 Under current law, it is a disorderly persons offense to inhale the
22 fumes of any toxic chemical for the purpose of causing a condition
23 of intoxication or to possess any toxic chemical for the purpose of
24 causing a condition of intoxication. A disorderly persons offense is
25 punishable by a term of imprisonment of up to six months or a fine
26 of up to \$1,000 or both.

27 The bill defines "toxic chemical" as "any chemical or substance
28 having the property of releasing toxic fumes," and provides that the
29 term "toxic chemical" includes but is not limited to nitrous oxide,
30 and any glue, cement, adhesive, paint remover or other substance
31 containing a chemical capable of releasing vapors or fumes causing
32 a condition of intoxication, inebriation, excitement, stupefaction, or
33 dulling of the brain or nervous system.

34 The bill specifically provides that it does not apply to the lawful
35 possession and use of nitrous oxide for the purpose of medical,
36 surgical, or dental care by a person duly licensed to administer
37 nitrous oxide, or to the lawful sale of nitrous oxide for nonmedical
38 use.

39 The bill amends N.J.S.A.2C:36-1 through 2C:36-3, the drug
40 paraphernalia statutes, to include objects commonly associated with
41 inhalation abuse, such as the following: compressed gas containers,
42 such as tanks, cartridges or canisters, that contain food grade or
43 pharmaceutical grade nitrous oxide as a principal ingredient;
44 chargers or charging bottles, meaning metal, ceramic or plastic
45 devices that contain an interior pin that may be used to expel
46 compressed gas from a cartridge or canister; and tubes, balloons,
47 bags, fabrics, bottles or other containers used to concentrate or hold
48 in suspension a toxic chemical or the fumes of a toxic chemical.

S1280

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4

Broadens definition of "toxic chemical" in the drug statutes to include nitrous oxide and other substances.

SENATE, No. 1280

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 6, 2006

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Broadens definition of "toxic chemical" in the drug statutes to include nitrous oxide and other substances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/15/2006)

S1280 BRYANT

2

1 AN ACT concerning toxic chemicals and amending section 7 of
2 P.L.1999, c.90, N.J.S.2C:36-1, N.J.S.2C:36-2 and N.J.S.2C:36-3.

3

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

6

7 1. Section 7 of P.L.1999, c.90 (C.2C:35-10.4) is amended to
8 read as follows:

9 7. Toxic Chemicals a. As used in this section the term "toxic
10 chemical" means any chemical or substance having the property of
11 releasing toxic fumes **[and includes the following chemicals:]**.
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13 benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl
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15 pentachlorophenol, petroleum ether, toluol, **[or]** toluene and any
16 glue, cement, adhesive, paint remover or other substance containing
17 a chemical capable of releasing vapors or fumes causing a condition
18 of intoxication, inebriation, excitement, stupefaction, or dulling of
19 the brain or nervous system.

20 b. A person commits a disorderly persons offense if the person:
21 (1) inhales the fumes of any toxic chemical for the purpose of
22 causing a condition of intoxication; or

23 (2) possesses any toxic chemical for the purpose of causing a
24 condition of intoxication.

25 This subsection shall not apply to the possession and use of
26 nitrous oxide or any material containing nitrous oxide for the
27 purpose of medical, surgical, or dental care by a person duly
28 licensed to administer nitrous oxide.

29 c. A person commits a fourth degree offense if the persons
30 sells, or offers to sell, any substance containing a toxic chemical
31 knowing that the intended use of the product is to cause a condition
32 of intoxication, or knowing that the product does not include an
33 additive required by the Commissioner of the State Department of
34 Health and Senior Services to discourage the inhalation of vapors of
35 toxic chemicals for the purpose of causing a condition of
36 intoxication. This subsection does not apply to adhesives
37 manufactured only for industrial application or to the sale of nitrous
38 oxide or any material containing nitrous oxide lawfully distributed
39 pursuant to sections 1 through 6 of P.L.1982, c.127 (C.24:6G-1 et
40 seq.).

41 (cf: P.L.1999,c.90, s.7)

42

43 2. N.J.S.2C:36-1 is amended to read as follows:

44 2C:36-1. Drug paraphernalia, defined; determination.

45 As used in this act, "drug paraphernalia" means all equipment,

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.

S1280 BRYANT

1 products and materials of any kind which are used or intended for
2 use in planting, propagating, cultivating, growing, harvesting,
3 manufacturing, compounding, converting, producing, processing,
4 preparing, testing, analyzing, packaging, repackaging, storing,
5 containing, concealing, ingesting, inhaling, or otherwise introducing
6 into the human body a controlled dangerous substance [or] ,
7 controlled substance analog or toxic chemical in violation of the
8 provisions of chapter 35 of this title. It shall include, but not be
9 limited to: a. kits used or intended for use in planting, propagating,
10 cultivating, growing or harvesting of any species of plant which is a
11 controlled dangerous substance or from which a controlled
12 dangerous substance can be derived; b. kits used or intended for use
13 in manufacturing, compounding, converting, producing, processing,
14 or preparing controlled dangerous substances or controlled
15 substance analogs; c. isomerization devices used or intended for use
16 in increasing the potency of any species of plant which is a
17 controlled dangerous substance; d. testing equipment used or
18 intended for use identifying, or in analyzing the strength,
19 effectiveness or purity of controlled dangerous substances or
20 controlled substance analogs; e. scales and balances used or
21 intended for use in weighing or measuring controlled dangerous
22 substances or controlled substance analogs; f. dilutants and
23 adulterants, such as quinine hydrochloride, mannitol, mannite,
24 dextrose and lactose, used or intended for use in cutting controlled
25 dangerous substances or controlled substance analogs; g. separation
26 gins and sifters used or intended for use in removing twigs and
27 seeds from, or in otherwise cleaning or refining, marihuana; h.
28 blenders, bowls, containers, spoons and mixing devices used or
29 intended for use in compounding controlled dangerous substances
30 or controlled substance analogs; i. capsules, balloons, envelopes
31 and other containers used or intended for use in packaging small
32 quantities of controlled dangerous substances or controlled
33 substance analogs; j. containers and other objects used or intended
34 for use in storing or concealing controlled dangerous substances
35 [or], controlled substance analogs or toxic chemicals; k. objects
36 used or intended for use in ingesting, inhaling, or otherwise
37 introducing marihuana, cocaine, hashish, [or], hashish oil, nitrous
38 oxide or the fumes of a toxic chemical into the human body, such
39 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
40 with or without screens, permanent screens, hashish heads, or
41 punctured metal bowls; (2) water pipes; (3) carburetion tubes and
42 devices; (4) smoking and carburetion masks; (5) roach clips,
43 meaning objects used to hold burning material, such as a marihuana
44 cigarette, that has become too small or too short to be held in the
45 hand; (6) miniature cocaine spoons, and cocaine vials; (7) chamber
46 pipes; (8) carburetor pipes; (9) electric pipes; (10) air-driven pipes;
47 (11) chillums; (12) bongos; [and] (13) ice pipes or chillers; (14)
48 compressed gas containers, such as tanks, cartridges or canisters,

1 that contain food grade or pharmaceutical grade nitrous oxide as a
2 principal ingredient; (15) chargers or charging bottles, meaning
3 metal, ceramic or plastic devices that contain an interior pin that
4 may be used to expel compressed gas from a cartridge or canister;
5 and (16) tubes, balloons, bags, fabrics, bottles or other containers
6 used to concentrate or hold in suspension a toxic chemical or the
7 fumes of a toxic chemical.

8 In determining whether or not an object is drug paraphernalia,
9 the trier of fact, in addition to or as part of the proofs, may consider
10 the following factors: a. statements by an owner or by anyone in
11 control of the object concerning its use; b. the proximity of the
12 object of illegally possessed controlled dangerous substances **[or]**,
13 controlled substance analogs or toxic chemicals; c. the existence of
14 any residue of illegally possessed controlled dangerous substances
15 **[or]**, controlled substance analogs or toxic chemicals on the object;
16 d. direct or circumstantial evidence of the intent of an owner, or of
17 anyone in control of the object, to deliver it to persons whom he
18 knows intend to use the object to facilitate a violation of this act;
19 the innocence of an owner, or of anyone in control of the object, as
20 to a direct violation of this act shall not prevent a finding that the
21 object is intended for use as drug paraphernalia; e. instructions, oral
22 or written, provided with the object concerning its use; f.
23 descriptive materials accompanying the object which explain or
24 depict its use; g. national or local advertising whose purpose the
25 person knows or should know is to promote the sale of objects
26 intended for use as drug paraphernalia; h. the manner in which the
27 object is displayed for sale; i. the existence and scope of legitimate
28 uses for the object in the community; and j. expert testimony
29 concerning its use.

30 (cf: N.J.S.2C:36-1)

31

32 3. N.J.S.2C:36-2 is amended to read as follows:

33 2C:36-2. Use or possession with intent to use, disorderly persons
34 offense.

35 It shall be unlawful for any person to use, or to possess with
36 intent to use, drug paraphernalia to plant, propagate, cultivate,
37 grow, harvest, manufacture, compound, convert, produce, process,
38 prepare, test, analyze, pack, repack, store, contain, conceal, ingest,
39 inhale, or otherwise introduce into the human body a controlled
40 dangerous substance **[or]**, controlled substance analog or toxic
41 chemical in violation of the provisions of chapter 35 of this title.
42 Any person who violates this section is guilty of a disorderly
43 persons offense.

44 (cf: N.J.S.2C:36-2)

45

46 4. N.J.S.2C:36-3 is amended to read as follows:

47 2C:36-3. Distribute, dispense or **[possession]** possess with intent
48 to distribute or manufacture, crime of fourth degree.

1 It shall be unlawful for any person to distribute or dispense, or
2 possess with intent to distribute or dispense, or manufacture with
3 intent to distribute or dispense, drug paraphernalia, knowing that it
4 will be used to plant, propagate, cultivate, grow, harvest,
5 manufacture, compound, convert, produce, process, prepare, test,
6 analyze, pack, repack, store, contain, conceal, ingest, inhale or
7 otherwise introduce into the human body a controlled dangerous
8 substance **[or]**, controlled substance analog or toxic chemical in
9 violation of the provisions of chapter 35 of this title. Any person
10 who violates this section commits a crime of the fourth degree.

11 (cf: N.J.S.2C:36-3)

12

13 5. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill strengthens the prohibition on inhalation abuse, known
19 as "huffing," by broadening the definition of "toxic chemical" in
20 N.J.S.A.2C:35-10.4.

21 Under current law, it is a disorderly persons offense to inhale the
22 fumes of any toxic chemical for the purpose of causing a condition
23 of intoxication or to possess any toxic chemical for the purpose of
24 causing a condition of intoxication. A disorderly persons offense is
25 punishable by a term of imprisonment of up to six months or a fine
26 of up to \$1,000 or both.

27 The bill defines "toxic chemical" as "any chemical or substance
28 having the property of releasing toxic fumes," and provides that the
29 term "toxic chemical" includes but is not limited to nitrous oxide,
30 and any glue, cement, adhesive, paint remover or other substance
31 containing a chemical capable of releasing vapors or fumes causing
32 a condition of intoxication, inebriation, excitement, stupefaction, or
33 dulling of the brain or nervous system.

34 The bill specifically provides that it does not apply to the lawful
35 possession and use of nitrous oxide for the purpose of medical,
36 surgical, or dental care by a person duly licensed to administer
37 nitrous oxide, or to the lawful sale of nitrous oxide for nonmedical
38 use.

39 The bill amends N.J.S.A.2C:36-1 through 2C:36-3, the drug
40 paraphernalia statutes, to include objects commonly associated with
41 inhalation abuse, such as the following: compressed gas containers,
42 such as tanks, cartridges or canisters, that contain food grade or
43 pharmaceutical grade nitrous oxide as a principal ingredient;
44 chargers or charging bottles, meaning metal, ceramic or plastic
45 devices that contain an interior pin that may be used to expel
46 compressed gas from a cartridge or canister; and tubes, balloons,
47 bags, fabrics, bottles or other containers used to concentrate or hold
48 in suspension a toxic chemical or the fumes of a toxic chemical.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1280

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2006

The Assembly Judiciary Committee reports favorably Senate Bill No. 1280.

This bill strengthens the prohibition on inhalation abuse, known as "huffing," by broadening the definition of "toxic chemical" in N.J.S.A.2C:35-10.4.

Under current law, it is a disorderly persons offense to inhale the fumes of any toxic chemical for the purpose of causing a condition of intoxication or to possess any toxic chemical for the purpose of causing a condition of intoxication. A disorderly persons offense is punishable by a term of imprisonment of up to six months or a fine of up to \$1,000 or both.

The bill defines "toxic chemical" as "any chemical or substance having the property of releasing toxic fumes," and provides that the term "toxic chemical" includes but is not limited to nitrous oxide, and any glue, cement, adhesive, paint remover or other substance containing a chemical capable of releasing vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

The bill specifically provides that it does not apply to the lawful possession and use of nitrous oxide for the purpose of medical, surgical, or dental care by a person duly licensed to administer nitrous oxide, or to the lawful sale of nitrous oxide for nonmedical use.

The bill amends N.J.S.A.2C:36-1 through N.J.S.A.2C:36-3, the drug paraphernalia statutes, to include objects commonly associated with inhalation abuse, such as the following: compressed gas containers, such as tanks, cartridges or canisters, that contain food grade or pharmaceutical grade nitrous oxide as a principal ingredient; chargers or charging bottles, meaning metal, ceramic or plastic devices that contain an interior pin that may be used to expel compressed gas from a cartridge or canister; and tubes, balloons, bags, fabrics, bottles or other containers used to concentrate or hold in suspension a toxic chemical or the fumes of a toxic chemical. Use or possession of a toxic chemical under N.J.S.2C:36-2 would be a disorderly persons offense. Distributing, dispensing or possessing with intent to distribute or manufacture a toxic chemical under N.J.S.2C:36-3 would

be a crime of the fourth degree punishable by a term of imprisonment not to exceed 18 months, a fine of up to \$10,000 or both.

This bill is identical to Assembly Bill No. 3083.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1280

STATE OF NEW JERSEY

DATED: MAY 11, 2006

The Senate Judiciary Committee reports favorably Senate Bill No. 1280.

This bill strengthens the prohibition on inhalation abuse, known as "huffing," by broadening the definition of "toxic chemical" in N.J.S.A.2C:35-10.4.

Under current law, it is a disorderly persons offense to inhale the fumes of any toxic chemical for the purpose of causing a condition of intoxication or to possess any toxic chemical for the purpose of causing a condition of intoxication. A disorderly persons offense is punishable by a term of imprisonment of up to six months or a fine of up to \$1,000 or both.

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The bill specifically provides that it does not apply to the lawful possession and use of nitrous oxide for the purpose of medical, surgical, or dental care by a person duly licensed to administer nitrous oxide, or to the lawful sale of nitrous oxide for nonmedical use.

The bill amends N.J.S.A.2C:36-1 through 2C:36-3, the drug paraphernalia statutes, to include objects commonly associated with inhalation abuse, such as the following: compressed gas containers, such as tanks, cartridges or canisters, that contain food grade or pharmaceutical grade nitrous oxide as a principal ingredient; chargers or charging bottles, meaning metal, ceramic or plastic devices that contain an interior pin that may be used to expel compressed gas from a cartridge or canister; and tubes, balloons, bags, fabrics, bottles or other containers used to concentrate or hold in suspension a toxic chemical or the fumes of a toxic chemical. Use or possession of a toxic chemical under N.J.S.2C:36-2 would be a disorderly persons offense. Distributing, dispensing or possessing with intent to distribute or manufacture a toxic chemical under N.J.S.2C:36-3 would be a crime of the fourth degree punishable by a term of imprisonment not to exceed 18 months, a fine of up to \$10,000 or both.

ASSEMBLY, No. 3083

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 15, 2006

Sponsored by:

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Broadens definition of "toxic chemical" in the drug statutes to include nitrous oxide and other substances.

CURRENT VERSION OF TEXT

As introduced.



A3083 FISHER, BURZICHELLI

2

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14 alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide,
15 pentachlorophenol, petroleum ether, toluol, **[or]** toluene and any
16 glue, cement, adhesive, paint remover or other substance containing
17 a chemical capable of releasing vapors or fumes causing a condition
18 of intoxication, inebriation, excitement, stupefaction, or dulling of
19 the brain or nervous system.

20 b. A person commits a disorderly persons offense if the person:

21 (1) inhales the fumes of any toxic chemical for the purpose of
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24 condition of intoxication.

25 This subsection shall not apply to the possession and use of
26 nitrous oxide or any material containing nitrous oxide for the
27 purpose of medical, surgical, or dental care by a person duly
28 licensed to administer nitrous oxide.

29 c. A person commits a fourth degree offense if the persons
30 sells, or offers to sell, any substance containing a toxic chemical
31 knowing that the intended use of the product is to cause a condition
32 of intoxication, or knowing that the product does not include an
33 additive required by the Commissioner of the State Department of
34 Health and Senior Services to discourage the inhalation of vapors of
35 toxic chemicals for the purpose of causing a condition of
36 intoxication. This subsection does not apply to adhesives
37 manufactured only for industrial application or to the sale of nitrous
38 oxide or any material containing nitrous oxide lawfully distributed
39 pursuant to sections 1 through 6 of P.L.1982, c.127 (C.24:6G-1 et
40 seq.).

41 (cf: P.L.1999,c.90, s.7)

42

43 2. N.J.S.2C:36-1 is amended to read as follows:

44 2C:36-1. Drug paraphernalia, defined; determination.

45 As used in this act, "drug paraphernalia" means all equipment,

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 products and materials of any kind which are used or intended for
2 use in planting, propagating, cultivating, growing, harvesting,
3 manufacturing, compounding, converting, producing, processing,
4 preparing, testing, analyzing, packaging, repackaging, storing,
5 containing, concealing, ingesting, inhaling, or otherwise introducing
6 into the human body a controlled dangerous substance [or] ,
7 controlled substance analog or toxic chemical in violation of the
8 provisions of chapter 35 of this title. It shall include, but not be
9 limited to: a. kits used or intended for use in planting, propagating,
10 cultivating, growing or harvesting of any species of plant which is a
11 controlled dangerous substance or from which a controlled
12 dangerous substance can be derived; b. kits used or intended for use
13 in manufacturing, compounding, converting, producing, processing,
14 or preparing controlled dangerous substances or controlled
15 substance analogs; c. isomerization devices used or intended for use
16 in increasing the potency of any species of plant which is a
17 controlled dangerous substance; d. testing equipment used or
18 intended for use identifying, or in analyzing the strength,
19 effectiveness or purity of controlled dangerous substances or
20 controlled substance analogs; e. scales and balances used or
21 intended for use in weighing or measuring controlled dangerous
22 substances or controlled substance analogs; f. dilutants and
23 adulterants, such as quinine hydrochloride, mannitol, mannite,
24 dextrose and lactose, used or intended for use in cutting controlled
25 dangerous substances or controlled substance analogs; g. separation
26 gins and sifters used or intended for use in removing twigs and
27 seeds from, or in otherwise cleaning or refining, marihuana; h.
28 blenders, bowls, containers, spoons and mixing devices used or
29 intended for use in compounding controlled dangerous substances
30 or controlled substance analogs; i. capsules, balloons, envelopes
31 and other containers used or intended for use in packaging small
32 quantities of controlled dangerous substances or controlled
33 substance analogs; j. containers and other objects used or intended
34 for use in storing or concealing controlled dangerous substances
35 [or], controlled substance analogs or toxic chemicals; k. objects
36 used or intended for use in ingesting, inhaling, or otherwise
37 introducing marihuana, cocaine, hashish, [or], hashish oil, nitrous
38 oxide or the fumes of a toxic chemical into the human body, such
39 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
40 with or without screens, permanent screens, hashish heads, or
41 punctured metal bowls; (2) water pipes; (3) carburetion tubes and
42 devices; (4) smoking and carburetion masks; (5) roach clips,
43 meaning objects used to hold burning material, such as a marihuana
44 cigarette, that has become too small or too short to be held in the
45 hand; (6) miniature cocaine spoons, and cocaine vials; (7) chamber
46 pipes; (8) carburetor pipes; (9) electric pipes; (10) air-driven pipes;
47 (11) chillums; (12) bongos; [and] (13) ice pipes or chillers; (14)
48 compressed gas containers, such as tanks, cartridges or canisters,

1 that contain food grade or pharmaceutical grade nitrous oxide as a
2 principal ingredient; (15) chargers or charging bottles, meaning
3 metal, ceramic or plastic devices that contain an interior pin that
4 may be used to expel compressed gas from a cartridge or canister;
5 and (16) tubes, balloons, bags, fabrics, bottles or other containers
6 used to concentrate or hold in suspension a toxic chemical or the
7 fumes of a toxic chemical.

8 In determining whether or not an object is drug paraphernalia,
9 the trier of fact, in addition to or as part of the proofs, may consider
10 the following factors: a. statements by an owner or by anyone in
11 control of the object concerning its use; b. the proximity of the
12 object of illegally possessed controlled dangerous substances **[or]**,
13 controlled substance analogs or toxic chemicals; c. the existence of
14 any residue of illegally possessed controlled dangerous substances
15 **[or]**, controlled substance analogs or toxic chemicals on the object;
16 d. direct or circumstantial evidence of the intent of an owner, or of
17 anyone in control of the object, to deliver it to persons whom he
18 knows intend to use the object to facilitate a violation of this act;
19 the innocence of an owner, or of anyone in control of the object, as
20 to a direct violation of this act shall not prevent a finding that the
21 object is intended for use as drug paraphernalia; e. instructions, oral
22 or written, provided with the object concerning its use; f.
23 descriptive materials accompanying the object which explain or
24 depict its use; g. national or local advertising whose purpose the
25 person knows or should know is to promote the sale of objects
26 intended for use as drug paraphernalia; h. the manner in which the
27 object is displayed for sale; i. the existence and scope of legitimate
28 uses for the object in the community; and j. expert testimony
29 concerning its use.

30 (cf: N.J.S.2C:36-1)

31

32 3. N.J.S.2C:36-2 is amended to read as follows:

33 2C:36-2. Use or possession with intent to use, disorderly persons
34 offense.

35 It shall be unlawful for any person to use, or to possess with
36 intent to use, drug paraphernalia to plant, propagate, cultivate,
37 grow, harvest, manufacture, compound, convert, produce, process,
38 prepare, test, analyze, pack, repack, store, contain, conceal, ingest,
39 inhale, or otherwise introduce into the human body a controlled
40 dangerous substance **[or]**, controlled substance analog or toxic
41 chemical in violation of the provisions of chapter 35 of this title.
42 Any person who violates this section is guilty of a disorderly
43 persons offense.

44 (cf: N.J.S.2C:36-2)

45

46 4. N.J.S.2C:36-3 is amended to read as follows:

47 2C:36-3. Distribute, dispense or **[possession]** possess with intent
48 to distribute or manufacture, crime of fourth degree.

1 It shall be unlawful for any person to distribute or dispense, or
2 possess with intent to distribute or dispense, or manufacture with
3 intent to distribute or dispense, drug paraphernalia, knowing that it
4 will be used to plant, propagate, cultivate, grow, harvest,
5 manufacture, compound, convert, produce, process, prepare, test,
6 analyze, pack, repack, store, contain, conceal, ingest, inhale or
7 otherwise introduce into the human body a controlled dangerous
8 substance **[or]**, controlled substance analog or toxic chemical in
9 violation of the provisions of chapter 35 of this title. Any person
10 who violates this section commits a crime of the fourth degree.

11 (cf: N.J.S.2C:36-3)

12

13 5. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill strengthens the prohibition on inhalation abuse, known
19 as "huffing," by broadening the definition of "toxic chemical" in
20 N.J.S.A.2C:35-10.4.

21 Under current law, it is a disorderly persons offense to inhale the
22 fumes of any toxic chemical for the purpose of causing a condition
23 of intoxication or to possess any toxic chemical for the purpose of
24 causing a condition of intoxication. A disorderly persons offense is
25 punishable by a term of imprisonment of up to six months or a fine
26 of up to \$1,000 or both.

27 The bill defines "toxic chemical" as "any chemical or substance
28 having the property of releasing toxic fumes," and provides that the
29 term "toxic chemical" includes but is not limited to nitrous oxide,
30 and any glue, cement, adhesive, paint remover or other substance
31 containing a chemical capable of releasing vapors or fumes causing
32 a condition of intoxication, inebriation, excitement, stupefaction, or
33 dulling of the brain or nervous system.

34 The bill specifically provides that it does not apply to the lawful
35 possession and use of nitrous oxide for the purpose of medical,
36 surgical, or dental care by a person duly licensed to administer
37 nitrous oxide, or to the lawful sale of nitrous oxide for nonmedical
38 use.

39 The bill amends N.J.S.A.2C:36-1 through 2C:36-3, the drug
40 paraphernalia statutes, to include objects commonly associated with
41 inhalation abuse, such as the following: compressed gas containers,
42 such as tanks, cartridges or canisters, that contain food grade or
43 pharmaceutical grade nitrous oxide as a principal ingredient;
44 chargers or charging bottles, meaning metal, ceramic or plastic
45 devices that contain an interior pin that may be used to expel
46 compressed gas from a cartridge or canister; and tubes, balloons,
47 bags, fabrics, bottles or other containers used to concentrate or hold
48 in suspension a toxic chemical or the fumes of a toxic chemical.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3083

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2006

The Assembly Judiciary Committee reports favorably Assembly Bill No.3083.

This bill strengthens the prohibition on inhalation abuse, known as "huffing," by broadening the definition of "toxic chemical" in N.J.S.A.2C:35-10.4.

Under current law, it is a disorderly persons offense to inhale the fumes of any toxic chemical for the purpose of causing a condition of intoxication or to possess any toxic chemical for the purpose of causing a condition of intoxication. A disorderly persons offense is punishable by a term of imprisonment of up to six months or a fine of up to \$1,000 or both.

The bill defines "toxic chemical" as "any chemical or substance having the property of releasing toxic fumes," and provides that the term "toxic chemical" includes but is not limited to nitrous oxide, and any glue, cement, adhesive, paint remover or other substance containing a chemical capable of releasing vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

The bill specifically provides that it does not apply to the lawful possession and use of nitrous oxide for the purpose of medical, surgical, or dental care by a person duly licensed to administer nitrous oxide, or to the lawful sale of nitrous oxide for nonmedical use.

The bill amends N.J.S.A.2C:36-1 through N.J.S.A.2C:36-3, the drug paraphernalia statutes, to include objects commonly associated with inhalation abuse, such as the following: compressed gas containers, such as tanks, cartridges or canisters, that contain food grade or pharmaceutical grade nitrous oxide as a principal ingredient; chargers or charging bottles, meaning metal, ceramic or plastic devices that contain an interior pin that may be used to expel compressed gas from a cartridge or canister; and tubes, balloons, bags, fabrics, bottles or other containers used to concentrate or hold in suspension a toxic chemical or the fumes of a toxic chemical. Use or possession of a toxic chemical under N.J.S.2C:36-2 would be a disorderly persons offense. Distributing, dispensing or possessing with intent to distribute or

manufacture a toxic chemical under N.J.S.2C:36-3 would be a crime of the fourth degree punishable by a term of imprisonment not to exceed 18 months, a fine of up to \$10,000 or both.

This bill is identical to Senate Bill No. 1280.