

2C:33-15
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2021 **CHAPTER:** 38

NJSA: 2C:33-15 (Requires law enforcement to provide written notification to parent or guardian of person under age 18 who commits first offense of unlawfully possessing or consuming alcoholic beverage, cannabis, marijuana, or hashish.)

BILL NO: A5472 (Substituted for S3565)

SPONSOR(S) Conaway, Herb and others

DATE INTRODUCED: 3/15/2021

COMMITTEE: **ASSEMBLY:** Community Development & Affairs
Homeland Security & State Preparedness

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 3/25/2021

SENATE: 3/25/2021

DATE OF APPROVAL: 3/26/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third Reprint enacted) Yes

A5472

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Comm. Dev. & Affairs
Homeland Sec. & State
Preparedness

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

S3565

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE:

No

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

Yes

Committee meeting of Senate Judiciary Committee: the Committee will hear testimony from invited guests and the public on deterring minors and young adults from obtaining and using lawful cannabis items intended for adults over 21 years of age and decriminalized marijuana, as proposed in recently passed bills

February 15, 2021

Library call number: 974.90 N222, 2021a

Available online at <https://hdl.handle.net/10929/69942>

NEWSPAPER ARTICLES:

Yes

CATALINI, By MIKE. "Parents must be told of cannabis offense under new state law." Associated Press State Wire: New Jersey (NJ), March 26, 2021.

Davis, Mike. "PARENTAL NOTIFICATION FOR UNDERAGE POT USE PASSES." Record, The (Hackensack, NJ), March 26, 2021: A3.

RH/CL

P.L. 2021, CHAPTER 38, *approved March 26, 2021*
Assembly, No. 5472 (*Third Reprint*)

1 AN ACT concerning parental notification of minors' alcohol
2 ¹~~and~~,³ marijuana, hashish, and ³ ~~cannabis~~¹, marijuana, and
3 hashish¹ ³ use ¹~~under certain circumstances~~¹ ³under certain
4 circumstances³ and amending P.L.1979, c.264 ³~~and P.L.1991,~~
5 c.169² ³.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to
11 read as follows:

12 1. a. (1) Any person under the legal age to purchase alcoholic
13 beverages, or under the legal age to purchase cannabis items, who
14 knowingly possesses without legal authority or who knowingly
15 consumes any alcoholic beverage, cannabis item, marijuana, or
16 hashish in any school, public conveyance, public place, or place of
17 public assembly, or motor vehicle shall be subject to the following
18 consequences:

19 (a) for a first violation, a written warning issued by a law
20 enforcement officer to the underage person ²~~and, if the underage~~
21 person is under 18 years of age, a written warning issued by a law
22 enforcement officer to the parent, guardian, or other person having
23 legal custody of the underage person². The written warning shall
24 include the person's name, address, and date of birth, and a copy of
25 the warning containing this information, plus a sworn statement that
26 includes a description of the relevant facts and circumstances that
27 support the officer's determination that the person committed the
28 violation, shall be temporarily maintained in accordance with this
29 section only for the purposes of determining a second or subsequent
30 violation subject to the consequences set forth in subparagraph (b)
31 or (c) of this paragraph. **[Notwithstanding the provisions of]**
32 ²**[Pursuant to section 3 of P.L.1991, c.169 (C.33:1-81.1a)]**²
33 **[concerning]** ²**[, a written notification of a]** ²**If the** ² violation of
34 this section ²**is** ³**[committed]**³ by a person under 18 years of age ²,
35 a written notification concerning the violation shall be provided² to
36 the parent, guardian or other person having legal custody of the
37 underage person **[, a written notification]** ²**[shall]**² **[not]** ²**[be**
38 **provided]**² **[pursuant to that section]** ²**[for]**² **[a first]** ²**[any**
39 **violation of this paragraph]** in accordance with section 3 of
40 P.L.1991, c.169 (C.33:1-81.1a)².

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 ACD committee amendments adopted March 17, 2021.

²Assembly AHS committee amendments adopted March 17, 2021.

³Senate floor amendments adopted March 25, 2021.

1 (b) for a second violation, a written warning issued by a law
2 enforcement officer to the underage person indicating that a second
3 violation has occurred, which includes the person's name, address,
4 and date of birth. If the violation is by a person 18 years of age or
5 older, the officer shall provide the person with informational
6 materials about how to access community services provided by
7 public or private agencies and organizations that shall assist the
8 person with opportunities to access further social services,
9 including but not limited to counseling, tutoring programs,
10 mentoring services, and faith-based or other community initiatives.
11 If the violation is by a person under 18 years of age, a written
12 notification concerning the second violation ²], along with a copy
13 of the written warning for the person's first violation, ²] shall be
14 provided to the parent, guardian or other person having legal
15 custody of the underage person in accordance with section 3 of
16 P.L.1991, c.169 (C.33:1-81.1a). The written notification shall
17 include the same or similar informational materials about how to
18 access community services provided by public or private agencies
19 and organizations as those provided directly by a law enforcement
20 officer to a person 18 years of age or older who commits a second
21 violation of this paragraph. A copy of the second written warning
22 to the underage person, and, if applicable, the written notification to
23 the parent, guardian or other person having legal custody of the
24 underage person concerning the second warning, plus a sworn
25 statement that includes a description of the relevant facts and
26 circumstances that support the officer's determination that the
27 person committed the second violation, shall be temporarily
28 maintained in accordance with this section only for the purposes of
29 determining a subsequent violation subject to the consequences set
30 forth in subparagraph (c) of this paragraph.

31 (c) for a third or subsequent violation, a write-up issued by a
32 law enforcement officer to the underage person indicating that a
33 third or subsequent violation has occurred, which includes the
34 person's name, address, and date of birth. If the violation is by a
35 person 18 years of age or older, the officer shall include with the
36 write-up a referral for accessing community services provided by a
37 public or private agency or organization, and provide notice to that
38 agency or organization of the referral which may also be used to
39 initiate contact with the person, and the agency or organization shall
40 offer assistance to the person with opportunities to access further
41 social services, including but not limited to counseling, tutoring
42 programs, mentoring services, and faith-based or other community
43 initiatives. If the violation is by a person under 18 years of age, a
44 written notification concerning the third or subsequent violation
45 shall be provided to the parent, guardian or other person having
46 legal custody of the underage person in accordance with section 3
47 of P.L.1991, c.169 (C.33:1-81.1a). The written notification shall
48 include a referral for the person and the parent, guardian or other

1 person having legal custody of the underage person for accessing
2 community services provided by a public or private agency or
3 organization, and provide notice to that agency or organization of
4 the referral which may also then be used to initiate contact with
5 both persons, and the agency or organization shall offer assistance
6 to both with opportunities to access further social services,
7 including counseling, tutoring programs, mentoring services, and
8 faith-based or other community initiatives. A copy of a write-up for
9 a third or subsequent violation, the written notification to the
10 parent, guardian or other person having legal custody of the
11 underage person, if applicable, and accompanying referrals, plus a
12 sworn statement that includes a description of the relevant facts and
13 circumstances that support the officer's determination that the
14 person committed the third or subsequent violation, shall be
15 temporarily maintained in accordance with this section only to the
16 extent necessary to track referrals to agencies and organizations, as
17 well as for the purposes of determining a subsequent violation
18 subject to the consequences set forth in this subparagraph.

19 The failure of a person under the legal age to purchase alcoholic
20 beverages or cannabis items, or the failure of a parent, guardian or
21 other person having legal custody of the underage person, to accept
22 assistance from an agency or organization to which a law
23 enforcement referral was made, or to access any community
24 services provided by that agency or organization shall not result in
25 any summons, initiation of a complaint, or other legal action to be
26 adjudicated and enforced in any court.

27 (2) (a) A person under the legal age to purchase alcoholic
28 beverages or cannabis items is not capable of giving lawful consent
29 to a search to determine a violation of this section, and a law
30 enforcement officer shall not request that a person consent to a
31 search for that purpose.

32 (b) The odor of an alcoholic beverage, marijuana, hashish,
33 cannabis, or cannabis item, or burnt marijuana, hashish, cannabis,
34 or cannabis item, shall not constitute reasonable articulable
35 suspicion to initiate an investigatory stop of a person, nor shall it
36 constitute probable cause to initiate a search of a person or that
37 person's personal property to determine a violation of paragraph (1)
38 of this subsection. Additionally, the unconcealed possession of an
39 alcoholic beverage, marijuana, hashish, or cannabis item in
40 violation of paragraph (1) of this subsection, observed in plain sight
41 by a law enforcement officer, shall not constitute probable cause to
42 initiate a search of a person or that person's personal property to
43 determine any further violation of that paragraph or any other
44 violation of law.

45 (3) A person under the legal age to purchase alcoholic
46 beverages or cannabis items who violates paragraph (1) of this
47 subsection for possessing or consuming an alcoholic beverage,
48 marijuana, hashish, or a cannabis item shall not be subject to arrest,

1 'shall not be transported to a police station, police headquarters, or
2 other place of law enforcement operations,' and shall not
3 'otherwise' be subject to detention or '[otherwise]' be taken into
4 custody by a law enforcement officer 'at or near the location where
5 the violation occurred,' except to the extent 'that detention or
6 custody at or near the location is' required to issue a written
7 warning or write-up, 'collect the information necessary to' provide
8 notice of a violation to a parent, guardian or other person having
9 legal custody of the underage person in accordance with section 3
10 of P.L.1991, c.169 (C.33:1-81a), or make referrals for accessing
11 community services provided by a public or private agency or
12 organization due to a third or subsequent violation, unless the
13 person is being arrested, detained, or otherwise taken into custody
14 for also committing another violation of law for which that action is
15 legally permitted or required.

16 (4) Consistent with the provisions of subsection c. of section 1
17 of P.L.2020, c.129 (C.40A:14-118.5), the video and audio recording
18 functions of a law enforcement officer's body worn camera, as
19 defined in that section, shall be activated whenever the law
20 enforcement officer is responding to a call for service related to a
21 violation or suspected violation of paragraph (1) of this subsection
22 for possessing or consuming an alcoholic beverage, marijuana,
23 hashish, or a cannabis item, or at the initiation of any other law
24 enforcement or investigative encounter between an officer and a
25 person related to a violation or suspected violation of that
26 paragraph, and shall remain activated until the encounter has fully
27 concluded and the officer leaves the scene of the encounter;
28 provided, however, that the video and audio recording functions of
29 a body worn camera shall not be deactivated pursuant to
30 subparagraph (a) of paragraph (2) of subsection c. of P.L.2020,
31 c.129 (C.40A:14-118.5), based on a request to deactivate the
32 camera by a person who is the subject of a responsive call for
33 service or law enforcement or investigative encounter related to a
34 violation or suspected violation of paragraph (1) of this subsection.

35 (5) As part of the process for the issuance of a written warning
36 or write-up to a person for a violation of paragraph (1) of this
37 subsection, the law enforcement officer shall take possession of any
38 alcoholic beverage, marijuana, hashish, or cannabis item from the
39 person, and any drug or cannabis paraphernalia for use with any
40 marijuana, hashish, or cannabis item. The existence and description
41 of the alcoholic beverage, marijuana, hashish, or cannabis item, and
42 any drug or cannabis paraphernalia shall be included in the sworn
43 statement that includes a description of the relevant facts and
44 circumstances that support the officer's determination that the
45 person committed a violation, and which record is temporarily
46 maintained in accordance with this section to determine subsequent
47 possession or consumption violations, and track referrals for

1 accessing community services provided by a public or private
2 agency or organization due to a third or subsequent violation. Any
3 alcoholic beverage, marijuana, hashish, cannabis item, or drug or
4 cannabis paraphernalia obtained by the law enforcement officer
5 shall either be destroyed or secured for use in law enforcement
6 training or educational programs in accordance with applicable law
7 and directives issued by the Attorney General.

8 (6) With respect to any violation of paragraph (1) of this
9 subsection concerning the possession or consumption of an
10 alcoholic beverage, marijuana, hashish, or any cannabis item:

11 (a) a person under the legal age to purchase alcoholic beverages
12 or cannabis items shall not be photographed or fingerprinted,
13 notwithstanding any provisions of section 2 of P.L.1982, c.79
14 (C.2A:4A-61) to the contrary;

15 (b) (i) any copy of any written warning or write-up issued to a
16 person under the legal age to purchase alcoholic beverages or
17 cannabis items, written notification provided to the person's parent,
18 guardian or other person having legal custody in accordance with
19 section 3 of P.L.1991, c.169 (C.33:1-81.1a), sworn statement
20 describing the relevant facts and circumstances that support an
21 officer's determination that a person committed a violation, or
22 referrals for accessing community services provided by a public or
23 private agency or organization pertaining to a third or subsequent
24 violation shall be segregated and maintained in a separate physical
25 location or electronic repository or database from any other records
26 maintained by a law enforcement agency, and reported to the
27 Attorney General in a manner so that they are similarly segregated
28 and maintained in a separate physical location or electronic
29 repository or database from other law enforcement records
30 accessible to the Attorney General and State and local law
31 enforcement agencies, and shall not be transferred to or copied and
32 placed in any other physical location or electronic repository or
33 database containing any other law enforcement records. These
34 records shall only be used to the extent necessary to determine a
35 subsequent violation of paragraph (1) of this subsection or to track
36 referrals to agencies and organizations, and shall not be revealed,
37 reviewed, or considered in any manner with respect to any current
38 or subsequent juvenile delinquency matter, including but not limited
39 to, a charge, filing, eligibility or decision for diversion or discharge,
40 or sentencing, other disposition, or related decision affecting the
41 juvenile, or with respect to any current or subsequent prosecution
42 for committing an offense or other violation of law, including but
43 not limited to, a charge, filing, eligibility or decision for diversion
44 or discharge, or sentencing, other disposition, or related decision
45 affecting an adult under 21 years of age. Also, these records shall
46 be deemed confidential and shall not be subject to public inspection
47 or copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1
48 et seq.), and their existence shall not be acknowledged based upon

1 any inquiry in the same manner as if the records were expunged
2 records pursuant to the provisions of subsection a. of N.J.S.2C:52-
3 15.

4 The Attorney General may use the records described herein to
5 generate the number of occurrences and other statistics concerning
6 first, second, third and subsequent violations of paragraph (1) of
7 this subsection, the municipal, county or other geographic areas
8 within which first, second, third and subsequent violations occur,
9 and the law enforcement agencies involved in first, second, third
10 and subsequent violations, which are to be compiled and made
11 available by the Attorney General in accordance with section 4 of
12 P.L.2021, c.25 ³(C.2C:33-15.1)³ . The identity of any person
13 named in a record shall not be revealed or included in the
14 information to be compiled and made available in accordance with
15 that section.

16 The records of violations shall only be maintained temporarily
17 and shall be destroyed or permanently deleted as set forth in
18 subparagraph (c) of this paragraph.

19 (ii) any records pertaining to a person's acceptance of assistance
20 from an agency or organization to which a law enforcement referral
21 was made shall not be revealed, reviewed, or considered in any
22 manner with respect to any current or subsequent juvenile
23 delinquency matter, including but not limited to, a charge, filing,
24 eligibility or decision for diversion or discharge, or sentencing,
25 other disposition, or related decision affecting the juvenile, or with
26 respect to any current or subsequent prosecution for committing an
27 offense or other violation of law, including but not limited to, a
28 charge, filing, eligibility or decision for diversion or discharge, or
29 sentencing, other disposition, or related decision affecting an adult
30 under 21 years of age. Also, these records shall be deemed
31 confidential and shall not be subject to public inspection or copying
32 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),
33 and their existence shall not be acknowledged based upon any
34 inquiry in the same manner as if the records were expunged records
35 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

36 (c) ³**Wall** all³ of the records maintained by a law enforcement
37 agency and reported to the Attorney General as described in
38 subparagraph (i) of subparagraph (b) of this paragraph shall be
39 destroyed or permanently deleted by the law enforcement agency
40 and Attorney General on the second anniversary following the
41 creation of the record concerning a violation, or not later than the
42 last day of the month in which that second anniversary date falls, or
43 alternatively not later than the 21st birthday of a person who is the
44 subject of a record, or not later than the last day of the month in
45 which that birthday falls, whichever date occurs sooner, except that
46 a record shall be maintained upon request by the person named in
47 the record or representative thereof, the law enforcement officer
48 who made the record, or the law enforcement agency currently

1 maintaining the record if it involves a lawsuit, disciplinary
2 complaint, or criminal prosecution arising from the violation
3 described in the record, based on an assertion that the record has
4 evidentiary or exculpatory value. Upon final disposition of the
5 matter for which the extended record retention was requested, the
6 record shall be destroyed or permanently deleted.

7 (d) A law enforcement officer shall be guilty of the crime of
8 official deprivation of civil rights as set forth in section 3 of
9 P.L.2021, c.25 (C.³2C:30-6.1³) for violating the provisions of
10 paragraph (1) of this subsection that address law enforcement
11 actions involving persons who are under the legal age to purchase
12 alcoholic beverages or cannabis items.

13 b. (Deleted by amendment, P.L.2021, c.25)

14 c. (Deleted by amendment, P.L.2021, c.25)

15 d. Nothing in this act shall apply to possession of alcoholic
16 beverages by any such person while actually engaged in the
17 performance of employment pursuant to an employment permit
18 issued by the Director of the Division of Alcoholic Beverage
19 Control, or for a bona fide hotel or restaurant, in accordance with
20 the provisions of R.S.33:1-26, or while actively engaged in the
21 preparation of food while enrolled in a culinary arts or hotel
22 management program at a county vocational school or post-
23 secondary educational institution; and nothing in this section shall
24 apply to possession of cannabis items by any such person while
25 actually engaged in the performance of employment by a cannabis
26 establishment, distributor, or delivery service as permitted pursuant
27 to the “New Jersey Cannabis Regulatory, Enforcement Assistance,
28 and Marketplace Modernization Act,” P.L.2021, c.16 ³(C.24:6I-31
29 et al.)³.

30 e. Except as otherwise provided in this section, the provisions
31 of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a
32 parent, guardian or other person with legal custody of a person
33 under 18 years of age who is found to be in violation of this section.

34 f. An underage person and one or two other persons shall be
35 immune from prosecution under this section if:

36 (1) one of the underage persons called 9-1-1 and reported that
37 another underage person was in need of medical assistance due to
38 alcohol consumption, or the consumption of marijuana, hashish, or
39 a cannabis item;

40 (2) the underage person who called 9-1-1 and, if applicable, one
41 or two other persons acting in concert with the underage person
42 who called 9-1-1 provided each of their names to the 9-1-1
43 operator;

44 (3) the underage person was the first person to make the 9-1-1
45 report; and

46 (4) the underage person and, if applicable, one or two other
47 persons acting in concert with the underage person who made the 9-
48 1-1 call remained on the scene with the person under the legal age

1 in need of medical assistance until assistance arrived and
 2 cooperated with medical assistance and law enforcement personnel
 3 on the scene.

4 The underage person who received medical assistance also shall
 5 be immune from prosecution under this section.

6 g. For purposes of this section, an alcoholic beverage includes
 7 powdered alcohol as defined by R.S.33:1-1, a cannabis item
 8 includes any item available for lawful consumption pursuant to the
 9 “New Jersey Cannabis Regulatory, Enforcement Assistance, and
 10 Marketplace Modernization Act,” P.L.2021, c.16 ³[(C.2C:30-6.1²)
 11 (C.24:6I-31 et al.)³], and the terms “marijuana” and “hashish” have
 12 the same meaning as set forth in N.J.S.2C:35-2, and the terms “drug
 13 paraphernalia” and “cannabis paraphernalia” have the same
 14 meaning as set forth in N.J.S.2C:36-1 and section 3 of
 15 P.L.2021, c.16 ³[(C.2C:30-6.1²) (C.24:6I-33)³], respectively.
 16 (cf: P.L. 2021, c.25, s.2)

17

18 ³[²2. Section 3 of P.L.1991, c.169 (C.33:1-81.1a) is amended to
 19 read as follows:

20 3. A parent, guardian or other person having legal custody of a
 21 person under 18 years of age found in violation of R.S.33:1-81 or
 22 section 1 of P.L.1979, c.264 (C.2C:33-15) with respect to purchasing,
 23 possessing, or consuming any alcoholic beverage, marijuana, hashish,
 24 or cannabis item available for lawful consumption pursuant to the
 25 "New Jersey Cannabis Regulatory, Enforcement Assistance, and
 26 Marketplace Modernization Act," P.L.2021, c.21 (C.24:6I-31 et al.)
 27 shall be notified of the violation in writing. The parent, guardian or
 28 other person having legal custody of a person under 18 years of age
 29 shall be subject to a fine in the amount of \$500.00 upon any
 30 subsequent violation of R.S.33:1-81 or section 1 of P.L.1979, c.264
 31 (C.2C:33-15) on the part of such person if it is shown that the parent,
 32 guardian or other person having legal custody failed or neglected to
 33 exercise reasonable supervision or control over the conduct of the
 34 person under 18 years of age.²

35 (cf: P.L.2021, c.16, s.71)³

36

37 ²[².] ³[³.²] ².³ This act shall take effect ³[on the 60th day
 38 following enactment] immediately³.

39

40

41

42

43 _____
 44 Requires law enforcement to provide written notification to
 45 parent or guardian of person under age 18 who commits first
 46 offense of unlawfully possessing or consuming alcoholic beverage,
 cannabis, marijuana, or hashish.

ASSEMBLY, No. 5472

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 15, 2021

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Co-Sponsored by:

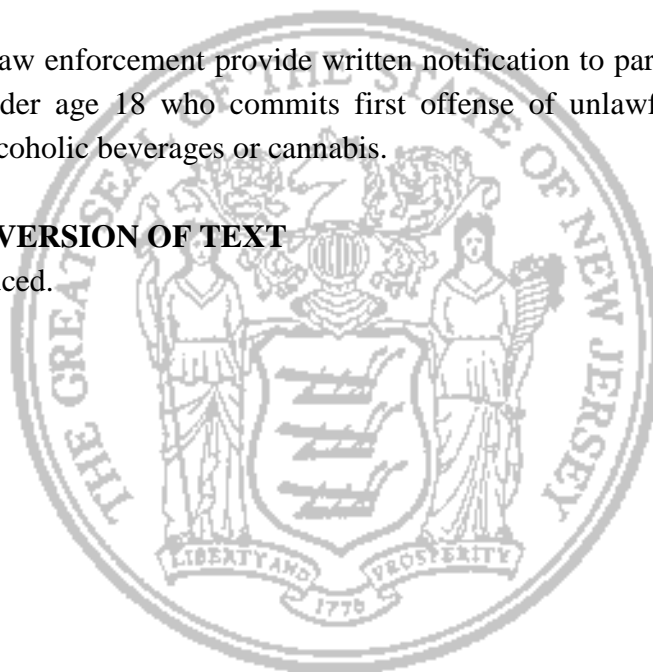
Assemblywomen Vainieri Huttler, McKnight, Assemblymen Benson, Bergen, Zwicker, Webber, DeAngelo, Assemblywoman Reynolds-Jackson, Assemblyman Karabinchak, Assemblywoman Carter, Assemblyman Caputo and Assemblywoman DiMaso

SYNOPSIS

Requires law enforcement provide written notification to parent or guardian of person under age 18 who commits first offense of unlawfully buying or possessing alcoholic beverages or cannabis.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/17/2021)

A5472 CONAWAY SPEIGHT

2

1 AN ACT concerning parental notification of minors' alcohol and
2 cannabis use under certain circumstances and amending
3 P.L.1979, c.264.

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

7
8 1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to
9 read as follows:

10 1. a. (1) Any person under the legal age to purchase alcoholic
11 beverages, or under the legal age to purchase cannabis items, who
12 knowingly possesses without legal authority or who knowingly
13 consumes any alcoholic beverage, cannabis item, marijuana, or
14 hashish in any school, public conveyance, public place, or place of
15 public assembly, or motor vehicle shall be subject to the following
16 consequences:

17 (a) for a first violation, a written warning issued by a law
18 enforcement officer to the underage person and, if the underage
19 person is under 18 years of age, a written warning issued by a law
20 enforcement officer to the parent, guardian, or other person having
21 legal custody of the underage person. The written warning shall
22 include the person's name, address, and date of birth, and a copy of
23 the warning containing this information, plus a sworn statement that
24 includes a description of the relevant facts and circumstances that
25 support the officer's determination that the person committed the
26 violation, shall be temporarily maintained in accordance with this
27 section only for the purposes of determining a second or subsequent
28 violation subject to the consequences set forth in subparagraph (b)
29 or (c) of this paragraph. **【Notwithstanding the provisions of】**
30 **【Pursuant to section 3 of P.L.1991, c.169 (C.33:1-81.1a)**
31 **【concerning】 , a written notification of a violation of this section by**
32 **a person under 18 years of age to the parent, guardian or other**
33 **person having legal custody of the underage person【, a written**
34 **notification】 shall 【not】 be provided 【pursuant to that section】 for**
35 **【a first】 any violation of this paragraph.**

36 (b) for a second violation, a written warning issued by a law
37 enforcement officer to the underage person indicating that a second
38 violation has occurred, which includes the person's name, address,
39 and date of birth. If the violation is by a person 18 years of age or
40 older, the officer shall provide the person with informational
41 materials about how to access community services provided by
42 public or private agencies and organizations that shall assist the
43 person with opportunities to access further social services,
44 including but not limited to counseling, tutoring programs,
45 mentoring services, and faith-based or other community initiatives.

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.

A5472 CONAWAY SPEIGHT

1 If the violation is by a person under 18 years of age, a written
2 notification concerning the second violation, along with a copy of
3 the written warning for the person's first violation, shall be
4 provided to the parent, guardian or other person having legal
5 custody of the underage person in accordance with section 3 of
6 P.L.1991, c.169 (C.33:1-81.1a). The written notification shall
7 include the same or similar informational materials about how to
8 access community services provided by public or private agencies
9 and organizations as those provided directly by a law enforcement
10 officer to a person 18 years of age or older who commits a second
11 violation of this paragraph. A copy of the second written warning
12 to the underage person, and, if applicable, the written notification to
13 the parent, guardian or other person having legal custody of the
14 underage person concerning the second warning, plus a sworn
15 statement that includes a description of the relevant facts and
16 circumstances that support the officer's determination that the
17 person committed the second violation, shall be temporarily
18 maintained in accordance with this section only for the purposes of
19 determining a subsequent violation subject to the consequences set
20 forth in subparagraph (c) of this paragraph.

21 (c) for a third or subsequent violation, a write-up issued by a
22 law enforcement officer to the underage person indicating that a
23 third or subsequent violation has occurred, which includes the
24 person's name, address, and date of birth. If the violation is by a
25 person 18 years of age or older, the officer shall include with the
26 write-up a referral for accessing community services provided by a
27 public or private agency or organization, and provide notice to that
28 agency or organization of the referral which may also be used to
29 initiate contact with the person, and the agency or organization shall
30 offer assistance to the person with opportunities to access further
31 social services, including but not limited to counseling, tutoring
32 programs, mentoring services, and faith-based or other community
33 initiatives. If the violation is by a person under 18 years of age, a
34 written notification concerning the third or subsequent violation
35 shall be provided to the parent, guardian or other person having
36 legal custody of the underage person in accordance with section 3
37 of P.L.1991, c.169 (C.33:1-81.1a). The written notification shall
38 include a referral for the person and the parent, guardian or other
39 person having legal custody of the underage person for accessing
40 community services provided by a public or private agency or
41 organization, and provide notice to that agency or organization of
42 the referral which may also then be used to initiate contact with
43 both persons, and the agency or organization shall offer assistance
44 to both with opportunities to access further social services,
45 including counseling, tutoring programs, mentoring services, and
46 faith-based or other community initiatives. A copy of a write-up for
47 a third or subsequent violation, the written notification to the
48 parent, guardian or other person having legal custody of the

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1 underage person, if applicable, and accompanying referrals, plus a
2 sworn statement that includes a description of the relevant facts and
3 circumstances that support the officer's determination that the
4 person committed the third or subsequent violation, shall be
5 temporarily maintained in accordance with this section only to the
6 extent necessary to track referrals to agencies and organizations, as
7 well as for the purposes of determining a subsequent violation
8 subject to the consequences set forth in this subparagraph.

9 The failure of a person under the legal age to purchase alcoholic
10 beverages or cannabis items, or the failure of a parent, guardian or
11 other person having legal custody of the underage person, to accept
12 assistance from an agency or organization to which a law
13 enforcement referral was made, or to access any community
14 services provided by that agency or organization shall not result in
15 any summons, initiation of a complaint, or other legal action to be
16 adjudicated and enforced in any court.

17 (2) (a) A person under the legal age to purchase alcoholic
18 beverages or cannabis items is not capable of giving lawful consent
19 to a search to determine a violation of this section, and a law
20 enforcement officer shall not request that a person consent to a
21 search for that purpose.

22 (b) The odor of an alcoholic beverage, marijuana, hashish,
23 cannabis, or cannabis item, or burnt marijuana, hashish, cannabis,
24 or cannabis item, shall not constitute reasonable articulable
25 suspicion to initiate an investigatory stop of a person, nor shall it
26 constitute probable cause to initiate a search of a person or that
27 person's personal property to determine a violation of paragraph (1)
28 of this subsection. Additionally, the unconcealed possession of an
29 alcoholic beverage, marijuana, hashish, or cannabis item in
30 violation of paragraph (1) of this subsection, observed in plain sight
31 by a law enforcement officer, shall not constitute probable cause to
32 initiate a search of a person or that person's personal property to
33 determine any further violation of that paragraph or any other
34 violation of law .

35 (3) A person under the legal age to purchase alcoholic
36 beverages or cannabis items who violates paragraph (1) of this
37 subsection for possessing or consuming an alcoholic beverage,
38 marijuana, hashish, or a cannabis item shall not be subject to arrest,
39 and shall not be subject to detention or otherwise be taken into
40 custody by a law enforcement officer except to the extent required
41 to issue a written warning or write-up, provide notice of a violation
42 to a parent, guardian or other person having legal custody of the
43 underage person in accordance with section 3 of P.L.1991, c.169
44 (C.33:1-81a), or make referrals for accessing community services
45 provided by a public or private agency or organization due to a third
46 or subsequent violation , unless the person is being arrested,
47 detained, or otherwise taken into custody for also committing

1 another violation of law for which that action is legally permitted or
2 required.

3 (4) Consistent with the provisions of subsection c. of section 1
4 of P.L.2020, c.129 (C.40A:14-118.5), the video and audio recording
5 functions of a law enforcement officer's body worn camera, as
6 defined in that section, shall be activated whenever the law
7 enforcement officer is responding to a call for service related to a
8 violation or suspected violation of paragraph (1) of this subsection
9 for possessing or consuming an alcoholic beverage, marijuana,
10 hashish, or a cannabis item, or at the initiation of any other law
11 enforcement or investigative encounter between an officer and a
12 person related to a violation or suspected violation of that
13 paragraph, and shall remain activated until the encounter has fully
14 concluded and the officer leaves the scene of the encounter;
15 provided, however, that the video and audio recording functions of
16 a body worn camera shall not be deactivated pursuant to
17 subparagraph (a) of paragraph (2) of subsection c. of P.L.2020,
18 c.129 (C.40A:14-118.5), based on a request to deactivate the
19 camera by a person who is the subject of a responsive call for
20 service or law enforcement or investigative encounter related to a
21 violation or suspected violation of paragraph (1) of this subsection.

22 (5) As part of the process for the issuance of a written warning
23 or write-up to a person for a violation of paragraph (1) of this
24 subsection, the law enforcement officer shall take possession of any
25 alcoholic beverage, marijuana, hashish, or cannabis item from the
26 person, and any drug or cannabis paraphernalia for use with any
27 marijuana, hashish, or cannabis item. The existence and description
28 of the alcoholic beverage, marijuana, hashish, or cannabis item, and
29 any drug or cannabis paraphernalia shall be included in the sworn
30 statement that includes a description of the relevant facts and
31 circumstances that support the officer's determination that the
32 person committed a violation, and which record is temporarily
33 maintained in accordance with this section to determine subsequent
34 possession or consumption violations, and track referrals for
35 accessing community services provided by a public or private
36 agency or organization due to a third or subsequent violation. Any
37 alcoholic beverage, marijuana, hashish, cannabis item, or drug or
38 cannabis paraphernalia obtained by the law enforcement officer
39 shall either be destroyed or secured for use in law enforcement
40 training or educational programs in accordance with applicable law
41 and directives issued by the Attorney General.

42 (6) With respect to any violation of paragraph (1) of this
43 subsection concerning the possession or consumption of an
44 alcoholic beverage, marijuana, hashish, or any cannabis item:

45 (a) a person under the legal age to purchase alcoholic beverages
46 or cannabis items shall not be photographed or fingerprinted,
47 notwithstanding any provisions of section 2 of P.L.1982, c.79
48 (C.2A:4A-61) to the contrary;

1 (b) (i) any copy of any written warning or write-up issued to a
2 person under the legal age to purchase alcoholic beverages or
3 cannabis items, written notification provided to the person's parent,
4 guardian or other person having legal custody in accordance with
5 section 3 of P.L.1991, c.169 (C.33:1-81.1a), sworn statement
6 describing the relevant facts and circumstances that support an
7 officer's determination that a person committed a violation, or
8 referrals for accessing community services provided by a public or
9 private agency or organization pertaining to a third or subsequent
10 violation shall be segregated and maintained in a separate physical
11 location or electronic repository or database from any other records
12 maintained by a law enforcement agency, and reported to the
13 Attorney General in a manner so that they are similarly segregated
14 and maintained in a separate physical location or electronic
15 repository or database from other law enforcement records
16 accessible to the Attorney General and State and local law
17 enforcement agencies, and shall not be transferred to or copied and
18 placed in any other physical location or electronic repository or
19 database containing any other law enforcement records. These
20 records shall only be used to the extent necessary to determine a
21 subsequent violation of paragraph (1) of this subsection or to track
22 referrals to agencies and organizations, and shall not be revealed,
23 reviewed, or considered in any manner with respect to any current
24 or subsequent juvenile delinquency matter, including but not limited
25 to, a charge, filing, eligibility or decision for diversion or discharge,
26 or sentencing, other disposition, or related decision affecting the
27 juvenile, or with respect to any current or subsequent prosecution
28 for committing an offense or other violation of law, including but
29 not limited to, a charge, filing, eligibility or decision for diversion
30 or discharge, or sentencing, other disposition, or related decision
31 affecting an adult under 21 years of age. Also, these records shall
32 be deemed confidential and shall not be subject to public inspection
33 or copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1
34 et seq.), and their existence shall not be acknowledged based upon
35 any inquiry in the same manner as if the records were expunged
36 records pursuant to the provisions of subsection a. of N.J.S.2C:52-
37 15.

38 The Attorney General may use the records described herein to
39 generate the number of occurrences and other statistics concerning
40 first, second, third and subsequent violations of paragraph (1) of this
41 subsection, the municipal, county or other geographic areas within
42 which first, second, third and subsequent violations occur, and the
43 law enforcement agencies involved in first, second, third and
44 subsequent violations, which are to be compiled and made available
45 by the Attorney General in accordance with section 4 of P.L.2021,
46 c.25. The identity of any person named in a record shall not be
47 revealed or included in the information to be compiled and made
48 available in accordance with that section.

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1 The records of violations shall only be maintained temporarily
2 and shall be destroyed or permanently deleted as set forth in
3 subparagraph (c) of this paragraph.

4 (ii) any records pertaining to a person's acceptance of assistance
5 from an agency or organization to which a law enforcement referral
6 was made shall not be revealed, reviewed, or considered in any
7 manner with respect to any current or subsequent juvenile
8 delinquency matter, including but not limited to, a charge, filing,
9 eligibility or decision for diversion or discharge, or sentencing,
10 other disposition, or related decision affecting the juvenile, or with
11 respect to any current or subsequent prosecution for committing an
12 offense or other violation of law, including but not limited to, a
13 charge, filing, eligibility or decision for diversion or discharge, or
14 sentencing, other disposition, or related decision affecting an adult
15 under 21 years of age. Also, these records shall be deemed
16 confidential and shall not be subject to public inspection or copying
17 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),
18 and their existence shall not be acknowledged based upon any
19 inquiry in the same manner as if the records were expunged records
20 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

21 (c) All of the records maintained by a law enforcement agency
22 and reported to the Attorney General as described in
23 subparagraph (i) of subparagraph (b) of this paragraph shall be
24 destroyed or permanently deleted by the law enforcement agency
25 and Attorney General on the second anniversary following the
26 creation of the record concerning a violation, or not later than the
27 last day of the month in which that second anniversary date falls, or
28 alternatively not later than the 21st birthday of a person who is the
29 subject of a record, or not later than the last day of the month in
30 which that birthday falls, whichever date occurs sooner, except that
31 a record shall be maintained upon request by the person named in
32 the record or representative thereof, the law enforcement officer
33 who made the record, or the law enforcement agency currently
34 maintaining the record if it involves a lawsuit, disciplinary
35 complaint, or criminal prosecution arising from the violation
36 described in the record, based on an assertion that the record has
37 evidentiary or exculpatory value. Upon final disposition of the
38 matter for which the extended record retention was requested, the
39 record shall be destroyed or permanently deleted.

40 (d) A law enforcement officer shall be guilty of the crime of
41 official deprivation of civil rights as set forth in section 3 of
42 P.L.2021, c.25 (C.) for violating the provisions of paragraph
43 (1) of this subsection that address law enforcement actions
44 involving persons who are under the legal age to purchase alcoholic
45 beverages or cannabis items.

46 b. (Deleted by amendment, P.L.2021, c.25)

47 c. (Deleted by amendment, P.L.2021, c.25)

1 d. Nothing in this act shall apply to possession of alcoholic
2 beverages by any such person while actually engaged in the
3 performance of employment pursuant to an employment permit
4 issued by the Director of the Division of Alcoholic Beverage
5 Control, or for a bona fide hotel or restaurant, in accordance with
6 the provisions of R.S.33:1-26, or while actively engaged in the
7 preparation of food while enrolled in a culinary arts or hotel
8 management program at a county vocational school or post-
9 secondary educational institution; and nothing in this section shall
10 apply to possession of cannabis items by any such person while
11 actually engaged in the performance of employment by a cannabis
12 establishment, distributor, or delivery service as permitted pursuant
13 to the “New Jersey Cannabis Regulatory, Enforcement Assistance,
14 and Marketplace Modernization Act,” P.L.2021, c.16.

15 e. Except as otherwise provided in this section, the provisions
16 of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a
17 parent, guardian or other person with legal custody of a person
18 under 18 years of age who is found to be in violation of this section.

19 f. An underage person and one or two other persons shall be
20 immune from prosecution under this section if:

21 (1) one of the underage persons called 9-1-1 and reported that
22 another underage person was in need of medical assistance due to
23 alcohol consumption , or the consumption of marijuana, hashish, or
24 a cannabis item;

25 (2) the underage person who called 9-1-1 and, if applicable, one
26 or two other persons acting in concert with the underage person
27 who called 9-1-1 provided each of their names to the 9-1-1
28 operator;

29 (3) the underage person was the first person to make the 9-1-1
30 report; and

31 (4) the underage person and, if applicable, one or two other
32 persons acting in concert with the underage person who made the 9-
33 1-1 call remained on the scene with the person under the legal age
34 in need of medical assistance until assistance arrived and
35 cooperated with medical assistance and law enforcement personnel
36 on the scene.

37 The underage person who received medical assistance also shall
38 be immune from prosecution under this section.

39 g. For purposes of this section, an alcoholic beverage includes
40 powdered alcohol as defined by R.S.33:1-1, a cannabis item
41 includes any item available for lawful consumption pursuant to the
42 “New Jersey Cannabis Regulatory, Enforcement Assistance, and
43 Marketplace Modernization Act,” P.L.2021, c.16, and the terms
44 “marijuana” and “hashish” have the same meaning as set forth in
45 N.J.S.2C:35-2, and the terms “drug paraphernalia” and “cannabis
46 paraphernalia” have the same meaning as set forth in N.J.S.2C:36-1
47 and section 3 of P.L.2021, c.16 (C.), respectively.

48 (cf: P.L.2021, c.25, s.2)

1 2. This act shall take effect on the 60th day following
2 enactment.

3

4

5

STATEMENT

6

7 This bill provides that if a person under the age of 18 violates the
8 law by purchasing or possessing alcoholic beverages or cannabis
9 and receives a written warning from a law enforcement officer, the
10 law enforcement officer would also be required to provide a written
11 notice to the parent, guardian, or other person having legal custody
12 of the minor.

13 P.L.2021, c.25 established certain consequences for persons who
14 purchase or possess alcoholic beverages or cannabis items when
15 under the legal age to do so. These consequences include, for a
16 second or third violation where the person is under age 18, a
17 notification to the minor's parent, guardian, or other person having
18 legal custody of the minor. However, P.L.2021, c.25 does not
19 provide that a parent, guardian, or other person having custody
20 would be notified about the minor's first violation. This bill would
21 require such notice.

ASSEMBLY COMMUNITY DEVELOPMENT AND AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 5472

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 17, 2021

The Assembly Community Development and Affairs Committee reports favorably and with committee amendments Assembly Bill No. 5472.

This bill as amended requires notification to the parent or guardian of certain underage persons for a first offense of possessing or consuming alcohol, cannabis, marijuana, or hashish. The amended bill also bars law enforcement from transporting such persons to a police station to deliver the statutory warning for a first offense.

Under the amended bill, if a person under the age of 18 violates the law by possessing or consuming alcohol, cannabis, marijuana, or hashish and receives a written warning from a law enforcement officer for a first offense, the law enforcement officer would also be required to provide a written notice to the parent, guardian, or other person having legal custody of the minor. The bill as amended also provides that a law enforcement officer providing a written warning to a person under the age of 18 would not transport the person to a police station or other law enforcement location.

P.L.2021, c.25 established certain consequences for persons who possess or consume alcoholic beverages or cannabis items when under the legal age to do so, or unlawfully possess or consume marijuana or hashish. These consequences include, for a second or third violation where the person is under age 18, a written notification to the minor's parent, guardian, or other person having legal custody of the minor. However, P.L.2021, c.25 does not provide that a parent, guardian, or other person having custody would be notified about the minor's first violation. This bill would require such notice.

The bill as amended also provides that the person under age 18 would not be subject to arrest, not be transported to a police station, police headquarters, or other place of law enforcement operations, and not otherwise be subject to detention or taken into custody by a law enforcement officer at or near the location where the violation occurred, except to the extent that detention or custody at or near the location is required to issue a written warning or write-up, collect the information necessary to provide notice of a violation to a parent,

guardian or other person having legal custody of the underage person, or make referrals for accessing community services.

COMMITTEE AMENDMENTS:

The committee amendments:

-- provide that an underage person who violates the law shall not be transported to a police station, police headquarters, or other place of law enforcement operations, and shall not otherwise be subject to detention or be taken into custody at or near the location where the violation occurred, except to the extent that detention or custody at or near the location is required to issue a written warning or write-up, or collect necessary information to provide notice to a parent or guardian, make referrals for community services, or unless the person is being arrested or detained for also committing another violation of law for which arrest or detention is permitted or required;

-- amend the bill title to add marijuana and hashish use to the listed offenses; and

-- replace the bill's synopsis to clarify that the bill applies to possessing or consuming alcohol, cannabis, marijuana, or hashish.

ASSEMBLY HOMELAND SECURITY AND STATE
PREPAREDNESS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5472

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 17, 2021

The Assembly Homeland Security and State Preparedness Committee reports favorably and with committee amendments Assembly Bill No. 5472 (1R).

As amended and reported by the committee, Assembly Bill No. 5472 (1R) requires notification to the parent or guardian of certain underage persons for a first offense of possessing or consuming alcohol, cannabis, marijuana, or hashish. The bill also bars law enforcement from transporting such persons to a police station to deliver the statutory warning for a first offense.

Under the amended bill, if a person under the age of 18 violates the law by possessing or consuming alcohol, cannabis, marijuana, or hashish and receives a written warning from a law enforcement officer for a first offense, the law enforcement officer would also be required to provide a written notice to the parent, guardian, or other person having legal custody of the minor. The bill also provides that a law enforcement officer providing a written warning to a person under the age of 18 would not transport the person to a police station or other law enforcement location.

P.L.2021, c.25 established certain consequences for persons who possess or consume alcoholic beverages or cannabis items when under the legal age to do so, or unlawfully possess or consume marijuana or hashish. These consequences include, for a second or third violation where the person is under age 18, a written notification to the minor's parent, guardian, or other person having legal custody of the minor. However, P.L.2021, c.25 does not provide that a parent, guardian, or other person having custody would be notified about the minor's first violation. This bill would require such notice.

The bill also provides that the person under age 18 would not be subject to arrest, not be transported to a police station, police headquarters, or other place of law enforcement operations, and not otherwise be subject to detention or taken into custody by a law enforcement officer at or near the location where the violation occurred, except to the extent that detention or custody at or near the

location is required to issue a written warning or write-up, collect the information necessary to provide notice of a violation to a parent, guardian or other person having legal custody of the underage person, or make referrals for accessing community services.

COMMITTEE AMENDMENTS

The committee amended the bill to make technical changes and to add the terms “marijuana” and “hashish” to an additional section of law concerning parental notification for purposes of consistency.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 5472

with Senate Floor Amendments
(Proposed by Senator GOPAL)

ADOPTED: MARCH 25, 2021

These floor amendments delete a section of the bill that had provided that a parent, guardian, or other person with legal custody of a minor would be subject to a \$500 fine if the minor commits a subsequent violation of law concerning unlawful purchasing, possessing, or consuming marijuana or hashish and it is shown that the parent, guardian, or other person with legal custody failed or neglected to exercise reasonable supervision or control over the conduct of the minor. Current law provides for such a fine under these circumstances if a minor commits a subsequent violation of the law concerning underage purchasing, possessing, or consuming an alcoholic beverage or lawful cannabis item.

The floor amendments also make changes to clarify certain language and correct typographical errors.

These floor amendments make this bill identical to Senate, No. 3565.

SENATE, No. 3565

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 18, 2021

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Co-Sponsored by:

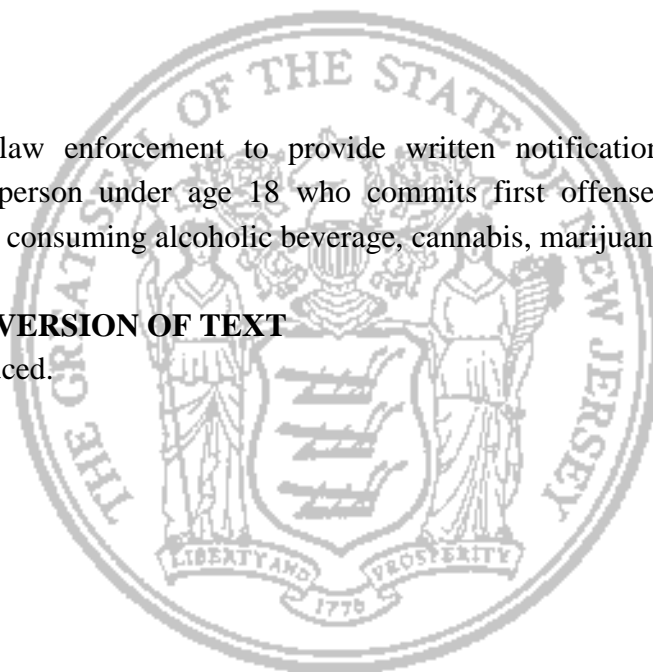
**Senators Brown, Codey, Diegnan, Stack, Bateman, Corrado, Holzapfel,
Thompson and Turner**

SYNOPSIS

Requires law enforcement to provide written notification to parent or guardian of person under age 18 who commits first offense of unlawfully possessing or consuming alcoholic beverage, cannabis, marijuana, or hashish.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/25/2021)

1 AN ACT concerning parental notification of minors' alcohol,
2 marijuana, hashish, and cannabis use under certain circumstances
3 and amending P.L.1979, c.264.
4

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

8 1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to
9 read as follows:

10 1. a. (1) Any person under the legal age to purchase alcoholic
11 beverages, or under the legal age to purchase cannabis items, who
12 knowingly possesses without legal authority or who knowingly
13 consumes any alcoholic beverage, cannabis item, marijuana, or
14 hashish in any school, public conveyance, public place, or place of
15 public assembly, or motor vehicle shall be subject to the following
16 consequences:

17 (a) for a first violation, a written warning issued by a law
18 enforcement officer to the underage person. The written warning
19 shall include the person's name, address, and date of birth, and a
20 copy of the warning containing this information, plus a sworn
21 statement that includes a description of the relevant facts and
22 circumstances that support the officer's determination that the
23 person committed the violation, shall be temporarily maintained in
24 accordance with this section only for the purposes of determining a
25 second or subsequent violation subject to the consequences set forth
26 in subparagraph (b) or (c) of this paragraph. **【Notwithstanding the**
27 **provisions of section 3 of P.L.1991, c.169 (C.33:1-81.1a)**
28 **concerning written notification of a】** If the violation of this section
29 is by a person under 18 years of age, a written notification
30 concerning the violation shall be provided to the parent, guardian
31 or other person having legal custody of the underage person**【,** a
32 written notification shall not be provided pursuant to that section
33 for a first violation of this paragraph**】** in accordance with section 3
34 of P.L.1991, c.169 (C.33:1-81.1a).

35 (b) for a second violation, a written warning issued by a law
36 enforcement officer to the underage person indicating that a second
37 violation has occurred, which includes the person's name, address,
38 and date of birth. If the violation is by a person 18 years of age or
39 older, the officer shall provide the person with informational
40 materials about how to access community services provided by
41 public or private agencies and organizations that shall assist the
42 person with opportunities to access further social services,
43 including but not limited to counseling, tutoring programs,
44 mentoring services, and faith-based or other community initiatives.
45 If the violation is by a person under 18 years of age, a written

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 notification concerning the second violation【, along with a copy of
2 the written warning for the person’s first violation,】 shall be
3 provided to the parent, guardian or other person having legal
4 custody of the underage person in accordance with section 3 of
5 P.L.1991, c.169 (C.33:1-81.1a). The written notification shall
6 include the same or similar informational materials about how to
7 access community services provided by public or private agencies
8 and organizations as those provided directly by a law enforcement
9 officer to a person 18 years of age or older who commits a second
10 violation of this paragraph. A copy of the second written warning
11 to the underage person, and, if applicable, the written notification to
12 the parent, guardian or other person having legal custody of the
13 underage person concerning the second warning, plus a sworn
14 statement that includes a description of the relevant facts and
15 circumstances that support the officer’s determination that the
16 person committed the second violation, shall be temporarily
17 maintained in accordance with this section only for the purposes of
18 determining a subsequent violation subject to the consequences set
19 forth in subparagraph (c) of this paragraph.

20 (c) for a third or subsequent violation, a write-up issued by a
21 law enforcement officer to the underage person indicating that a
22 third or subsequent violation has occurred, which includes the
23 person’s name, address, and date of birth. If the violation is by a
24 person 18 years of age or older, the officer shall include with the
25 write-up a referral for accessing community services provided by a
26 public or private agency or organization, and provide notice to that
27 agency or organization of the referral which may also be used to
28 initiate contact with the person, and the agency or organization shall
29 offer assistance to the person with opportunities to access further
30 social services, including but not limited to counseling, tutoring
31 programs, mentoring services, and faith-based or other community
32 initiatives. If the violation is by a person under 18 years of age, a
33 written notification concerning the third or subsequent violation
34 shall be provided to the parent, guardian or other person having
35 legal custody of the underage person in accordance with section 3
36 of P.L.1991, c.169 (C.33:1-81.1a). The written notification shall
37 include a referral for the person and the parent, guardian or other
38 person having legal custody of the underage person for accessing
39 community services provided by a public or private agency or
40 organization, and provide notice to that agency or organization of
41 the referral which may also then be used to initiate contact with
42 both persons, and the agency or organization shall offer assistance
43 to both with opportunities to access further social services,
44 including counseling, tutoring programs, mentoring services, and
45 faith-based or other community initiatives. A copy of a write-up for
46 a third or subsequent violation, the written notification to the
47 parent, guardian or other person having legal custody of the
48 underage person, if applicable, and accompanying referrals, plus a

1 sworn statement that includes a description of the relevant facts and
2 circumstances that support the officer's determination that the
3 person committed the third or subsequent violation, shall be
4 temporarily maintained in accordance with this section only to the
5 extent necessary to track referrals to agencies and organizations, as
6 well as for the purposes of determining a subsequent violation
7 subject to the consequences set forth in this subparagraph.

8 The failure of a person under the legal age to purchase alcoholic
9 beverages or cannabis items, or the failure of a parent, guardian or
10 other person having legal custody of the underage person, to accept
11 assistance from an agency or organization to which a law
12 enforcement referral was made, or to access any community
13 services provided by that agency or organization shall not result in
14 any summons, initiation of a complaint, or other legal action to be
15 adjudicated and enforced in any court.

16 (2) (a) A person under the legal age to purchase alcoholic
17 beverages or cannabis items is not capable of giving lawful consent
18 to a search to determine a violation of this section, and a law
19 enforcement officer shall not request that a person consent to a
20 search for that purpose.

21 (b) The odor of an alcoholic beverage, marijuana, hashish,
22 cannabis, or cannabis item, or burnt marijuana, hashish, cannabis,
23 or cannabis item, shall not constitute reasonable articulable
24 suspicion to initiate an investigatory stop of a person, nor shall it
25 constitute probable cause to initiate a search of a person or that
26 person's personal property to determine a violation of paragraph (1)
27 of this subsection. Additionally, the unconcealed possession of an
28 alcoholic beverage, marijuana, hashish, or cannabis item in
29 violation of paragraph (1) of this subsection, observed in plain sight
30 by a law enforcement officer, shall not constitute probable cause to
31 initiate a search of a person or that person's personal property to
32 determine any further violation of that paragraph or any other
33 violation of law .

34 (3) A person under the legal age to purchase alcoholic beverages
35 or cannabis items who violates paragraph (1) of this subsection for
36 possessing or consuming an alcoholic beverage, marijuana, hashish,
37 or a cannabis item shall not be subject to arrest, shall not be
38 transported to a police station, police headquarters, or other place of
39 law enforcement operations, and shall not otherwise be subject to
40 detention or **[otherwise]** be taken into custody by a law
41 enforcement officer at or near the location where the violation
42 occurred, except to the extent that detention or custody at or near
43 the location is required to issue a written warning or write-up,
44 collect the information necessary to provide notice of a violation to
45 a parent, guardian or other person having legal custody of the
46 underage person in accordance with section 3 of P.L.1991, c.169
47 (C.33:1-81a), or make referrals for accessing community services
48 provided by a public or private agency or organization due to a third

1 or subsequent violation , unless the person is being arrested,
2 detained, or otherwise taken into custody for also committing
3 another violation of law for which that action is legally permitted or
4 required.

5 (4) Consistent with the provisions of subsection c. of section 1
6 of P.L.2020, c.129 (C.40A:14-118.5), the video and audio recording
7 functions of a law enforcement officer's body worn camera, as
8 defined in that section, shall be activated whenever the law
9 enforcement officer is responding to a call for service related to a
10 violation or suspected violation of paragraph (1) of this subsection
11 for possessing or consuming an alcoholic beverage, marijuana,
12 hashish, or a cannabis item, or at the initiation of any other law
13 enforcement or investigative encounter between an officer and a
14 person related to a violation or suspected violation of that
15 paragraph, and shall remain activated until the encounter has fully
16 concluded and the officer leaves the scene of the encounter;
17 provided, however, that the video and audio recording functions of
18 a body worn camera shall not be deactivated pursuant to
19 subparagraph (a) of paragraph (2) of subsection c. of P.L.2020,
20 c.129 (C.40A:14-118.5), based on a request to deactivate the
21 camera by a person who is the subject of a responsive call for
22 service or law enforcement or investigative encounter related to a
23 violation or suspected violation of paragraph (1)of this subsection.

24 (5) As part of the process for the issuance of a written warning
25 or write-up to a person for a violation of paragraph (1)of this
26 subsection, the law enforcement officer shall take possession of any
27 alcoholic beverage, marijuana, hashish, or cannabis item from the
28 person, and any drug or cannabis paraphernalia for use with any
29 marijuana, hashish, or cannabis item. The existence and description
30 of the alcoholic beverage, marijuana, hashish, or cannabis item, and
31 any drug or cannabis paraphernalia shall be included in the sworn
32 statement that includes a description of the relevant facts and
33 circumstances that support the officer's determination that the
34 person committed a violation, and which record is temporarily
35 maintained in accordance with this section to determine subsequent
36 possession or consumption violations, and track referrals for
37 accessing community services provided by a public or private
38 agency or organization due to a third or subsequent violation. Any
39 alcoholic beverage, marijuana, hashish, cannabis item, or drug or
40 cannabis paraphernalia obtained by the law enforcement officer
41 shall either be destroyed or secured for use in law enforcement
42 training or educational programs in accordance with applicable law
43 and directives issued by the Attorney General.

44 (6) With respect to any violation of paragraph (1) of this
45 subsection concerning the possession or consumption of an
46 alcoholic beverage, marijuana, hashish, or any cannabis item:

47 (a) a person under the legal age to purchase alcoholic beverages
48 or cannabis items shall not be photographed or fingerprinted,

1 notwithstanding any provisions of section 2 of P.L.1982, c.79
2 (C.2A:4A-61) to the contrary;

3 (b) (i) any copy of any written warning or write-up issued to a
4 person under the legal age to purchase alcoholic beverages or
5 cannabis items, written notification provided to the person's parent,
6 guardian or other person having legal custody in accordance with
7 section 3 of P.L.1991, c.169 (C.33:1-81.1a), sworn statement
8 describing the relevant facts and circumstances that support an
9 officer's determination that a person committed a violation, or
10 referrals for accessing community services provided by a public or
11 private agency or organization pertaining to a third or subsequent
12 violation shall be segregated and maintained in a separate physical
13 location or electronic repository or database from any other records
14 maintained by a law enforcement agency, and reported to the
15 Attorney General in a manner so that they are similarly segregated
16 and maintained in a separate physical location or electronic
17 repository or database from other law enforcement records
18 accessible to the Attorney General and State and local law
19 enforcement agencies, and shall not be transferred to or copied and
20 placed in any other physical location or electronic repository or
21 database containing any other law enforcement records. These
22 records shall only be used to the extent necessary to determine a
23 subsequent violation of paragraph (1) of this subsection or to track
24 referrals to agencies and organizations, and shall not be revealed,
25 reviewed, or considered in any manner with respect to any current
26 or subsequent juvenile delinquency matter, including but not limited
27 to, a charge, filing, eligibility or decision for diversion or discharge,
28 or sentencing, other disposition, or related decision affecting the
29 juvenile, or with respect to any current or subsequent prosecution
30 for committing an offense or other violation of law, including but
31 not limited to, a charge, filing, eligibility or decision for diversion
32 or discharge, or sentencing, other disposition, or related decision
33 affecting an adult under 21 years of age. Also, these records shall
34 be deemed confidential and shall not be subject to public inspection
35 or copying pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1
36 et seq.), and their existence shall not be acknowledged based upon
37 any inquiry in the same manner as if the records were expunged
38 records pursuant to the provisions of subsection a. of N.J.S.2C:52-
39 15.

40 The Attorney General may use the records described herein to
41 generate the number of occurrences and other statistics concerning
42 first, second, third and subsequent violations of paragraph (1) of
43 this subsection, the municipal, county or other geographic areas
44 within which first, second, third and subsequent violations occur,
45 and the law enforcement agencies involved in first, second, third
46 and subsequent violations, which are to be compiled and made
47 available by the Attorney General in accordance with section 4 of
48 P.L.2021, c.25 (C.). The identity of any person named in a

1 record shall not be revealed or included in the information to be
2 compiled and made available in accordance with that section.

3 The records of violations shall only be maintained temporarily
4 and shall be destroyed or permanently deleted as set forth in
5 subparagraph (c) of this paragraph.

6 (ii) any records pertaining to a person's acceptance of assistance
7 from an agency or organization to which a law enforcement referral
8 was made shall not be revealed, reviewed, or considered in any
9 manner with respect to any current or subsequent juvenile
10 delinquency matter, including but not limited to, a charge, filing,
11 eligibility or decision for diversion or discharge, or sentencing,
12 other disposition, or related decision affecting the juvenile, or with
13 respect to any current or subsequent prosecution for committing an
14 offense or other violation of law, including but not limited to, a
15 charge, filing, eligibility or decision for diversion or discharge, or
16 sentencing, other disposition, or related decision affecting an adult
17 under 21 years of age. Also, these records shall be deemed
18 confidential and shall not be subject to public inspection or copying
19 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.),
20 and their existence shall not be acknowledged based upon any
21 inquiry in the same manner as if the records were expunged records
22 pursuant to the provisions of subsection a. of N.J.S.2C:52-15.

23 (c) all of the records maintained by a law enforcement agency
24 and reported to the Attorney General as described in
25 subparagraph (i) of subparagraph (b) of this paragraph shall be
26 destroyed or permanently deleted by the law enforcement agency
27 and Attorney General on the second anniversary following the
28 creation of the record concerning a violation, or not later than the
29 last day of the month in which that second anniversary date falls, or
30 alternatively not later than the 21st birthday of a person who is the
31 subject of a record, or not later than the last day of the month in
32 which that birthday falls, whichever date occurs sooner, except that
33 a record shall be maintained upon request by the person named in
34 the record or representative thereof, the law enforcement officer
35 who made the record, or the law enforcement agency currently
36 maintaining the record if it involves a lawsuit, disciplinary
37 complaint, or criminal prosecution arising from the violation
38 described in the record, based on an assertion that the record has
39 evidentiary or exculpatory value. Upon final disposition of the
40 matter for which the extended record retention was requested, the
41 record shall be destroyed or permanently deleted.

42 (d) A law enforcement officer shall be guilty of the crime of
43 official deprivation of civil rights as set forth in section 3 of
44 P.L.2021, c.25 (C.) for violating the provisions of paragraph
45 (1) of this subsection that address law enforcement actions
46 involving persons who are under the legal age to purchase alcoholic
47 beverages or cannabis items.

- 1 b. (Deleted by amendment, P.L.2021, c.25)
- 2 c. (Deleted by amendment, P.L.2021, c.25)
- 3 d. Nothing in this act shall apply to possession of alcoholic
4 beverages by any such person while actually engaged in the
5 performance of employment pursuant to an employment permit
6 issued by the Director of the Division of Alcoholic Beverage
7 Control, or for a bona fide hotel or restaurant, in accordance with
8 the provisions of R.S.33:1-26, or while actively engaged in the
9 preparation of food while enrolled in a culinary arts or hotel
10 management program at a county vocational school or post-
11 secondary educational institution; and nothing in this section shall
12 apply to possession of cannabis items by any such person while
13 actually engaged in the performance of employment by a cannabis
14 establishment, distributor, or delivery service as permitted pursuant
15 to the “New Jersey Cannabis Regulatory, Enforcement Assistance,
16 and Marketplace Modernization Act,” P.L.2021, c.16 (C. 24:6I-
17 31 et al).
- 18 e. Except as otherwise provided in this section, the provisions
19 of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a
20 parent, guardian or other person with legal custody of a person
21 under 18 years of age who is found to be in violation of this section.
- 22 f. An underage person and one or two other persons shall be
23 immune from prosecution under this section if:
- 24 (1) one of the underage persons called 9-1-1 and reported that
25 another underage person was in need of medical assistance due to
26 alcohol consumption , or the consumption of marijuana, hashish, or
27 a cannabis item;
- 28 (2) the underage person who called 9-1-1 and, if applicable, one
29 or two other persons acting in concert with the underage person
30 who called 9-1-1 provided each of their names to the 9-1-1
31 operator;
- 32 (3) the underage person was the first person to make the 9-1-1
33 report; and
- 34 (4) the underage person and, if applicable, one or two other
35 persons acting in concert with the underage person who made the 9-
36 1-1 call remained on the scene with the person under the legal age
37 in need of medical assistance until assistance arrived and
38 cooperated with medical assistance and law enforcement personnel
39 on the scene.
- 40 The underage person who received medical assistance also shall
41 be immune from prosecution under this section.
- 42 g. For purposes of this section, an alcoholic beverage includes
43 powdered alcohol as defined by R.S.33:1-1, a cannabis item
44 includes any item available for lawful consumption pursuant to the
45 “New Jersey Cannabis Regulatory, Enforcement Assistance, and
46 Marketplace Modernization Act,” P.L.2021, c.16 (C. 24:6I-31 et al),
47 and the terms “marijuana” and “hashish” have the same meaning as
48 set forth in N.J.S.2C:35-2, and the terms “drug paraphernalia” and

1 “cannabis paraphernalia” have the same meaning as set forth in
2 N.J.S.2C:36-1 and section 3 of P.L.2021, c.16 (C.24:6I-33),
3 respectively.
4 (cf: P.L.2021, c.25, s.2)

5

6 2. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill provides that if a person under the age of 18 violates the
12 law by possessing or consuming an alcoholic beverage, cannabis
13 item, marijuana, or hashish and receives a written warning from a
14 law enforcement officer, the law enforcement officer would also be
15 required to provide a written notice to the parent, guardian, or other
16 person having legal custody of the minor.

17 P.L.2021, c.25 established certain consequences for persons
18 under the legal age to purchase alcoholic beverages, or under the
19 legal age to purchase cannabis items, who possess or consume an
20 alcoholic beverage, cannabis item, marijuana, or hashish. These
21 consequences include, for a second or third violation where the
22 person is under age 18, a notification to the minor’s parent,
23 guardian, or other person having legal custody of the minor.
24 However, P.L.2021, c.25 does not provide that a parent, guardian,
25 or other person having custody would be notified about the minor’s
26 first violation. This bill would require such notice.

27 The bill also makes amendments to paragraph (3) of subsection
28 a. to provide that a person under the legal age to purchase alcoholic
29 beverages or cannabis items who is in violation for possessing or
30 consuming an alcoholic beverage, marijuana, hashish, or a cannabis
31 item shall not be transported to a police station, police headquarters,
32 or other place of law enforcement operations, and shall not
33 otherwise be subject to detention or be taken into custody by a law
34 enforcement officer at or near the location where the violation
35 occurred, except to the extent that detention or custody at or near
36 the location is required to issue a written warning or write-up,
37 collect the information necessary to provide notice of a violation to
38 a parent, guardian or other person having legal custody of the
39 underage or make referrals for accessing community services.

Governor Murphy Takes Action on Legislation

03/26/2021

TRENTON – Today, Governor Murphy signed the following bill into law:

A-5472/ S-3565 (Conaway, Downey, Houghtaling, Speight/Gopal, Lagana, Greenstein, Addiego, Bucco, O'Scanlon) Requires law enforcement to provide written notification to parent or guardian of person under age 18 who commits first offense of unlawfully possessing or consuming alcoholic beverage, cannabis, marijuana, or hashish