

## LEGISLATIVE HISTORY CHECKLIST

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(Controlled dangerous substances--  
500feet)

NJSA: 2C:35-7.1

LAWS OF: 1997 CHAPTER: 327

BILL NO: ~~560~~ 560

SPONSOR(S): Cafiero

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Law & Public Safety  
SENATE: Law & Public Safety

AMENDED DURING PASSAGE: Yes Assembly Committee Substitute  
(1R) enacted

DATE OF PASSAGE: ASSEMBLY: December 18, 1996  
SENATE: May 16, 1996

DATE OF APPROVAL: January 9, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes

FISCAL NOTE: Yes

VE TO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

P.L. 1997, CHAPTER 327, *approved January 9, 1998*  
Assembly Committee Substitute (*First Reprint*) for  
Senate, No. 60

1 AN ACT concerning distributing, dispensing, or possessing controlled  
2 dangerous substances or controlled substance analogs and  
3 supplementing chapter 35 of Title 2C of the New Jersey Statutes.  
4

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

7  
8 1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by  
9 distributing, dispensing or possessing with intent to distribute a  
10 controlled dangerous substance or controlled substance analog while  
11 in, on or within 500 feet of the real property comprising a public  
12 housing facility, a public park, or a public building is guilty of a crime  
13 of the second degree, except that it is a crime of the third degree if the  
14 violation involved less than one ounce of marijuana.

15 b. It shall be no defense to a prosecution for violation of this  
16 section that the actor was unaware that the prohibited conduct took  
17 place while on or within 500 feet of a public housing facility, a public  
18 park, or a public building.

19 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
20 provisions of law, a conviction arising under this section shall not  
21 merge with a conviction for a violation of subsection a. of  
22 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or  
23 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).  
24 Nothing in this section shall be construed to preclude or limit a  
25 prosecution or conviction for a violation of N.J.S.2C:35-7 or any other  
26 offense defined in this chapter.

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Assembly floor amendments adopted December 4, 1997.**

1 d. It is an affirmative defense to prosecution for a violation of this  
2 section that the prohibited conduct did not involve distributing,  
3 dispensing or possessing with the intent to distribute or dispense any  
4 controlled dangerous substance or controlled substance analog for  
5 profit, and that the prohibited conduct did not involve distribution to  
6 a person 17 years of age or younger. The affirmative defense  
7 established in this section shall be proved by the defendant by a  
8 preponderance of the evidence. Nothing herein shall be construed to  
9 establish an affirmative defense with respect to a prosecution for an  
10 offense defined in any other section of this chapter.

11 e. In a prosecution under this section, a map produced or  
12 reproduced by any municipal or county engineer for the purpose of  
13 depicting the location and boundaries of the area on or within 500 feet  
14 of a public housing facility which is owned by or leased to a housing  
15 authority according to the "Local Redevelopment and Housing Law,"  
16 P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or within 500 feet  
17 of a public park, or the area in or within 500 feet of a public building,  
18 or a true copy of such a map, shall, upon proper authentication, be  
19 admissible and shall constitute prima facie evidence of the location and  
20 boundaries of those areas, provided that the governing body of the  
21 municipality or county has adopted a resolution or ordinance  
22 approving the map as official finding and record of the location and  
23 boundaries of the area or areas on or within 500 feet of a public  
24 housing facility, a public park, or a public building. Any map  
25 approved pursuant to this section may be changed from time to time  
26 by the governing body of the municipality or county. The original of  
27 every map approved or revised pursuant to this section, or a true copy  
28 thereof, shall be filed with the clerk of the municipality or county, and  
29 shall be maintained as an official record of the municipality or county.  
30 Nothing in this section shall be construed to preclude the prosecution  
31 from introducing or relying upon any other evidence or testimony to  
32 establish any element of this offense; nor shall this section be  
33 construed to preclude the use or admissibility of any map or diagram  
34 other than one which has been approved by the governing body of a  
35 municipality or county, provided that the map or diagram is otherwise  
36 admissible pursuant to the Rules of Evidence.

37 f. As used in this act:

38 "Public housing facility" means any dwelling, complex of dwellings,  
39 accommodation, building, structure or facility and real property of any  
40 nature appurtenant thereto and used in connection therewith, which is  
41 owned by or leased to a local housing authority in accordance with the  
42 "Local Redevelopment and Housing Law," P.L.1992, c.79  
43 (C.40A:12A-1 et seq.) for the purpose of providing living  
44 accommodations to persons of low income.

45 "Public park" means a park <sup>1</sup>recreation facility or area<sup>1</sup> or  
46 playground owned or controlled by a State, county or local  
47 government unit.

1 "Public building" means any publicly owned or leased library or  
2 museum.

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4 2. This act shall take effect immediately.

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9 Provides that the area surrounding a housing project, public park or  
10 public building shall be designated as a drug free zone.

SENATE, No. 60

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator CAFIERO

1 AN ACT concerning distributing, dispensing, or possessing controlled  
2 dangerous substances or controlled substance analogs and  
3 supplementing chapter 35 of Title 2C of the New Jersey Statutes.

4

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

7

8 1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by  
9 distributing, dispensing or possessing with intent to distribute a  
10 controlled dangerous substance or controlled substance analog while  
11 in, on or within 500 feet of the real property comprising a public  
12 housing facility, a public park, or a public building is guilty of a crime  
13 of the second degree, except that it is a crime of the third degree if the  
14 violation involved less than one ounce of marijuana.

15 b. It shall be no defense to a prosecution for violation of this  
16 section that the actor was unaware that the prohibited conduct took  
17 place while on or within 500 feet of a public housing facility, a public  
18 park, or a public building.

19 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
20 provisions of law, a conviction arising under this section shall not  
21 merge with a conviction for a violation of subsection a. of  
22 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or  
23 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).  
24 Nothing in this section shall be construed to preclude or limit a  
25 prosecution or conviction for a violation of N.J.S.2C:35-7 or any other  
26 offense defined in this chapter.

27 d. It is an affirmative defense to prosecution for a violation of this  
28 section that the prohibited conduct did not involve distributing,  
29 dispensing or possessing with the intent to distribute or dispense any  
30 controlled dangerous substance or controlled substance analog for  
31 profit, and that the prohibited conduct did not involve distribution to  
32 a person 17 years of age or younger. The affirmative defense  
33 established in this section shall be proved by the defendant by a  
34 preponderance of the evidence. Nothing herein shall be construed to  
35 establish an affirmative defense with respect to a prosecution for an

1 offense defined in any other section of this chapter.

2 e. In a prosecution under this section, a map produced or  
3 reproduced by any municipal or county engineer for the purpose of  
4 depicting the location and boundaries of the area on or within 500 feet  
5 of a public housing facility which is owned by or leased to a housing  
6 authority according to the "Local Housing Authorities Law" P.L.1938,  
7 c.19 (C.55:14A-1 et seq.), repealed by P.L.1992, c.79, the area in or  
8 within 500 feet of a public park, or the area in or within 500 feet of a  
9 public building, or a true copy of such a map, shall, upon proper  
10 authentication, be admissible and shall constitute prima facie evidence  
11 of the location and boundaries of those areas, provided that the  
12 governing body of the municipality or county has adopted a resolution  
13 or ordinance approving the map as official finding and record of the  
14 location and boundaries of the area or areas on or within 500 feet of  
15 a public housing facility, a public park, or a public building. Any map  
16 approved pursuant to this section may be changed from time to time  
17 by the governing body of the municipality or county. The original of  
18 every map approved or revised pursuant to this section, or a true copy  
19 thereof, shall be filed with the clerk of the municipality or county, and  
20 shall be maintained as an official record of the municipality or county.  
21 Nothing in this section shall be construed to preclude the prosecution  
22 from introducing or relying upon any other evidence or testimony to  
23 establish any element of this offense; nor shall this section be  
24 construed to preclude the use or admissibility of any map or diagram  
25 other than one which has been approved by the governing body of a  
26 municipality or county, provided that the map or diagram is otherwise  
27 admissible pursuant to the Rules of Evidence.

28 f. As used in this act:

29 "Public housing facility" means any dwelling, complex of dwellings,  
30 accommodation, building, structure or facility and real property of any  
31 nature appurtenant thereto and used in connection therewith, which is  
32 owned by or leased to a local housing authority in accordance with the  
33 "Local Housing Authorities Law," P.L.1938, c.19 (C.55:14A-1 et  
34 seq.) for the purpose of providing living accommodations to persons  
35 of low income.

36 "Public park" means a park, playground, picnic area, square,  
37 monument, beach, waterfront, recreation area, conservation area, or  
38 similar place or property, or any open space, owned or controlled by  
39 a State, county or local government unit.

40 "Public building" means any building, structure, facility or complex  
41 which is intended to provide offices, courtrooms, hearing rooms,  
42 auditoriums, meeting rooms, libraries, museums and the like, which are  
43 intended for the use or accommodation of the general public or for any  
44 category or classification thereof in connection with the furtherance of  
45 public law or policy necessarily or incidentally requiring the provision

1 of such accommodations or facilities, together with all its grounds and  
2 appurtenant structures and facilities.

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4 2. This act shall take effect immediately.

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STATEMENT

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9 This bill classifies the distributing, dispensing or possessing of  
10 controlled dangerous substances or controlled substance analogs in or  
11 within 500 feet of a public housing facility, a public park or a public  
12 building as a crime of the second degree and provides that if the  
13 violation in the same location involves less than one ounce of  
14 marijuana, the offense is classified as a crime of the third degree.

15 The bill further provides that it is no defense to a charge of  
16 trafficking within this designated zone if the person was unaware that  
17 the prohibited conduct took place in or within 500 feet of a public  
18 housing facility, a public park or a public building. In addition, the bill  
19 provides that a prosecution for trafficking near a public housing  
20 facility, public park or public building does not preclude a person from  
21 being prosecuted for any other drug-related criminal offense

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26 Provides that the area surrounding a housing project, public park or  
27 public building shall be designated as a drug free zone.

[Passed Both Houses]

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
SENATE, No. 60

STATE OF NEW JERSEY

ADOPTED OCTOBER 7, 1996

Sponsored by Senators CAFIERO, BENNETT, Sacco,  
McGreevey, Assemblymen Gibson, Asselta, Assemblywoman  
Cruz-Perez, Assemblyman Roberts, Assemblywoman Crecco,  
Assemblymen LeFevre, Geist, Cohen, Senator Lesniak and  
Assemblymen Blee and Zisa

1 AN ACT concerning distributing, dispensing, or possessing controlled  
2 dangerous substances or controlled substance analogs and  
3 supplementing chapter 35 of Title 2C of the New Jersey Statutes.

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

7  
8 1. a. Any person who violates subsection a. of N.J.S.2C:35-5 by  
9 distributing, dispensing or possessing with intent to distribute a  
10 controlled dangerous substance or controlled substance analog while  
11 in, on or within 500 feet of the real property comprising a public  
12 housing facility, a public park, or a public building is guilty of a crime  
13 of the second degree, except that it is a crime of the third degree if the  
14 violation involved less than one ounce of marijuana.

15 b. It shall be no defense to a prosecution for violation of this  
16 section that the actor was unaware that the prohibited conduct took  
17 place while on or within 500 feet of a public housing facility, a public  
18 park, or a public building.

19 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
20 provisions of law, a conviction arising under this section shall not  
21 merge with a conviction for a violation of subsection a. of  
22 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted December 4, 1997.



1 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).  
2 Nothing in this section shall be construed to preclude or limit a  
3 prosecution or conviction for a violation of N.J.S.2C:35-7 or any other  
4 offense defined in this chapter.

5 d. It is an affirmative defense to prosecution for a violation of this  
6 section that the prohibited conduct did not involve distributing,  
7 dispensing or possessing with the intent to distribute or dispense any  
8 controlled dangerous substance or controlled substance analog for  
9 profit, and that the prohibited conduct did not involve distribution to  
10 a person 17 years of age or younger. The affirmative defense  
11 established in this section shall be proved by the defendant by a  
12 preponderance of the evidence. Nothing herein shall be construed to  
13 establish an affirmative defense with respect to a prosecution for an  
14 offense defined in any other section of this chapter.

15 e. In a prosecution under this section, a map produced or  
16 reproduced by any municipal or county engineer for the purpose of  
17 depicting the location and boundaries of the area on or within 500 feet  
18 of a public housing facility which is owned by or leased to a housing  
19 authority according to the "Local Redevelopment and Housing Law,"  
20 P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or within 500 feet  
21 of a public park, or the area in or within 500 feet of a public building,  
22 or a true copy of such a map, shall, upon proper authentication, be  
23 admissible and shall constitute prima facie evidence of the location and  
24 boundaries of those areas, provided that the governing body of the  
25 municipality or county has adopted a resolution or ordinance  
26 approving the map as official finding and record of the location and  
27 boundaries of the area or areas on or within 500 feet of a public  
28 housing facility, a public park, or a public building. Any map  
29 approved pursuant to this section may be changed from time to time  
30 by the governing body of the municipality or county. The original of  
31 every map approved or revised pursuant to this section, or a true copy  
32 thereof, shall be filed with the clerk of the municipality or county, and  
33 shall be maintained as an official record of the municipality or county.  
34 Nothing in this section shall be construed to preclude the prosecution  
35 from introducing or relying upon any other evidence or testimony to  
36 establish any element of this offense; nor shall this section be  
37 construed to preclude the use or admissibility of any map or diagram  
38 other than one which has been approved by the governing body of a  
39 municipality or county, provided that the map or diagram is otherwise  
40 admissible pursuant to the Rules of Evidence.

41 f. As used in this act:

42 "Public housing facility" means any dwelling, complex of dwellings,  
43 accommodation, building, structure or facility and real property of any  
44 nature appurtenant thereto and used in connection therewith, which is  
45 owned by or leased to a local housing authority in accordance with the  
46 "Local Redevelopment and Housing Law," P.L.1992, c.79  
47 (C.40A:12A-1 et seq.) for the purpose of providing living

1 accommodations to persons of low income.

2 "Public park" means a park <sup>1</sup>recreation facility or area<sup>1</sup> or  
3 playground owned or controlled by a State, county or local  
4 government unit.

5 "Public building" means any publicly owned or leased library or  
6 museum.

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8 2. This act shall take effect immediately.

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13 Provides that the area surrounding a housing project, public park or  
14 public building shall be designated as a drug free zone.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **SENATE, No. 60**

# **STATE OF NEW JERSEY**

DATED: OCTOBER 7, 1996

The Assembly Law and Public Safety Committee reports favorably Senate Bill No. 60 as a committee substitute.

The Assembly Committee Substitute for Senate Bill No. 60 classifies the distributing, dispensing or possessing of controlled dangerous substances or controlled substance analogs in or within 500 feet of a public housing facility, a public park or a public building as a crime of the second degree. In the case of a violation involving less than one ounce of marijuana, the offense is classified as a crime of the third degree. A crime of the second degree is punishable by a fine not exceeding \$100,000, a term of imprisonment between five and 10 years, or both. A crime of the third degree is punishable by a fine not exceeding \$7,500, a term of imprisonment between three and five years, or both.

This substitute also specifies that it is not a defense to a charge of trafficking within the designated zone if the person was unaware that the prohibited conduct took place in or within 500 feet of a public housing facility, a public park or a public building. Furthermore, the substitute provides that a prosecution for trafficking near a public housing facility, public park or public building does not preclude a person from being prosecuted for any other drug-related criminal offense.

As released, the committee substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 162 and Assembly Bill No. 150, which was also released by the committee.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 60

**STATE OF NEW JERSEY**

DATED: JANUARY 22, 1996

The Senate Law and Public Safety Committee favorably reports Senate Bill No. 60.

This bill classifies the distributing, dispensing or possessing of controlled dangerous substances or controlled substance analogs in or within 500 feet of a public housing facility, a public park or a public building as a crime of the second degree and provides that if the violation in the same location involves less than one ounce of marijuana, the offense is classified as a crime of the third degree.

The bill further provides that it is no defense to a charge of trafficking within this designated zone if the person was unaware that the prohibited conduct took place in or within 500 feet of a public housing facility, a public park or a public building. In addition, the bill provides that a prosecution for trafficking near a public housing facility, public park or public building does not preclude a person from being prosecuted for any other drug-related criminal offense.

This bill was pre-filed for introduction in the 1996-1997 legislative session. As reported, the bill includes the changes required by technical review which has been performed.

# LEGISLATIVE FISCAL ESTIMATE TO

## SENATE, No. 60

# STATE OF NEW JERSEY

DATED: April 30, 1996

Senate Bill No. 60 of 1996 classifies the distributing, dispensing or possessing of controlled dangerous substances or controlled substance analogs in or within 500 feet of a public housing facility, a public park or a public building as a crime of the second degree and provides that if the violation in the same location involves less than one ounce of marijuana, the offense is classified as a crime of the third degree.

The Department of Law and Public Safety stated in a fiscal note for previous Legislative sessions that although there would be no fiscal impact on the department, the county or municipal engineer may incur costs for the production of maps depicting the boundaries of a public housing facility. No estimate of these costs has been provided.

The Administrative Office of the Courts (AOC) stated in a fiscal note for previous Legislative sessions that while it does maintain statistics on the number of individuals convicted of the various sections of N.J.S.2C:35-5, it does not collect information on where the offense occurred. As a result, there are no data available regarding how many of the offenses took place within 500 feet of public housing facilities, public parks and public buildings. The AOC adds that since the bill makes it a second degree crime to distribute controlled dangerous substances or controlled substance analogs within 500 feet of a public housing facility, park or building, convictions under this subsection would likely lead to an increase of sentences to the State prisons. This is because there is a presumptive term of imprisonment for all second degree crimes. According to the AOC the presumptive term is from 5 to 10 years.

The Office of Legislative Services concurs and adds that currently, the average cost of housing an inmate in a State correctional institution for one year is \$25,000.

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

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



**OFFICE OF THE GOVERNOR  
NEWS RELEASE**

**CN-004**

**TRENTON, NJ 08625**

**CONTACT: PETE MCDONOUGH**  
609-777-2600

**RELEASE: FRIDAY**  
January 9, 1998

Gov. Christie Whitman today signed the following pieces of legislation:

**A-2678**, sponsored by Assembly Members Joseph Malone (R-Burlington/Monmouth/ Ocean) and Joe Roberts (D-Camden/Gloucester) and Senators Joe Kyrillos (R-Middlesex/Monmouth) and Bernard Kenny (D-Hudson), exempts timers on certain commercial clothes dryers from regulation by the Superintendent of Weights and Measures. The law will apply to facilities used by residents at condominiums and property association buildings.

**A-2519**, sponsored by Assembly Member Joe Azzolina (R-Middlesex/Monmouth), creates a Sexual Assault Nurse Examiner Program and appropriates \$90,000 to support the program. The legislation will continue a model program created in Monmouth County in 1995. The program serves as an administrative model for the state for improving the collection of forensic evidence used to prosecute sexual assault cases and providing more passionate care for victims of sexual assault.

**A-3258**, sponsored by Assembly Members John Kelly (R-Bergen/Essex/Passaic) and Assembly Minority Leader Joseph Doria (D-Hudson) and Senator Joseph Kyrillos (R-Middlesex/Monmouth) and Bernard Kenny (D-Hudson), provides certain contributory managed care health benefits by the State Health Benefits Plan to qualified retirees enrolled in the Police and Firemen's Pension Fund, or Public Employees' Retirement System.

**S-60**, sponsored by Senators James Cafiero (R-Cape May/Atlantic/Cumberland) and John Bennett (R-Monmouth) and Assembly Members Jack Gibson (R-Atlantic/Cumberland), Nick Asselta (R-Atlantic/Cumberland), Nilsa Cruz-Perez (D-Camden/Gloucester) and Joe Roberts (D-Camden/Gloucester), provides that the area around a housing project, public park or public building, defined as a museum or library, shall be designated as a drug free zone. The bill creates a new crime of the second degree applicable to persons who distribute, dispense or possess with the intent to distribute a controlled dangerous substance within 500 feet of the specified locations. A crime of the second degree is punishable by a term of imprisonment between five and ten years, a fine of up to \$100,000 or both.

###