

2C: 35-5.1

**LEGISLATIVE HISTORY CHECKLIST**  
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(Anabolic steroids--distribution  
to minors)

NJSA: 2C:35-5.1

LAWS OF: 1992 CHAPTER: 71

BILL NO: A228

SPONSOR(S) Catania

DATE INTRODUCED:

COMMITTEE: ASSEMBLY: Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage  
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: February 10, 1992

SENATE: July 20, 1992

DATE OF APPROVAL: July 30, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KEG: pp

[FIRST REPRINT]  
ASSEMBLY, No. 228

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblyman CATANIA

1 AN ACT concerning <sup>1</sup>[the penalties for distributing]<sup>1</sup> anabolic  
2 steroids <sup>1</sup>[in certain cases]<sup>1</sup> and amending <sup>1</sup>[P.L.1989, c.335]  
3 P.L. 1962, c.113 and repealing sections 1,2,3 and 5 of P.L.1989,  
4 c. 335<sup>1</sup>.

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

8 <sup>1</sup>[1. Section 2 of P.L.1989, c.335 (C.2C:35-5.1) is amended to  
9 read as follows:

10 2. It is unlawful for any person who is not a practitioner acting  
11 in the course of his professional practice to knowingly or  
12 purposely manufacture, distribute or dispense, or to possess or  
13 have under his control with intent to manufacture, distribute or  
14 dispense, an anabolic steroid or immediate precursor. Any person  
15 who violates this section shall be guilty of a crime of the third  
16 degree; except that if the offense involved in the distribution or  
17 dispensing of an anabolic steroid or immediate precursor by a  
18 person 18 years or older to a person 17 years of age or younger,  
19 the person violating this section shall be guilty of a crime of the  
20 second degree.

21 (cf: P.L.1989, c.335, s.2)]<sup>1</sup>

22 <sup>1</sup>1. Section 1 of P.L. 1962, c.113 (C.2A:170-77.8) is amended to  
23 read as follows:

24 1. Except as hereinafter provided, any person who uses or is  
25 under the influence of, or who possesses or has under his control,  
26 in any form, any prescription legend drug which is not a narcotic,  
27 depressant or stimulant drug [anabolic steroid as defined in  
28 section 1 of P.L.1989, c.335 (C.2C:35-2.1),] or controlled  
29 dangerous substance as defined in N.J.S.2C:35-2 or section 2 of  
30 P.L.1970, c.226 (C.24:21-2) or any stramonium preparation,  
31 unless obtained from, or on a valid prescription of, a duly licensed  
32 physician, veterinarian or dentist, is a disorderly person.

33 In a prosecution under this act, it shall not be necessary for the  
34 State to prove that the accused did use or was under the  
35 influence of any specific drug or drugs except for stramonium  
36 preparations, but it shall be sufficient for a conviction under this  
37 act for the State to prove that the accused did use or was under  
38 the influence of some drug or drugs as aforesaid by proving that  
39 the accused did manifest physical and physiological symptoms or  
40 reactions caused by the use of any such drug.

41 As used in this act, "stramonium preparation" means a  
42 preparation prepared from the leaves, seeds, or any other part of

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:

<sup>1</sup> Assembly AJL committee amendments adopted February 3, 1992.

1 the stramonium plant in the form of a powder, pipe mixture,  
2 cigarette, or any other form, with or without admixture of other  
3 ingredients. "Stramonium plant" means the plant *Datura*  
4 *Stramonium* Linne, including *Datura Tatula* Linne.<sup>1</sup>

5 (cf: P.L.1989, c.335, s.6)

6 <sup>1</sup>2. Section 2 of P.L.1962, c.113 (C.2A:170-77.9) is amended to  
7 read as follows:

8 2. Except as hereinafter provided, any person who sells,  
9 dispenses or gives away, in any form, any prescription legend drug  
10 which is not a narcotic, depressant or stimulant drug [not an  
11 anabolic steroid as defined in section 1 of P.L.1989, c.335  
12 (C.2C:35-2.1),] or controlled dangerous substance as defined in  
13 N.J.S.2C:35-2 or section 2 of P.L.1970, c.226 (C.24:21-2), or any  
14 stramonium preparation, is a disorderly person.<sup>1</sup>

15 (cf: P.L.1989, c.335, s.7)

16 <sup>1</sup>3. The following are repealed:

17 Section 1 of P.L.1989, c.335 (C.2C:35-2.1);

18 Section 2 of P.L.1989, c.335 (C.2C:35-5.1);

19 Section 3 of P.L.1989, c.335 (C.2C:35-10.1); and

20 Section 5 of P.L.1989, c.335 (C.24:21-8.2).<sup>1</sup>

21 <sup>1</sup>[2.] 4.<sup>1</sup> This act shall take effect immediately.

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26 Repeals certain references to anabolic steroids to reflect the  
27 recent addition to the controlled dangerous substance schedules;  
28 anabolic steroids subject to criminal provisions applicable to  
29 Schedule III CDS.

ASSEMBLY, No. 228

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblyman CATANIA

1 AN ACT concerning the penalties for distributing anabolic  
2 steroids in certain cases and amending P.L.1989, c.335.

3

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

6 1. Section 2 of P.L.1989, c.335 (C.2C:35-5.1) is amended to  
7 read as follows:

8 2. It is unlawful for any person who is not a practitioner acting  
9 in the course of his professional practice to knowingly or  
10 purposely manufacture, distribute or dispense, or to possess or  
11 have under his control with intent to manufacture, distribute or  
12 dispense, an anabolic steroid or immediate precursor. Any person  
13 who violates this section shall be guilty of a crime of the third  
14 degree; except that if the offense involved in the distribution or  
15 dispensing of an anabolic steroid or immediate precursor by a  
16 person 18 years or older to a person 17 years of age or younger,  
17 the person violating this section shall be guilty of a crime of the  
18 second degree.

19 (cf: P.L.1989, c.335, s.2)

20 2. This act shall take effect immediately.

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STATEMENT

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25 Presently, the illegal distribution or dispensing of anabolic  
26 steroids is punishable as a crime of the third degree. This bill  
27 would upgrade this offense to a crime of the second degree in  
28 cases involving the distribution or dispensing of anabolic steroids  
29 to a minor by an adult.

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34 Upgrades the illegal distribution of anabolic steroids to minors to  
35 a crime of the second degree.

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.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 228**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 30, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 228.

This bill as amended will insure that distribution of anabolic steroids to minors and pregnant females will be subject to the sentencing enhancement provision of N.J.S.A.2C:35-8, which provides for twice the term of imprisonment, fine and penalty, authorized or required to be imposed by subsection b. of N.J.S.2C:35-5. Distribution or possession of anabolic steroids with intent to distribute on or within 1000 feet of school property will be subject to the school zone offense set forth in N.J.S.A.2C:35-7.

Presently, the illegal distribution or dispensing of anabolic steroids to a person of any age is punishable as a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment between three and five years or a fine not to exceed \$7,500.00, or both. This bill prior to amendment would have upgraded this offense to a crime of the second degree in cases involving the distribution or dispensing of anabolic steroids to a minor by an adult. A crime of the second degree is punishable by a term of imprisonment between five and ten years or a fine not to exceed \$100,000.00, or both.

The committee amendments revise this bill and repeal the provisions of P.L.1989, c.335 concerning anabolic steroids. At the time of the 1989 enactment, it was deemed necessary to deal with distribution, possession with intent to distribute and possession of anabolic steroids outside the general provisions of the criminal code prohibiting such conduct with respect to controlled dangerous substances. The 1989 law had intentionally refrained from designating anabolic steroids as controlled dangerous substances because the Legislature was unable at the time to designate a scientifically valid location on any of the five CDS "Schedules."

Effective April 15, 1991, certain anabolic steroids, including the ones enumerated in N.J.S.A.2C:35:2.1, were placed into Schedule III of the Controlled Dangerous Substances Act. 23 N.J.R.1943-1944. That action was taken pursuant to N.J.S.A.24:21-3, which provides that once a controlled substance has been scheduled under federal law and notice has been given to the Commissioner of Health, the Commissioner shall similarly schedule the substance after 30 days following the publication in the Federal Register of a Final Order scheduling the substance.

Now that anabolic steroids have been placed into Schedule III, the general provisions applicable to Schedule III controlled dangerous substances are applicable. For example, possession of an anabolic steroid is covered by N.J.S.A.2C:35-10, under which it is a third degree crime to possess certain Schedule III controlled dangerous substances. Separate provisions concerning anabolic steroids are no longer necessary.

Because the acts of distributing or possessing anabolic steroids with intent to distribute are not prohibited under N.J.S.A.2C:35-5 (the general CDS provision) but are instead prohibited by N.J.S.A.2C:35-5.1 (which concerns anabolic steroids only), neither the school zone or the enhancement provision is presently applicable to prohibited acts involving anabolic steroids. In order to bring anabolic steroids within the coverage of those provisions, the amendments repeal N.J.S.A.2C:35-5.1, which prohibits distribution and possession with intent to distribute an anabolic steroid, and N.J.S.A.2C:35-10.1, which prohibits obtaining or possessing an anabolic steroid without a prescription. The amendments also repeal N.J.S.A.2C:35-2.1 and N.J.S.A.24:21-8.2.

This bill was pre-filed for introduction in the 1992 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 228

STATE OF NEW JERSEY

DATED: JUNE 22, 1992

The Senate Judiciary Committee reports favorably Assembly Bill No. 228 (1R).

Under the provisions of the "New Jersey Controlled Dangerous Substance Act," (N.J.S.A.24:21-1 et seq.), illegal drugs are classified on one of five schedules based on criteria such as the drug's medical use and its potential for abuse. The most dangerous drugs are listed on Schedules I and II. The least dangerous are classified on Schedule V. The criminal penalties for offenses involving controlled dangerous substances are generally set forth in Chapter 35 of New Jersey's criminal code.

This bill would repeal three sections of chapter 35 and one section of Title 24 which deal specifically with anabolic steroids. The bill would also delete references to anabolic steroids in two sections of Title 2A. These provisions dealing with anabolic steroids were enacted in 1989. The 1989 enactment dealt with anabolic steroids separately and did not designate steroids as a controlled dangerous substance because at that time it was felt that it was not possible at that time to classify steroids on a scientifically valid basis on any of the five CDS schedules.

Effective April 15, 1991, however, certain anabolic steroids, including those enumerated in the 1989 enactment were placed on Schedule III of the Controlled Dangerous Substances Act. That action was taken pursuant to N.J.S.A.24:21-3, which provides that once a controlled substance has been scheduled under federal law and notice has been given to the Commissioner of Health, the Commissioner shall similarly schedule the substance after 30 days following the publication in the Federal Register of a Final Order scheduling the substance.

Now that anabolic steroids have been placed into Schedule III, the general provisions applicable to Schedule III controlled dangerous substances are applicable. For example, possession of an anabolic steroid is covered by N.J.S.A.2C:35-10, under which it is a third degree crime to possess certain Schedule III controlled dangerous substances. Separate provisions concerning anabolic steroids are no longer necessary.

Classification of anabolic steroids as Schedule III controlled dangerous substances will also result in those provision of Chapter 35 dealing with trafficking in school zones and providing enhanced penalties for distribution to minors applicable to offenses involving steroids.