

2A:170-77.8 et al

LEGISLATIVE HISTORY CHECKLIST

(Stramonium-regulates sales  
& destruction)

NJSA 2A:170-77.8 et al: 26:2-82.1

LAWS 1981

CHAPTER 441

Bill No. A3009

Sponsor(s) Weidel & Albanese

Date Introduced Jan. 22, 1981

Committee: Assembly Institutions Health & Welfare

Senate Institutions Health & Welfare

Amended during passage ~~Yes~~ No

Date of Passage: Assembly June 8, 1981

Senate Jan. 4, 1982

Date of approval Jan. 9, 1982

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing Yes ~~No~~

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

6/22/81

NOV 1982

ASSEMBLY, No. 3009

STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1981

By Assemblymen WEIDEL and ALBANESE

Referred to Committee on Institutions, Health and Welfare

AN ACT regulating the sale, offering for sale, having, possession and destruction of stramonium, amending P. L. 1962, c. 113, and P. L. 1966, c. 314 and supplementing Title 26 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

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

3 1. Except as hereinafter provided, any person who uses or is  
4 under the influence of, or who possesses or has under his control,  
5 in any form, any prescription legend drug which is not a narcotic  
6 depressant or stimulant drug or controlled dangerous substance  
7 within the meaning of existing law *or any stramonium preparation,*  
8 unless obtained from, or on a valid prescription of, a duly licensed  
9 physician, veterinarian or dentist, is a disorderly person.

10 In a prosecution under this act, it shall not be necessary for the  
11 State to prove that the accused did use or was under the influence  
12 of any specific drug or drugs *except for stramonium preparations,*  
13 but it shall be sufficient for a conviction under this act for the  
14 State to prove that the accused did use or was under the influence  
15 of some drug or drugs as aforesaid by proving that the accused  
16 did manifest physical and physiological symptoms or reactions  
17 caused by the use of any such drug.

18 *As used in this act, "stramonium preparation" means a prepara-*  
19 *tion prepared from the leaves, seeds, or any other part of the*  
20 *stramonium plant in the form of a powder, pipe mixture, cigarette,*  
21 *or any other form, with or without admixture of other ingredients.*  
22 *"Stramonium plant" means the plant Datura Stramonium Linné,*  
23 *including Datura Tatula Linné.*

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

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

3 2. Except as hereinafter provided, any person who sells, dis-  
4 penses or gives away, in any form, any prescription legend drug  
5 which is not a narcotic, depressant or stimulant drug or controlled  
6 dangerous substance within the meaning of existing law, or *any*  
7 *stramonium preparation*, is a disorderly person.

1 3. Section 3 of P. L. 1962, c. 113 (C. 2A:170-77.10) is amended  
2 to read as follows:

3 3. The provisions of sections 1 and 2 of this act, except so far  
4 as such provisions relate to any person who uses or is under the  
5 influence of the drugs or *stramonium preparation* described in  
6 **[said]** *the sections*, shall not apply to a duly licensed physician,  
7 dentist, registered pharmacist, veterinarian, nurse, podiatrist, in-  
8 tern or resident physician of a hospital, sanitarium or other medical  
9 institution when acting in the regular course of his respective  
10 business or profession; or to a hospital, sanitarium, clinical labora-  
11 tory or any other medical institution; or a state or governmental  
12 agency; or to any manufacturer, wholesaler, retailer or regular  
13 dealer in drugs or *stramonium preparations* when acting in the  
14 regular course of his respective business.

1 4. Section 4 of P. L. 1962, c. 113 (C. 2A:170-77.11) is amended  
2 to read as follows:

3 4. The provisions of section 1 of this act, except so far as such  
4 provisions relate to any person who uses or is under the influence  
5 of the drugs or *stramonium preparations* described in **[said**  
6 **sections]** *section 1*, shall not apply to common carriers or to  
7 warehousemen while engaged in lawfully transporting or storing  
8 such drugs or *stramonium preparations* or to any employee of the  
9 same acting within the scope of his employment; or to public  
10 officers or employees in the performance of their official duties  
11 requiring possession or control of these drugs or *stramonium pre-*  
12 *parations*; or to temporary incidental possession by employees or  
13 agents of persons lawfully entitled to possession; or to persons  
14 whose possession is for the purpose of aiding public officers in  
15 performing their official duties.

1 5. Section 7 of P. L. 1966, c. 314 (C. 2A:170-77.15) is amended  
2 to read as follows:

3 7. Any person, who shall obtain, or attempt to obtain, possession  
4 of, or procure, or attempt to procure, the administration of, in any  
5 form, any depressant or stimulant drug, as defined pursuant to  
6 law, or any other prescription legend drug, which is not a narcotic  
7 drug within the meaning of chapter 18 of Title 24 of the Revised  
8 Statutes or *any stramonium preparation, as defined in section 1*

9 of P. L. 1962, c. 113 (C. 2A:170-77.8) as amended by section 1 of  
10 this act, (a) by fraud, deceit, misrepresentation, or subterfuge; or  
11 (b) by the forgery or alteration of a prescription or of any  
12 written order; or (c) by the concealment of a material fact; or (d)  
13 by the use of a false name or the giving of a false address, is a  
14 disorderly person.

1 6. (New section) a. In order to protect the health, morals and  
2 welfare of the State of New Jersey, wherever the prosecutor of any  
3 county of the State of New Jersey receives information that wild,  
4 cultivated or hidden growth of beds of alleged stramonium are  
5 located anywhere within his county, he shall immediately com-  
6 municate the information to the State Department of Health, and  
7 the department, upon receipt of the information, shall immediately  
8 dispatch one of its agents to the location who shall make an  
9 examination and determination of the alleged stramonium weed so  
10 as to determine the existence or nonexistence of stramonium at the  
11 location. The department shall immediately communicate by  
12 writing its determination to the prosecutor.

13 b. Upon certification by the department of the existence of stra-  
14 monium at the location examined by the department, the prosecutor  
15 is empowered to dispatch one of his agents to the location so  
16 certified and the agent shall destroy the stramonium. The prosecutor  
17 or his agent shall not be civilly responsible in any manner whatso-  
18 ever for destruction of the stramonium.

19 c. As used in this section, "stramonium" means the plant *Datura*  
20 *Stramonium* Linné, including *Datura Tatula* Linné.

1 7. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to control the sale, distribution, possession, use and growing of stramonium, otherwise known as Jamestown Weed, Jimson Weed, Thorn Apple and Apple of Peru. Stramonium, a hardy but poisonous weed, grows abundantly on waste lots and along roadsides in various sections of the country, including New Jersey. All parts of the plant are active. At one time stramonium products were offered for use in the therapy of acute attacks of bronchial asthma.

Recently, stramonium has been abused by young people through oral ingestion or smoking it for the purpose of producing inexpensive hallucinations. Its popularity may increase as the price of drugs like marihuana and various abused pills increases. According to health officials, ingesting or smoking stramonium can cause

nausea, numbness, confusion, blurred vision, rapid heartbeat, abdominal pains, vomiting, convulsions and even death.

Presently, there is ambiguity as to whether or not stramonium preparations are regulated by the Food and Drug Administration and constitute prescription drugs. This bill clarifies the status of stramonium by amending P. L. 1962, c. 113 and P. L. 1966, c. 314 and treating it the same as a prescription legend drug. A violation of these provisions constitutes a disorderly persons offense under the provisions of P. L. 1964, c. 230 (C. 2A:170-77.14) and P. L. 1966, c. 314 (C. 2A:170-77.15).

Provision is also made in this bill for the destruction of wild, cultivated or hidden growth or beds of stramonium plants by supplementing Title 26 of the Revised Statutes.

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9 of P. L. 1962, c. 113 (C. 2A:170-77.8) as amended by section 1 of  
 10 this act, (a) by fraud, deceit, misrepresentation, or subterfuge; or  
 11 (b) by the forgery or alteration of a prescription or of any  
 12 written order; or (c) by the concealment of a material fact; or (d)  
 13 by the use of a false name or the giving of a false address, is a  
 14 disorderly person.

1 6. (New section) a. In order to protect the health, morals and  
 2 welfare of the State of New Jersey, wherever the prosecutor of any  
 3 county of the State of New Jersey receives information that wild,  
 4 cultivated or hidden growth of beds of alleged stramonium are  
 5 located anywhere within his county, he shall immediately com-  
 6 municate the information to the State Department of Health, and  
 7 the department, upon receipt of the information, shall immediately  
 8 dispatch one of its agents to the location who shall make an  
 9 examination and determination of the alleged stramonium weed so  
 10 as to determine the existence or nonexistence of stramonium at the  
 11 location. The department shall immediately communicate by  
 12 writing its determination to the prosecutor.

13 b. Upon certification by the department of the existence of stra-  
 14 monium at the location examined by the department, the prosecutor  
 15 is empowered to dispatch one of his agents to the location so  
 16 certified and the agent shall destroy the stramonium. The prosecutor  
 17 or his agent shall not be civilly responsible in any manner whatso-  
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 20 *Stramonium* Linné, including *Datura Tatula* Linné.

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Recently, stramonium has been abused by young people through oral ingestion or smoking it for the purpose of producing inexpensive hallucinations. Its popularity may increase as the price of drugs like marihuana and various abused pills increases. According to health officials, ingesting or smoking stramonium can cause

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ASSEMBLY INSTITUTIONS, HEALTH AND WELFARE  
COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 3009

STATE OF NEW JERSEY

DATED: MAY 14, 1981

This bill controls the sale, use, possession and growing of Stramonium plant, more commonly referred to as "Jimson Weed."

There is presently some ambiguity as to whether or not stramonium preparations are regulated by the Food and Drug Administration of the Federal Government. The bill, by amending certain sections of the statutes, clarifies the status of stramonium and treats it as a prescription drug. Therefore, any person illegally selling, dispensing, giving away, using or possessing stramonium preparations is guilty of a disorderly persons offense.

There is provision in the bill for the destruction of wild, cultivated or hidden stramonium by the county prosecutor's office.

The committee agreed with the purpose of this legislation and re-released the bill without amendment.

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SENATE INSTITUTIONS, HEALTH AND WELFARE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3009**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 16, 1981

This bill prohibits the sale, use and possession of any stramonium preparation (Jimson Weed) without a valid prescription. Any person who unlawfully sells, uses or possesses a stramonium preparation is a disorderly person. The bill also authorizes county prosecutors to destroy wild or cultivated stramonium plants that are identified in their county.



A-3009, sponsored by Assemblyman Karl Weidel (R-Mercer) which makes it a disorderly persons offense to use, possess, be under the influence of or have control of a stramonium preparation without a valid prescription.

Stramonium is a weed known as "jamestown weed, jimson weed, thorn apple or apple of Peru", which is derived from a wild growing plant.

This bill clarifies the status of stramonium by amending P.L. 1962, c. 113 and P.L. 1966, c 314 and treats it the same as a prescription legend, drug.

Provision is also made within the bill for destruction of wild, cultivated or hidden growth of the plants by supplementing Title 26 of the Revised Statutes.

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