

LEGISLATIVE FACT SHEET

on "Hashish" possession - Penalties prescribed

N.J.R.S. 24:21-2, 7, 20

(1971 Amendment)

LAWS OF 1971

CHAPTER 367 Dec. 28, 1971

SENATE BILL 2272 (Corrected Copy)

ASSEMBLY BILL

INTRODUCED May 3, 1971

BY Dickinson and others

SPONSOR'S STATEMENT

YES NO

ASSEMBLY COMMITTEE STATEMENT

YES NO

SENATE COMMITTEE STATEMENT

YES NO

FISCAL NOTE

YES NO

AMENDED DURING PASSAGE

YES NO

HEARING None discovered

VETO

BACKGROUND:

974.90
N222
1970b

New Jersey. Legislature. Senate. Committee on Air, Water Pollution and Public Health. And Assembly Committee on Law, Public Safety and Defense.

Public Hearing on Pending Narcotics Legislation. 9/9/70.

974.90
N222
1971a

New Jersey. Dept. of Law and Public Safety. Division of State Police.

Drug Abuse and Crime in New Jersey. June 1971.

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CORRECTED COPY
SENATE, No. 2272

STATE OF NEW JERSEY

INTRODUCED MAY 3, 1971

By Senators DICKINSON, SCHIAFFO, KNOWLTON and
HAGEDORN

Referred to Committee on Air, Water Pollution and Public Health

AN ACT to amend the "New Jersey Controlled Dangerous Substances Act," approved October 19, 1970 (P. L. 1970, c. 226).

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

1 1. Section 2 of P. L. 1970, c. 226 (C. 24:21-2) is amended to read
2 as follows:

3 2. Definitions. As used in this act:

4 "Administer" means the direct application of a controlled
5 dangerous substance, whether by injection, inhalation, ingestion,
6 or any other means, to the body of a patient or research subject
7 by: (1) a practitioner (or, in his presence, by his lawfully autho-
8 rized agent), or (2) the patient or research subject at the lawful
9 direction and in the presence of the practitioner.

10 "Agent" means an authorized person who acts on behalf of or
11 at the direction of a manufacturer, distributor, or dispenser but
12 does not include a common or contract carrier, public warehouse-
13 man, or employee thereof.

14 "Bureau of Narcotics and Dangerous Drugs" means the Bureau
15 of Narcotics and Dangerous Drugs, United States Department of
16 Justice.

17 "Commissioner" means the State Commissioner of Health.

18 "Controlled dangerous substance" means a drug, substance, or
19 immediate precursor in Schedules I through V of article 2 of this
20 act. The term shall not include distilled spirits, wine, malt
21 beverages, as those terms are defined or used in R. S. 33:1-1 et seq.,
22 or tobacco and tobacco products.

23 "Counterfeit substance" means a controlled dangerous substance
24 which, or the container or labeling of which, without authorization,
25 bears the trademark, trade name, or other identifying mark,
26 imprint, number or device, or any likeness thereof, of a manu-

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

27 facturer, distributor, or dispenser other than the person or persons
28 who in fact manufactured, distributed or dispensed such substance
29 and which thereby falsely purports or is represented to be the
30 product of, or to have been distributed by, such other manufacturer,
31 distributor, or dispenser.

32 “Deliver” or “delivery” means the actual, constructive, or at-
33 tempted transfer from one person to another of a controlled danger-
34 ous substance, whether or not there is an agency relationship.

35 “Dispense” means to deliver a controlled dangerous substance
36 to an ultimate user or research subject by or pursuant to the lawful
37 order of a practitioner, including the prescribing, administering,
38 packaging, labeling, or compounding necessary to prepare the
39 substance for that delivery. “Dispenser” means a practitioner
40 who dispenses.

41 “Distribute” means to deliver other than by administering or
42 dispensing a controlled dangerous substance. “Distributor” means
43 a person who distributes.

44 “Drugs” means (a) substances recognized in the official United
45 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
46 United States, or official National Formulary, or any supplement
47 to any of them; and (b) substances intended for use in the diagnosis,
48 cure, mitigation, treatment, or prevention of disease in man or
49 other animals; and (c) substances (other than food) intended to
50 affect the structure or any function of the body of man or other
51 animals; and (d) substances intended for use as a component of
52 any article specified in subsections (a), (b) and (c) of this section;
53 but does not include devices or their components, parts, or
54 accessories.

55 “Drug dependent person” means a person who is using a con-
56 trolled dangerous substance and who is in a state of psychic or
57 physical dependence, or both, arising from the use of that controlled
58 dangerous substance on a continuous basis. Drug dependence is
59 characterized by behavioral and other responses, including but not
60 limited to a strong compulsion to take the substance on a recurring
61 basis in order to experience its psychic effects, or to avoid the
62 discomfort of its absence.

63 “*Hashish*” means the resin extracted from any part of the plant
64 *Cannabis sativa L.*

65 “*Marihuana*” means all parts of the plant *Cannabis sativa L.*,
66 whether growing or not; the seeds thereof; the resin extracted from
67 any part of such plant; and every compound, manufacture, salt,
68 derivative, mixture, or preparation of such plant, its seeds or resin,
69 but shall not include the mature stalks of such plant, fiber produced

70 from such stalks, oil or cake made from the seeds of such plant,
71 any other compound, manufacture, salt, derivative, mixture, or
72 preparation of such mature stalks (except the resin extracted
73 therefrom), fiber, oil, or cake, or the sterilized seed of such plant
74 which is incapable of germination.

75 "Manufacture" means the production, preparation, propagation,
76 compounding, conversion or processing of a controlled dangerous
77 substance, either directly or by extraction from substances of
78 natural origin, or independently by means of chemical synthesis,
79 or by a combination of extraction and chemical synthesis, and
80 includes any packaging or repackaging of the substance or labeling
81 or relabeling of its container, except that this term does not include
82 the preparation or compounding of a controlled dangerous sub-
83 stance by an individual for his own use or the preparation, com-
84 pounding, packaging, or labeling of a controlled dangerous sub-
85 stance: (1) by a practitioner as an incident to his administering
86 or dispensing of a controlled dangerous substance in the course of
87 his professional practice, or (2) by a practitioner (or under his
88 supervision) for the purpose of, or as an incident to, research,
89 teaching, or chemical analysis and not for sale.

90 "Narcotic drug" means any of the following, whether produced
91 directly or indirectly by extraction from substances of vegetable
92 origin, or independently by means of chemical synthesis, or by a
93 combination of extraction and chemical synthesis:

94 (a) Opium, coca leaves, and opiates;

95 (b) A compound, manufacture, salt, derivative, or preparation
96 of opium, coca leaves, or opiates;

97 (c) A substance (and any compound, manufacture, salt, deriv-
98 ative, or preparation thereof) which is chemically identical with
99 any of the substances referred to in subsections (a) and (b), except
100 that the words "narcotic drug" as used in this act shall not include
101 decocainized coca leaves or extracts of coca leaves, which extracts
102 do not contain cocaine or eegonine.

103 "Official written order" means an order written on a form pro-
104 vided for that purpose by the Attorney General of the United
105 States or his delegate, under any laws of the United States making
106 provisions therefor, if such order forms are authorized and re-
107 quired by the Federal law, and if no such form is provided, then
108 on an official form provided for that purpose by the State Depart-
109 ment of Health.

110 "Opiate" means any dangerous substance having an addiction-
111 forming or addiction-sustaining liability similar to morphine or
112 being capable of conversion into a drug having such addiction-

113 forming or addiction-sustaining liability. It does not include,
114 unless specifically designated as controlled under section 3 of this
115 act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
116 and its salts (dextromethorphan). It does include its racemic and
117 levorotatory forms.

118 "Opium poppy" means the plant of the species *Papaver*
119 *somniferum* L., except the seeds thereof.

120 "Person" means any corporation, association, partnership, trust,
121 other institution or entity or one or more individuals.

122 "Pharmacist" means a registered pharmacist of this State.

123 "Pharmacy owner" means the owner of a store or other place
124 of business where controlled dangerous substances are compounded
125 or dispensed by a registered pharmacist; but nothing in this chap-
126 ter contained shall be construed as conferring on a person who is
127 not registered or licensed as a pharmacist any authority, right or
128 privilege that is not granted to him by the pharmacy laws of this
129 State.

130 "Poppy straw" means all parts, except the seeds, of the opium
131 poppy, after mowing.

132 "Practitioner" means a physician, dentist, veterinarian, scien-
133 tific investigator, laboratory, pharmacy, hospital or other person
134 licensed, registered, or otherwise permitted to distribute, dispense,
135 conduct research with respect to, or administer a controlled danger-
136 ous substance in the course of professional practice or research in
137 this State.

138 (a) "Physician" means a physician authorized by law to practice
139 medicine in this or any other State and any other person authorized
140 by law to treat sick and injured human beings in this or any other
141 State and

142 (b) "Veterinarian" means a veterinarian authorized by law to
143 practice veterinary medicine in this State.

144 (c) "Dentist" means a dentist authorized by law to practice
145 dentistry in this State.

146 (d) "Hospital" means any Federal institution, or any institution
147 for the care and treatment of the sick and injured, operated or
148 approved by the appropriate State department as proper to be
149 entrusted with the custody and professional use of controlled
150 dangerous substances.

151 (e) "Laboratory" means a laboratory to be entrusted with the
152 custody of narcotic drugs and the use of controlled dangerous
153 substances for scientific, experimental and medical purposes and
154 for purposes of instruction approved by the State Department of
155 Health.

156 "Production" includes the manufacture, planting, cultivation,
157 growing, or harvesting of a controlled dangerous substance.

158 "Immediate precursor" means a substance which the State De-
159 partment of Health has found to be and by regulation designates
160 as being the principal compound commonly used or produced
161 primarily for use, and which is an immediate chemical intermediary
162 used or likely to be used in the manufacture of a controlled danger-
163 ous substance, the control of which is necessary to prevent, curtail,
164 or limit such manufacture.

165 "State" means the State of New Jersey.

166 "Ultimate user" means a person who lawfully possesses a con-
167 trolled dangerous substance for his own use or for the use of a
168 member of his household or for administration to an animal owned
169 by him or by a member of his household.

1 2. Section 7 of P. L. 1970, c. 226 (C. 24:21-7) is amended to read
2 as follows:

3 7. Schedule III. a. Tests. The commissioner shall place a sub-
4 stance in Schedule III if he finds that the substance: (1) has a
5 potential for abuse less than the substances listed in Schedules I and
6 II; (2) has currently accepted medical use in treatment in the
7 United States; and (3) abuse may lead to moderate or low physical
8 dependence or high psychological dependence.

9 b. The controlled dangerous substances listed in this section are
10 included in Schedule III, subject to any revision and republishing
11 by the commissioner pursuant to section 3d., and except to the
12 extent provided in any other schedule.

13 c. Any material, compound, mixture, or preparation which con-
14 tains any quantity of the following substances [having a potential
15 for abuse] associated with a stimulant effect on the central nervous
16 system:

17 (1) Amphetamine, its salts, optical isomers, and salts of its
18 optical isomers.

19 (2) Phenmetrazine and its salts.

20 (3) Any substance which contains any quantity of methamphet-
21 amine, including its salts, isomers, and salts of isomers.

22 (4) Methylphenidate.

23 d. Any material, compound, mixture, or preparation which con-
24 tains any quantity of the following substances having a potential for
25 abuse associated with a depressant effect on the central nervous
26 system:

27 (1) Any substance which contains any quantity of a derivative of
28 barbituric acid, or any salt of a derivative of barbituric acid, except
29 those substances which are specifically listed in other schedules

- 30 (2) Chlorhexadol
- 31 (3) Glutethimide
- 32 (4) Lysergic acid
- 33 (5) Lysergic acid amide
- 34 (6) Methyprylon
- 35 (7) Pheneyclidine
- 36 (8) Sulfondiethylmethane
- 37 (9) Sulfonethylmethane
- 38 (10) Sulfonmethane.

39 e. Nalorphine.

40 f. Any material, compound, mixture, or preparation containing
41 limited quantities of any of the following narcotic drugs, or any
42 salts thereof:

43 (1) Not more than 1.80 grams of codeine or any of its salts per
44 100 milliliters or not more than 90 milligrams per dosage unit, with
45 an equal or greater quantity of an isoquinoline alkaloid of opium.

46 (2) Not more than 1.80 grams of codeine or any of its salts per
47 100 milliliters or not more than 90 milligrams per dosage unit, with
48 one or more active, nonnarcotic ingredients in recognized thera-
49 peutic amount.

50 (3) Not more than 300 milligrams of dihydrocodeinone or any of
51 salts per 100 milliliters or not more than 15 milligrams per dosage
52 unit, with a fourfold or greater quantity of an isoquinoline alkaloid
53 of opium.

54 (4) Not more than 300 milligrams of dihydrocodeinone or any of
55 its salts per 100 milliliters or not more than 15 milligrams per
56 dosage unit, with one or more active, nonnarcotic ingredients in
57 recognized therapeutic amounts.

58 (5) Not more than 1.80 grams of dihydrocodeine or any of its
59 salts per 100 milliliters or not more than 90 milligrams per dosage
60 unit, with one or more active, nonnarcotic ingredients in recognized
61 therapeutic amounts.

62 (6) Not more than 300 milligrams of ethylmorphine or any of its
63 salts per 100 milliliters or not more than 15 milligrams per dosage
64 unit, with one or more active, nonnarcotic ingredients in recognized
65 therapeutic amounts.

66 (7) Not more than 500 milligrams of opium or any of its salts
67 per 100 milliliters or per 100 grams, or not more than 25 milligrams
68 per dosage unit, with one or more active, nonnarcotic ingredients
69 in recognized therapeutic amounts.

70 (8) Not more than 50 milligrams of morphine or any of its salts
71 per 100 milliliters or per 100 grams with one or more active, non-
72 narcotic ingredients in recognized therapeutic amounts.

73 g. The commissioner may by regulation except any compound,
74 mixture, or preparation containing any stimulant or depressant
75 substance listed in subsections a. and b. of this schedule from the
76 application of all or any part of this act if the compound, mixture,
77 or preparation contains one or more active medicinal ingredients
78 not having a stimulant or depressant effect on the central nervous
79 system; provided, that such admixtures shall be included therein
80 in such combinations, quantity, proportion, or concentration as to
81 vitiate the potential for abuse of the substances which do have a
82 stimulant or depressant effect on the central nervous system.

1 3. Section 20 of P. L. 1970, c. 226 (C. 24:21-20) is amended to
2 read as follows:

3 20. Prohibited acts B.—Possession, use or being under influence
4 —Penalties. a. It is unlawful for any person, knowingly or inten-
5 tionally, to obtain, or to possess, actually or constructively, a con-
6 trolled dangerous substance unless such substance was obtained
7 directly, or pursuant to a valid prescription or order from a practi-
8 tioner, while acting in the course of his professional practice, or
9 except as otherwise authorized by this act. Any person who violates
10 this section with respect to:

11 (1) A substance classified in Schedule I or II which is a narcotic
12 drug and any other controlled dangerous substance classified in
13 Schedule I, II, III or IV is guilty of a high misdemeanor and
14 shall be punished by imprisonment for not more than 5 years, a fine
15 of not more than \$15,000.00, or both, except as provided in subsec-
16 tion a. (3) below;

17 (2) Any controlled dangerous substance classified in Schedule
18 V is guilty of a misdemeanor and shall be punished by imprison-
19 ment of not more than 1 year, a fine of not more than \$5,000.00, or
20 both; or

21 (3) Possession of more than 25 grams of marihuana, *including*
22 *any adulterants or dilutents*, or more than 5 grams of hashish is
23 guilty of a high misdemeanor and shall be punished by imprison-
24 ment for not more than 5 years, a fine of not more than \$15,000.00, or
25 both; provided, however, that any person who violates this section
26 with respect to 25 grams or less of marihuana, *including any adult-*
27 *erants or dilutents*, or 5 grams or less of hashish is a disorderly
28 person.

29 b. Any person who uses or who is under the influence of any
30 controlled dangerous substance, as defined in this act, for a purpose
31 other than the treatment of sickness or injury as prescribed or
32 administered by a person duly authorized by law to treat sick and
33 injured human beings, is a disorderly person.

34 In a prosecution under this subsection, it shall not be necessary
35 for the State to prove that the accused did use or was under the
36 influence of any specific narcotic drug or drugs, but it shall be suffi-
37 cient for a conviction under this subsection for the State to prove
38 that the accused did use or was under the influence of some con-
39 trolled dangerous substance or counterfeit controlled dangerous
40 substance as defined in this act, by providing that the accused did
41 manifest physical and physiological symptoms or reactions caused
42 by the use of any controlled dangerous substance.

43 c. In addition to the general penalty prescribed for a disorderly
44 person's offense pursuant to N. J. S. 2A:169-4, every person ad-
45 judged a disorderly person for a violation of this subsection shall,
46 at the discretion of the sentencing judge, forthwith forfeit his right
47 to operate a motor vehicle over the highways of this State for a
48 period of not more than 2 years from the date of his conviction and
49 until such privilege shall be restored to him by the Director of
50 Motor Vehicles upon application to and after certification by a
51 physician to the director that such person is not a drug de-
52 pendent person within the meaning of this act. The court before
53 whom any person is convicted of a violation of this section shall
54 cause a report of such conviction to be filed with the Director of
55 Motor Vehicles.

1 4. This act shall take effect immediately.