

January 19, 1971

LEGISLATIVE HISTORY OF R.S. 24:21-1 to 43,
~~40:170-77.8~~, 2A:170-77.8 and 77.9

Copy

(Controlled dangerous substances)

(1970 Act)

(1971 Amendment)

Beginning in 1967, and reaching a floodtide in 1968, 1969 and 1970, writings appeared distinguishing marijuana from other narcotics and proposing reform of the law. During the same period, use of marijuana in America by juveniles and adults increased markedly. "Narcotics" became one of the issues high on every list of legal, medical or social problems.

Many recommendations for change were made, the major New Jersey ones are in the list which follows.

Governor's Message:

974.901 N.J. Governor (Cahill)
G52 Drug abuse--Problem of the decade.
Special message ... to the Legislature ...
April 27, 1970 (copy enclosed).

Hearings and reports (1966-1970):

- 974.901 N.J. Commission on Narcotic Control.
N17 Report of study and recommendations.
1st- , 1955-
- /974.90 N.J. Legislature. Narcotic Drug Study Commission.
N222 An Interim Report [1966].
1966
- /974.90 N.J. Legislature. Narcotic Drug Study Commission.
N222 An interim report [1966].
1967
- /974.90 N.J. Legislature. Narcotic Drug Study Commission.
N222 Final report, 1967.
1969
- /974.90 Lacey, Frederick B.
C929 Recommendations to the 1970 ... Legislature ...
1970 to curb the power and influence of organized crime
in New Jersey.

NEW JERSEY STATE LIBRARY
DEPARTMENT OF EDUCATION
TRENTON, NEW JERSEY

- 974.901 N.J. Legislature. Narcotic Drug Study Commission.
N18 Interim reports, 1963-1967.
- 974.90 N.J. Legislature. Narcotic Drug Study Commission.
N222 Public hearing. Held May 4, 1966.
1966a
- 974.90 N.J. Legislature. Narcotic Drug Study Commission.
N222 Final report-1967. [1969].
1969
- 974.90 N.J. State Law Enforcement Program Assistance Agency.
N222 Staff report: a desk-book on drug abuse.
1969b
- 974.90 N.J. Legislature. Senate. Committee on Law, Public
C5815 Safety & Defense.
1968c Public hearings on ... (Eavesdropping and
Dept. of Criminal Justice).
- 974.90 N.J. Legislature. Senate. Committee on Air, Water
N222 Pollution and Public Safety.
1970b Public hearing on pending narcotics legislation ...
Held ... Sept. 9, 1970.

Prior to the September 9 hearing in Trenton, preliminary hearings were held during the summer in other cities (no copies available at the State Library as of January 1971 - one may be transcribed at a later date).

Previous bills:

From 1966 thru October 1970, a total of 81 bills were introduced dealing with one or more topics included in this law. A list of them may be obtained by consulting the Subject Index to Bills, under "Narcotics."

Similar bills:

- 1970 - A967 - Hollenbeck & others.
"Dangerous Substances Control Act"
No statement.
Also patterned on Uniform Act (see below).

Senate Bill 851 of 1970 as originally introduced was modeled on:

- TB94 Uniform state controlled dangerous substances act.
N2 (Revised January 2, 1970).
U58a (Includes comments on each section).

KF
165
M 325
1916
or KF
165
435
SUPP

Bills enacted into law:

L. 1970, Chapter 226 - S851

Introduced May 7 by Dickinson [and 12 others].
No statement (copy of original bill enclosed).
October 5 - Passed Senate, amended (copy enclosed).
October 8 - Passed Assembly.
October 19 - Approved.

L. 1971, Chapter 3 - S993

Introduced December 7, 1970 by Dickinson [& 7 others].
Not amended during passage.
No statement (copy of original bill enclosed).

A selection of clippings from the hundreds in: V.F.--N.J.--Narcotics
is enclosed.

RSL/PC

Marijuana, Law and Medicine; a selected bibliography

44 471

October 1969

Books

Kaplan, John <u>Marijuana.</u> Thos. Jefferson Pub. Co., 1969	on order
Oursler, W.C. <u>Marijuana:</u> the facts, the truth. P.S. Ericksson, 1968.	613.83 Our
Rosevear, John. <u>Pot;</u> a handbook of marihuana. University Books, 1967.	R178.8 R818
Solomon, David. <u>The marihuana papers.</u> Bobbs-Merrill, 1966.	178.808 Sol

Articles

Ball, J.C. Marihuana smoking in the United States. 32 Federal Probation 8 (September 1968).	LP F
Chopra, G.A. Man and marijuana. 4 International Journal of the Addictions 215 (June 1969).	Per I
Legalization of marijuana. 21 Vanderbilt Law Review 517 (May 1968).	LP V
Marijuana and the law: problem of education or enforce- ment? 1 Univ. of San Fernando Valley Law Review 139 (January 1968).	on order
Marihuana and the law: symposium. 3 Suffolk University Law Review 1 (Fall 1968).	LP S
Marijuana and the law: the constitutional challenges to marijuana laws in light of the social aspects of marijuana use. 13 Villanova Law Review 851 (Summer 1968).	LP V
Marijuana laws: a need for reform. 22 Arkansas Law Review 359 (Summer 1968).	LP A
Tauro, G.J. Marijuana and relevent problems--1969. 4 American Criminal Law Quarterly 174 (Spring 1969).	LP A
Wallenstein, D. Marijuana possession as an aspect of the right of privacy. 5 Criminal Law Bulletin 59 (March 1969).	LP C
Weil, A.T. Clinical and psychological effects of marihuana in man. 162 Science 1234 (Dec. 13, 1968).	Per S

Handwritten notes:
- on order
- case
- H.P.

Weiss & Wizner.

LP

Pot, prayer, politics and privacy: the right to cut
your own throat in your own way. 54 Iowa Law Review
709 (April 1969).

Symposium 56 Calif. L.Rev. 1 (1968)

" 19 Hastings L.J. 602 (1968)

STATE OF NEW JERSEY

INTRODUCED DECEMBER 7, 1970

By Senators DICKINSON, CRABIEL, LYNCH, KNOWLTON,
HAGEDORN, WALLWORK, DELTUFO, and WOODCOCK

Referred to Committee on Air and Water Pollution and Public Health

AN ACT to amend and supplement 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 **[IV]** V of article 2
20 of this 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

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

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-
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 who
40 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 dis-
62 comfort of its absence.

63 "Marihuana" means all parts of the plant *Cannabis sativa* L.,
64 whether growing or not; the seeds thereof; the resin extracted from
65 any part of such plant; and every compound, manufacture, salt,
66 derivative, mixture, or preparation of such plant, its seeds or resin,

67 but shall not include the mature stalks of such plant, fiber produced
68 from such stalks, oil or cake made from the seeds of such plant,
69 any other compound, manufacture, salt, derivative, mixture, or
70 preparation of such mature stalks (except the resin extracted there-
71 from), fiber, oil, or cake, or the sterilized seed of such plant which
72 is incapable of germination.

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

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

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

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

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

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

108 "Opiate" means any dangerous substance having an addiction-
109 forming or addiction-sustaining liability similar to morphine or

110 being capable of conversion into a drug having such addiction-
111 forming or addiction-sustaining liability. It does not include, unless
112 specifically designated as controlled under section 3 of this act, the
113 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
114 salts (dextromethorphan). It does include its racemic and levo-
115 rotatory forms.

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

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

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

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

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

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

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

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

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

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

149 (e) "Laboratory" means a laboratory to be entrusted with the
150 custody of narcotic drugs and the use of controlled dangerous
151 substances for scientific, experimental and medical purposes and

152 for purposes of instruction approved by the State Department of
153 Health.

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

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

163 "State" means the State of New Jersey.

164 "Ultimate user" means a person who lawfully possesses a con-
165 trolled dangerous substance for his own use or for the use of a
166 member of his household or for administration to an animal owned
167 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) Chloral betaine**

31 (3) Chloral hydrate**]**

32 **[(4)] (2) Chlorhexadol**

33 **[(5) Ethchlorvynol]**

34 **[(6) Ethinamate]**

35 **[(7)] (3) Glutethimide**

36 **[(8)] (4) Lysergic acid**

37 **[(9)] (5) Lysergic acid amide**

38 **[(10)] (6) Methyprylon**

39 **[(11) Pareldehyde]**

40 **[(12) Petrichloral]**

41 **[(13)] (7) Phencyclidine**

42 **[(14)] (8) Sulfondiethylmethane**

43 **[(15)] (9) Sulfonethylmethane**

44 **[(16)] (10) Sulfonmethane.**

45 e. Nalorphine.

46 f. Any material, compound, mixture, or preparation containing
47 limited quantities of any of the following narcotic drugs, or any
48 salts thereof:

49 (1) Not more than 1.80 grams of codeine or any of its salts per
50 100 milliliters or not more than 90 milligrams per dosage unit, with
51 an equal or greater quantity of an isoquinoline alkaloid of opium.

52 (2) Not more than 1.80 grams of codeine or any of its salts per
53 100 milliliters or not more than 90 milligrams per dosage unit, with
54 one or more active, nonnarcotic ingredients in recognized therapeutic
55 amount.

56 (3) Not more than 300 milligrams of dihydrocodeinone or any of
57 salts per 100 milliliters or not more than 15 milligrams per dosage
58 unit, with a fourfold or greater quantity of an isoquinoline alkaloid
59 of opium.

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

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

68 (6) Not more than 300 milligrams of ethylmorphine or any of its
69 salts per 100 milliliters or not more than 15 milligrams per dosage

70 unit, with one or more active, nonnarcotic ingredients in recognized
71 therapeutic amounts.

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

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

79 g. The commissioner may by regulation except any compound,
80 mixture, or preparation containing any stimulant or depressant sub-
81 stance listed in subsections a. and b. of this schedule from the appli-
82 cation of all or any part of this act if the compound, mixture, or
83 preparation contains one or more active medicinal ingredients not
84 having a stimulant or depressant effect on the central nervous sys-
85 tem; provided, that such admixtures shall be included therein in
86 such combinations, quantity, proportion, or concentration as to
87 vitiate the potential for abuse of the substances which do have a
88 stimulant or depressant effect on the central nervous system.

1 3. Section 8 of P. L. 1970, c. 226 (C. 24:21-8) is amended to read
2 as follows:

3 8. Schedule IV. a. Tests. The commissioner shall place a sub-
4 stance in Schedule IV if he finds that the substance: (1) has low
5 potential for abuse relative to the substances listed in Schedule III;
6 (2) has currently accepted medical use in treatment in the United
7 States; and (3) **[has]** *may lead to* limited physical dependence or
8 psychological dependence **[liability]** relative to the substances
9 listed in Schedule III.

10 b. The controlled dangerous substances listed in this section are
11 included in Schedule IV.

12 **[c.** Any compound, mixture, or preparation containing limited
13 quantities of any of the following narcotic drugs, which shall include
14 one or more nonnarcotic active medicinal ingredients in sufficient
15 proportion to confer upon the compound, mixture, or preparation,
16 valuable medicinal qualities other than those possessed by the
17 narcotic drug alone:

18 (1) Not more than 200 milligrams of codeine or any of its salts
19 per 100 milliliters or per 100 grams;

20 (2) Not more than 100 milligrams of dihydrocodeine or any of its
21 salts per 100 milliliters or per 100 grams;

22 (3) Not more than 50 milligrams of ethylmorphine or any of its
23 salts per 100 milliliters or per 100 grams;

24 (4) Not more than 2.5 milligrams of diphenoxylate and not less
25 than 25 micrograms of atropine sulfate per dosage unit;

26 (5) Not more than 100 milligrams of opium or any of its salts
27 per 100 milliliters or per 100 grams.]

28 *c. Any material, compound, mixture or preparation which con-*
29 *tains any quantity of the following substances having a potential*
30 *for abuse associated with a depressant effect on the central nervous*
31 *system:*

32 (1) *Barbital*

33 (2) *Chloral betaine*

34 (3) *Chloral hydrate*

35 (4) *Ethchlorovynol*

36 (5) *Ethinamate*

37 (6) *Methohexital*

38 (7) *Meproamate*

39 (8) *Methylphenobarbital*

40 (9) *Paraldehyde*

41 (10) *Petrichloral*

42 (11) *Phenobarbital*

43 *d. The commissioner may except by rule any compound, mixture,*
44 *or preparation containing any depressant substance listed in sub-*
45 *section c. from the application of all or any part of this act if the*
46 *compound, mixture or preparation contains one or more active*
47 *medicinal ingredients not having a depressant effect on the central*
48 *nervous system, and if the admixtures are included therein in com-*
49 *binations, quantity, proportion or concentration that vitiate the*
50 *potential for abuse of the substances which have a depressant effect*
51 *on the central nervous system.*

1 4. Schedule V. a. Tests. The commissioner shall place a sub-
2 stance in Schedule V if he finds that the substance: (1) has low
3 potential for abuse relative to the substances listed in Schedule IV;
4 (2) has currently accepted medical use in treatment in the United
5 States; and (3) has limited physical dependence or psychological
6 dependence liability relative to the substances listed in Schedule IV.

7 b. The controlled dangerous substances listed in this section are
8 included in Schedule V.

9 c. Any compound, mixture, or preparation containing limited
10 quantities of any of the following narcotic drugs, which also con-
11 tains one or more nonnarcotic active medicinal ingredients in suffi-
12 cient proportion to confer upon the compound, mixture, or prepara-
13 tion, valuable medicinal qualities other than those possessed by the
14 narcotic drug alone:

15 (1) Not more than 200 milligrams of codeine or any of its salts
16 per 100 milliliters or per 100 grams;

17 (2) Not more than 100 milligrams of dihydrocodeine or any of
18 its salts per 100 milliliters or per 100 grams;

19 (3) Not more than 50 milligrams of ethylmorphine or any of its
20 salts per 100 milliliters or per 100 grams;

21 (4) Not more than 2.5 milligrams of diphenoxylate and not less
22 than 25 micrograms of atropine sulfate per dosage unit;

23 (5) Not more than 100 milligrams of opium or any of its salts
24 per 100 milliliters or per 100 grams.

1 5. Section 10 of P. L. 1970, c. 226 (C. 24:21-10) is amended to
2 read as follows:

3 10. Registration requirements. a. Every person who manu-
4 factures, distributes, or dispenses any controlled dangerous sub-
5 stance within this State or who proposes to engage in the manu-
6 facture, distribution, or dispensing of any controlled dangerous
7 substance within this State, shall obtain annually a registration
8 issued by the State Department of Health in accordance with the
9 rules and regulations promulgated by it.

10 b. Persons registered by the commissioner under this act to
11 manufacture, distribute, dispense, or conduct research with con-
12 trolled dangerous substances **[are authorized to]** *may* possess,
13 manufacture, distribute, dispense, or conduct research with those
14 substances to the extent authorized by their registration and in
15 conformity with the other provisions of this article.

16 c. The following persons shall not be required to register and
17 may lawfully have under their control or possess controlled
18 dangerous substances under the provisions of this act; provided,
19 however, that nothing in this section shall be construed as confer-
20 ring on a person who is not registered or licensed as a practitioner
21 or as a pharmacist any authority, right or privilege that is not
22 granted him by the laws of this State:

23 (1) An agent, or an employee thereof, of any registered manu-
24 facturer, distributor, or dispenser of any controlled dangerous
25 substance if such agent is acting in the usual course of his business
26 or employment;

27 (2) A common carrier or warehouseman, or an employee thereof,
28 whose possession of any controlled dangerous substance is in the
29 usual course of his business or employment;

30 (3) An ultimate user or a person in possession of any controlled
31 dangerous substance pursuant to a lawful order of a practitioner
32 or in lawful possession of a Schedule **[IV]** *V* substance;

33 (4) Peace officers or employees in the performance of their
34 official duties requiring possession or control of controlled danger-
35 ous substances; or to temporary incidental possession by employees
36 or agents of persons lawfully entitled to possession, or by persons
37 whose possession is authorized for the purpose of aiding peace
38 officers in performing their official duties.

39 d. The commissioner may, by regulation, waive the requirement
40 for registration of certain manufacturers, distributors, or dis-
41 pensers if he finds it consistent with the public health and safety.

42 e. A separate registration shall be required at each principal
43 place of business or professional practice where the applicant
44 manufactures, distributes, or dispenses controlled dangerous
45 substances.

46 f. The commissioner is authorized to inspect the establishment
47 of a registrant or applicant for registration in accordance with the
48 rules and regulations promulgated by him.

1 6. Section 11 of P. L. 1970, c. 226 (C. 24:21-11) is amended to
2 read as follows:

3 11. Registration. a. The State Department of Health shall not
4 register an applicant to manufacture or distribute controlled
5 dangerous substances included in Schedules I through **[IV]** V of
6 article 2 of this act unless it determines that the issuance of such
7 registration is consistent with the public interest. In determining
8 the public interest, the following factors shall be considered:

9 (1) Maintenance of effective controls against diversion of
10 particular controlled dangerous substances into other than legiti-
11 mate medical, scientific, or industrial channels;

12 (2) Compliance with applicable State and local laws;

13 (3) Any convictions of the applicant under any Federal and
14 State laws relating to any controlled dangerous substance;

15 (4) Past experience in the manufacture of controlled dangerous
16 substances, and the existence in the applicant's establishment of
17 effective controls against diversion;

18 (5) Furnishing by the applicant of false or fraudulent material
19 in any application filed under this act;

20 (6) Suspension or revocation of the applicant's Federal registra-
21 tion to manufacture, distribute, or dispense controlled dangerous
22 substances as authorized by Federal law; and

23 (7) Such other factors as may be relevant to and consistent with
24 the public health and safety.

25 b. Registration granted under subsection a. of this section shall
26 not entitle a registrant to manufacture and distribute controlled

27 dangerous substances in Schedule I or II other than those specified
28 in the registration.

29 c. Practitioners shall be registered to dispense substances in
30 Schedules II through ~~IV~~ V if they are authorized to dispense
31 or conduct research under the law of this State. The commissioner
32 need not require separate registration under this article for
33 practitioners engaging in research with nonnarcotic controlled
34 dangerous substances in Schedules II through ~~IV~~ V where the
35 registrant is already registered under this article in another
36 capacity. Practitioners registered under Federal law to conduct
37 research ~~in~~ with Schedule I substances ~~are permitted to conduct~~
38 research ~~in~~ may conduct research with Schedule I substances
39 within this State upon furnishing the commissioner evidence of
40 that Federal registration.

41 d. Compliance by manufacturers and distributors with the provi-
42 sions of the Federal law respecting registration (excluding fees)
43 entitled them to be registered under this act.

44 e. The State Department of Health shall initially permit persons
45 to register who own or operate any establishment engaged in the
46 manufacture, distribution or dispensing of any controlled dan-
47 gerous substances prior to the effective date of this act and who
48 are registered or licensed by the State.

1 7. Section 15 of P. L. 1970, c. 226 (C. 24:21-15) is amended to
2 read as follows:

3 15. Prescriptions. a. Except when dispensed directly in good
4 faith by a practitioner, other than a pharmacist, in the course of
5 his professional practice only, to an ultimate user, no controlled
6 dangerous substance included in Schedule II, which is a prescrip-
7 tion drug as defined in R. S. 45:14-14 may be dispensed without the
8 written prescription of a practitioner; provided that in emergency
9 situations, as prescribed by the State Department of Health by
10 regulation, such drug may be dispensed upon oral prescription
11 reduced promptly to writing and filed by the pharmacist, if such
12 oral prescription is authorized by Federal law. Prescriptions shall
13 be retained in conformity with the requirements of section 13 of
14 this act. No prescription for a Schedule II substance may be
15 refilled.

16 b. Except when dispensed directly in good faith by a practitioner,
17 other than a pharmacist, in the course of his professional practice
18 only, to an ultimate user, no controlled dangerous substance in-
19 cluded in ~~Schedule III~~ Schedule III and IV which is a prescrip-
20 tion drug as defined in R. S. 45:14-14 may be dispensed without a
21 written or oral prescription. Such prescription may not be filled

22 or refilled more than 6 months after the date thereof or be refilled
23 more than 5 times after the date of the prescription, unless renewed
24 by the practitioner.

25 c. No controlled dangerous substance included in Schedule **[IV]**
26 *V* may be distributed or dispensed other than for a valid and
27 accepted medical purpose.

28 d. A practitioner other than a veterinarian who prescribes a
29 controlled dangerous substance in good faith and in the course of
30 his professional practice may administer the same or cause the
31 same to be administered by a nurse or intern under his direction
32 and supervision.

33 e. A veterinarian who prescribes a controlled dangerous sub-
34 stance not for use by a human being in good faith and in the course
35 of his professional practice may administer the same or cause the
36 same to be administered by an assistant or orderly under his direc-
37 tion and supervision.

38 f. A person who has obtained a controlled dangerous substance
39 from the prescribing practitioner for administration to a patient
40 during the absence of the practitioner shall return to the practi-
41 tioner any unused portion of the substance when it is no longer
42 required by the patient or when its return is requested by the
43 practitioner.

44 g. Whenever it appears to the State Department of Health that
45 a drug not considered to be a prescription drug under existing
46 State law should be so considered because of its abuse potential,
47 it shall so advise the State Board of Pharmacy and furnish to it
48 all available data relevant thereto.

1 8. Section 19 of P. L. 1970, c. 226 (C. 24:21-19) is amended to
2 read as follows:

3 19. Prohibited acts A.—Manufacturing, distributing, or dispens-
4 ing—Penalties. a. Except as authorized by this act, it shall be
5 unlawful for any person:

6 (1) To manufacture, distribute, or dispense, or to possess or
7 have under his control with intent to manufacture, distribute, or
8 dispense, a controlled dangerous substance; or

9 (2) To create, distribute, or possess or have under his control
10 with intent to distribute, a counterfeit controlled dangerous
11 substance.

12 b. Any person who violates subsection a. with respect to:

13 (1) A substance classified in Schedules I or II which is a narcotic
14 drug is guilty of a high misdemeanor and shall be punished by
15 imprisonment for not more than 12 years, a fine of not more than
16 \$25,000.00, or both; or

17 (2) Any other controlled dangerous substance classified in
18 Schedules I, II, **[or]**, III or IV is guilty of a high misdemeanor
19 and shall be punished by imprisonment for not more than 5 years,
20 a fine of not more than \$15,000.00, or both; or

21 (3) A substance classified in Schedule **[IV]** V is guilty of a
22 misdemeanor and shall be punished by imprisonment for not more
23 than 1 year, a fine of not more than \$5,000.00, or both.

1 9. 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 **[or]**, 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 **[IV]** V is guilty of a misdemeanor and shall be punished by im-
19 prisonment of not more than 1 year, a fine of not more than \$5,000.00,
20 or both; or

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

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

32 In a prosecution under this subsection, it shall not be necessary
33 for the State to prove that the accused did use or was under the
34 influence of any specific narcotic drug or drugs, but it shall be suffi-
35 cient for a conviction under this subsection for the State to prove

36 that the accused did use or was under the influence of some con-
 37 trolled dangerous substance or counterfeit controlled dangerous
 38 substance as defined in this act, by proving that the accused did
 39 manifest physical and physiological symptoms or reactions caused
 40 by the use of any controlled dangerous substance.

41-42 c. In addition to the general penalty prescribed for a disorderly
 43 person's offense pursuant to N. J. S. 2A:169-4, every person ad-
 44 judged a disorderly person for a violation of this subsection shall,
 45 at the discretion of the sentencing judge, forthwith forfeit his right
 46 to operate a motor vehicle over the highways of this State for a
 47 period of not more than 2 years from the date of his conviction and
 48 until such privilege shall be restored to him by the Director of
 49 Motor Vehicles upon application to and after certification by a
 50 physician to the director that such person is **[no longer]** *not* a drug
 51 dependent person within the meaning of this act. The court before
 52 whom any person is convicted of a violation of this section shall
 53 cause a report of such conviction to be filed with the Director of
 54 Motor Vehicles.

1 10. Section 26 of P. L. 1970, c. 226 (C. 24:21-26) is amended to
 2 read as follows:

3 26. Distribution to persons under age 18. a. Any person who is
 4 at least 18 years of age who violates subsection 19a. (1) by distribut-
 5 ing a substance listed in Schedules I or II which is a narcotic drug
 6 to a person 17 years of age or younger who is at least 3 years his
 7 junior is punishable by a term of imprisonment of up to twice that
 8 authorized by subsection 19b. (1), (2) or (3) or by the fine autho-
 9 rized by subsection 19b. (1), or by both.

10 b. Any person who is at least 18 years of age who violates sub-
 11 section 19a. (1) by distributing any other controlled dangerous sub-
 12 stance listed in Schedules I, II, III **[or]**, IV or V to a person 17
 13 years of age or younger who is at least 3 years his junior is punish-
 14 able by a term of imprisonment up to twice that authorized by sub-
 15 sections 19b. (2) or (3), or by the fine authorized by subsections 19b.
 16 (2) or (3), or both.

1 11. Section 27 of P. L. 1970, c. 226 (C. 24:21-27) is amended to
 2 read as follows:

3 27. Conditional discharge for certain first offenses; expunging
 4 of records. a. Whenever any person who has not previously been
 5 convicted of any offense under the provisions of this act or, sub-
 6 sequent to the effective date of this act, under any law of the
 7 United States, this State or of any other state, relating to narcotic
 8 drugs, marihuana, or stimulant, depressant, or hallucinogenic
 9 drugs, **[pleads guilty to or is found guilty of any offense under**

10 subsections 20 a. (2) and (3) and b., the court may, without entering
11 a judgment of conviction and with the consent of such person, after
12 proper reference to the Controlled Dangerous Substances Registry,
13 as established and defined in the Controlled Dangerous Substances
14 Registry Act, place such person on probation upon such reasonable
15 terms and conditions as it may require, or as otherwise provided
16 by law. Upon violation of a term or condition of probation, the
17 court may enter an adjudication of guilt and proceed as otherwise
18 provided. Upon fulfillment of the terms and conditions of proba-
19 tion, the court shall discharge such person and dismiss the pro-
20 ceedings against him. Discharge and dismissal under this section
21 shall be without court adjudication of guilt and shall not be deemed
22 a conviction for purposes of disqualifications or disabilities, if any,
23 imposed by law upon conviction of a crime or disorderly person
24 offense, but shall be reported by the clerk of the court pursuant to
25 the Controlled Dangerous Substances Registry Act. Discharge and
26 dismissal under this section may occur only once with respect to
27 any person. *It is charged with or convicted of any offense under*
28 *subsections 20 a. (1), (2) and (3), and b., the court, upon notice to*
29 *the prosecutor and subject to subsection c., may on motion of the*
30 *defendant or the court:*

31 *(1) Suspend further proceedings and with the consent of such*
32 *person after reference to the Controlled Dangerous Substance*
33 *Registry, as established and defined in the Controlled Dangerous*
34 *Substances Registry Act of 1970, place him under supervisory*
35 *treatment upon such reasonable terms and conditions as it may*
36 *require; or*

37 *(2) After plea of guilt or finding of guilt, and without entering*
38 *a judgment of conviction, and with the consent of such person after*
39 *proper reference to the Controlled Dangerous Substances Registry*
40 *as established and defined in the Controlled Dangerous Substances*
41 *Registry Act of 1970, place him on supervisory treatment upon*
42 *such reasonable terms and conditions as it may require, or as other-*
43 *wise provided by law.*

44 *b. In no event shall the court require as a term or condition of*
45 *supervisory treatment under this section, referral to any residential*
46 *treatment facility for a period exceeding the maximum period of*
47 *confinement prescribed by law for the offense for which the in-*
48 *dividual has been charged or convicted, nor shall any term of*
49 *supervisory treatment imposed under this subsection exceed a*
50 *period of 3 years. Upon violation of a term or condition of super-*
51 *visory treatment the court may enter a judgment of conviction and*

52 proceed as otherwise provided, or where there has been no plea of
53 guilt or finding of guilt, resume proceedings. Upon fulfillment of
54 the terms and conditions of supervisory treatment the court shall
55 terminate the supervisory treatment and dismiss the proceedings
56 against him. Termination of supervisory treatment and dismissal
57 under this section shall be without court adjudication of guilt and
58 shall not be deemed a conviction for purposes of disqualifications
59 or disabilities, if any, imposed by law upon conviction of a crime
60 or disorderly persons offense but shall be reported by the clerk of
61 the court pursuant to the Controlled Dangerous Substances Regis-
62 try Act. Termination of supervisory treatment and dismissal under
63 this section may occur only once with respect to any person. Im-
64 position of supervisory treatment under this section shall not be
65 deemed a conviction for the purposes of determining whether a
66 second or subsequent offense has occurred under section 29 of this
67 act or any law of this State.

68 c. Proceedings under this section shall not be available to any
69 defendant unless the court in its discretion concludes that:

70 (1) The defendant's continued presence in the community, or in
71 a civil treatment center or program, will not pose a danger to the
72 community; or

73 (2) That the terms and conditions of supervisory treatment will
74 be adequate to protect the public and will benefit the defendant by
75 serving to correct any dependence on or use of controlled substances
76 which he may manifest.

1 12. This act shall take effect upon the same date that P. L. 1970,
2 c. 226 becomes effective if enacted prior thereto or upon the date
3 of enactment if the same occurs thereafter.