

SENATE, No. 2702

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 7, 2018

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Legalizes possession and personal use of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure; revises requirements for medical marijuana program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning access to marijuana, and revising and
2 supplementing various parts of the statutory law.

3

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

6

7 1. (New section) Sections 1 through 45 of this act shall be
8 known and may be cited as the “New Jersey Marijuana Legalization
9 Act.”

10

11 2. (New section) Findings and Declarations.

12 The Legislature finds and declares that:

13 a. It is the intent of the people of New Jersey to adopt a new
14 approach to our marijuana policies by taxing, controlling, and
15 legalizing marijuana like alcohol for adults;

16 b. It is the intent of the people of New Jersey that the
17 provisions of this act will prevent the sale or distribution of
18 marijuana to persons under 21 years of age;

19 c. This act is designed to eliminate the problems caused by the
20 unregulated manufacture, distribution, and use of marijuana within
21 New Jersey;

22 d. This act will divert funds from marijuana sales from going to
23 illegal enterprises, gangs, and cartels;

24 e. New Jersey law enforcement officers made over 24,000
25 arrests for marijuana possession in 2012, more than in the previous
26 20 years;

27 f. In 2012, a person was arrested for marijuana possession in
28 New Jersey approximately every 22 minutes;

29 g. Black New Jerseyans are nearly three times more likely to be
30 arrested for marijuana possession than white New Jerseyans, despite
31 similar usage rates;

32 h. Marijuana possession arrests constituted three out of every
33 five drug arrests in New Jersey in 2012;

34 i. New Jersey spends approximately \$127 million per year on
35 marijuana possession enforcement costs;

36 j. Taxing, controlling, and legalizing marijuana for adults like
37 alcohol will free up precious resources to allow our criminal justice
38 system to focus on serious crime and public safety issues;

39 k. Taxing, controlling, and legalizing marijuana for adults like
40 alcohol will strike a blow at the illegal enterprises that profit from
41 New Jersey’s current, unregulated marijuana illegal market;

42 l. New Jersey must strengthen our support for evidence-based,
43 drug prevention programs that work to educate New Jerseyans,
44 particularly young New Jerseyans, about the harms of drug abuse;

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.

1 m. New Jersey must enhance State-supported programming that
2 provides appropriate, evidence-based treatment for those who suffer
3 from the illness of drug addiction;

4 n. Controlling and regulating the manufacture, distribution, and
5 sale of marijuana will strengthen our ability to keep marijuana away
6 from minors;

7 o. A controlled system of marijuana manufacturing,
8 distribution, and sale must be designed in a way that enhances
9 public health and minimizes harms to New Jersey communities and
10 families;

11 p. The regulated marijuana system in New Jersey must be
12 regulated so as to prevent persons younger than 21 years of age
13 from accessing or purchasing marijuana;

14 q. A marijuana arrest in New Jersey can have a debilitating
15 impact on a person's future, including consequences for one's job
16 prospects, housing access, financial health, familial integrity,
17 immigration status, and educational opportunities;

18 r. The tax revenue generated from a controlled marijuana
19 manufacture, distribution, and retail sales system in New Jersey will
20 generate hundreds of millions of dollars to bolster effective,
21 evidence-based drug treatment and education, and to reinvest in
22 New Jersey communities; and

23 s. New Jersey cannot afford to sacrifice its public safety and
24 civil rights by continuing its ineffective and wasteful marijuana
25 enforcement policies.

26

27 3. (New section) As used in sections 1 through 45 of
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 unless the context otherwise requires:

30 "Consumer" means a person 21 years of age or older who
31 purchases, acquires, owns, holds, or uses marijuana or marijuana
32 products for personal use by a person 21 years of age or older, but
33 not for resale to others.

34 "Consumption" means the act of ingesting, inhaling, or otherwise
35 introducing marijuana into the human body.

36 "Director" means the Director of the Division of Marijuana
37 Enforcement.

38 "Division" means the Division of Marijuana Enforcement in the
39 Department of the Treasury.

40 "Financial consideration" means value that is given or received
41 either directly or indirectly through sales, barter, trade, fees,
42 charges, dues, contributions or donations; but does not include:
43 homegrown marijuana that is given or received when nothing is
44 given or received in return; or homegrown marijuana products that
45 are given or received when nothing is given or received in return.

46 "Hashish" means the resin extracted from any part of the plant
47 Genus Cannabis L. and any compound, manufacture, salt,
48 derivative, mixture, or preparation of such resin.

1 “Household” means a housing unit and any place in or around a
2 housing unit at which the occupants of the housing unit are
3 producing, processing, or storing homegrown marijuana or
4 homemade marijuana products.

5 “Housing unit” means a house, an apartment, a mobile home, a
6 group of rooms, or a single room that is occupied as separate living
7 quarters, in which the occupants live and eat separately from any
8 other persons in the building and which have direct access from the
9 outside of the building or through a common hall.

10 “Immature marijuana plant” means a marijuana plant that is not
11 flowering.

12 “Impact zone” means any census tract that ranks in the top 33
13 percent of census tracts in the State for marijuana-related arrests
14 and that ranks in the bottom 33 percent of census tracts in the State
15 for median household income.

16 “Industrial hemp” means the plant of the Genus Cannabis L. and
17 any part of such plant, whether growing or not, with a delta-9
18 tetrahydrocannabinol concentration that does not exceed three-
19 tenths percent on a dry weight basis.

20 “Licensee” means a person who holds a license issued under this
21 act that is designated as either a Class 1 Marijuana Grower license,
22 a Class 2 Marijuana Processor license, a Class 3 Marijuana
23 Wholesaler license, or a Class 4 Marijuana Retailer license.

24 “Licensee representative” means an owner, director, officer,
25 manager, employee, agent, or other representative of a licensee, to
26 the extent that the person acts in a representative capacity.

27 “Local governmental entity” means a municipality.

28 “Marijuana” means all parts of the plant Genus Cannabis L.,
29 whether growing or not; the seeds thereof, and every compound,
30 manufacture, salt, derivative, mixture, or preparation of the plant or
31 its seeds, except those containing resin extracted from the plant; but
32 shall not include the weight of any other ingredient combined with
33 marijuana to prepare topical or oral administrations, food, drink, or
34 other product.

35 “Marijuana Cultivation facility” means a facility licensed to a
36 Class 1 Marijuana Grower to grow and cultivate marijuana, and to
37 sell marijuana to marijuana product manufacturing facilities, and to
38 other marijuana cultivation facilities, but not to consumers.

39 “Marijuana establishment” means a marijuana cultivation
40 facility, a marijuana testing facility, a marijuana product
41 manufacturing facility, or a marijuana retailer.

42 “Marijuana extract” means a substance obtained by separating
43 resins from marijuana by: a. a chemical extraction process using a
44 hydrocarbon-based solvent, such as butane, hexane, or propane; b. a
45 chemical extraction process using the hydrocarbon-based solvent
46 carbon dioxide, if the process uses high heat or pressure; or c. any
47 other process identified by the division by rule.

1 “Marijuana flowers” means the flowers of the plant Genus
2 Cannabis L. within the plant family Cannabaceae.

3 “Marijuana grower” means a person who grows, cultivates or
4 produces marijuana in this State.

5 “Marijuana items” means marijuana, marijuana products, and
6 marijuana extracts.

7 “Marijuana leaves” means the leaves of the plant genus Genus
8 Cannabis L. within the plant family Cannabaceae.

9 “Marijuana paraphernalia” means any equipment, products, or
10 materials of any kind which are used, intended for use, or designed
11 for use in planting, propagating, cultivating, growing, harvesting,
12 composting, manufacturing, compounding, converting, producing,
13 processing, preparing, testing, analyzing, packaging, repackaging,
14 storing, vaporizing, or containing marijuana, or for ingesting,
15 inhaling, or otherwise introducing marijuana into the human body.

16 “Marijuana processor” means a person who processes marijuana
17 items in this State. This entity shall hold a Class 2 Marijuana
18 Processor license.

19 “Marijuana product manufacturing facility” means an entity
20 licensed to purchase marijuana; manufacture, prepare, and package
21 marijuana items; and sell items to other marijuana product
22 manufacturing facilities and to marijuana retailers, but not to
23 consumers.

24 “Marijuana product” means a product containing marijuana or
25 marijuana extracts and other ingredients intended for human
26 consumption or use, including a product intended to be applied to
27 the skin or hair, edible products, ointments, and tinctures.
28 Marijuana products do not include: a. marijuana by itself; or b.
29 marijuana extract by itself.

30 “Marijuana retailer” means an entity licensed to purchase
31 marijuana from marijuana cultivation facilities and marijuana items
32 from marijuana product manufacturing facilities or marijuana
33 wholesalers, and to sell marijuana and marijuana products to
34 consumers from a retail store, which shall also be known as a
35 dispensary. This entity shall hold a Class 4 Marijuana Retailer
36 license.

37 “Marijuana testing facility” means an independent, third-party
38 entity meeting accreditation requirements established by the
39 division that is licensed to analyze and certify the safety and
40 potency of marijuana items.

41 “Marijuana wholesaler” means any licensed person or entity who
42 sells marijuana items or marijuana paraphernalia for the purpose of
43 resale either to a licensed marijuana wholesaler or to a licensed
44 marijuana retailer. This entity shall hold a Class 3 Marijuana
45 Wholesaler license.

46 “Mature marijuana plant” means a marijuana plant that is not an
47 immature marijuana plant.

1 “Medical marijuana alternative treatment center” means an entity
2 permitted by the Department of Health to sell marijuana and
3 marijuana products pursuant to the “New Jersey Compassionate Use
4 Medical Marijuana Act” P.L.2009, c.307 (C.24:6I-1 et al.).

5 “Noncommercial” means not dependent or conditioned upon the
6 provision or receipt of financial consideration.

7 “Premises” or “licensed premises” includes the following areas
8 of a location licensed under P.L. , c. (C.) (pending before
9 the Legislature as this bill): all public and private enclosed areas at
10 the location that are used in the business operated at the location,
11 including offices, kitchens, rest rooms, and storerooms; all areas
12 outside a building that the division has specifically licensed for the
13 production, processing, wholesale sale, or retail sale of marijuana
14 items; and, for a location that the division has specifically licensed
15 for the production of marijuana outside a building, the entire lot or
16 parcel that the licensee owns, leases, or has a right to occupy.

17 “Processes” means the processing, compounding, or conversion
18 of marijuana into marijuana products or marijuana extracts.
19 “Processes” does not include packaging or labeling.

20 “Produces” means the manufacture, planting, cultivation,
21 growing or harvesting of marijuana. “Produces” does not include
22 the drying of marijuana by a marijuana processor, if the marijuana
23 processor is not otherwise producing marijuana; or the cultivation
24 and growing of an immature marijuana plant by a marijuana
25 processor, marijuana wholesaler, or marijuana retailer if the
26 marijuana processor, marijuana wholesaler, or marijuana retailer
27 purchased or otherwise received the plant from a licensed marijuana
28 grower.

29 “Public place” means any place to which the public has access
30 that is not privately owned; or any place to which the public has
31 access where alcohol consumption is not allowed, including, but not
32 limited to, a public street, road, thoroughfare, sidewalk, bridge,
33 alley, plaza, park, playground, swimming pool, shopping area,
34 public transportation facility, vehicle used for public transportation,
35 parking lot, public library, or any other public building, structure, or
36 area.

37 “Radio” means a system for transmitting sound without visual
38 images, and includes broadcast, cable, on-demand, satellite, or
39 internet programming. “Radio” includes any audio programming
40 downloaded or streamed via the Internet.

41 “Retail marijuana consumption area” means an establishment
42 where a new or existing marijuana retail licensee has been approved
43 for a retail marijuana consumption area endorsement to sell retail
44 marijuana, retail marijuana concentrate, and retail marijuana
45 product for consumption on the premises.

46 “Significantly involved person” means a person or entity that is:
47 in a sole proprietorship, the proprietor; in a partnership, limited
48 partnership, limited liability partnership, or limited liability

1 company, a natural person or natural persons among its partnership
2 or membership who in the aggregate individually own or owns,
3 directly or indirectly through business entities, a 20 percent or
4 greater interest in the company; in a nonpublic corporation, a
5 natural person or natural persons among its shareholders who in the
6 aggregate individually own or owns, directly or indirectly, at least
7 20 percent of the corporation's total outstanding shares; in a
8 publicly traded corporation or a majority-owned subsidiary of a
9 publicly traded corporation, natural persons who in the aggregate
10 comprise at least 20 percent of the board of directors or governing
11 body of the publicly traded parent corporation; or in a nonprofit
12 corporation, employee cooperative, or association, natural persons
13 who in the aggregate comprise at least 20 percent of the board of
14 directors or governing body as constituted under the "New Jersey
15 Nonprofit Corporation Act," N.J.S.15A:1-1 et seq..

16 "Television" means a system for transmitting visual images and
17 sound that are reproduced on screens, and includes broadcast, cable,
18 on-demand, satellite, or internet programming. "Television"
19 includes any video programming downloaded or streamed via the
20 Internet.

21 "THC" means delta-9-tetrahydrocannabinol, the main
22 psychoactive chemical contained in the cannabis plant.

23 "Unreasonably impracticable" means that the measures necessary
24 to comply with the regulations require such a high investment of
25 risk, money, time, or any other resource or asset that the operation
26 of a marijuana establishment is not worthy of being carried out in
27 practice by a reasonably prudent businessperson.

28

29 4. (New section) Personal Use of Marijuana.

30 Notwithstanding any other provision of law, the following acts
31 are not unlawful and shall not be a criminal offense or a basis for
32 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other
33 applicable law for persons 21 years of age or older:

34 a. Possessing, using, purchasing, or transporting: marijuana
35 paraphernalia; one ounce or less of marijuana; 16 ounces or less of
36 marijuana infused product in solid form; 72 ounces or less in liquid
37 form; 7 grams or less of marijuana concentrate; and up to 6
38 immature marijuana plants subject to the provisions of subsection b.
39 of this section;

40 b. Transfer of one ounce or less of marijuana; 16 ounces or less
41 of marijuana infused product in solid form; 72 ounces or less in
42 liquid form; 7 grams or less of marijuana concentrate; and up to 6
43 immature plants, without marijuana cultivation facility to a person
44 who is of or over the legal age for purchasing marijuana items,
45 provided that such transfer is for non-promotional, non-business
46 purposes;

1 c. Consumption of marijuana items, provided that nothing in
2 this section shall permit a person to smoke or otherwise consume
3 marijuana items in a public place; and

4 d. Assisting another person who is of or over the legal age for
5 purchasing marijuana items in any of the acts described in
6 subsections a. through c. of this section.

7

8 5. (New section) Lawful Operation of Marijuana
9 Establishments.

10 Notwithstanding any other provision of law, the following acts
11 are not unlawful and shall not be a criminal offense or a basis for
12 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other
13 applicable law for persons 21 years of age or older:

14 a. manufacture, possession, or purchase of marijuana
15 paraphernalia or the sale of marijuana paraphernalia to a person
16 who is 21 years of age or older;

17 b. possessing, displaying, or transporting marijuana items;
18 purchase of marijuana from a marijuana cultivation facility;
19 purchase of marijuana items from a marijuana product
20 manufacturing facility; or sale of marijuana items to consumers, if
21 the person conducting the activities described in this subsection has
22 obtained a current, valid license to operate as a marijuana retailer or
23 is acting in his capacity as an owner, employee, or agent of a
24 licensed marijuana retailer;

25 c. cultivating, harvesting, processing, packaging, transporting,
26 displaying, or possessing marijuana; delivery or transfer of
27 marijuana to a marijuana testing facility; selling marijuana to a
28 marijuana cultivation facility, a marijuana product manufacturing
29 facility, or a marijuana retailer; or the purchase of marijuana from a
30 marijuana cultivation facility, if the person conducting the activities
31 described in this subsection has obtained a current, valid license to
32 operate a marijuana cultivation facility or is acting in his capacity as
33 an owner, employee, or agent of a licensed marijuana cultivation
34 facility;

35 d. packaging, processing, transporting, manufacturing,
36 displaying, or possessing marijuana items; delivery or transfer of
37 marijuana items to a marijuana testing facility; selling marijuana
38 items to a marijuana retailer or a marijuana product manufacturing
39 facility; the purchase of marijuana from a marijuana cultivation
40 facility; or the purchase of marijuana items from a marijuana
41 product manufacturing facility, if the person conducting the
42 activities described in this subsection has obtained a current, valid
43 license to operate a marijuana product manufacturing facility or is
44 acting in his capacity as an owner, employee, or agent of a licensed
45 marijuana product manufacturing facility;

46 e. possessing, cultivating, processing, repackaging, storing,
47 transporting, displaying, transferring, or delivering marijuana items
48 if the person has obtained a current, valid license to operate a

1 marijuana testing facility or is acting in his capacity as an owner,
2 employee, or agent of a licensed marijuana testing facility; and

3 f. leasing or otherwise allowing the use of property owned,
4 occupied, or controlled by any person, corporation, or other entity
5 for any of the activities conducted lawfully in accordance with
6 subsections a. through e. of this section.

7

8 6. (New section) Prohibition of Persons Under the Legal Age
9 Purchasing Marijuana.

10 a. No licensee, either directly or indirectly by an agent or
11 employee, shall sell, offer for sale, distribute for commercial
12 purpose at no cost or minimal cost, give, or furnish, to a person
13 under 21 years of age, any marijuana items.

14 b. Any licensee or employee or agent of a licensee who allows
15 a person under the age of 21 to procure marijuana items is guilty of
16 a disorderly persons offense and shall be subject to a civil penalty
17 of not less than \$250 for the first violation; \$500 for the second
18 violation; and \$1,000 for the third and each subsequent violation; in
19 addition, subject to a hearing, a licensee's license may be revoked.

20 c. The establishment of all of the following facts by a licensee,
21 employee, or agent, allowing any such person under the age of 21 to
22 procure marijuana items shall constitute a defense to any
23 prosecution pursuant to the provisions of subsections a. and b. of
24 this section:

25 (1) That the purchaser of the marijuana or marijuana product
26 falsely represented, by producing either a United States passport;
27 driver's license or non-driver identification card issued by the New
28 Jersey Motor Vehicle Commission; a similar card issued pursuant to
29 the laws of another state; United States military identification card;
30 or a photographic identification card issued by a county clerk, that
31 he was of legal age to make the purchase;

32 (2) That the appearance of the purchaser was such that an
33 ordinary prudent person would believe him to be 21 years of age or
34 older, of legal age to make the purchase; and

35 (3) That the sale or distribution was made in good faith, relying
36 upon the production of the identification in paragraph (1) of this
37 subsection, the minor's appearance, and in the reasonable belief that
38 the purchaser or recipient was actually of legal age to make the
39 purchase.

40 d. It shall be unlawful for a person under the age of 21 to
41 attempt to purchase, or acquire a marijuana item, even if such
42 marijuana items may be legally purchased by persons at or above
43 the legal age for purchasing marijuana items.

44 For purposes of this subsection, purchasing a marijuana item
45 includes accepting a marijuana item, and acquiring a marijuana item
46 includes consuming a marijuana item.

47 e. It shall be unlawful for a person under the age of 21 to
48 present or offer to a marijuana establishment or the marijuana

1 establishment's agent or employee any written or oral evidence of
2 age that is false, fraudulent, or not actually the person's own, for the
3 purpose of:

4 (1) Purchasing, attempting to purchase, or otherwise procuring
5 or attempting to procure marijuana or marijuana products; or

6 (2) Gaining access to a marijuana establishment.

7 f. Except as permitted by the division by rule or regulation, or
8 as necessary on an emergency basis, a person under legal age for
9 purchasing marijuana items may not enter or attempt to enter any
10 portion of a licensed premises that is posted or otherwise identified
11 as being prohibited to the use of persons under legal age for
12 purchasing marijuana items, unless accompanied by and supervised
13 by a parent or legal guardian.

14 g. Any person under the legal age to purchase marijuana who
15 knowingly possesses without legal authority, or who knowingly
16 consumes any marijuana in any school, public conveyance, public
17 place, place of public assembly, or motor vehicle, shall be deemed
18 and adjudged to be a disorderly person, and upon conviction
19 thereof, shall be punished by a fine of not less than \$500.

20 h. The prohibitions of this section do not apply to a person
21 under the legal age for purchasing marijuana items who is acting
22 under the direction of the division or under the direction of State or
23 local law enforcement agencies for the purpose of investigating
24 possible violations of the laws prohibiting sale of marijuana items
25 to persons who are under the legal age for purchasing marijuana
26 items.

27 i. The prohibitions of this section do not apply to a person
28 under the legal age for purchasing marijuana items who is acting
29 under the direction of a licensee for the purpose of investigating
30 possible violations by employees of the licensee of laws prohibiting
31 sales of marijuana items to persons who are under the legal age for
32 purchasing marijuana items.

33 j. A person under the legal age for purchasing marijuana items
34 is not in violation of this section, and is immune from prosecution
35 under this section if:

36 (1) The person contacted emergency medical services or a law
37 enforcement agency in order to obtain medical assistance for
38 another person who was in need of medical assistance because that
39 person consumed a marijuana item and the evidence of the violation
40 of this section was obtained as a result of the person's having
41 contacted emergency medical services or a law enforcement
42 agency; or

43 (2) The person was in need of medical assistance because the
44 person consumed a marijuana item and the evidence of the violation
45 of this section was obtained as a result of the person's having
46 sought or obtained the medical assistance.

47 (3) Paragraph (1) of this subsection does not exclude the use of
48 evidence obtained as a result of a person's having sought medical

1 assistance in proceedings for crimes or offenses other than a
2 violation of this section.

3

4 7. (New section) There is hereby established in the
5 Department of the Treasury the Division of Marijuana Enforcement.

6

7 8. (New section) Powers and Duties of the Division.

8 a. The Division of Marijuana Enforcement shall have all
9 powers necessary or proper to enable it to carry out the division's
10 duties, functions, and powers under P.L. , c. (C.) (pending
11 before the Legislature as this bill). The jurisdiction, supervision,
12 duties, functions, and powers of the division extend to any person
13 who buys, sells, produces, processes, transports, or delivers any
14 marijuana items within this State. The division may sue and be
15 sued.

16 b. The duties, functions and powers of the division shall
17 include the following:

18 (1) To regulate the purchase, sale, production, processing,
19 transportation, and delivery of marijuana items in accordance with
20 the provisions of P.L. , c. (C.) (pending before the Legislature as
21 this bill);

22 (2) To grant, refuse, suspend or cancel licenses for the sale,
23 processing, or production of marijuana items, or other licenses in
24 regard to marijuana items, and to permit, in the division's
25 discretion, the transfer of a license between persons;

26 (3) To investigate and aid in the prosecution of every violation
27 of the statutory laws of this State relating to marijuana items and to
28 cooperate in the prosecution of offenders before any State court of
29 competent jurisdiction;

30 (4) To adopt, amend, or repeal regulations as necessary to carry
31 out the intent and provisions of P.L. , c. (C.) (pending before
32 the Legislature as this bill);

33 (5) To exercise all powers incidental, convenient, or necessary
34 to enable the division to administer or carry out the provisions of
35 P.L. , c. (C.) (pending before the Legislature as this bill), or any
36 other law of this State that charges the division with a duty,
37 function, or power related to marijuana. Powers described in this
38 paragraph include, but are not limited to:

39 (a) Issuing subpoenas;

40 (b) Compelling attendance of witnesses;

41 (c) Administering oaths;

42 (d) Certifying official acts;

43 (e) Taking depositions as provided by law;

44 (f) Compelling the production of books, payrolls, accounts,
45 papers, records, documents, and testimony; and

46 (g) Establishing fees in addition to the application, licensing,
47 and renewal fees, provided that any fee established by the division

1 is reasonably calculated not to exceed the cost of the activity for
2 which the fee is charged;

3 (6) To adopt rules regulating and prohibiting marijuana growers,
4 marijuana processors, marijuana wholesalers, and marijuana
5 retailers from advertising marijuana items in a manner that is
6 appealing to minors; that promotes excessive use; that promotes
7 illegal activity; or that otherwise presents a significant risk to public
8 health and safety; and

9 (7) To regulate the use of marijuana items for scientific,
10 pharmaceutical, manufacturing, mechanical, industrial, and other
11 purposes.

12 c. The powers of the division further include the power to
13 purchase, seize, possess, and dispose of marijuana items. The
14 division may purchase, possess, seize, or dispose of marijuana items
15 as is necessary to ensure compliance with and enforcement of the
16 provisions of P.L. , c. (C.) (pending before the Legislature as
17 this bill), and any rule adopted pursuant thereto. Any State officer,
18 board, commission, corporation, institution, department, or other
19 State body, and any local officer, board, commission, institution,
20 department, or other local government body, that is permitted by the
21 statutory laws of this State to perform a duty, function, or power
22 with respect to a marijuana item, may purchase, possess, seize, or
23 dispose of the marijuana item as the State officer, board,
24 commission, corporation, institution, department or other State
25 body, or the local officer, board, commission, institution,
26 department, or other local government body, considers necessary to
27 ensure compliance with and enforce the applicable statutory law or
28 any rule adopted under the applicable statutory law.

29 d. The division shall be under the immediate supervision of a
30 director. The director of the division shall be appointed by the
31 Governor, with the advice and consent of the Senate, and shall serve
32 during the term of office of the Governor appointing him and until
33 the director's successor is appointed and has qualified.

34

35 9. (New section) Regulation of Marijuana.

36 a. No later than 150 days after the effective date of
37 P.L. ,c. (C.) (pending before the Legislature as this bill), the
38 division shall adopt, pursuant to the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary
40 for implementation of P.L. ,c. (C.) (pending before the
41 Legislature as this bill), which shall be consistent with the intent of
42 P.L. , c. (C.) (pending before the Legislature as this bill). Such
43 regulations shall not prohibit the operation of marijuana
44 establishments, either expressly or through regulations that make their
45 operation unreasonably impracticable. The division may create an
46 expert task force to make recommendations to the division about the
47 content of such regulations. Such regulations shall include:

- 1 (1) Procedures for the application, issuance, denial, renewal,
2 suspension, and revocation of a license to operate a marijuana
3 establishment. Such procedures shall include a period of no longer
4 than 90 days by which the division shall provide the applicant with
5 notice of the division's approval or denial of any fully completed
6 application for licensure or renewal, and a period not to exceed 30
7 days in which a license shall be issued following approval of an
8 application;
- 9 (2) License application and renewal fees shall be established by
10 the division;
- 11 (3) The division shall establish licensing goals for applicants for
12 licensure who are New Jersey residents. The division shall make good
13 faith efforts to meet these goals. Qualifications for licensure shall be
14 directly and demonstrably related to the operation of a marijuana
15 establishment, provided that the division shall make licenses available
16 to as diverse a group as possible, including, but not limited to,
17 requirements that no license of any kind shall be issued to a person
18 under the legal age to purchase marijuana items. An applicant shall
19 have a significantly involved person or persons lawfully residing in the
20 State for at least two years as of the date of application to receive a
21 license;
- 22 (4) The division shall establish licensing goals for minority owned
23 and female owned business as these terms are defined in section 3 of
24 P.L. 1983, c.482 (C.52:32-19). The division shall analyze the number
25 of licenses issued in each county and compare that analysis to the
26 number of qualified minority owned and female owned businesses that
27 applied in each county. The division shall make good faith efforts to
28 meet the goals it establishes for the licensure of minority owned and
29 female owned businesses;
- 30 (5) Security requirements for marijuana establishments;
- 31 (6) Requirements to prevent the sale or diversion of marijuana and
32 marijuana products to persons under the legal age to purchase
33 marijuana items, including, but not limited to, requirements that:
- 34 (a) All licensees and licensee representatives, before selling or
35 serving marijuana or marijuana products to any person about whom
36 there is any reasonable doubt of the person's having reached the legal
37 age to purchase marijuana items, shall require such person to produce
38 one of the following pieces of identification:
- 39 (i) The person's passport;
- 40 (ii) The person's motor vehicle driver's license, whether issued
41 by New Jersey or by any other state, provided the license displays a
42 picture of the person;
- 43 (iii) A New Jersey identification card issued by the New Jersey
44 Motor Vehicle Commission;
- 45 (iv) A United States military identification card;
- 46 (v) A photographic identification card issued by a New Jersey
47 county clerk; or

- 1 (vi) Any other identification card issued by a state that bears a
2 picture of the person, the name of the person, the person's date of birth
3 and a physical description of the person;
- 4 (b) No marijuana establishment shall employ persons under the
5 legal age to purchase marijuana items nor shall any marijuana retailer
6 allow persons under the legal age to purchase marijuana items to enter
7 or remain on the premises of a marijuana retailer unless accompanied
8 by a parent or legal guardian;
- 9 (c) Packaging and branding regulations to prevent marketing of
10 marijuana items and marijuana paraphernalia to people under the legal
11 age to purchase marijuana items;
- 12 (7) Labeling and packaging requirements for marijuana items sold
13 or distributed by a marijuana establishment, including, but not limited
14 to, requirements that:
- 15 (a) Packaging and branding rules which prevent marketing of
16 marijuana items and marijuana paraphernalia to people under the legal
17 age to purchase marijuana items, including, but not limited to, rules
18 that prohibit any statement, illustration, or image that:
- 19 (i) Includes false statements;
- 20 (ii) Promotes over-consumption;
- 21 (iii) Depicts a child or other person under legal age consuming
22 marijuana items; or
- 23 (iv) Includes objects, such as toys, characters, or cartoon characters
24 suggesting the presence of a person under the legal age to purchase
25 marijuana items, or any other depiction designed in any manner to be
26 especially appealing to persons under the legal age to purchase
27 marijuana items;
- 28 (b) Ensure marijuana items are packaged in child-resistant
29 containers;
- 30 (c) Marijuana items warning labels adequately inform consumers
31 about safe marijuana use and warn of the consequences of misuse or
32 overuse;
- 33 (d) Labeling rules that mandate clear identification of health and
34 safety information, including, but not limited to:
- 35 (i) Net weight;
- 36 (ii) Production date and expiration date;
- 37 (iii) An ingredient list that includes, but is not limited to, all
38 ingredients used to manufacture the marijuana product and a list of all
39 potential allergens contained within the product;
- 40 (iv) Strain or type of cannabis, listed by scientific terms, if
41 available, and generic or "slang" names;
- 42 (v) Whether the product requires refrigeration;
- 43 (vi) Growth method (whether dirt grown, hydroponic, or
44 otherwise) and an indication whether or not the cannabis was grown
45 using all-organic materials and a complete list of all nonorganic
46 pesticides, fungicides and herbicides used during the cultivation of the
47 cannabis;

- 1 (vii) Serving size, the total number of servings, and a statement
2 regarding the percentage of THC contained in the marijuana product
3 and in each serving. For example: “The serving size of active THC in
4 this product is X mg. This product contains X servings of marijuana,
5 and the total amount of active THC in this product is X mg.” Serving
6 sizes are recommended to be individually wrapped;
- 7 (viii) Warning labels that include, but are not limited to, one or
8 more of the following:
- 9 -- “This product contains marijuana;”
 - 10 -- “This product is infused with marijuana;”
 - 11 -- “This product is intended for use by adults 21 years and older.
12 Keep out of the reach of children;”
 - 13 -- “The intoxicating effects of this product may be delayed by two
14 or more hours;”
 - 15 -- “There may be health risks associated with the consumption of
16 this product, including for women who are pregnant, breastfeeding, or
17 planning on becoming pregnant;”
 - 18 -- “Do not drive a motor vehicle or operate heavy machinery while
19 using marijuana;”
- 20 (e) Labeling rules mandate the source of the marijuana items,
21 including, but not limited to, the license number of the marijuana
22 cultivation facility where the marijuana used to produce the marijuana
23 item was grown, the license number of the marijuana product
24 manufacturing facility that produced the marijuana item; and the
25 license number of the marijuana retailer that sold the marijuana item
26 and the production batch and lot numbers of the marijuana items;
- 27 (8) Health and safety regulations and standards for the
28 manufacture and sale of marijuana products and the cultivation of
29 marijuana, including, but not limited to, requirements that:
- 30 (a) Establish accreditation and licensure criteria for marijuana
31 testing facilities;
 - 32 (b) The division issue licenses for a sufficient number of marijuana
33 testing facilities, if those facilities meet the requirements for licensure,
34 in order to ensure testing of marijuana items produced and sold in the
35 State;
 - 36 (c) Every licensed marijuana cultivation facility and marijuana
37 product manufacturing facility shall submit representative samples of
38 marijuana and marijuana products to marijuana testing facilities for
39 inspection and testing to certify compliance with health, safety, and
40 potency standards adopted by the division on a schedule set by the
41 division. Any sample remaining after testing shall be destroyed or
42 returned to the licensee;
 - 43 (d) Prescribe methods of producing, processing, and packaging
44 marijuana items; conditions of sanitation; safe handling requirements;
45 approved pesticides and pesticide testing requirements; and standards
46 of ingredients, quality, and identity of marijuana items produced,
47 processed, packaged, or sold by marijuana establishments;

- 1 (e) Establish accreditation and licensing criteria for responsible
2 marijuana server and seller training and certification programs for
3 marijuana retailer employees;
- 4 (f) Provide that no licensed marijuana establishment or employee
5 of a marijuana establishment shall consume, or allow to be consumed,
6 any marijuana items on the establishment's premises, except as
7 otherwise permitted by the division;
- 8 (g) Set appropriate dosage, potency, and serving size limits for
9 marijuana and other marijuana products, provided that a standardized
10 serving of marijuana shall be no more than 10 milligrams of active
11 THC and no individual edible retail product unit for sale shall contain
12 more than 100 milligrams of active THC, and that marijuana and
13 marijuana product packaging prevent children from access;
- 14 (h) Require that each single standardized serving of marijuana in a
15 multiple-serving edible marijuana product is physically demarked in a
16 way that enables a reasonable person to determine how much of the
17 product constitutes a single serving of active THC, and that each
18 standardized serving of marijuana shall be easily separable to allow an
19 average person 21 years of age and over to physically separate, with
20 minimal effort, individual servings of the product;
- 21 (i) Require that, if it is impracticable to clearly demark every
22 standardized serving of marijuana or to make each standardized
23 serving easily separable in an edible marijuana product, the product
24 shall contain no more than 10 milligrams of active THC per unit of
25 sale;
- 26 (j) Establish screening, hiring, training, and supervising
27 requirements for retail store employees and others who manufacture or
28 handle marijuana items;
- 29 (k) Promote general sanitary requirements for the handling,
30 storage, and disposal of marijuana items, and the maintenance of
31 marijuana establishments;
- 32 (l) Provide for rigorous auditing, inspection, and monitoring of
33 marijuana establishments for compliance with health and safety rules
34 and regulations;
- 35 (m) Require the implementation of security requirements for retail
36 outlets and premises where marijuana items are produced or processed,
37 and safety protocols for marijuana establishments and their employees;
- 38 (n) Prescribe reasonable restrictions on the manner, methods, and
39 means by which licensees shall transport marijuana items within the
40 State; and
- 41 (o) Establish procedures for identification, seizure, confiscation,
42 destruction, or donation to law enforcement for training purposes of all
43 marijuana or marijuana products produced, processed, sold, or offered
44 for sale within this State which do not conform in all respects to the
45 standards prescribed by this chapter or the rules adopted to implement
46 and enforce these chapters;

- 1 (9) Restrictions on the advertising and display of marijuana items
2 and marijuana paraphernalia, including, but not limited to,
3 requirements that:
- 4 (a) Restrict advertising of marijuana items and marijuana
5 paraphernalia in ways that target or are designed to appeal to
6 individuals under the legal age to purchase marijuana items, including,
7 but not limited to depictions of a person under 21 years of age
8 consuming marijuana, or, includes objects, such as toys, characters, or
9 cartoon characters suggesting the presence of a person under 21 years
10 of age, or any other depiction designed in any manner to be especially
11 appealing to a person under 21 years of age;
- 12 (b) No licensed marijuana establishment shall advertise any
13 marijuana items or marijuana paraphernalia on television, or radio
14 between the hours of 6:00am and 10:00pm;
- 15 (c) No licensed marijuana establishment shall engage in
16 advertising unless it has reliable evidence that at least 71.6 percent of
17 the audience for the advertisement is reasonably expected to be 21
18 years of age or older which is the legal age to purchase marijuana
19 items;
- 20 (d) No licensed marijuana establishment may engage in
21 advertising or marketing directed towards location-based devices,
22 including but not limited to cellular phones, unless the marketing is a
23 mobile device application installed on the device by the owner of the
24 device who is 21 years of age or older and includes a permanent and
25 easy opt-out feature and warnings that restrict usage of marijuana
26 products to persons 21 years of age or over;
- 27 (e) No licensed marijuana establishment may sponsor a charitable,
28 sports, musical, artistic, cultural, social, or other similar event or
29 engage in advertising at or in connection with such an event unless it
30 has reliable evidence that no more than 20 percent of the audience at
31 the event is reasonably expected to be under the legal age to purchase
32 marijuana items;
- 33 (f) All advertisements shall contain warnings, including but not
34 limited to one or more of the following:
- 35 (i) "This product contains marijuana;"
- 36 (ii) "Marijuana can impair concentration, coordination, and
37 judgment. Do not operate a vehicle or machinery under the influence
38 of this drug;"
- 39 (iii) "There may be health risks associated with the consumption of
40 this product;"
- 41 (iv) "For use only by adults 21 years of age and older. Keep out of
42 the reach of children;"
- 43 (v) "This product was produced without regulatory oversight for
44 health, safety or efficacy;"
- 45 (vi) "The intoxicating effects of this product may be delayed by
46 two or more hours;"

1 (vii) “There may be health risks associated with the consumption
2 of this product, including for women who are pregnant, breastfeeding,
3 or planning on becoming pregnant.”

4 (viii) No licensed marijuana establishment shall place or maintain,
5 or cause to be placed or maintained, an advertisement of marijuana
6 items or marijuana paraphernalia in any form or through any medium
7 whatsoever within 200 feet of an elementary or secondary school
8 grounds, recreation center or facility, arcade, child care center, public
9 park, playground, public swimming pool, or library; on or in a public
10 transit vehicle or public transit shelter; on or in publicly owned or
11 operated property.

12 For the purposes of this section, a noncommercial message shall
13 not be considered an advertisement. This section also shall not apply to
14 advertisements within the premises of a marijuana retailer.

15 (10) A requirement that only marijuana items and marijuana
16 paraphernalia are available for sale at a marijuana establishment; and

17 (11) Procedures for the division to conduct announced and
18 unannounced visits to marijuana establishments to make, or cause to
19 be made, such investigations as it shall deem proper in the
20 administration of P.L. , c. (C.) (pending before the
21 Legislature as this bill) and any and all other laws which may hereafter
22 be enacted concerning marijuana, or the manufacture, distribution or
23 sale thereof, or the collection of taxes thereon, including the inspection
24 and search of premises for which the license is sought or has been
25 issued, of any building containing the same, of licensed buildings,
26 examination of the books, records, accounts, documents and papers of
27 the licensees or on the licensed premises;

28 (a) The division shall be authorized, after adequate notice to the
29 owner or the agent of the owner, to make an examination of the books
30 and may at any time make an examination of the premises of any
31 person licensed under P.L. , c. (C.) (pending before the
32 Legislature as this bill) for the purpose of determining compliance
33 with this act and the rules of the division. The division shall not
34 require the books of any licensee to be maintained on the premises of
35 the licensee;

36 (b) The division may, at any time, examine the books and records
37 of any marijuana licensee, and may appoint auditors, investigators and
38 other employees that the division considers necessary to enforce its
39 powers and perform its duties;

40 (c) During any inspection of a licensed premises, the division may
41 require proof that a person performing work at the premises is 21 years
42 of age or older. If the person does not provide the division with
43 acceptable proof of age upon request, the division may require the
44 person to immediately cease any activity and leave the premises until
45 the division receives acceptable proof of age; and

46 (d) The division shall not be required to obtain a search warrant to
47 conduct an investigation or search of licensed premises;

1 (12) Record keeping requirements, including but not limited to the
2 following:

3 (a) The obligation of every marijuana grower to keep a complete
4 and accurate record of all sales of marijuana flowers, marijuana leaves,
5 and immature marijuana plants, and a complete and accurate record of
6 the number of marijuana flowers produced, the number of ounces of
7 marijuana leaves produced, the number of immature marijuana plants
8 produced, and the dates of production; and the obligation of every
9 marijuana establishment to keep a complete and accurate record of all
10 sales of marijuana, and a complete and accurate record of the number
11 of ounces of marijuana items sold, provided that marijuana retailers
12 shall not retain personally identifying information about persons 21
13 years of age who or older who purchase marijuana or marijuana
14 products in marijuana retailers;

15 (b) Such records shall be kept and maintained for two years and
16 the records shall be in such form and contain such other information as
17 the division may require; and

18 (c) The division may at any time, with adequate notice, examine
19 the books and records of any marijuana establishment, and may
20 appoint auditors, investigators, and other employees that the division
21 considers necessary to enforce its powers and duties as described in
22 P.L. , c. (C.) (pending before the Legislature as this bill);

23 (13) Procedures for inspecting samples of marijuana items,
24 including:

25 (a) On a schedule determined by the division, every licensed
26 marijuana grower and processor shall submit representative samples of
27 marijuana, useable marijuana, or marijuana-infused products produced
28 or processed by the licensee to an independent, third-party testing
29 laboratory meeting the accreditation requirements established by the
30 division, for inspection and testing to certify compliance with
31 standards adopted by the division. Any sample remaining after testing
32 shall be destroyed by the laboratory or returned to the licensee;

33 (b) Licensees shall submit the results of this inspection and testing
34 to the division on a form developed by the division; and

35 (c) If a representative sample inspected and tested under this
36 section does not meet the applicable standards adopted by the division,
37 the entire lot from which the sample was taken shall be destroyed;

38 (14) Establishing the number of marijuana retailers:

39 (a) Assuming there are sufficient qualified applicants for licensure,
40 the division shall issue a sufficient number of Class 4 Retailer licenses,
41 not to exceed a maximum of 218 licenses, as follows:

42 (i) at least two licenses per legislative district;

43 (ii) 40 at large licenses; and

44 (iii) a maximum of 98 medical licenses;

45 (b) A determination of the maximum number of marijuana retailers
46 that may be licensed in each local governmental entity, taking into
47 consideration:

1 (i) population distribution, provided that the division shall
2 consider seasonal fluctuations in the population of the county and shall
3 ensure that there are adequate licensed premises to serve the market
4 demands of the county during the peak seasons; and

5 (ii) the provision of adequate access to licensed sources of useable
6 marijuana and marijuana products to discourage purchases from the
7 illegal market; and

8 (15) Civil penalties for the failure to comply with regulations
9 made pursuant to this section.

10 b. In order to ensure that individual privacy is protected, the
11 division shall not require a consumer to provide a marijuana retailer
12 with personal information other than government-issued identification
13 to determine the consumer's age, and a marijuana retailer shall not be
14 required to acquire and record personal information about consumers
15 other than information typically acquired in a financial transaction
16 conducted by the holder of a Class C retail license concerning
17 alcoholic beverages as set forth in R.S.33:1-12.

18 c. Once regulations are adopted pursuant to subsection a. of this
19 section, but prior to the commencement of the application process, the
20 division shall conduct a series of information sessions in every county
21 in New Jersey to educate residents of New Jersey about the
22 responsibilities, opportunities, requirements, obligations, and
23 processes for application for a license to operate a marijuana
24 establishment. The division shall conduct an appropriate number of
25 information sessions in each county considering the population of each
26 county, but no fewer than two information sessions in each county.
27 The division shall publicize the day, time, location, and agenda of
28 these information sessions broadly through television, radio, Internet,
29 print, and through local agencies.

30 d. The division shall:

31 (1) Examine available research, and may conduct or commission
32 new research or convene an expert task force, to investigate the
33 influence of marijuana on the ability of a person to drive a vehicle and
34 on the concentration of delta-9 tetrahydrocannabinol in a person's
35 blood, in each case taking into account all relevant factors; and

36 (2) Present the results of the research to the Legislature and make
37 recommendations to the Legislature regarding whether any
38 amendments to the rules and regulations adopted by the division are
39 appropriate.

40
41 10. (New section) Tracking System. a. The division shall
42 develop and maintain a system for tracking the transfer of
43 marijuana items between licensed premises.

44 b. The purposes of the system developed and maintained under
45 this section include, but are not limited to:

46 (1) Preventing the diversion of marijuana items to criminal
47 enterprises, gangs, cartels, and other states;

- 1 (2) Preventing persons from substituting or tampering with
- 2 marijuana items;
- 3 (3) Ensuring an accurate accounting of the production,
- 4 processing, and sale of marijuana items;
- 5 (4) Ensuring that taxes are collected for the purpose of being
- 6 distributed as described in section 11 of
- 7 P.L. , c. (C.)(pending before the Legislature as this bill);
- 8 (5) Ensuring that laboratory testing results are accurately
- 9 reported; and
- 10 (6) Ensuring compliance with the rules and regulations adopted
- 11 under the provisions of P.L. , c. (C.)(pending before the
- 12 Legislature as this bill), and any other law of this State that charges
- 13 the division with a duty, function, or power related to marijuana.
- 14 c. The system developed and maintained under this section
- 15 shall be capable of tracking, at a minimum:
- 16 (1) The propagation of immature marijuana plants and the
- 17 production of marijuana by a marijuana processor;
- 18 (2) The processing of marijuana by a marijuana processor;
- 19 (3) The receiving, storing, and delivering of marijuana items by
- 20 a marijuana wholesaler;
- 21 (4) The sale of marijuana items by a marijuana retailer to a
- 22 consumer;
- 23 (5) The purchase and sale of marijuana items between licensees;
- 24 (6) The transfer of marijuana items between licensed premises;
- 25 (7) The collection of taxes imposed upon the retail sale of
- 26 marijuana items; and
- 27 (8) Any other information that the division determines is
- 28 reasonably necessary to accomplish the duties, functions, and
- 29 powers of the division.
- 30
- 31 11. (New section) Taxation. a. There shall be a tax levied
- 32 upon marijuana or marijuana products sold or otherwise transferred
- 33 by a marijuana retailer to a person 21 years of age or older. That tax
- 34 shall include the prevailing sales tax. To encourage early
- 35 participation in and development of marijuana establishments and to
- 36 undermine the illegal marketplace, the tax shall escalate as follows:
- 37 in year one following the enactment of
- 38 P.L. , c. (C.)(pending before the Legislature as this bill),
- 39 the excise tax shall be 10 percent; in year two, the tax shall be 15
- 40 percent; in year three, the tax rate shall be 20 percent; and in year
- 41 four and beyond, the tax shall be 25 percent. These excise taxes set
- 42 forth in this subsection shall include the prevailing sales tax.
- 43 b. The division shall regularly review the tax levels established
- 44 under this section and make recommendations to the Legislature as
- 45 appropriate regarding adjustments that would further the goals of
- 46 discouraging use, particularly by those under the age of 21;
- 47 undercutting illegal market prices; and maximizing taxation
- 48 revenue.

1 c. Statements as to quantities sold. At such periods to be
2 established by the Department of the Treasury, but no more than
3 once per calendar month, every marijuana grower and processor
4 shall file with the Division of Taxation in the Department of the
5 Treasury a statement of the quantities of marijuana flowers,
6 marijuana leaves, and immature marijuana plants sold by the
7 marijuana grower or processor during the preceding period.

8 d. Estimate by Division of Taxation when statement not filed
9 or false statement filed. If any marijuana grower and processor
10 fails, neglects, or refuses to file a statement required by subsection
11 c. of this section or files a false statement, the Department of the
12 Treasury shall estimate the quantities of marijuana flowers,
13 marijuana leaves, and immature marijuana plants sold by the
14 marijuana grower or processor and assess the taxes thereon. The
15 marijuana grower or processor shall be estopped from complaining
16 of the quantities so estimated.

17 e. Lien created by the tax. The tax required to be paid pursuant
18 to this section constitutes a lien upon, and has the effect of an
19 execution duly levied against, any and all property of the marijuana
20 retailer, attaching at the time the marijuana flowers, marijuana
21 leaves, and immature marijuana plants subject to the tax were sold,
22 and remaining until the tax is paid. The lien created by this section
23 is paramount to all private liens or encumbrances.

24 f. The Department of the Treasury shall establish procedures
25 for the collection of all taxes levied.

26 g. No tax established by this section shall be levied upon
27 marijuana intended for sale at medical marijuana centers pursuant to
28 the "New Jersey Compassionate Use Medical Marijuana Act,"
29 P.L.2009, c.307 (C.24:6I-1 et seq.).

30 h. The tax revenue shall be collected by the Director of the
31 Division of Taxation and shall be deposited by the Director of the
32 Division of Taxation into the nonlapsing fund established pursuant
33 to section 39 of P.L., c. (C.) (pending before the Legislature as
34 this bill), and shall be used to fund the Division of Marijuana
35 Enforcement, except that one percent shall be allocated annually to
36 the local governmental entity in which the marijuana establishment
37 is located, to be dedicated to drug prevention and treatment.

38

39 12. (New section) Local Governmental Entity Regulations or
40 Ordinances.

41 a. A local governmental entity may enact ordinances or
42 regulations, not in conflict with the provisions of P.L. , c. (C.)
43 (pending before the Legislature as this bill):

44 (1) governing the time, place, manner, and number of marijuana
45 establishment operations; and

46 (2) establishing civil penalties for violation of an ordinance or
47 regulation governing the time, place, and manner of a marijuana
48 establishment that may operate in such local governmental entity.

1 b. A local governmental entity may prohibit the operation of
2 marijuana cultivation facilities, marijuana product manufacturing
3 facilities, marijuana testing facilities, or marijuana retailers through
4 the enactment of an ordinance. The failure of a local governmental
5 entity to enact an ordinance prohibiting the operation of a marijuana
6 establishment within 180 days following the effective date of
7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 shall thereby permit the operation of a marijuana retail
9 establishment within the local governmental entity for a period of
10 five years, at the end of which five year period, and every five year
11 period thereafter, the local governmental entity shall again be
12 permitted to prohibit the operation of a marijuana establishment.

13 c. (1) When the division receives an application for initial
14 licensing or renewal of an existing license for any marijuana
15 establishment, or endorsement for a retail marijuana consumption
16 area, the division shall provide, within seven days, a copy of the
17 application to the local governmental entity in which the
18 establishment is to be located, unless the local governmental entity
19 has prohibited the operation of retail marijuana establishments. The
20 local jurisdiction shall determine whether the application complies
21 with local restrictions on time, place, manner, and the number of
22 marijuana businesses. The local jurisdiction shall inform the
23 division whether the application complies with local restrictions on
24 time, place, manner, and the number of marijuana businesses.

25 (2) A local governmental entity may impose a separate local
26 licensing or endorsement requirement as a part of its restrictions on
27 time, place, manner, and the number of marijuana businesses. A
28 local governmental entity may decline to impose any local licensing
29 or endorsement requirements, but a local jurisdiction shall notify
30 the division that it either approves or denies each application
31 forwarded to it.

32

33 13. (New section) Application. a. Each application for an
34 annual license to operate a marijuana establishment shall be
35 submitted to the division. A separate license shall be required for
36 each location at which a marijuana establishment seeks to operate.
37 Renewal applications may be filed up to 90 days prior to the
38 expiration of the establishment's license. The division shall:

39 (1) begin accepting and processing applications 30 days after the
40 rules and regulations have been adopted pursuant to section 9 of
41 P.L. , c. (C.) (pending before the Legislature as this bill);

42 (2) immediately forward a copy of each application to the local
43 governmental entity in which the applicant desires to operate the
44 marijuana establishment;

45 (3) upon the approval of a license application and collection of
46 the annual license fee, issue an annual license to the applicant
47 between 45 and 90 days after receipt of an application unless the
48 division finds the applicant is not in compliance with regulations

1 enacted pursuant to the provisions of section 9 of
2 P.L. , c. (C.) (pending before the Legislature as this bill) or
3 the division is notified by the relevant local governmental entity
4 that the applicant is not in compliance with ordinances and
5 regulations made pursuant to the provisions of section 12 of
6 P.L. , c. (C.) (pending before the Legislature as this bill)
7 and in effect at the time of application, provided, where a local
8 governmental entity has enacted a numerical limit on the number of
9 marijuana establishments and a greater number of applicants seek
10 licenses, the division shall solicit and consider input from the local
11 governmental entity as to the local governmental entity's preference
12 or preferences for licensure; and

13 (4) upon denial of an application, notify the applicant in writing
14 of the specific reason for its denial.

15 b. No employee of the division shall have any interest, directly
16 or indirectly, in the producing, processing, or sale of marijuana,
17 marijuana products, or marijuana paraphernalia, or derive any profit
18 or remuneration from the sale of marijuana, marijuana products, or
19 marijuana paraphernalia, other than the salary or wages payable to
20 him in respect of his position, or receive any gratuity from any
21 person in connection with the application for a license or the sale of
22 marijuana, marijuana products, or marijuana paraphernalia.

23

24 14. (New section) Class 1 Marijuana Grower license. A
25 marijuana grower shall have a Class 1 Marijuana Grower license
26 issued by the division for the premises at which the marijuana is
27 grown or cultivated. The division shall determine the maximum
28 number of licenses. Providing there exist qualified applicants, the
29 division shall issue a sufficient number of licenses, not to exceed a
30 total of 25, including licenses issued to medical marijuana
31 alternative treatment centers but of these 25 licenses, 15 licenses
32 shall be reserved for medical marijuana alternative treatment
33 centers.

34 A person who has been convicted of a crime involving any
35 controlled dangerous substance or controlled substance analog as
36 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
37 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
38 of the United States or any other state shall not be issued a Class 1
39 Marijuana Grower license, unless such conviction occurred after the
40 effective date of P.L. , c. (C.) (pending before the
41 Legislature as this bill) and was for a violation of federal law
42 relating to possession or sale of marijuana for conduct that is
43 authorized under P.L. , c. (C.) (pending before the
44 Legislature as this bill).

45 a. To hold a Class 1 Marijuana Grower license under this
46 section, a marijuana grower:

1 (1) Shall apply for a license in the manner described in section
2 13 of P.L. , c. (C.) (pending before the Legislature as
3 this bill);

4 (2) Shall provide proof that an applicant listed on an application
5 submitted under section 13 of P.L. , c. (C.) (pending
6 before the Legislature as this bill), has been a resident of this State
7 for two or more years, and shall provide proof that the applicant is
8 21 years of age or older;

9 (3) Shall meet the requirements of any rule or regulation
10 adopted by the division under subsection b. of this section; and

11 (4) Shall undergo a criminal history record background check:

12 (a) Pursuant to this provision, the director is authorized to
13 exchange fingerprint data with and receive criminal history record
14 background information from the Division of State Police and the
15 Federal Bureau of Investigation consistent with the provisions of
16 applicable federal and State laws, rules, and regulations. The
17 Division of State Police shall forward criminal history record
18 background information to the director in a timely manner when
19 requested pursuant to the provisions of this section;

20 (b) An applicant shall submit to being fingerprinted in
21 accordance with applicable State and federal laws, rules, and
22 regulations. No check of criminal history record background
23 information shall be performed pursuant to this section unless the
24 applicant has furnished his written consent to that check. An
25 applicant who refuses to consent to, or cooperate in, the securing of
26 a check of criminal history record background information shall not
27 be considered for a grower's license. An applicant shall bear the
28 cost for the criminal history record background check, including all
29 costs of administering and processing the check;

30 (c) The director shall not approve an applicant for a Class 1
31 Marijuana Grower license if the criminal history record background
32 information of the applicant reveals any disqualifying conviction;
33 and

34 (d) Upon receipt of the criminal history record background
35 information from the Division of State Police and the Federal
36 Bureau of Investigation, the director shall provide written
37 notification to the applicant of his qualification for or
38 disqualification for a Class 1 Marijuana Grower license.

39 If the applicant is disqualified because of a disqualifying
40 conviction pursuant to the provisions of this section, the conviction
41 that constitutes the basis for the disqualification shall be identified
42 in the written notice.

43 (e) The Division of State Police shall promptly notify the
44 director in the event that an individual who was the subject of a
45 criminal history record background check conducted pursuant to
46 this section is convicted of a crime or offense in this State after the
47 date the background check was performed. Upon receipt of that
48 notification, the director shall make a determination regarding the

1 individual's continued eligibility to hold a Class 1 Marijuana
2 Grower license.

3 b. The division shall adopt rules and regulations that:

4 (1) Require a marijuana grower to annually renew a license
5 issued under this section;

6 (2) Establish application, licensure, and renewal of licensure
7 fees for marijuana growers;

8 (3) Require marijuana produced by marijuana growers to be
9 tested in accordance with P.L. , c. (C.) (pending before
10 the Legislature as this bill);

11 (4) Require marijuana growers to submit, at the time of applying
12 for or renewing a license under P.L. , c. (C.) (pending
13 before the Legislature as this bill), a report describing the
14 applicant's or licensee's electrical and water usage; and

15 (5) Require a marijuana grower to meet any public health and
16 safety standards, industry best practices, and all applicable
17 regulations established by the division by rule or regulation related
18 to the production of marijuana or the propagation of immature
19 marijuana plants and the seeds of the plant Genus Cannabis L.
20 within the plant family Cannabaceae. The division may not limit
21 the number of immature marijuana plants that may be possessed by
22 a marijuana grower licensed under this section; the size of the grow
23 canopy a marijuana grower licensed under this section uses to grow
24 immature marijuana plants; or the weight or size of shipments of
25 immature marijuana plants made by a marijuana grower licensed
26 under this section.

27 c. Fees adopted under subsection b. of this section:

28 (1) Shall be in the form of a schedule that imposes a greater fee
29 for premises with more square footage or on which more mature
30 marijuana plants are grown; and

31 (2) Shall be deposited in the "Marijuana Control and Regulation
32 Fund" established under section 39 of P.L. , c. (C.)
33 (pending before the Legislature as this bill).

34 d. The director shall issue a Class 1 Marijuana Grower license
35 if he finds that issuing such a license would be consistent with the
36 purposes of P.L. , c. (C.) (pending before the Legislature
37 as this bill), the requirements of this section are met, and the
38 information contained in the application has been verified. The
39 director shall approve or deny an application within 60 days after
40 receipt of a completed application. The denial of an application
41 shall be considered a final agency decision, subject to review by the
42 Appellate Division of the Superior Court. The director may
43 suspend or revoke a Class 1 Marijuana Grower license to operate as
44 a Marijuana Cultivation Facility for cause, which shall be subject to
45 review by the Appellate Division of the Superior Court.

46 e. A person who has been issued a license pursuant to this
47 section shall display the license at the premises at all times when
48 marijuana is being produced.

1 f. A licensee shall report any change in information to the
2 director not later than 10 days after such change, or the license shall
3 be deemed null and void.

4
5 15. (New section) a. Subject to subsection b. of this section, the
6 division shall adopt rules or regulations restricting the size of
7 mature marijuana plant grow canopies at premises for which a
8 license has been issued under P.L. , c. (C.) (pending
9 before the Legislature as this bill).

10 b. In adopting rules under this subsection, the division shall:

11 (1) Limit the size of mature marijuana plant grow canopies for
12 premises where marijuana is grown outdoors and for premises
13 where marijuana is grown indoors in a manner calculated to result
14 in premises that produce the same amount of harvested marijuana
15 leaves and harvested marijuana flowers, regardless of whether the
16 marijuana is grown outdoors or indoors;

17 (2) Adopt a tiered system under which the permitted size of a
18 marijuana growers' mature marijuana plant grow canopy increases
19 at the time of licensure renewal, except that the permitted size of a
20 marijuana growers' mature marijuana plant grow canopy may not
21 increase following any year during which the division disciplined
22 the marijuana growers for violating a provision of or a rule adopted
23 under a provision of P.L. , c. (C.) (pending before the
24 Legislature as this bill); and

25 (3) Take into consideration the market demand for marijuana
26 items in this State, the number of persons applying for a license
27 under P.L. , c. (C.) (pending before the Legislature as
28 this bill), and to whom a license has been issued under
29 P.L. , c. (C.) (pending before the Legislature as this
30 bill), and whether the availability of marijuana items in this State is
31 commensurate with the market demand.

32 c. This section shall not apply to premises for which a license
33 has been issued under P.L. , c. (C.) (pending before the
34 Legislature as this bill), if the premises is used only to propagate
35 immature marijuana plants.

36
37 16. (New section) Class 2 Marijuana Processor license. A
38 marijuana processor shall have a Class 2 Marijuana Processor
39 license issued by the division for the premises at which the
40 marijuana product is produced. The division shall determine the
41 maximum number of licenses but, providing there exist qualified
42 applicants, shall issue a sufficient number of licenses to meet the
43 production demands that implementation of P.L. , c. (C.)
44 (pending before the Legislature as this bill) requires.

45 A person who has been convicted of a crime involving any
46 controlled dangerous substance or controlled substance analog as
47 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
48 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law

1 of the United States or any other state shall not be issued a Class 2
2 Marijuana Processor license, unless such conviction occurred after
3 the effective date of P.L. , c. (C.) (pending before the
4 Legislature as this bill) and was for a violation of federal law
5 relating to possession or sale of marijuana for conduct that is
6 authorized under P.L. , c. (C.) (pending before the
7 Legislature as this bill).

8 a. To hold a Class 2 Marijuana Processor license under this
9 section, a marijuana processor:

10 (1) Shall apply for a license in the manner described in section
11 13 of P.L. , c. (C.) (pending before the Legislature as
12 this bill);

13 (2) Shall provide proof that an applicant listed on an application
14 submitted under section 13 of P.L. , c. (C.) (pending
15 before the Legislature as this bill), has been a resident of this State
16 for two or more years, and shall provide proof that the applicant is
17 21 years of age or older;

18 (3) Shall meet the requirements of any rule or regulation
19 adopted by the division under subsection b. of this section; and

20 (4) Shall undergo a criminal history record background check:

21 (a) Pursuant to this provision, the Director is authorized to
22 exchange fingerprint data with and receive criminal history record
23 background information from the Division of State Police and the
24 Federal Bureau of Investigation consistent with the provisions of
25 applicable federal and State laws, rules, and regulations. The
26 Division of State Police shall forward criminal history record
27 background information to the director in a timely manner when
28 requested pursuant to the provisions of this section;

29 (b) An applicant shall submit to being fingerprinted in
30 accordance with applicable State and federal laws, rules, and
31 regulations. No check of criminal history record background
32 information shall be performed pursuant to this section unless the
33 applicant has furnished his written consent to that check. An
34 applicant who refuses to consent to, or cooperate in, the securing of
35 a check of criminal history record background information shall not
36 be considered for a processor license. An applicant shall bear the
37 cost for the criminal history record background check, including all
38 costs of administering and processing the check;

39 (c) The director shall not approve an applicant for a Class 2
40 Marijuana Processor license if the criminal history record
41 background information of the applicant reveals any disqualifying
42 conviction; and

43 (d) Upon receipt of the criminal history record background
44 information from the Division of State Police and the Federal
45 Bureau of Investigation, the director shall provide written
46 notification to the applicant of his qualification for or
47 disqualification for a Class 2 Marijuana Processor license.

1 If the applicant is disqualified because of a disqualifying
2 conviction pursuant to the provisions of this section, the conviction
3 that constitutes the basis for the disqualification shall be identified
4 in the written notice.

5 (e) The Division of State Police shall promptly notify the
6 director in the event that an individual who was the subject of a
7 criminal history record background check conducted pursuant to
8 this section is convicted of a crime or offense in this State after the
9 date the background check was performed. Upon receipt of that
10 notification, the director shall make a determination regarding the
11 continued eligibility to hold a Class 2 Marijuana Processor license.

12 b. The division shall adopt rules that:

13 (1) Require a marijuana processor to annually renew a license
14 issued under this section;

15 (2) Establish application, licensure, and renewal of licensure
16 fees for marijuana processors;

17 (3) Require marijuana produced by marijuana processors to be
18 tested in accordance with P.L. , c. (C.) (pending before
19 the Legislature as this bill);

20 (4) Require marijuana processors to submit, at the time of
21 applying for or renewing a license under P.L. , c. (C.)
22 (pending before the Legislature as this bill) a report describing the
23 applicant's or licensee's electrical and water usage; and

24 (5) Require a marijuana processor to meet any public health and
25 safety standards, industry best practices, and all applicable
26 regulations established by the division by rule or regulation related
27 to the processing of marijuana.

28 c. Fees adopted under subsection b. of this section:

29 (1) Shall be in the form of a schedule that imposes a greater fee
30 for premises with more square footage; and

31 (2) Shall be deposited in the "Marijuana Control and Regulation
32 Fund" established under section 39 of P.L. , c. (C.)
33 (pending before the Legislature as this bill).

34 d. The director shall issue a Class 2 Marijuana Processor
35 license if he finds that issuing such a license would be consistent
36 with the purposes of P.L. , c. (C.) (pending before the
37 Legislature as this bill) and the requirements of this section are met
38 and the information contained in the application has been verified.
39 The director shall approve or deny an application within 60 days
40 after receipt of a completed application. The denial of an
41 application shall be considered a final agency decision, subject to
42 review by the Appellate Division of the Superior Court. The
43 director may suspend or revoke a license to operate as a marijuana
44 production facility for cause, which shall be subject to review by
45 the Appellate Division of the Superior Court.

46 e. A person who has been issued a license pursuant to this
47 section shall display the license at the premises at all times when
48 marijuana is being processed.

1 f. A licensee shall report any change in information to the
2 director not later than 10 days after such change, or the license shall
3 be deemed null and void.

4
5 17. (New section) Class 3 Marijuana Wholesaler license. A
6 marijuana wholesaler shall have a Class 3 Marijuana Wholesaler
7 license issued by the division for the premises at which the
8 marijuana is warehoused. The division shall determine the
9 maximum number of licenses but, providing there exist qualified
10 applicants, shall issue a sufficient number of licenses to meet the
11 wholesaler demands that implementation of this act requires.

12 A person who has been convicted of a crime involving any
13 controlled dangerous substance or controlled substance analog as
14 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
15 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
16 of the United States or any other state shall not be issued a Class 3
17 Marijuana Wholesaler license, unless such conviction occurred after
18 the effective date of P.L. , c. (C.) (pending before the
19 Legislature as this bill) and was for a violation of federal law
20 relating to possession or sale of marijuana for conduct that is
21 authorized under P.L. , c. (C.) (pending before the
22 Legislature as this bill).

23 a. To hold a Class 3 Marijuana Wholesaler license under this
24 section, a marijuana wholesaler:

25 (1) Shall apply for a license in the manner described in section
26 13 of P.L. , c. (C.) (pending before the Legislature as
27 this bill);

28 (2) Shall provide proof that an applicant listed on an application
29 submitted under section 13 of P.L. , c. (C.) (pending
30 before the Legislature as this bill), has been a resident of this State
31 for two or more years, and shall provide proof that the applicant is
32 21 years of age or older;

33 (3) Shall meet the requirements of any rule or regulation
34 adopted by the division under subsection b. of this section; and

35 (4) Shall undergo a criminal history record background check:

36 (a) Pursuant to this provision, the director is authorized to
37 exchange fingerprint data with and receive criminal history record
38 background information from the Division of State Police and the
39 Federal Bureau of Investigation consistent with the provisions of
40 applicable federal and State laws, rules, and regulations. The
41 Division of State Police shall forward criminal history record
42 background information to the director in a timely manner when
43 requested pursuant to the provisions of this section;

44 (b) An applicant shall submit to being fingerprinted in
45 accordance with applicable State and federal laws, rules, and
46 regulations. No check of criminal history record background
47 information shall be performed pursuant to this section unless the
48 applicant has furnished his written consent to that check. An

1 applicant who refuses to consent to, or cooperate in, the securing of
2 a check of criminal history record background information shall not
3 be considered for a wholesaler's license. An applicant shall bear
4 the cost for the criminal history record background check, including
5 all costs of administering and processing the check;

6 (c) The director shall not approve an applicant for a Class 3
7 Marijuana Wholesaler license if the criminal history record
8 background information of the applicant reveals any disqualifying
9 conviction; and

10 (d) Upon receipt of the criminal history record background
11 information from the Division of State Police and the Federal
12 Bureau of Investigation, the director shall provide written
13 notification to the applicant of his qualification for or
14 disqualification for a Class 3 Marijuana Wholesaler license.

15 If the applicant is disqualified because of a disqualifying
16 conviction pursuant to the provisions of this section, the conviction
17 that constitutes the basis for the disqualification shall be identified
18 in the written notice.

19 (e) The Division of State Police shall promptly notify the
20 director in the event that an individual who was the subject of a
21 criminal history record background check conducted pursuant to
22 this section is convicted of a crime or offense in this State after the
23 date the background check was performed. Upon receipt of that
24 notification, the Director shall make a determination regarding the
25 continued eligibility to hold a Marijuana Wholesaler license.

26 b. The division shall adopt rules that:

27 (1) Require a marijuana wholesaler to annually renew a license
28 issued under this section;

29 (2) Establish application, licensure, and renewal of licensure
30 fees for marijuana wholesalers;

31 (3) Require marijuana warehoused by marijuana wholesalers to
32 be tested in accordance with P.L. , c. (C.) (pending
33 before the Legislature as this bill);

34 (4) Require marijuana wholesalers to submit, at the time of
35 applying for or renewing a license under section 13 of
36 P.L. , c. (C.) (pending before the Legislature as this
37 bill), a report describing the applicant's or licensee's electrical and
38 water usage; and

39 (5) Require a marijuana wholesaler to meet any public health
40 and safety standards, industry best practices, and all applicable
41 regulations established by the division by rule or regulation related
42 to the warehousing of marijuana.

43 c. Fees adopted under subsection b. of this section:

44 (1) Shall be in the form of a schedule that imposes a greater fee
45 for premises with more square footage; and

46 (2) Shall be deposited in the "Marijuana Control and Regulation
47 Fund" established under section 39 of P.L. , c. (C.)
48 (pending before the Legislature as this bill).

1 d. The director shall issue a Class 3 Marijuana Wholesaler
2 license if he finds that issuing such a license would be consistent
3 with the purposes of this act and the requirements of this section are
4 met and the information contained in the application has been
5 verified. The director shall approve or deny an application within
6 60 days after receipt of a completed application. The denial of an
7 application shall be considered a final agency decision, subject to
8 review by the Appellate Division of the Superior Court. The
9 director may suspend or revoke a Class 3 Marijuana Wholesaler
10 license for cause, which shall be subject to review by the Appellate
11 Division of the Superior Court.

12 e. A person who has been issued a license pursuant to this
13 section shall display the license at the premises at all times when
14 marijuana is being warehoused.

15 f. A licensee shall report any change in information to the
16 director not later than 10 days after such change, or the license shall
17 be deemed null and void.

18

19 18. (New section) Class 4 Marijuana Retailer license. A
20 marijuana retailer shall have a Class 4 Marijuana Retailer license
21 issued by the division for the premises at which the marijuana is
22 retailed. The division shall determine the maximum number of
23 licenses but, providing there exist qualified applicants, shall issue a
24 sufficient number of licenses to meet the wholesaler demands that
25 implementation of P.L. , c. (C.) (pending before the
26 Legislature as this bill) requires.

27 A person who has been convicted of a crime involving any
28 controlled dangerous substance or controlled substance analog as
29 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
30 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
31 of the United States or any other state shall not be issued a Class 4
32 Marijuana Retailer license, unless such conviction occurred after
33 the effective date of this act and was for a violation of federal law
34 relating to possession or sale of marijuana for conduct that is
35 authorized under P.L. , c. (C.) (pending before the
36 Legislature as this bill).

37 a. To hold a Class 4 Marijuana Retailer license under this
38 section, a marijuana retailer:

39 (1) Shall apply for a license in the manner described in section
40 13 of P.L. , c. (C.) (pending before the Legislature as
41 this bill);

42 (2) Shall provide proof that an applicant listed on an application
43 submitted under section 13 of P.L. , c. (C.) (pending
44 before the Legislature as this bill), has been a resident of this State
45 for two or more years, and shall provide proof that the applicant is
46 21 years of age or older;

47 (3) Shall meet the requirements of any rule adopted by the
48 Division under subsection b. of this section; and

1 (4) Shall undergo a criminal history record background check:

2 (a) Pursuant to this provision, the director is authorized to
3 exchange fingerprint data with and receive criminal history record
4 background information from the Division of State Police and the
5 Federal Bureau of Investigation consistent with the provisions of
6 applicable federal and State laws, rules, and regulations. The
7 Division of State Police shall forward criminal history record
8 background information to the director in a timely manner when
9 requested pursuant to the provisions of this section;

10 (b) An applicant shall submit to being fingerprinted in
11 accordance with applicable State and federal laws, rules, and
12 regulations. No check of criminal history record background
13 information shall be performed pursuant to this section unless the
14 applicant has furnished his written consent to that check. An
15 applicant who refuses to consent to, or cooperate in, the securing of
16 a check of criminal history record background information shall not
17 be considered for a retailers license. An applicant shall bear the
18 cost for the criminal history record background check, including all
19 costs of administering and processing the check;

20 (c) The director shall not approve an applicant for a Class 4
21 Marijuana Retailer license if the criminal history record background
22 information of the applicant reveals any disqualifying conviction;
23 and

24 (d) Upon receipt of the criminal history record background
25 information from the Division of State Police and the Federal
26 Bureau of Investigation, the director shall provide written
27 notification to the applicant of his qualification for or
28 disqualification for a Class 4 Marijuana Retailer license.

29 If the applicant is disqualified because of a disqualifying
30 conviction pursuant to the provisions of this section, the conviction
31 that constitutes the basis for the disqualification shall be identified
32 in the written notice.

33 (e) The Division of State Police shall promptly notify the
34 director in the event that an individual who was the subject of a
35 criminal history record background check conducted pursuant to
36 this section is convicted of a crime or offense in this State after the
37 date the background check was performed. Upon receipt of that
38 notification, the director shall make a determination regarding the
39 continued eligibility to hold a Class 4 Marijuana Retailer license.

40 b. The division shall adopt rules that:

41 (1) Require a marijuana retailer to annually renew a license
42 issued under this section;

43 (2) Establish application, licensure, and renewal of licensure
44 fees for a marijuana retailer;

45 (3) Require marijuana sold by a marijuana retailer to be tested in
46 accordance with P.L. , c. (C.) (pending before the
47 Legislature as this bill);

- 1 (4) Require a marijuana retailer to submit, at the time of
2 applying for or renewing a license under P.L. , c. (C.)
3 (pending before the Legislature as this bill), a report describing the
4 applicant's or licensee's electrical and water usage; and
- 5 (5) Require a marijuana retailer to meet any public health and
6 safety standards, industry best practices, and all applicable
7 regulations established by the division by rule related to the sale of
8 marijuana.
- 9 c. Fees adopted under subsection b. of this section:
- 10 (1) Shall be in the form of a schedule that imposes a greater fee
11 for premises with more square footage; and
- 12 (2) Shall be deposited in the "Marijuana Control and Regulation
13 Fund" established under section 39 of P.L. , c. (C.)
14 (pending before the Legislature as this bill).
- 15 d. The director shall issue a Class 4 Marijuana Retailer license
16 if he finds that issuing such a license would be consistent with the
17 purposes of this act and the requirements of this section are met and
18 the information contained in the application has been verified. The
19 director shall approve or deny an application within 60 days after
20 receipt of a completed application. The denial of an application
21 shall be considered a final agency decision, subject to review by the
22 Appellate Division of the Superior Court. The director may
23 suspend or revoke a Class 4 Marijuana Retailer license for cause,
24 which shall be subject to review by the Appellate Division of the
25 Superior Court.
- 26 e. A person who has been issued a license pursuant to this
27 section shall display the license at the premises at all times when
28 marijuana is being warehoused.
- 29 f. A licensee shall report any change in information to the
30 director not later than 10 days after such change, or the license shall
31 be deemed null and void.
- 32 g. (1) Subject to receiving an endorsement pursuant to
33 section 42 of P.L. , c. (C.) (pending before the Legislature as
34 this bill), a licensed marijuana retailer may operate a retail
35 marijuana consumption area to sell retail marijuana, retail
36 marijuana concentrate, and retail marijuana products for on-
37 premises consumption, other than smoking, on the premises of the
38 establishment.
- 39 (2) Each licensed marijuana retailer may operate only one retail
40 marijuana consumption area.
- 41 (3) The retail marijuana consumption area shall be physically
42 separate from the marijuana retail premises and shall be located in
43 the same local jurisdiction as the marijuana retail establishment.
- 44 (4) A Class 4 Marijuana Retailer license that has been approved
45 for a retail marijuana consumption area endorsement may transfer
46 its retail marijuana, retail marijuana concentrate, and retail
47 marijuana products to its retail marijuana consumption area. The
48 Class 4 Marijuana Retailer licensee shall package and label

1 individually retail marijuana, retail marijuana concentrate, and retail
2 marijuana product in quantities not to exceed the limits established
3 by the director.

4
5 19. (New section) Marijuana Handlers. a. An individual who
6 performs work for or on behalf of a person who holds a license
7 under P.L. , c. (C.) (pending before the Legislature as
8 this bill) shall have a valid permit issued by the division under this
9 section if the individual participates in:

10 (1) the possession, securing, or selling of marijuana items at the
11 premises for which the license has been issued; or

12 (2) the recording of the possession, securing, or selling of
13 marijuana items at the premises for which the license has been
14 issued.

15 b. A person who holds a license under P.L. , c. (C.)
16 (pending before the Legislature as this bill) shall verify that an
17 individual has a valid permit issued under this section before
18 allowing the individual to perform any work described in subsection
19 a. of this section at the premises for which the license has been
20 issued.

21 c. The division shall issue permits to qualified applicants to
22 perform work described in this section. The division shall adopt
23 rules and regulations establishing: the qualifications for performing
24 work described in this section; the terms of a permit issued under
25 this section; procedures for applying for and renewing a permit
26 issued under this section; and reasonable application, issuance, and
27 renewal fees for a permit issued under this section.

28 d. The division may require an individual applying for a permit
29 under this section to successfully complete a course, made available
30 by or through the division, in which the individual receives training
31 on: checking identification; detecting intoxication; handling
32 marijuana items; statutory and regulatory provisions relating to
33 marijuana; and any matter deemed necessary by the division to
34 protect the public health and safety. The division or other provider
35 may charge a reasonable fee for the course.

36 The division may not require an individual to successfully
37 complete the course more than once, except that the division may
38 adopt regulations directing continuing education training on a
39 prescribed schedule.

40 As part of a final order suspending a permit issued under this
41 section, the division may require a permit holder to successfully
42 complete the course as a condition of lifting the suspension and as
43 part of a final order revoking a permit issued under this section, the
44 division shall require an individual to successfully complete the
45 course prior to applying for a new permit.

46 e. The division shall conduct a criminal history record
47 background check on an individual applying for a permit under this
48 section.

1 f. The division may suspend, revoke, or refuse to issue or
2 renew a permit if the individual who is applying for or who holds
3 the permit: violates any provision of P.L. , c. (C.)
4 (pending before the Legislature as this bill) or any rule or regulation
5 adopted under P.L. , c. (C.) (pending before the
6 Legislature as this bill); makes a false statement to the division;
7 refuses to cooperate in any investigation by the division; or if the
8 individual is convicted of a crime, except that the division may not
9 consider a conviction for the manufacture or delivery of marijuana
10 if the date of the conviction is two or more years before the date of
11 the application or renewal; or if the date of the last criminal
12 conviction is more than 10 years before the date of the application
13 or renewal.

14 g. A permit issued under this section is a personal privilege and
15 permits work described under this section only for the individual
16 who holds the permit.

17

18 20. (New section) Marketplace Regulation.

19 a. For a period of 36 months after the effective date of
20 P.L. , c. (C.) (pending before the Legislature as this bill)
21 it shall be unlawful for any owner, part owner, stockholder, officer,
22 or director of any corporation, or any other person interested in any
23 marijuana cultivation facility, marijuana testing facility, or
24 marijuana product manufacturing facility, or any wholesaler of
25 marijuana, to conduct, own either in whole or in part, or be directly
26 or indirectly interested in the retailing of any marijuana in New
27 Jersey, and such interest shall include any payments or delivery of
28 money or property by way of loan or otherwise accompanied by an
29 agreement to sell the product of said marijuana cultivation facility,
30 marijuana testing facility, or marijuana product manufacturing
31 facility, or any wholesaler of marijuana.

32 b. For a period of 36 months after the effective date of
33 P.L. , c. (C.) (pending before the Legislature as this bill)
34 it shall be unlawful for any owner, part owner, stockholder, officer,
35 or director of any corporation, or any other person interested in any
36 retailing of marijuana to conduct, own either whole or in part, or to
37 be a shareholder, officer or director of a corporation or association,
38 directly or indirectly, interested in any marijuana cultivation
39 facility, marijuana testing facility, or marijuana product
40 manufacturing facility, or any wholesaler of marijuana.

41 c. No person, partnership, employee cooperative, association,
42 nonprofit corporation, corporation, or the agents thereof, shall hold
43 more than three marijuana establishment licenses at any time.

44

45 21. (New section) Employers, Driving, Minors and Control of
46 Property.

47 a. Nothing in P.L. , c. (C.) (pending before the
48 Legislature as this bill) is intended to require an employer to permit

1 or accommodate the use, consumption, possession, transfer, display,
2 transportation, sale, or growing of marijuana items in the workplace
3 or to affect the ability of employers to have policies prohibiting
4 marijuana use or intoxication by employees during work hours. No
5 employer shall refuse to hire or employ any person or shall
6 discharge from employment or take any adverse action against any
7 employee with respect to compensation, terms, conditions, or other
8 privileges of employment because that person does or does not
9 smoke or use marijuana items, unless the employer has a rational
10 basis for doing so which is reasonably related to the employment,
11 including the responsibilities of the employee or prospective
12 employee.

13 b. Nothing in P.L. , c. (C.) (pending before the
14 Legislature as this bill) is intended to allow driving under the
15 influence of marijuana items or driving while impaired by
16 marijuana items or to supersede laws related to driving under the
17 influence of marijuana items or driving while impaired by
18 marijuana items.

19 c. Nothing in P.L. , c. (C.) (pending before the
20 Legislature as this bill) is intended to permit the transfer of
21 marijuana items, with or without remuneration, to a person under
22 the age of 21 or to allow a person under the age of 21 to purchase,
23 possess, use, transport, grow, or consume marijuana items.

24 d. Nothing in P.L. , c. (C.) (pending before the
25 Legislature as this bill) shall prohibit a person, or any other entity
26 that occupies, owns, or controls a property from prohibiting or
27 otherwise regulating the consumption, use, display, transfer,
28 distribution, sale, transportation, or growing of marijuana items on
29 or in that property, provided that local government units may not
30 prohibit possession permitted by section 4 of
31 P.L. , c. (C.) (pending before the Legislature as this bill).

32 e. Nothing in P.L. , c. (C.) (pending before the
33 Legislature as this bill) is intended to permit any person to possess,
34 consume, use, display, transfer, distribute, sell, transport, or grow
35 marijuana items in a school, hospital, detention facility, adult
36 correctional facility, and youth correction facility.

37 f. Nothing in P.L. , c. (C.) (pending before the
38 Legislature as this bill) is intended to permit the smoking of
39 marijuana in any place that any other law prohibits the smoking of
40 tobacco. Any fines that may be assessed for the smoking of tobacco
41 in designated places shall be applicable to the smoking of
42 marijuana.

43

44 22. (New section) Medical Marijuana Provisions.

45 Nothing in P.L. , c. (C.) (pending before the
46 Legislature as this bill) shall be construed:

47 a. to limit any privileges or rights of a medical marijuana
48 patient, primary caregiver, institutional caregiver, or alternative

1 treatment center as provided in the “New Jersey Compassionate Use
2 Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.),
3 P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66
4 of P.L. , c. (C.) (pending before the Legislature as this bill);
5 b. to authorize an alternative treatment center to dispense
6 marijuana to or on behalf of a person who is not a registered
7 qualifying patient except that an alternative treatment center
8 operating in good standing as of the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill)
10 may apply for a retail license to operate immediately. A license
11 issued pursuant to this subsection may be subject to annual renewal
12 until regulations are adopted pursuant to P.L. , c. (C.)
13 (pending before the Legislature as this bill);
14 c. to authorize an alternative treatment center to purchase or
15 acquire marijuana or marijuana products in a manner or from a
16 source not permitted under P.L.2009, c.307 (C.24:6I-1 et al.),
17 P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66
18 of P.L. , c. (C.) (pending before the Legislature as this bill);
19 d. to authorize an alternative treatment center issued a permit
20 under section 7 of P.L.2009, c.307 (C.24:6I-7) to operate on the
21 same premises as a marijuana retailer; or
22 e. to discharge the Department of Health from its duties to
23 regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
24 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57
25 through 66 of P.L. , c. (C.) (pending before the Legislature
26 as this bill).

27
28 23. (New section) Medical Marijuana – Additional Regulatory
29 Requirements.

30 An alternative treatment center issued a permit under section 7 of
31 P.L.2009, c.307 (C.24:6I-7) shall, as a condition of being issued a
32 Class 4 Marijuana Retailer license pursuant to section 18 of
33 P.L. , c. (C.) (pending before the Legislature as this bill):

34 a. certify to the Department of Health, at intervals established
35 by the division, sufficient quantities of approved medical marijuana
36 to meet the reasonably anticipated treatment needs of registered
37 qualifying patients, before personal use marijuana can be sold; and
38 b. maintain separate areas for qualifying patients, primary
39 caregivers, and institutional caregivers, and for personal use
40 customers.

41
42 24. (New section) Expungement. Any person convicted of
43 marijuana possession as defined in paragraph (4) of subsection a. of
44 N.J.S.2C:35-10 prior to the effective date of
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 shall, following the enactment of P.L. , c. (C.) (pending
47 before the Legislature as this bill), be eligible to present an

1 application for expungement to the Superior Court pursuant to the
2 provisions of chapter 52 of Title 2C of the New Jersey Statutes.

3

4 25. (New section) Limitations.

5 The provisions of P.L. , c. (C.) (pending before the
6 Legislature as this bill) shall not be construed:

7 a. To amend or affect in any way any State or federal law
8 pertaining to employment matters;

9 b. To amend or affect in any way any State or federal law
10 pertaining to landlord-tenant matters;

11 c. To prohibit a recipient of a federal grant or an applicant for a
12 federal grant from prohibiting the manufacture, delivery,
13 possession, or use of marijuana to the extent necessary to satisfy
14 federal requirements for the grant;

15 d. To prohibit a party to a federal contract or a person applying
16 to be a party to a federal contract from prohibiting the manufacture,
17 delivery, possession, or use of marijuana to the extent necessary to
18 comply with the terms and conditions of the contract or to satisfy
19 federal requirements for the contract;

20 e. To require a person to violate a federal law; or

21 f. To exempt a person from a federal law or obstruct the
22 enforcement of a federal law.

23

24 26. N.J.S.2C:35-4 is amended to read as follows:

25 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1
26 et seq.), or by P.L. , c. (C.) (pending before the Legislature as this
27 bill), any person who knowingly maintains or operates any
28 premises, place or facility used for the manufacture of
29 methamphetamine, lysergic acid diethylamide, phencyclidine,
30 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
31 greater than five pounds or ten plants or any substance listed in
32 Schedule I or II, or the analog of any such substance, or any person
33 who knowingly aids, promotes, finances or otherwise participates in
34 the maintenance or operations of such premises, place or facility, is
35 guilty of a crime of the first degree and shall, except as provided in
36 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
37 include the imposition of a minimum term which shall be fixed at,
38 or between, one-third and one-half of the sentence imposed, during
39 which the defendant shall be ineligible for parole. Notwithstanding
40 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
41 impose a fine not to exceed **[\$750,000.00]** \$750,000 or five times
42 the street value of all controlled dangerous substances, controlled
43 substance analogs, gamma hydroxybutyrate or flunitrazepam at any
44 time manufactured or stored at such premises, place or facility,
45 whichever is greater.

46 (cf: P.L.1999, c.133, s.2)

1 27. (New section) Personal Use of Cannabis Resin.

2 a. Notwithstanding any other provision of law, the following
3 acts are not unlawful and shall not be an offense or a basis for
4 seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other
5 applicable law for persons 21 years of age or older:

6 (1) Possessing, using, displaying, purchasing, or transporting
7 five grams or less of resin extracted from any part of the plant
8 Genus Cannabis L. and any compound, manufacture, salt,
9 derivative, mixture, or preparation of such resin, or "Hashish;"

10 (2) Transfer of five grams or less of resin extracted from any
11 part of the Genus Cannabis L. and any compound, manufacture,
12 salt, derivative, mixture, or preparation of such resin without
13 remuneration to a person who is 21 years of age or older, provided
14 that such transfer is for non-promotional, non-business purposes;

15 (3) Consumption of the resin extracted from any part of the
16 plant Genus Cannabis L. and any compound, manufacture, salt,
17 derivative, mixture, or preparation of such resin, provided that
18 nothing in this section shall permit a person to smoke or otherwise
19 consume such resin or its derivatives openly in a public place; and

20 (4) Assisting another person who is 21 years of age or older in
21 any of the acts described in subparagraphs (1) through (3) of this
22 subsection.

23 b. It shall be unlawful for a person or persons to manufacture
24 or process resin extracted from any part of the plant Genus
25 Cannabis L. and any compound, manufacture, salt, derivative,
26 mixture, or preparation of such resin, unless licensed to do so under
27 the provisions of P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29

30 28. N.J.S.2C:35-2 is amended to read as follows:

31 2C:35-2. As used in this chapter:

32 "Administer" means the direct application of a controlled
33 dangerous substance or controlled substance analog, whether by
34 injection, inhalation, ingestion, or any other means, to the body of a
35 patient or research subject by: (1) a practitioner (or, in his
36 presence, by his lawfully authorized agent), or (2) the patient or
37 research subject at the lawful direction and in the presence of the
38 practitioner.

39 "Agent" means an authorized person who acts on behalf of or at
40 the direction of a manufacturer, distributor, or dispenser but does
41 not include a common or contract carrier, public warehouseman, or
42 employee thereof.

43 "Controlled dangerous substance" means a drug, substance, or
44 immediate precursor in Schedules I through V, any substance the
45 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
46 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
47 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120
48 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b),

1 and any drug or substance which, when ingested, is metabolized or
2 otherwise becomes a controlled dangerous substance in the human
3 body. When any statute refers to controlled dangerous substances,
4 or to a specific controlled dangerous substance, it shall also be
5 deemed to refer to any drug or substance which, when ingested, is
6 metabolized or otherwise becomes a controlled dangerous substance
7 or the specific controlled dangerous substance, and to any substance
8 that is an immediate precursor of a controlled dangerous substance
9 or the specific controlled dangerous substance. The term shall not
10 include distilled spirits, wine, malt beverages, as those terms are
11 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
12 products. The term, wherever it appears in any law or
13 administrative regulation of this State, shall include controlled
14 substance analogs.

15 "Controlled substance analog" means a substance that has a
16 chemical structure substantially similar to that of a controlled
17 dangerous substance and that was specifically designed to produce
18 an effect substantially similar to that of a controlled dangerous
19 substance. The term shall not include a substance manufactured or
20 distributed in conformance with the provisions of an approved new
21 drug application or an exemption for investigational use within the
22 meaning of section 505 of the "Federal Food, Drug and Cosmetic
23 Act," 52 Stat. 1052 (21 U.S.C. s.355).

24 "Counterfeit substance" means a controlled dangerous substance
25 or controlled substance analog which, or the container or labeling of
26 which, without authorization, bears the trademark, trade name, or
27 other identifying mark, imprint, number, or device, or any likeness
28 thereof, of a manufacturer, distributor, or dispenser other than the
29 person or persons who in fact manufactured, distributed, or
30 dispensed the substance and which thereby falsely purports or is
31 represented to be the product of, or to have been distributed by,
32 such other manufacturer, distributor, or dispenser.

33 "Deliver" or "delivery" means the actual, constructive, or
34 attempted transfer from one person to another of a controlled
35 dangerous substance or controlled substance analog, whether or not
36 there is an agency relationship.

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

43 "Distribute" means to deliver other than by administering or
44 dispensing a controlled dangerous substance or controlled substance
45 analog. "Distributor" means a person who distributes.

46 "Drugs" means (a) substances recognized in the official United
47 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
48 United States, or official National Formulary, or any supplement to

1 any of them; and (b) substances intended for use in the diagnosis,
2 cure, mitigation, treatment, or prevention of disease in man or other
3 animals; and (c) substances (other than food) intended to affect the
4 structure or any function of the body of man or other animals; and
5 (d) substances intended for use as a component of any article
6 specified in subsections (a), (b), and (c) of this section; but does not
7 include devices or their components, parts, or accessories.

8 "Drug or alcohol dependent person" means a person who as a
9 result of using a controlled dangerous substance or controlled
10 substance analog or alcohol has been in a state of psychic or
11 physical dependence, or both, arising from the use of that controlled
12 dangerous substance or controlled substance analog or alcohol on a
13 continuous or repetitive basis. Drug or alcohol dependence is
14 characterized by behavioral and other responses, including but not
15 limited to a strong compulsion to take the substance on a recurring
16 basis in order to experience its psychic effects, or to avoid the
17 discomfort of its absence.

18 "Hashish" means the resin extracted from any part of the plant
19 Genus Cannabis L. and any compound, manufacture, salt,
20 derivative, mixture, or preparation of such resin.

21 "Manufacture" means the production, preparation, propagation,
22 compounding, conversion, or processing of a controlled dangerous
23 substance or controlled substance analog, either directly or by
24 extraction from substances of natural origin, or independently by
25 means of chemical synthesis, or by a combination of extraction and
26 chemical synthesis, and includes any packaging or repackaging of
27 the substance or labeling or relabeling of its container, except that
28 this term does not include the preparation or compounding of a
29 controlled dangerous substance or controlled substance analog by
30 an individual for his own use or the preparation, compounding,
31 packaging, or labeling of a controlled dangerous substance: (1) by
32 a practitioner as an incident to his administering or dispensing of a
33 controlled dangerous substance or controlled substance analog in
34 the course of his professional practice, or (2) by a practitioner (or
35 under his supervision) for the purpose of, or as an incident to,
36 research, teaching, or chemical analysis and not for sale.

37 "Marijuana" means all parts of the plant Genus Cannabis L.,
38 whether growing or not; the seeds thereof, and every compound,
39 manufacture, salt, derivative, mixture, or preparation of the plant or
40 its seeds, except those containing resin extracted from the plant【;
41 but shall not include the mature stalks of the plant, fiber produced
42 from the stalks, oil, or cake made from the seeds of the plant, any
43 other compound, manufacture, salt, derivative, mixture, or
44 preparation of mature stalks, fiber, oil, or cake, or the sterilized
45 seed of the plant which is incapable of germination】.

46 "Narcotic drug" means any of the following, whether produced
47 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a
2 combination of extraction and chemical synthesis:

- 3 (a) Opium, coca leaves, and opiates;
4 (b) A compound, manufacture, salt, derivative, or preparation of
5 opium, coca leaves, or opiates;
6 (c) A substance (and any compound, manufacture, salt,
7 derivative, or preparation thereof) which is chemically identical
8 with any of the substances referred to in subsections (a) and (b),
9 except that the words "narcotic drug" as used in this act shall not
10 include decocainized coca leaves or extracts of coca leaves, which
11 extracts do not contain cocaine or ecogine.

12 "Opiate" means any dangerous substance having an addiction-
13 forming or addiction-sustaining liability similar to morphine or
14 being capable of conversion into a drug having such addiction-
15 forming or addiction-sustaining liability. It does not include, unless
16 specifically designated as controlled pursuant to the provisions of
17 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
18 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
19 It does include its racemic and levorotatory forms.

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

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

24 "Plant" means an organism having leaves and a readily
25 observable root formation, including, but not limited to, a cutting
26 having roots, a rootball or root hairs.

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

29 "Practitioner" means a physician, dentist, veterinarian, scientific
30 investigator, laboratory, pharmacy, hospital, or other person
31 licensed, registered, or otherwise permitted to distribute, dispense,
32 conduct research with respect to, or administer a controlled
33 dangerous substance or controlled substance analog in the course of
34 professional practice or research in this State.

35 (a) "Physician" means a physician authorized by law to practice
36 medicine in this or any other state and any other person authorized
37 by law to treat sick and injured human beings in this or any other
38 state.

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

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

43 (d) "Hospital" means any federal institution, or any institution
44 for the care and treatment of the sick and injured, operated or
45 approved by the appropriate State department as proper to be
46 entrusted with the custody and professional use of controlled
47 dangerous substances or controlled substance analogs.

1 (e) "Laboratory" means a laboratory to be entrusted with the
2 custody of narcotic drugs and the use of controlled dangerous
3 substances or controlled substance analogs for scientific,
4 experimental, and medical purposes and for purposes of instruction
5 approved by the Department of Health.

6 "Production" includes the manufacture, planting, cultivation,
7 growing, or harvesting of a controlled dangerous substance or
8 controlled substance analog.

9 "Immediate precursor" means a substance which the Division of
10 Consumer Affairs in the Department of Law and Public Safety has
11 found to be and by regulation designates as being the principal
12 compound commonly used or produced primarily for use, and
13 which is an immediate chemical intermediary used or likely to be
14 used in the manufacture of a controlled dangerous substance or
15 controlled substance analog, the control of which is necessary to
16 prevent, curtail, or limit such manufacture.

17 "Residential treatment facility" means any facility licensed and
18 approved by the Department of Human Services and which is
19 approved by any county probation department for the inpatient
20 treatment and rehabilitation of drug or alcohol dependent persons.

21 "Schedules I, II, III, IV, and V" are the schedules set forth in
22 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
23 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
24 by any regulations issued by the Director of the Division of
25 Consumer Affairs in the Department of Law and Public Safety
26 pursuant to the director's authority as provided in section 3 of
27 P.L.1970, c.226 (C.24:21-3).

28 "State" means the State of New Jersey.

29 "Ultimate user" means a person who lawfully possesses a
30 controlled dangerous substance or controlled substance analog for
31 his own use or for the use of a member of his household or for
32 administration to an animal owned by him or by a member of his
33 household.

34 "Prescription legend drug" means any drug which under federal
35 or State law requires dispensing by prescription or order of a
36 licensed physician, veterinarian, or dentist and is required to bear
37 the statement "Rx only" or similar wording indicating that such
38 drug may be sold or dispensed only upon the prescription of a
39 licensed medical practitioner and is not a controlled dangerous
40 substance or stramonium preparation.

41 "Stramonium preparation" means a substance prepared from any
42 part of the stramonium plant in the form of a powder, pipe mixture,
43 cigarette, or any other form with or without other ingredients.

44 "Stramonium plant" means the plant *Datura Stramonium* Linne,
45 including *Datura Tatula* Linne.

46 (cf: P.L.2013, c.35, s.1)

1 29. N.J.S.2C:35-5 is amended to read as follows:

2 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
3 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or
4 P.L. , c. (C.) (pending before the Legislature as this bill), it
5 shall be unlawful for any person knowingly or purposely:

6 (1) To manufacture, distribute or dispense, or to possess or have
7 under his control with intent to manufacture, distribute or dispense,
8 a controlled dangerous substance or controlled substance analog; 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) Heroin, or its analog, or coca leaves and any salt, compound,
14 derivative, or preparation of coca leaves, and any salt, compound,
15 derivative, or preparation thereof which is chemically equivalent or
16 identical with any of these substances, or analogs, except that the
17 substances shall not include decocainized coca leaves or extractions
18 which do not contain cocaine or ecogine, or 3,4-
19 methylenedioxyamphetamine or 3,4-
20 methylenedioxyamphetamine, in a quantity of five ounces or more
21 including any adulterants or dilutants is guilty of a crime of the first
22 degree. The defendant shall, except as provided in N.J.S.2C:35-12,
23 be sentenced to a term of imprisonment by the court. The term of
24 imprisonment shall include the imposition of a minimum term
25 which shall be fixed at, or between, one-third and one-half of the
26 sentence imposed, during which the defendant shall be ineligible for
27 parole. Notwithstanding the provisions of subsection a. of
28 N.J.S.2C:43-3, a fine of up to **【\$500,000.00】** \$500,000 may be
29 imposed;

30 (2) A substance referred to in paragraph (1) of this subsection,
31 in a quantity of one-half ounce or more but less than five ounces,
32 including any adulterants or dilutants is guilty of a crime of the
33 second degree;

34 (3) A substance referred to paragraph (1) of this subsection in a
35 quantity less than one-half ounce including any adulterants or
36 dilutants is guilty of a crime of the third degree except that,
37 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
38 fine of up to **【\$75,000.00】** \$75,000 may be imposed;

39 (4) A substance classified as a narcotic drug in Schedule I or II
40 other than those specifically covered in this section, or the analog of
41 any such substance, in a quantity of one ounce or more including
42 any adulterants or dilutants is guilty of a crime of the second
43 degree;

44 (5) A substance classified as a narcotic drug in Schedule I or II
45 other than those specifically covered in this section, or the analog of
46 any such substance, in a quantity of less than one ounce including
47 any adulterants or dilutants is guilty of a crime of the third degree
48 except that, notwithstanding the provisions of subsection b. of

1 N.J.S.2C:43-3, a fine of up to **【\$75,000.00】** \$75,000 may be
2 imposed;

3 (6) Lysergic acid diethylamide, or its analog, in a quantity of
4 100 milligrams or more including any adulterants or dilutants, or
5 phencyclidine, or its analog, in a quantity of 10 grams or more
6 including any adulterants or dilutants, is guilty of a crime of the
7 first degree. Except as provided in N.J.S.2C:35-12, the court shall
8 impose a term of imprisonment which shall include the imposition
9 of a minimum term, fixed at, or between, one-third and one-half of
10 the sentence imposed by the court, during which the defendant shall
11 be ineligible for parole. Notwithstanding the provisions of
12 subsection a. of N.J.S.2C:43-3, a fine of up to **【\$500,000.00】**
13 \$500,000 may be imposed;

14 (7) Lysergic acid diethylamide, or its analog, in a quantity of
15 less than 100 milligrams including any adulterants or dilutants, or
16 where the amount is undetermined, or phencyclidine, or its analog,
17 in a quantity of less than 10 grams including any adulterants or
18 dilutants, or where the amount is undetermined, is guilty of a crime
19 of the second degree;

20 (8) Methamphetamine, or its analog, or phenyl-2-propanone
21 (P2P), in a quantity of five ounces or more including any
22 adulterants or dilutants is guilty of a crime of the first degree.
23 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a
24 fine of up to **【\$300,000.00】** \$300,000 may be imposed;

25 (9) (a) Methamphetamine, or its analog, or phenyl-2-propanone
26 (P2P), in a quantity of one-half ounce or more but less than five
27 ounces including any adulterants or dilutants is guilty of a crime of
28 the second degree;

29 (b) Methamphetamine, or its analog, or phenyl-2-propanone
30 (P2P), in a quantity of less than one-half ounce including any
31 adulterants or dilutants is guilty of a crime of the third degree
32 except that notwithstanding the provisions of subsection b. of
33 N.J.S.2C:43-3, a fine of up to **【\$75,000.00】** \$75,000 may be
34 imposed;

35 (10) (a) Marijuana in a quantity of 25 pounds or more
36 including any adulterants or dilutants, or 50 or more marijuana
37 plants, regardless of weight, or hashish in a quantity of five pounds
38 or more including any adulterants or dilutants, is guilty of a crime
39 of the first degree. Notwithstanding the provisions of subsection a.
40 of N.J.S.2C:43-3, a fine of up to **【\$300,000.00】** \$300,000 may be
41 imposed;

42 (b) Marijuana in a quantity of five pounds or more but less than
43 25 pounds including any adulterants or dilutants, or 10 or more but
44 fewer than 50 marijuana plants, regardless of weight, or hashish in a
45 quantity of one pound or more but less than five pounds, including
46 any adulterants and dilutants, is guilty of a crime of the second
47 degree;

1 (11) Marijuana in a quantity of one ounce or more but less than
2 five pounds including any adulterants or dilutants, or hashish in a
3 quantity of five grams or more but less than one pound including
4 any adulterants or dilutants, is guilty of a crime of the third degree
5 except that, notwithstanding the provisions of subsection b. of
6 N.J.S.2C:43-3, a fine of up to ~~【\$25,000.00】~~ \$25,000 may be
7 imposed;

8 (12) ~~【Marijuana in a quantity of less than one ounce including~~
9 ~~any adulterants or dilutants, or hashish in a quantity of less than five~~
10 ~~grams including any adulterants or dilutants, is guilty of a crime of~~
11 ~~the fourth degree;】~~ (Deleted by amendment, P.L. c.) (pending
12 before the Legislature as this bill)

13 (13) Any other controlled dangerous substance classified in
14 Schedule I, II, III or IV, or its analog, is guilty of a crime of the
15 third degree, except that, notwithstanding the provisions of
16 subsection b. of N.J.S.2C:43-3, a fine of up to ~~【\$25,000.00】~~
17 \$25,000 may be imposed; or

18 (14) Any Schedule V substance, or its analog, is guilty of a
19 crime of the fourth degree except that, notwithstanding the
20 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
21 ~~【\$25,000.00】~~ \$25,000 may be imposed.

22 c. Where the degree of the offense for violation of this section
23 depends on the quantity of the substance, the quantity involved
24 shall be determined by the trier of fact. Where the indictment or
25 accusation so provides, the quantity involved in individual acts of
26 manufacturing, distribution, dispensing or possessing with intent to
27 distribute may be aggregated in determining the grade of the
28 offense, whether distribution or dispensing is to the same person or
29 several persons, provided that each individual act of manufacturing,
30 distribution, dispensing or possession with intent to distribute was
31 committed within the applicable statute of limitations.

32 (cf: P.L.2000, c.136)

33
34 30. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read
35 as follows:

36 1. Except as authorized by P.L. , c. (C.) (pending before the
37 Legislature as this bill):

38 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
39 distributing, dispensing or possessing with intent to distribute a
40 controlled dangerous substance or controlled substance analog
41 while on any school property used for school purposes which is
42 owned by or leased to any elementary or secondary school or school
43 board, or within 1,000 feet of such school property or a school bus,
44 or while on any school bus, is guilty of a crime of the third degree
45 and shall, except as provided in N.J.S.2C:35-12, be sentenced by
46 the court to a term of imprisonment. Where the violation involves
47 less than one ounce of marijuana, the term of imprisonment shall

1 include the imposition of a minimum term which shall be fixed at,
2 or between, one-third and one-half of the sentence imposed, or one
3 year, whichever is greater, during which the defendant shall be
4 ineligible for parole. In all other cases, the term of imprisonment
5 shall include the imposition of a minimum term which shall be
6 fixed at, or between, one-third and one-half of the sentence
7 imposed, or three years, whichever is greater, during which the
8 defendant shall be ineligible for parole. Notwithstanding the
9 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
10 \$150,000 may also be imposed upon any conviction for a violation
11 of this section.

12 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or
13 subsection a. of this section, the court may waive or reduce the
14 minimum term of parole ineligibility required under subsection a. of
15 this section or place the defendant on probation pursuant to
16 paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this
17 determination, the court shall consider:

18 (a) the extent of the defendant's prior criminal record and the
19 seriousness of the offenses for which the defendant has been
20 convicted;

21 (b) the specific location of the present offense in relation to the
22 school property, including distance from the school and the
23 reasonable likelihood of exposing children to drug-related activities
24 at that location;

25 (c) whether school was in session at the time of the offense; and

26 (d) whether children were present at or in the immediate vicinity
27 of the location when the offense took place.

28 (2) The court shall not waive or reduce the minimum term of
29 parole ineligibility or sentence the defendant to probation if it finds
30 that:

31 (a) the offense took place while on any school property used for
32 school purposes which is owned by or leased to any elementary or
33 secondary school or school board, or while on any school bus; or

34 (b) the defendant in the course of committing the offense used
35 or threatened violence or was in possession of a firearm.

36 If the court at sentencing elects not to impose a minimum term of
37 imprisonment and parole ineligibility pursuant to this subsection,
38 imposes a term of parole ineligibility less than the minimum term
39 prescribed in subsection a. of this section, or places the defendant
40 on probation for a violation of subsection a. of this section, the
41 sentence shall not become final for 10 days in order to permit the
42 prosecution to appeal the court's finding and the sentence imposed.
43 The Attorney General shall develop guidelines to ensure the
44 uniform exercise of discretion in making determinations regarding
45 whether to appeal a decision to waive or reduce the minimum term
46 of parole ineligibility or place the defendant on probation.

47 Nothing in this subsection shall be construed to establish a basis
48 for overcoming a presumption of imprisonment authorized or

1 required by subsection d. of N.J.S.2C:44-1, or a basis for not
2 imposing a term of imprisonment or term of parole ineligibility
3 authorized or required to be imposed pursuant to subsection f. of
4 N.J.S.2C:43-6 or upon conviction for a crime other than the offense
5 set forth in this subsection.

6 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
7 provisions of law, a conviction arising under this section shall not
8 merge with a conviction for a violation of subsection a. of
9 N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or
10 N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

11 d. It shall be no defense to a prosecution for a violation of this
12 section that the actor was unaware that the prohibited conduct took
13 place while on or within 1,000 feet of any school property. Nor
14 shall it be a defense to a prosecution under this section, or under
15 any other provision of this title, that no juveniles were present on
16 the school property at the time of the offense or that the school was
17 not in session.

18 e. It is an affirmative defense to prosecution for a violation of
19 this section that the prohibited conduct took place entirely within a
20 private residence, that no person 17 years of age or younger was
21 present in such private residence at any time during the commission
22 of the offense, and that the prohibited conduct did not involve
23 distributing, dispensing or possessing with the intent to distribute or
24 dispense any controlled dangerous substance or controlled
25 substance analog for profit. The affirmative defense established in
26 this section shall be proved by the defendant by a preponderance of
27 the evidence. Nothing herein shall be construed to establish an
28 affirmative defense with respect to a prosecution for an offense
29 defined in any other section of this chapter.

30 f. In a prosecution under this section, a map produced or
31 reproduced by any municipal or county engineer for the purpose of
32 depicting the location and boundaries of the area on or within 1,000
33 feet of any property used for school purposes which is owned by or
34 leased to any elementary or secondary school or school board, or a
35 true copy of such a map, shall, upon proper authentication, be
36 admissible and shall constitute prima facie evidence of the location
37 and boundaries of those areas, provided that the governing body of
38 the municipality or county has adopted a resolution or ordinance
39 approving the map as official finding and record of the location and
40 boundaries of the area or areas on or within 1,000 feet of the school
41 property. Any map approved pursuant to this section may be
42 changed from time to time by the governing body of the
43 municipality or county. The original of every map approved or
44 revised pursuant to this section, or a true copy thereof, shall be filed
45 with the clerk of the municipality or county, and shall be
46 maintained as an official record of the municipality or county.
47 Nothing in this section shall be construed to preclude the
48 prosecution from introducing or relying upon any other evidence or

1 testimony to establish any element of this offense; nor shall this
2 section be construed to preclude the use or admissibility of any map
3 or diagram other than one which has been approved by the
4 governing body of a municipality or county, provided that the map
5 or diagram is otherwise admissible pursuant to the Rules of
6 Evidence.

7 (cf: P.L.2009, c.192, s.1)

8

9 31. Section 1 of P.L.1997, c.327 (C.2C:35-7.1) is amended to
10 read as follows:

11 1. Except as authorized by P.L. , c. (C.) (pending before the
12 Legislature as this bill):

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

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

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

32 d. It is an affirmative defense to prosecution for a violation of
33 this section that the prohibited conduct did not involve distributing,
34 dispensing or possessing with the intent to distribute or dispense
35 any controlled dangerous substance or controlled substance analog
36 for profit, and that the prohibited conduct did not involve
37 distribution to a person 17 years of age or younger. The affirmative
38 defense established in this section shall be proved by the defendant
39 by a preponderance of the evidence. Nothing herein shall be
40 construed to establish an affirmative defense with respect to a
41 prosecution for an offense defined in any other section of this
42 chapter.

43 e. In a prosecution under this section, a map produced or
44 reproduced by any municipal or county engineer for the purpose of
45 depicting the location and boundaries of the area on or within 500
46 feet of a public housing facility which is owned by or leased to a
47 housing authority according to the "Local Redevelopment and
48 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or

1 within 500 feet of a public park, or the area in or within 500 feet of
2 a public building, or a true copy of such a map, shall, upon proper
3 authentication, be admissible and shall constitute prima facie
4 evidence of the location and boundaries of those areas, provided
5 that the governing body of the municipality or county has adopted a
6 resolution or ordinance approving the map as official finding and
7 record of the location and boundaries of the area or areas on or
8 within 500 feet of a public housing facility, a public park, or a
9 public building. Any map approved pursuant to this section may be
10 changed from time to time by the governing body of the
11 municipality or county. The original of every map approved or
12 revised pursuant to this section, or a true copy thereof, shall be filed
13 with the clerk of the municipality or county, and shall be
14 maintained as an official record of the municipality or county.
15 Nothing in this section shall be construed to preclude the
16 prosecution from introducing or relying upon any other evidence or
17 testimony to establish any element of this offense; nor shall this
18 section be construed to preclude the use or admissibility of any map
19 or diagram other than one which has been approved by the
20 governing body of a municipality or county, provided that the map
21 or diagram is otherwise admissible pursuant to the Rules of
22 Evidence.

23 f. As used in this act:

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

31 "Public park" means a park, recreation facility or area or
32 playground owned or controlled by a State, county or local
33 government unit.

34 "Public building" means any publicly owned or leased library or
35 museum.

36 (cf: P.L.1997, c.327, s.1)

37

38 32. N.J.S.2C:35-10 is amended to read as follows:

39 2C:35-10. Possession, Use or Being Under the Influence, or
40 Failure to Make Lawful Disposition.

41 a. It is unlawful for any person, knowingly or purposely, to
42 obtain, or to possess, actually or constructively, a controlled
43 dangerous substance or controlled substance analog, unless the
44 substance was obtained directly, or pursuant to a valid prescription
45 or order form from a practitioner, while acting in the course of his
46 professional practice, or except as otherwise authorized by
47 P.L.1970, c.226 (C.24:21-1 et seq.), or except as authorized by

- 1 P.L. , c. (C.) (pending before the Legislature as this bill).
2 Any person who violates this section with respect to:
- 3 (1) A controlled dangerous substance, or its analog, classified in
4 Schedule I, II, III or IV other than those specifically covered in this
5 section, is guilty of a crime of the third degree except that,
6 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
7 fine of up to **[\$35,000.00]** \$35,000 may be imposed;
- 8 (2) Any controlled dangerous substance, or its analog, classified
9 in Schedule V, is guilty of a crime of the fourth degree except that,
10 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
11 fine of up to **[\$15,000.00]** \$15,000 may be imposed;
- 12 (3) Possession of **[more than]** 50 grams or more of marijuana,
13 including any adulterants or dilutants, or more than five grams of
14 hashish is guilty of a crime of the fourth degree, except that,
15 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
16 fine of up to **[\$25,000.00]** \$25,000 may be imposed; or
- 17 (4) Possession of **[50 grams or less]** more than one ounce
18 (28.38 grams) but less than 50 grams, of marijuana, including any
19 adulterants or dilutants, **[or five grams or less of hashish]** is a
20 disorderly person.
- 21 b. Any person who uses or who is under the influence of any
22 controlled dangerous substance, or its analog, for a purpose other
23 than the treatment of sickness or injury as lawfully prescribed or
24 administered by a physician is a disorderly person.
- 25 In a prosecution under this subsection, it shall not be necessary
26 for the State to prove that the accused did use or was under the
27 influence of any specific drug, but it shall be sufficient for a
28 conviction under this subsection for the State to prove that the
29 accused did use or was under the influence of some controlled
30 dangerous substance, counterfeit controlled dangerous substance, or
31 controlled substance analog, by proving that the accused did
32 manifest physical and physiological symptoms or reactions caused
33 by the use of any controlled dangerous substance or controlled
34 substance analog.
- 35 c. Any person who knowingly obtains or possesses a controlled
36 dangerous substance or controlled substance analog in violation of
37 subsection a. of this section and who fails to voluntarily deliver the
38 substance to the nearest law enforcement officer is guilty of a
39 disorderly persons offense. Nothing in this subsection shall be
40 construed to preclude a prosecution or conviction for any other
41 offense defined in this title or any other statute.
- 42 (cf: P.L.1997, c.181, s.6)
- 43
- 44 33. N.J.S 2C:36-1 is amended to read as follows:
45 2C:36-1. Drug paraphernalia, defined; determination.
46 **[As]** Except as authorized by P.L. c. (C.) (pending before
47 the Legislature as this bill), as used in this act, "drug paraphernalia"

1 means all equipment, products and materials of any kind which are
2 used or intended for use in planting, propagating, cultivating,
3 growing, harvesting, manufacturing, compounding, converting,
4 producing, processing, preparing, testing, analyzing, packaging,
5 repackaging, storing, containing, concealing, ingesting, inhaling, or
6 otherwise introducing into the human body a controlled dangerous
7 substance, controlled substance analog or toxic chemical in
8 violation of the provisions of chapter 35 of this title. It shall
9 include, but not be limited to: a. kits used or intended for use in
10 planting, propagating, cultivating, growing or harvesting of any
11 species of plant which is a controlled dangerous substance or from
12 which a controlled dangerous substance can be derived; b. kits used
13 or intended for use in manufacturing, compounding, converting,
14 producing, processing, or preparing controlled dangerous
15 substances or controlled substance analogs; c. isomerization devices
16 used or intended for use in increasing the potency of any species of
17 plant which is a controlled dangerous substance; d. testing
18 equipment used or intended for use identifying, or in analyzing the
19 strength, effectiveness or purity of controlled dangerous substances
20 or controlled substance analogs; e. scales and balances used or
21 intended for use in weighing or measuring controlled dangerous
22 substances or controlled substance analogs; f. dilutants and
23 adulterants, such as quinine hydrochloride, mannitol, mannite,
24 dextrose and lactose, used or intended for use in cutting controlled
25 dangerous substances or controlled substance analogs; g.
26 **【**separation gins and sifters used or intended for use in removing
27 twigs and seeds from, or in otherwise cleaning or refining,
28 marihuana;**】** h. blenders, bowls, containers, spoons and mixing
29 devices used or intended for use in compounding controlled
30 dangerous substances or controlled substance analogs; i. capsules,
31 balloons, envelopes and other containers used or intended for use in
32 packaging small quantities of controlled dangerous substances or
33 controlled substance analogs; j. containers and other objects used or
34 intended for use in storing or concealing controlled dangerous
35 substances, controlled substance analogs or toxic chemicals; k.
36 objects used or intended for use in ingesting, inhaling, or otherwise
37 introducing **【**marihuana,**】** cocaine, **【**hashish, hashish oil,**】** nitrous
38 oxide or the fumes of a toxic chemical into the human body, such
39 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
40 with or without screens, permanent screens, **【**hashish heads,**】** or
41 punctured metal bowls; (2) **【**water pipes; (3)**】** carburetion tubes and
42 devices; **【**(4)**】** (3) smoking and carburetion masks; **【**(5)**】** roach clips,
43 meaning objects used to hold burning material, such as a marihuana
44 cigarette, that has become too small or too short to be held in the
45 hand; (6)**】** (4) miniature cocaine spoons, and cocaine vials; **【**(7)**】**
46 (5) chamber pipes; **【**(8)**】** (6) carburetor pipes; **【**(9)**】** (7) electric
47 pipes; **【**(10)**】** (8) air-driven pipes; **【**(11)**】** (9) chillums; **【**(12)**】** (10)

1 bongs; **[(13)]** (11) ice pipes or chillers; **[(14)]** (12) compressed gas
2 containers, such as tanks, cartridges or canisters, that contain food
3 grade or pharmaceutical grade nitrous oxide as a principal
4 ingredient; **[(15)]** (13) chargers or charging bottles, meaning metal,
5 ceramic or plastic devices that contain an interior pin that may be
6 used to expel compressed gas from a cartridge or canister; and
7 **[(16)]** (14) tubes, balloons, bags, fabrics, bottles or other containers
8 used to concentrate or hold in suspension a toxic chemical or the
9 fumes of a toxic chemical.

10 In determining whether or not an object is drug paraphernalia,
11 the trier of fact, in addition to or as part of the proofs, may consider
12 the following factors: a. statements by an owner or by anyone in
13 control of the object concerning its use; b. the proximity of the
14 object of illegally possessed controlled dangerous substances,
15 controlled substance analogs or toxic chemicals; c. the existence of
16 any residue of illegally possessed controlled dangerous substances,
17 controlled substance analogs or toxic chemicals on the object; d.
18 direct or circumstantial evidence of the intent of an owner, or of
19 anyone in control of the object, to deliver it to persons whom he
20 knows intend to use the object to facilitate a violation of this act;
21 the innocence of an owner, or of anyone in control of the object, as
22 to a direct violation of this act shall not prevent a finding that the
23 object is intended for use as drug paraphernalia; e. instructions, oral
24 or written, provided with the object concerning its use; f.
25 descriptive materials accompanying the object which explain or
26 depict its use; g. national or local advertising whose purpose the
27 person knows or should know is to promote the sale of objects
28 intended for use as drug paraphernalia; h. the manner in which the
29 object is displayed for sale; i. the existence and scope of legitimate
30 uses for the object in the community; and j. expert testimony
31 concerning its use.

32 (cf: P.L.2007, c.31, s.2)

33

34 34. Section 1 of P.L. 1964, c.289, (C.39:4-49.1) is amended to
35 read as follows:

36 **[No]** Except as authorized by P.L.2009, c.307 (C.24:6I-1 et al.),
37 P.L.2015, c.158 (C.18A:40-12.22 et al.), and P.L. , c. (C.)
38 (pending before the Legislature as this bill), no person shall operate
39 a motor vehicle on any highway while knowingly having in his
40 possession or in the motor vehicle any controlled dangerous
41 substance as classified in Schedules I, II, III, IV and V of the "New
42 Jersey Controlled Dangerous Substances Act," P.L. 1970, c. 226
43 (C. 24:21-1 et seq.) or any prescription legend drug, unless the
44 person has obtained the substance or drug from, or on a valid
45 written prescription of, a duly licensed physician, veterinarian,
46 dentist or other medical practitioner licensed to write prescriptions
47 intended for the treatment or prevention of disease in man or
48 animals or unless the person possesses a controlled dangerous

1 substance pursuant to a lawful order of a practitioner or lawfully
2 possesses a Schedule V substance.

3 A person who violates this section shall be fined not less than
4 ~~【\$50.00】~~ \$50 and shall forthwith forfeit his right to operate a motor
5 vehicle for a period of two years from the date of his conviction.

6 (cf: P.L.1985, c. 239, s.1)

7

8 35. (New section) Consumer Protections.

9 a. Individuals and licensed marijuana establishments shall not
10 be subject to arrest, prosecution, or penalty in any manner, or
11 denied any right or privilege, including but not limited to civil
12 liability or disciplinary action by a business, occupational, or
13 professional licensing board or bureau, solely for conduct permitted
14 under P.L. , c. (C.) (pending before the Legislature as this
15 bill).

16 b. The presence of cannabinoid metabolites in the bodily fluids
17 of a person engaged in conduct permitted under P.L. , c. (C.)
18 (pending before the Legislature as this bill) by the following:

19 (1) a student, employee, or tenant, shall not form the basis for
20 refusal to enroll or employ or lease to or otherwise penalize that
21 person, unless failing to do so would put the school, employer, or
22 landlord in violation of federal law or cause it to lose a federal
23 contract or funding; and

24 (2) a patient shall not constitute the use of an illicit substance
25 resulting in denial of medical care, including organ transplant, and a
26 patient's use of marijuana may only be considered with respect to
27 evidence-based clinical criteria;

28 (3) a parent or legal guardian of a child or newborn infant, or a
29 pregnant woman shall not form the sole or primary basis for any
30 action or proceeding by the Division of Child Protection and
31 Permanency, or any successor agencies.

32

33 36. (New section) a. Law enforcement agencies in New
34 Jersey shall not cooperate with or provide assistance to the
35 government of the United States or any agency thereof in enforcing
36 the Controlled Substances Act, 21 U.S.C. 801 et seq., solely for
37 actions consistent with P.L. , c. (C.) (pending before the
38 Legislature as this bill), except pursuant to a valid court order.

39 b. No agency or subdivision of an agency of the State of New
40 Jersey may refuse to perform any duty under
41 P.L. , c. (C.) (pending before the Legislature as this bill) on
42 the basis that manufacturing, distributing, dispensing, possessing, or
43 using marijuana is prohibited by federal law.

44 c. The division may not revoke or refuse to issue or renew a
45 license pursuant to P.L. , c. (C.) (pending before the
46 Legislature as this bill) on the basis that manufacturing,
47 distributing, dispensing, possessing, or using marijuana is
48 prohibited by federal law.

1 37. (New section) Contract Enforceability.

2 No contract shall be unenforceable on the basis that
3 manufacturing, distributing, dispensing, possessing, or using
4 marijuana is prohibited by federal law. No contract entered into by
5 a licensee, its employees, or its agents as permitted pursuant to a
6 valid license issued by the division, or by those who allow property
7 to be used by a licensee, its employees, or its agents as permitted
8 pursuant to a valid license issued by the division, shall be deemed
9 unenforceable on the basis that the actions or conduct permitted
10 pursuant to the license are prohibited by federal law.

11

12 38. (New section) Criminal Investigation.

13 a. None of the following shall, individually or in combination,
14 constitute reasonable articulable suspicion of a crime:

15 (1) The odor of marijuana or burnt marijuana;

16 (2) The possession of or the suspicion of possession of
17 marijuana without evidence of quantity in excess of one ounce; or

18 (3) The possession of marijuana without evidence of quantity in
19 excess of one ounce in proximity to any amount of cash or
20 currency.

21 b. Subsection a. of this section shall not apply when a law
22 enforcement officer is investigating whether a person is driving
23 under the influence of marijuana or driving while impaired by
24 marijuana in violation of R.S.39:4-50.

25

26 39. (New section) Marijuana Control and Regulation Fund.

27 All fees, penalties and tax revenues collected by the Director of the
28 Division of Marijuana Enforcement pursuant to the provisions of
29 P.L. , c. (C.) (pending before the Legislature as this bill) shall
30 be forwarded to the State Treasurer for deposit in a special
31 nonlapsing fund which shall be known as the "Marijuana Control
32 and Regulation Fund." Monies in the fund shall be used
33 exclusively for the operation of the Division of Marijuana
34 Enforcement and for reimbursement of all additional costs of
35 enforcement of the provisions of P.L. , c. (C.) (pending before
36 the Legislature as this bill) incurred by the Department of the
37 Treasury.

38

39 40. (New section) Marijuana Regulation Review Commission.

40 a. The Marijuana Regulation Review Commission shall consist
41 of one member appointed by the Governor, one member appointed
42 by the President of the Senate who shall be a member of the Senate,
43 and one member appointed by the Speaker of the General Assembly
44 who shall be a member of the General Assembly. The presiding
45 officer of the commission shall be determined by the members. The
46 members of the commission shall serve without pay in connection
47 with all such duties as are prescribed in P.L. , c. (C.) (pending
48 before the Legislature as this bill).

1 b. The commission shall call upon the Department of the
2 Treasury to assist in any staff or clerical functions of the
3 commission.

4 c. All meetings of the commission shall be open to the public
5 and all the business of the commission shall be transacted at public
6 meetings held at such time and place as the commission shall
7 prescribe. The commission shall meet at such times as determined
8 by the chairperson of the commission.

9 The secretary shall transmit to each member of the commission a
10 copy of the minutes of each meeting within 24 hours after the
11 adjournment thereof. The minutes of the commission shall be open
12 to inspection by any citizen of the State at all times during business
13 hours.

14 d. The commission shall formulate and adopt rules of
15 procedure for the commission in exercising its powers and fulfilling
16 its duties under P.L. , c. (C.) (pending before the Legislature
17 as this bill).

18 e. The concurrence of two of the members of the commission
19 shall be necessary to validate all acts of the commission.

20 f. The commission shall make an annual detailed report of its
21 actions and operations to the Legislature and render such other
22 reports to the Legislature, pursuant to section 2 of P.L.1991, c.164
23 (C.52:14-19.1), as it shall from time to time require.

24 g. The Marijuana Regulation Review Commission shall review
25 and approve regulations developed by the division pursuant to
26 P.L. , c. (C.) (pending before the Legislature as this bill) and
27 may require regulations as deemed necessary. The commission shall
28 have such other and further powers and perform such other and
29 further duties as may be conferred or imposed upon it from time to
30 time by the Legislature.

31

32 41. (New section) Possession of up to one ounce of marijuana
33 shall constitute a civil violation not subject to arrest, and limited to
34 a fine of up to \$100, notwithstanding the provisions of
35 N.J.S. 2C:35-10

36

37 42. (New section) Retail Marijuana Consumption area. a. A
38 local governmental entity may authorize the operation of retail
39 marijuana consumption areas within its jurisdiction through the
40 enactment of an ordinance.

41 b. (1) If a local governmental entity authorizes the operation
42 of retail marijuana consumption areas, it may adopt an approval
43 requirement that complies with the requirements of
44 P.L. , c. (C.) (pending before the Legislature as this bill). The
45 local governmental entity may require additional or more stringent
46 requirements than those provided in this section.

47 (2) Notwithstanding the provisions of this subsection, a local
48 governmental entity shall not allow a retail marijuana consumption

1 area endorsement to a marijuana retailer that is within 1,000 feet of
2 a boundary with an adjoining jurisdiction that does not permit retail
3 marijuana establishments in its boundaries.

4 c. The division may issue a retail marijuana consumption area
5 endorsement only to a marijuana retail licensee to sell retail
6 marijuana, retail concentrate, or retail marijuana products for on-
7 premises consumption.

8 d. Applications for an endorsement pursuant to this section
9 shall be made to the division on forms prepared and furnished by
10 the division and shall set forth such information as division may
11 require. The information shall include the name and address of the
12 applicant, the address of the licensed marijuana retail store and the
13 endorsed premises, and any other information requested by the
14 division. Each application shall be verified by the oath or
15 affirmation of such person or persons as the division may prescribe.
16 The endorsement is conditioned upon approval by a local
17 governmental entity. An applicant is prohibited from operating a
18 retail marijuana consumption area without State and local licensing
19 authority. If the applicant does not receive approval from the local
20 governmental entity within one year from the date of State licensing
21 approval, the State endorsement expires and may not be renewed.
22 If an application is denied by the local governmental entity or the
23 approval of the local governmental entity is revoked, the division
24 shall revoke the State endorsement.

25 e. The division shall deny a State endorsement if the premises
26 on which the applicant proposes to conduct its business does not
27 meet the requirements of P.L. , c. (C.) (pending before the
28 Legislature as this bill) or for reasons set forth in this section. The
29 division may revoke or deny an endorsement renewal or
30 reinstatement or an initial endorsement for good cause.

31 For purposes of this subsection "good cause" means:

32 (1) the endorsed licensee or applicant has violated, does not
33 meet, or has failed to comply with any of the terms, conditions, or
34 provisions of this section, any rules promulgated pursuant to this
35 section, or any supplemental local law, rules, or regulations;

36 (2) the endorsed licensee or applicant has failed to comply with
37 any special terms or conditions that were placed on its endorsement
38 pursuant to an order of the State or local licensing authority; or

39 (3) the premises have been operated in a manner that adversely
40 affects the public health or the safety of the immediate
41 neighborhood in which the establishment is located.

42 f. The retail marijuana consumption area endorsement is valid
43 for one year and may be renewed annually upon the renewal of the
44 retail marijuana store license. The division shall establish by rule
45 the amount of the application fee and renewal fee for the
46 endorsement.

- 1 g. The division shall maintain a list of all retail marijuana
2 consumption areas in the State and shall make the list available on
3 its website.
- 4 h. Except as otherwise specified, all requirements of the
5 marijuana retail store apply to the retail marijuana consumption
6 area.
- 7 i. A retail marijuana consumption establishment shall be
8 subject to the provisions of P.L.2005, c.383 (C.26:3D-55 et al.) the
9 “New Jersey Smoke-Free Air Act.”
- 10 j. An endorsed licensee and its employees shall not:
- 11 (1) permit a person to bring medical or retail marijuana, medical
12 or retail marijuana concentrate, a medical marijuana-infused
13 product, or a retail marijuana product into a retail marijuana
14 consumption area;
- 15 (2) sell alcohol, including fermented malt beverages or malt,
16 vinous, or spirituous liquor, sell tobacco or nicotine products, or
17 allow the consumption of alcohol or tobacco or nicotine products on
18 premises;
- 19 (3) operate as a retail food establishment;
- 20 (4) allow on-duty employees of the establishment to consume
21 any medical or retail marijuana, medical or retail marijuana
22 concentrate, medical marijuana-infused products, or retail
23 marijuana products in the establishment; or
- 24 (5) allow distribution of free samples of medical or retail
25 marijuana, medical or retail marijuana concentrate, medical
26 marijuana-infused products, or retail marijuana products in the
27 establishment.
- 28 k. A retail marijuana consumption area and its employees shall
29 admit into the establishment only patrons who are at least 21 years
30 of age.
- 31 l. (1) A retail marijuana consumption area shall limit a
32 patron to one transaction of no more than the sales limit set by the
33 division. A retail marijuana consumption area shall not engage in
34 multiple sales transactions to the same patron during the same
35 business day when the establishment's employee knows or
36 reasonably should have known that the sales transaction would
37 result in the patron possessing more than the sales limit established
38 by the division. A patron may leave the establishment with product
39 that he does not consume only if, prior to leaving the premises, the
40 retail marijuana, retail marijuana concentrate, or retail marijuana
41 product is packaged and labeled pursuant to the requirements of
42 P.L. , c. (C.) (pending before the Legislature as this bill).
- 43 (2) When a patron leaves a retail marijuana consumption area,
44 the establishment shall destroy any remaining unconsumed retail
45 marijuana, retail marijuana concentrate, or retail marijuana products
46 that are not taken by a patron pursuant to this subsection.
- 47 m. A retail marijuana consumption area and its employees:

1 (1) shall operate the establishment in a decent, orderly, and
2 respectable manner and shall not serve any patron who displays any
3 visible signs of intoxication;

4 (2) may remove an individual from the establishment for any
5 reason, including a patron who displays any visible signs of
6 intoxication;

7 (3) shall not knowingly permit any activity or acts of disorderly
8 conduct;

9 (4) shall not permit rowdiness, undue noise, or other
10 disturbances or activity offensive to the average citizen or to the
11 residents of the neighborhood in which the licensed establishment is
12 located; and

13 (5) shall not allow the use of any device using any liquid
14 petroleum gas, a butane torch, a butane lighter, or matches in the
15 establishment.

16 n. A retail marijuana consumption area and all of its employees
17 who work at the endorsed premises shall successfully complete an
18 annual responsible vendor training program.

19 o. A retail marijuana consumption area shall provide
20 information regarding the safe consumption of retail marijuana,
21 retail marijuana concentrate, or a retail marijuana product at the
22 point of sale to all patrons who purchase such a product. The
23 requirements for such information shall be established by the
24 division, established pursuant to P.L. ,c. (C.) (pending
25 before the Legislature as this bill). The content of the information
26 on health and safety shall be based on the relevant research from the
27 panel of health care professionals appointed pursuant to
28 P.L. ,c. (C.) (pending before the Legislature as this bill).

29 p. A local governmental entity may require information
30 regarding the safe consumption of retail marijuana concentrate or a
31 retail marijuana product in addition to that required by this section.

32 q. The information required by this section shall be maintained
33 on the endorsed premises for inspection by State and local licensing
34 authorities and law enforcement.

35 r. The establishment shall ensure that the display and
36 consumption of any retail marijuana, retail marijuana concentrate,
37 or retail marijuana product is not visible from outside of the
38 establishment.

39 s. If an emergency requires law enforcement, firefighters,
40 emergency medical services providers, or other public safety
41 personnel to enter a retail marijuana consumption area, employees
42 of the establishment shall cease all on-site sales and prohibit on-site
43 consumption until such personnel have completed their
44 investigation or services and have left the premises.

45

46 43. Section 3 of P.L.2005, c.383 (C.26:3D-57) is amended to
47 read as follows:

48 3. As used in this act:

1 "Bar" means a business establishment or any portion of a
2 nonprofit entity, which is devoted to the selling and serving of
3 alcoholic beverages for consumption by the public, guests, patrons
4 or members on the premises and in which the serving of food, if
5 served at all, is only incidental to the sale or consumption of such
6 beverages.

7 "Cigar bar" means any bar, or area within a bar, designated
8 specifically for the smoking of tobacco products, purchased on the
9 premises or elsewhere; except that a cigar bar that is in an area
10 within a bar shall be an area enclosed by solid walls or windows, a
11 ceiling and a solid door and equipped with a ventilation system
12 which is separately exhausted from the nonsmoking areas of the bar
13 so that air from the smoking area is not recirculated to the
14 nonsmoking areas and smoke is not backstreamed into the
15 nonsmoking areas.

16 "Cigar lounge" means any establishment, or area within an
17 establishment, designated specifically for the smoking of tobacco
18 products, purchased on the premises or elsewhere; except that a
19 cigar lounge that is in an area within an establishment shall be an
20 area enclosed by solid walls or windows, a ceiling and a solid door
21 and equipped with a ventilation system which is separately
22 exhausted from the nonsmoking areas of the establishment so that
23 air from the smoking area is not recirculated to the nonsmoking
24 areas and smoke is not backstreamed into the nonsmoking areas.

25 "Electronic smoking device" means an electronic device that can
26 be used to deliver nicotine or other substances to the person
27 inhaling from the device, including, but not limited to, an electronic
28 cigarette, cigar, cigarillo, or pipe.

29 "Indoor public place" means a structurally enclosed place of
30 business, commerce or other service-related activity, whether
31 publicly or privately owned or operated on a for-profit or nonprofit
32 basis, which is generally accessible to the public, including, but not
33 limited to: a commercial or other office building; office or building
34 owned, leased or rented by the State or by a county or municipal
35 government; public and nonpublic elementary or secondary school
36 building; board of education building; theater or concert hall; public
37 library; museum or art gallery; bar; restaurant or other
38 establishment where the principal business is the sale of food for
39 consumption on the premises, including the bar area of the
40 establishment; garage or parking facility; any public conveyance
41 operated on land or water, or in the air, and passenger waiting
42 rooms and platform areas in any stations or terminals thereof; health
43 care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
44 seq.); patient waiting room of the office of a health care provider
45 licensed pursuant to Title 45 of the Revised Statutes; child care
46 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.);
47 race track facility; facility used for the holding of sporting events;
48 ambulatory recreational facility; shopping mall or retail store; hotel,

1 motel or other lodging establishment; apartment building lobby or
2 other public area in an otherwise private building; or a passenger
3 elevator in a building other than a single-family dwelling.

4 “Retail marijuana consumption area” means any area in a
5 marijuana retail establishment, pursuant to section 42 of
6 P.L. , c. (C.) (pending before the Legislature as this bill),
7 designated specifically for the smoking of marijuana purchased on
8 the premises; provided that the area shall be enclosed by solid walls
9 or windows, a ceiling and a solid door and equipped with a
10 ventilation system which is separately exhausted from the
11 nonsmoking areas of the establishment so that air from the smoking
12 area is not recirculated to the nonsmoking area and smoke is not
13 backstreamed into the nonsmoking areas.

14 "Person having control of an indoor public place or workplace"
15 means the owner or operator of a commercial or other office
16 building or other indoor public place from whom a workplace or
17 space within the building or indoor public place is leased.

18 "Smoking" means the burning of, inhaling from, exhaling the
19 smoke from, or the possession of a lighted cigar, cigarette, pipe or
20 any other matter or substance which contains tobacco or any other
21 matter that can be smoked, or the inhaling or exhaling of smoke or
22 vapor from an electronic smoking device.

23 "Tobacco retail establishment" means an establishment in which
24 at least 51% of retail business is the sale of tobacco products and
25 accessories, and in which the sale of other products is merely
26 incidental.

27 "Workplace" means a structurally enclosed location or portion
28 thereof at which a person performs any type of service or labor.
29 (cf: P.L.2009, c.182, s.2)

30

31 44. Section 5 of P.L.2005, c.383 (C.26:3D-59) is amended to
32 read as follows:

33 5. The provisions of this act shall not apply to:

34 a. any cigar bar or cigar lounge that, in the calendar year
35 ending December 31, 2004, generated 15% or more of its total
36 annual gross income from the on-site sale of tobacco products and
37 the rental of on-site humidors, not including any sales from vending
38 machines, and is registered with the local board of health in the
39 municipality in which the bar or lounge is located. The registration
40 shall remain in effect for one year and shall be renewable only if:
41 (1) in the preceding calendar year, the cigar bar or lounge generated
42 15% or more of its total annual gross income from the on-site sale
43 of tobacco products and the rental of on-site humidors, and (2) the
44 cigar bar or cigar lounge has not expanded its size or changed its
45 location since December 31, 2004;

46 b. any tobacco retail establishment, or any area the tobacco
47 retail establishment provides for the purposes of smoking;

1 c. any tobacco business when the testing of a cigar or pipe
2 tobacco by heating, burning or smoking is a necessary and integral
3 part of the process of making, manufacturing, importing or
4 distributing cigars or pipe tobacco;

5 d. private homes, private residences and private automobiles;

6 e. the area within the perimeter of:

7 (1) any casino as defined in section 6 of P.L.1977, c.110
8 (C.5:12-6) approved by the Casino Control Commission that
9 contains at least 150 stand-alone slot machines, 10 table games, or
10 some combination thereof approved by the commission, which
11 machines and games are available to the public for wagering; and

12 (2) any casino simulcasting facility approved by the Casino
13 Control Commission pursuant to section 4 of P.L.1992, c.19
14 (C.5:12-194) that contains a simulcast counter and dedicated seating
15 for at least 50 simulcast patrons or a simulcast operation and at least
16 10 table games, which simulcast facilities and games are available
17 to the public for wagering; **[and]**

18 f. research laboratories and other facilities that have been
19 approved by the Department of Health to permit smoking for the
20 purpose of medical research related to the health effects of
21 smoking, in an indoor facility that is separately ventilated for the
22 purpose of medical or scientific research that is conducted under
23 physician supervision and has been approved by an Investigational
24 Review Board (IRB), if the facility is used solely and exclusively
25 for clinical research activities; and

26 g. any marijuana retail establishment, or any area the marijuana
27 retail establishment provides for the purposes of retail marijuana
28 consumption pursuant to P.L. , c. (C.) (pending before
29 the Legislature as this bill).

30 (cf: P.L.2017, c.271)

31
32 45. (New section) Impact Zones. a. The impact zones identified
33 in subsection c. of this section identify the characteristics of
34 geographical areas where a combination of social and economic
35 factors reduce the likelihood that persons from that area would,
36 without support, benefit from a marijuana business, employment
37 and other related opportunities.

38 b. New Jersey shall establish a prioritization system for issuing
39 marijuana licenses to applicants who (1) meet all licensing
40 requirements of P.L. , c. (C.) (pending before the
41 Legislature as this bill) and (2) meet the requirements of subsection
42 c. of this section.

43 c. Census tracts in New Jersey that rank in the top 33% for
44 marijuana related arrests and the bottom 33% for median household
45 income shall be designated an impact zone. To the extent possible,
46 at least 25% of the total licenses awarded for Class 4 Marijuana
47 Retailer license shall be awarded to applicant who can demonstrate

1 one of the following criteria, with higher tiers given priority within
2 this license category:

3 (1) Tier 1 – at least 51% of the equity associated with the
4 ownership of the dispensary belongs to individuals who live in an
5 impact zone;

6 (2) Tier 2 – At least 20% of the equity associated with the
7 ownership of the dispensary belongs to individuals who live in an
8 impact zone;

9 (3) Tier 3 – This tier shall incubate a Tier 1 or Tier 2 business
10 by providing free lease space financial support or other support
11 identified by the division.

12 d. To the extent possible, of the 25% of the licenses awarded
13 pursuant to subsection c., the division shall seek to ensure that at
14 least 75% of those licenses shall be awarded to applications that
15 seek to establish a dispensary in an Impact Zone.

16 e. An individual shall be deemed a resident of an impact zone
17 who can establish residency in an impact zone for five of the last
18 ten years.

19

20 46. Section 2 of P.L.2009, c.307 (C.24:6I-2) is amended to read
21 as follows:

22 2. The Legislature finds and declares that:

23 a. Modern medical research has discovered a beneficial use for
24 marijuana in treating or alleviating the pain or other symptoms
25 associated with certain **【debilitating】** medical conditions, as found
26 by the National Academy of Sciences' Institute of Medicine in
27 March 1999 **【;】** .

28 b. According to the U.S. Sentencing Commission and the
29 Federal Bureau of Investigation, 99 out of every 100 marijuana
30 arrests in the country are made under state law, rather than under
31 federal law. Consequently, changing state law will have the
32 practical effect of protecting from arrest the vast majority of
33 seriously ill people who have a medical need to use marijuana **【;】** .

34 c. Although federal law currently prohibits the use of
35 marijuana, the laws of Alaska, Arkansas, California, Colorado,
36 Connecticut, Delaware, Florida, Hawaii, Illinois, Maine, Maryland,
37 Massachusetts, Michigan, Minnesota, Montana, Nevada, New
38 Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon,
39 Pennsylvania, Rhode Island, Vermont, **【and】** Washington, West
40 Virginia, and the District of Columbia permit the use of marijuana
41 for medical purposes, and in Arizona doctors are permitted to
42 prescribe marijuana. New Jersey joins this effort for the health and
43 welfare of its citizens **【;】** .

44 d. States are not required to enforce federal law or prosecute
45 people for engaging in activities prohibited by federal law;
46 therefore, compliance with this act does not put the State of New
47 Jersey in violation of federal law **【; and】** .

1 e. Compassion dictates that a distinction be made between
2 medical and non-medical uses of marijuana. Hence, the purpose of
3 this act is to protect from arrest, prosecution, property forfeiture,
4 and criminal and other penalties, those patients who use marijuana
5 to alleviate suffering from **[debilitating]** qualifying medical
6 conditions, as well as their **[physicians]** health care practitioners,
7 **[primary]** designated caregivers, institutional caregivers, and those
8 who are authorized to produce marijuana for medical purposes.
9 (cf: P.L.2009, c.307, s.2)

10
11 47. Section 3 of P.L.2009, c.307 (C.24:6I-3) is amended to read
12 as follows:

13 3. As used in **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.),
14 P.L.2015, c.158 (C.18A:40-12.22 et al.), and sections 57 through 66
15 of P.L. , c. (C.) (pending before the Legislature as this bill):

16 “ATC identification card” means a document issued by the
17 department that identifies a person as an owner, director, board
18 member, principal officer, or employee of an ATC.

19 “Bona fide **[physician-patient]** practitioner-patient relationship”
20 means a relationship in which the **[physician]** health care
21 practitioner has ongoing responsibility for the assessment, care, and
22 treatment of a patient's **[debilitating]** qualifying medical condition.

23 “Central region” means the counties of Hunterdon, Middlesex,
24 Mercer, Monmouth, Ocean, Somerset, and Union.

25 ["Certification" means a statement signed by a physician with
26 whom a qualifying patient has a bona fide physician-patient
27 relationship, which attests to the physician's authorization for the
28 patient to apply for registration for the medical use of marijuana.]

29 “Commissioner” means the Commissioner of Health.

30 “Common ownership or control” means:

31 (1) between two for-profit entities, the same individuals or
32 entities own and control more than 50 percent of both entities;

33 (2) between a nonprofit entity and a for-profit entity, a majority
34 of the directors, trustees, or members of the governing body of the
35 nonprofit entity directly or indirectly own and control more than 50
36 percent of the for-profit entity; and

37 (3) between two nonprofit entities, the same directors, trustees,
38 or governing body members comprise a majority of the voting
39 directors, trustees, or governing body members of both nonprofits.

40 “Cultivate” means possessing, planting, propagating, cultivating,
41 growing, harvesting, labeling, and storing medical marijuana
42 consistent with P.L.2009, c.307 (C.24:6I-1 et al.).

43 ["Debilitating medical condition" means:

44 (1) one of the following conditions, if resistant to conventional
45 medical therapy: seizure disorder, including epilepsy; intractable
46 skeletal muscular spasticity; post-traumatic stress disorder; or
47 glaucoma;

1 (2) one of the following conditions, if severe or chronic pain,
2 severe nausea or vomiting, cachexia, or wasting syndrome results
3 from the condition or treatment thereof: positive status for human
4 immunodeficiency virus; acquired immune deficiency syndrome; or
5 cancer;

6 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
7 cancer, muscular dystrophy, or inflammatory bowel disease,
8 including Crohn's disease;

9 (4) terminal illness, if the physician has determined a prognosis
10 of less than 12 months of life; or

11 (5) any other medical condition or its treatment that is approved
12 by the department by regulation.】

13 "Department" means the Department of Health.

14 "Designated caregiver" means a resident of the State who:

15 (1) is at least 18 years old;

16 (2) has agreed to assist with a registered qualifying patient's
17 medical use of marijuana, is not currently serving as designated
18 caregiver for more than one other qualifying patient, and is not the
19 qualifying patient's health care practitioner;

20 (3) has never been convicted of possession or sale of a
21 controlled dangerous substance, unless such conviction occurred
22 after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was
23 for a violation of federal law related to possession or sale of
24 marijuana that is authorized under P.L.2009, c.307 (C.24:6I-1 et
25 al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through
26 66 of P.L. , c. (C.) (pending before the Legislature as this
27 bill):

28 (4) has registered with the department pursuant to section 4 of
29 P.L.2009, c.307 (C.24:6I-4), and, except in the case of a designated
30 caregiver who is an immediate family member of the patient, has
31 satisfied the criminal history record background check requirement
32 of section 4 of P.L.2009, c.307 (C.24:6I-4); and

33 (5) has been designated as designated caregiver on the
34 qualifying patient's application or renewal for a registry
35 identification card or in other written notification to the department.

36 "Health care facility" means a general acute care hospital,
37 nursing home, long term care facility, hospice care facility, or
38 rehabilitation center.

39 "Health care practitioner" means a physician, advanced practice
40 nurse, physician assistant, or other person licensed or certified
41 pursuant to Title 45 of the Revised Statutes who:

42 (1) possesses active registrations to prescribe controlled
43 dangerous substances issued by the United States Drug
44 Enforcement Administration and the Division of Consumer Affairs
45 in the Department of Law and Public Safety;

46 (2) has a bona fide practitioner-patient relationship with the
47 patient; and

1 (3) is the health care practitioner responsible for the ongoing
2 treatment of a patient's qualifying medical condition, provided,
3 however, that the ongoing treatment shall not be limited to the
4 provision of authorization for a patient to use medical marijuana or
5 consultation solely for that purpose.

6 "Immediate family" means the spouse, civil union partner, child,
7 sibling, or parent of an individual, and shall include the siblings and
8 parents of the individual's spouse or civil union partner, and the
9 spouses or civil union partners of the individual's siblings and
10 children.

11 "Impact zone" means any census tract that ranks in the top 33
12 percent of census tracts in the State for marijuana-related arrests
13 and that ranks in the bottom 33 percent of census tracts in the State
14 for median household income.

15 "Institutional caregiver" means a resident of the State who:

16 (1) is at least 18 years old;

17 (2) is an employee of a health care facility;

18 (3) is authorized, within the scope of the individual's
19 professional duties, to possess and administer controlled dangerous
20 substances in connection with the care and treatment of qualifying
21 patients and residents pursuant to applicable State and federal laws;

22 (4) is authorized by the health care facility employing the person
23 to assist registered qualifying patients who are patients or residents
24 of the facility with the medical use of marijuana, including, but not
25 limited to, obtaining medical marijuana for registered qualifying
26 patients at the facility and assisting registered qualifying patients
27 with the administration of medical marijuana;

28 (5) has never been convicted of possession or sale of a
29 controlled dangerous substance, unless such conviction occurred
30 after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was
31 for a violation of federal law related to possession or sale of
32 marijuana that is authorized under P.L.2009, c.307 (C.24:6I-1 et
33 al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through
34 66 of P.L. , c. (C.) (pending before the Legislature as this
35 bill); and

36 (6) has registered with the department pursuant to section 4 of
37 P.L.2009, c.307 (C.24:6I-4).

38 "Interest holder" means a direct or indirect owner, part owner,
39 investor, lender, stockholder, officer, director, partner, or member
40 of any corporation, partnership, limited liability company, limited
41 liability partnership, employee cooperative, association, nonprofit
42 corporation, business entity, or any other person with a direct
43 ownership interest or indirect interest through intermediary business
44 entities or other structures in an alternative treatment center.

45 "Marijuana" has the meaning given in section 2 of the "New
46 Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
47 (C.24:21-2).

1 "Medical marijuana alternative treatment center" or "alternative
2 treatment center" or "ATC" means an organization **approved**
3 issued a permit by the department to **perform activities necessary**
4 **to provide registered qualifying patients with usable marijuana and**
5 **related paraphernalia in accordance with the provisions of this act**
6 operate as a medical marijuana cultivator, medical marijuana
7 processor, or medical marijuana dispensary. This term shall include
8 the organization's officers, directors, board members, and
9 employees.

10 "Medical use of marijuana" means the acquisition, possession,
11 transport, or use of marijuana or paraphernalia by a registered
12 qualifying patient as authorized by **this act** P.L.2009, c.307
13 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and
14 sections 57 through 66 of P.L. , c. (C.) (pending before the
15 Legislature as this bill).

16 "Medical marijuana cultivator" means an organization holding a
17 permit issued by the department that authorizes the organization to:
18 possess and cultivate marijuana; purchase or obtain medical
19 marijuana and related supplies from other medical marijuana
20 cultivators; and deliver, transfer, transport, distribute, supply, and
21 sell medical marijuana and related supplies to other medical
22 marijuana cultivators and to medical marijuana processors and
23 medical marijuana dispensaries. A medical marijuana cultivator
24 permit shall not authorize the permit holder to produce,
25 manufacture, or otherwise create marijuana-infused products and
26 marijuana-derived products or to deliver, transfer, transport,
27 distribute, supply, sell, or dispense medical marijuana, marijuana-
28 infused products, marijuana-derived products, paraphernalia, or
29 related supplies to qualifying patients or their designated or
30 institutional caregivers.

31 "Medical marijuana dispensary" means an organization issued a
32 permit by the department that authorizes the organization to: obtain
33 medical marijuana, marijuana-infused products, and marijuana
34 derived products from medical marijuana cultivators and medical
35 marijuana processors; deliver, transfer, transport, distribute, supply,
36 and sell medical marijuana, marijuana-infused products, marijuana-
37 derived products, and related supplies to other medical marijuana
38 dispensaries; and to possess, display, deliver, transfer, transport,
39 distribute, supply, sell, and dispense medical marijuana, marijuana-
40 infused products, marijuana-derived products, paraphernalia, and
41 related supplies to qualifying patients and their designated and
42 institutional caregivers. A medical marijuana dispensary permit
43 shall not authorize the permit holder to cultivate marijuana or to
44 produce, manufacture, or otherwise create marijuana-infused
45 products or marijuana-derived products.

46 "Medical marijuana processor" means an organization issued a
47 permit by the department that authorizes the organization to: obtain
48 medical marijuana from a medical marijuana cultivator; purchase or

1 obtain medical marijuana, marijuana-infused products, marijuana-
2 derived products, and related supplies from another medical
3 marijuana processor; produce, manufacture, or otherwise create
4 marijuana-infused products and marijuana-derived products; and
5 possess, deliver, transfer, transport, distribute, supply, and sell
6 medical marijuana, marijuana-infused products, marijuana-derived
7 products, and related supplies to other medical marijuana processors
8 and to medical marijuana dispensaries. A medical marijuana
9 dispensary permit shall not authorize the permit holder to cultivate
10 marijuana or to deliver, transfer, transport, distribute, supply, sell,
11 or dispense medical marijuana, marijuana-infused products,
12 marijuana-derived products, paraphernalia, or related supplies to
13 qualifying patients or their designated or institutional caregivers.

14 "Minor" means a person who is under 18 years of age and who
15 has not been married or previously declared by a court or an
16 administrative agency to be emancipated.

17 "Northern region" means the counties of Bergen, Essex, Hudson,
18 Morris, Passaic, Sussex, and Warren.

19 "Paraphernalia" has the meaning given in N.J.S.2C:36-1.

20 **["Physician" means a person licensed to practice medicine and**
21 **surgery pursuant to Title 45 of the Revised Statutes with whom the**
22 **patient has a bona fide physician-patient relationship and who is the**
23 **primary care physician, hospice physician, or physician responsible**
24 **for the ongoing treatment of a patient's debilitating medical**
25 **condition, provided, however, that the ongoing treatment shall not**
26 **be limited to the provision of authorization for a patient to use**
27 **medical marijuana or consultation solely for that purpose.]**

28 **["Primary caregiver" or "caregiver" means a resident of the State**
29 **who:**

30 a. is at least 18 years old;

31 b. has agreed to assist with a registered qualifying patient's
32 medical use of marijuana, is not currently serving as primary
33 caregiver for another qualifying patient, and is not the qualifying
34 patient's physician;

35 c. has never been convicted of possession or sale of a
36 controlled dangerous substance, unless such conviction occurred
37 after the effective date of this act and was for a violation of federal
38 law related to possession or sale of marijuana that is authorized
39 under this act;

40 d. has registered with the department pursuant to section 4 of
41 this act, and has satisfied the criminal history record background
42 check requirement of section 4 of this act; and

43 e. has been designated as primary caregiver on the qualifying
44 patient's application or renewal for a registry identification card or
45 in other written notification to the department. **】**

46 "Qualifying medical condition" means seizure disorder,
47 including epilepsy; intractable skeletal muscular spasticity; post-
48 traumatic stress disorder; glaucoma; positive status for human

1 immunodeficiency virus; acquired immune deficiency syndrome;
2 cancer; amyotrophic lateral sclerosis; multiple sclerosis; muscular
3 dystrophy; inflammatory bowel disease, including Crohn's disease;
4 terminal illness, if the patient has a prognosis of less than 12
5 months of life; anxiety; migraine; Tourette's syndrome; chronic
6 pain; or any other medical condition or its treatment that is
7 approved by the department.

8 "Qualifying patient" or "patient" means a resident of the State
9 who has been **【provided with a certification】** authorized for the
10 medical use of marijuana by a **【physician】** health care practitioner
11 pursuant to a bona fide 【physician-patient】 practitioner-patient
12 relationship.

13 “Region” means the northern region, the central region, or the
14 southern region, as defined in this section.

15 "Registry identification card" means a document issued by the
16 department that identifies a person as a registered qualifying patient
17 **【or primary】**, designated caregiver, or institutional caregiver.

18 “Southern region” means the counties of Atlantic, Burlington,
19 Camden, Cape May, Cumberland, Gloucester, and Salem.

20 “Terminally ill” means having an illness or condition with a
21 prognosis of less than 12 months of life.

22 "Usable marijuana" means the dried leaves and flowers of
23 marijuana, and any mixture or preparation thereof, and does not
24 include the seeds, stems, stalks, or roots of the plant.

25 (cf: P.L.2016, c.53, s.1)

26
27 48. Section 4 of P.L.2009, c.307 (C.24:6I-4) is amended to read
28 as follows:

29 4. a. The department shall establish a registry of qualifying
30 patients and their **【primary】** designated caregivers, and shall issue a
31 registry identification card, which shall be valid for two years, to a
32 qualifying patient and **【primary】** each designated caregiver for the
33 patient, if applicable, who submits the following, in accordance
34 with regulations adopted by the department:

35 (1) **【a certification that meets the requirements of section 5 of**
36 **this act】** documentation of a health care practitioner's authorization
37 for the medical use of marijuana;

38 (2) an application or renewal fee, which may be based on a
39 sliding scale as determined by the commissioner;

40 (3) the name, address, and date of birth of the patient and each
41 designated caregiver, as applicable; and

42 (4) the name, address, and telephone number of the patient's
43 **【physician】** health care practitioner.

44 Each qualifying patient may concurrently have up to two
45 designated caregivers. A qualifying patient may petition the
46 department for approval to concurrently have more than two
47 caregivers, which petition shall be approved if the department finds

1 that allowing the patient additional designated caregivers is
2 necessary to meet the patient's treatment needs and is consistent
3 with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

4 The department shall establish a registry of institutional
5 caregivers and shall issue a registry identification card, which shall
6 be valid for one year, to an institutional caregiver who submits: an
7 application or renewal fee as determined by the commissioner; the
8 name, address, and telephone number of the institutional caregiver
9 and of the health care facility at which the individual will be
10 servng as institutional caregiver; and a certification that meets the
11 requirements of subsection h. of this section.

12 b. Before issuing a registry identification card, the department
13 shall verify the information contained in the application or renewal
14 form submitted pursuant to this section. In the case of a **【primary】**
15 designated or institutional caregiver, the department shall
16 provisionally approve an application pending the results of a
17 criminal history record background check, if the caregiver
18 otherwise meets the requirements of **【this act】** P.L.2009, c.307
19 (C.24:6I-1 et al.). The department shall approve or deny an
20 application or renewal within 30 days of receipt of the completed
21 application or renewal, and shall issue a registry identification card
22 within five days of approving the application or renewal. The
23 department may deny an application or renewal only if the applicant
24 fails to provide the information required pursuant to this section, or
25 if the department determines that the information was incorrect or
26 falsified or does not meet the requirements of **【this act】** P.L.2009,
27 c.307 (C.24:6I-1 et al.). Denial of an application shall be a final
28 agency decision, subject to review by the Superior Court, Appellate
29 Division.

30 c. (1) The commissioner shall require each applicant seeking
31 to serve as a **【primary】** designated or institutional caregiver to
32 undergo a criminal history record background check; except that no
33 criminal history record background check shall be required for an
34 applicant seeking to serve as a designated caregiver if the applicant
35 is an immediate family member of the patient, and no criminal
36 history record background check shall be required for an applicant
37 seeking to serve as an institutional caregiver if the applicant
38 completed a criminal history record background check as a
39 condition of employment in the applicant's current position. The
40 commissioner is authorized to exchange fingerprint data with and
41 receive criminal history record background information from the
42 Division of State Police and the Federal Bureau of Investigation
43 consistent with the provisions of applicable federal and State laws,
44 rules, and regulations. The Division of State Police shall forward
45 criminal history record background information to the
46 commissioner in a timely manner when requested pursuant to the
47 provisions of this section.

1 An applicant seeking to serve as a **【primary】** designated or
2 institutional caregiver who is required to complete a criminal
3 history record background check pursuant to this section shall
4 submit to being fingerprinted in accordance with applicable State
5 and federal laws, rules, and regulations. No check of criminal
6 history record background information shall be performed pursuant
7 to this section unless the applicant has furnished **【his】** the
8 applicant's written consent to that check. An applicant who is
9 required to complete a criminal history record background check
10 pursuant to this section who refuses to consent to, or cooperate in,
11 the securing of a check of criminal history record background
12 information shall not be considered for inclusion in the registry as a
13 **【primary】** designated or institutional caregiver or issuance of an
14 identification card. An applicant shall bear the cost for the criminal
15 history record background check, including all costs of
16 administering and processing the check.

17 (2) The commissioner shall not approve an applicant seeking to
18 serve as a **【primary】** designated or institutional caregiver who is
19 required to complete a criminal history record background check
20 pursuant to this section if the criminal history record background
21 information of the applicant reveals a disqualifying conviction. For
22 the purposes of this section, a disqualifying conviction shall mean a
23 conviction of a crime involving any controlled dangerous substance
24 or controlled substance analog as set forth in chapter 35 of Title 2C
25 of the New Jersey Statutes except paragraph (4) of subsection a. of
26 N.J.S.2C:35-10, or any similar law of the United States or of any
27 other state.

28 (3) Upon receipt of the criminal history record background
29 information from the Division of State Police and the Federal
30 Bureau of Investigation, the commissioner shall provide written
31 notification to the applicant of **【his】** the applicant's qualification or
32 disqualification for serving as a **【primary】** designated or
33 institutional caregiver.

34 If the applicant is disqualified because of a disqualifying
35 conviction pursuant to the provisions of this section, the conviction
36 that constitutes the basis for the disqualification shall be identified
37 in the written notice.

38 (4) The Division of State Police shall promptly notify the
39 commissioner in the event that an individual who was the subject of
40 a criminal history record background check conducted pursuant to
41 this section is convicted of a crime or offense in this State after the
42 date the background check was performed. Upon receipt of that
43 notification, the commissioner shall make a determination regarding
44 the continued eligibility of the applicant to serve as a **【primary】**
45 designated or institutional caregiver.

46 (5) Notwithstanding the provisions of subsection b. of this
47 section to the contrary, no applicant shall be disqualified from

1 serving as a registered **【primary】** designated or institutional
2 caregiver on the basis of any conviction disclosed by a criminal
3 history record background check conducted pursuant to this section
4 if the individual has affirmatively demonstrated to the
5 commissioner clear and convincing evidence of rehabilitation. In
6 determining whether clear and convincing evidence of rehabilitation
7 has been demonstrated, the following factors shall be considered:

8 (a) the nature and responsibility of the position which the
9 convicted individual would hold, has held, or currently holds;

10 (b) the nature and seriousness of the crime or offense;

11 (c) the circumstances under which the crime or offense
12 occurred;

13 (d) the date of the crime or offense;

14 (e) the age of the individual when the crime or offense was
15 committed;

16 (f) whether the crime or offense was an isolated or repeated
17 incident;

18 (g) any social conditions which may have contributed to the
19 commission of the crime or offense; and

20 (h) any evidence of rehabilitation, including good conduct in
21 prison or in the community, counseling or psychiatric treatment
22 received, acquisition of additional academic or vocational
23 schooling, successful participation in correctional work-release
24 programs, or the recommendation of those who have had the
25 individual under their supervision.

26 d. A registry identification card shall contain the following
27 information:

28 (1) (a) in the case of a registry identification card for a patient
29 or designated caregiver, the name, address, and date of birth of the
30 patient and **【primary】** each designated caregiver, if applicable; and

31 (b) in the case of an institutional caregiver, the caregiver's name
32 and date of birth and the name and address of the health care
33 facility at which the caregiver is serving as an institutional
34 caregiver;

35 (2) the expiration date of the registry identification card;

36 (3) photo identification of the cardholder; and

37 (4) such other information that the department may specify by
38 regulation.

39 e. (1) A patient who has been issued a registry identification
40 card shall notify the department of any change in the patient's name,
41 address, or **【physician】** health care practitioner or change in status
42 of the patient's **【debilitating】** qualifying medical condition, within
43 10 days of such change, or the registry identification card shall be
44 deemed null and void.

45 (2) A **【primary】** designated caregiver who has been issued a
46 registry identification card shall notify the department of any
47 change in the caregiver's name or address within 10 days of such

1 change, or the registry identification card shall be deemed null and
2 void.

3 (3) An institutional caregiver who has been issued a registry
4 identification card shall notify the department of any change in the
5 caregiver's name, address, employment by a health care facility at
6 which the caregiver is registered to serve as institutional caregiver,
7 or authorization from the health care facility to assist patients or
8 residents with the medical use of marijuana, within 10 days of such
9 change, or the registry identification card shall be deemed null and
10 void and the individual shall be deemed ineligible to serve as an
11 institutional caregiver for a period of not less than one year.

12 f. The department shall maintain a confidential list of the
13 persons to whom it has issued registry identification cards.
14 Individual names and other identifying information on the list, and
15 information contained in any application form, or accompanying or
16 supporting document shall be confidential, and shall not be
17 considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.)
18 or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed
19 except to:

20 (1) authorized employees of the department and the Division of
21 Consumer Affairs in the Department of Law and Public Safety as
22 necessary to perform official duties of the department and the
23 division, as applicable; and

24 (2) authorized employees of State or local law enforcement
25 agencies, only as necessary to verify that a person who is engaged
26 in the suspected or alleged medical use of marijuana is lawfully in
27 possession of a registry identification card.

28 g. Applying for or receiving a registry card does not constitute
29 a waiver of the qualifying patient's **【patient-physician】** patient-
30 practitioner privilege.

31 h. An applicant seeking to serve as an institutional caregiver
32 shall submit with the application a certification executed by the
33 director or administrator of the health care facility employing the
34 applicant attesting that:

35 (1) the facility has authorized the applicant to assist registered
36 qualifying patients at the facility with the medical use of marijuana,
37 including obtaining medical marijuana from an alternative treatment
38 center and assisting qualifying patients with the administration of
39 medical marijuana;

40 (2) the facility has established protocols and procedures and
41 implemented security measures to ensure that any medical
42 marijuana present at the facility is stored in a safe and secure
43 manner that prevents theft, diversion, adulteration, and access by
44 unauthorized individuals;

45 (3) the facility has established protocols and procedures to
46 review the medications and treatment plans of qualifying patients at
47 the facility to ensure that the patient's medical use of marijuana will
48 not result in adverse drug interactions, side effects, or other

1 complications that could significantly jeopardize the health or
2 safety of the patient;

3 (4) the facility will not charge a qualifying patient for medical
4 marijuana obtained on the qualifying patient's behalf in an amount
5 that exceeds the actual cost of the medical marijuana, plus any
6 reasonable costs incurred in acquiring the medical marijuana;

7 (5) the facility has established protocols and procedures
8 concerning whether, and to what extent, designated caregivers are
9 permitted to assist qualifying patients with the medical use of
10 marijuana while at the facility; and

11 (6) the facility will promptly notify the commissioner in the
12 event that:

13 (a) an institutional caregiver registered with the department
14 pursuant to this section ceases to be employed by the facility or
15 ceases to be authorized by the facility to assist qualifying patients
16 with the medical use of marijuana, in which case, upon receipt of
17 the notification, the commissioner shall immediately revoke the
18 institutional caregiver's registration; or

19 (b) an institutional caregiver registered with the department
20 pursuant to this section, who completed a criminal history record
21 background check as a condition of employment, is convicted of a
22 crime or offense in this State after the date the criminal history
23 background check was performed, in which case, upon receipt of
24 that notification, the commissioner shall make a determination
25 regarding the continued eligibility of the applicant to serve as an
26 institutional caregiver.

27 Nothing in this section shall be deemed to require any facility to
28 authorize any employee of the facility to serve as an institutional
29 caregiver or to issue a certification that meets the requirements of
30 this subsection.

31 (cf: P.L.2009, c.307, s.4)

32

33 49. Section 6 of P.L.2009, c.307 (C.24:6I-6) is amended to read
34 as follows:

35 6. a. The provisions of N.J.S.2C:35-18 shall apply to any
36 qualifying patient, **【primary】** designated caregiver, institutional
37 caregiver, health care facility, alternative treatment center,
38 **【physician】** health care practitioner, or any other person acting in
39 accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.)
40 **【or】** , P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57
41 through 66 of P.L. , c. (C.) (pending before the Legislature
42 as this bill).

43 b. A qualifying patient, **【primary】** designated caregiver,
44 institutional caregiver, health care facility, alternative treatment
45 center, 【physician】 health care practitioner, or any other person
46 acting in accordance with the provisions of P.L.2009, c.307
47 (C.24:6I-1 et al.) 【or】 , P.L.2015, c.158 (C.18A:40-12.22 et al.), or

1 sections 57 through 66 of P.L. , c. (C.) (pending before the
2 Legislature as this bill) shall not be subject to any civil or
3 administrative penalty, or denied any right or privilege, including,
4 but not limited to, civil penalty or disciplinary action by a
5 professional licensing board, related to the medical use of marijuana
6 as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) **【or】** ,
7 P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66
8 of P.L. , c. (C.) (pending before the Legislature as this bill).

9 c. Possession of, or application for, a registry identification
10 card shall not alone constitute probable cause to search the person
11 or the property of the person possessing or applying for the registry
12 identification card, or otherwise subject the person or **【his】** the
13 person's property to inspection by any governmental agency.

14 d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
15 relating to destruction of marijuana determined to exist by the
16 department, shall not apply if a qualifying patient **【or primary】** ,
17 designated caregiver, or institutional caregiver has in his possession
18 a registry identification card and no more than the maximum
19 amount of usable marijuana that may be obtained in accordance
20 with section 10 of P.L.2009, c.307 (C.24:6I-10).

21 e. No person shall be subject to arrest or prosecution for
22 constructive possession, conspiracy, or any other offense for simply
23 being in the presence or vicinity of the medical use of marijuana as
24 authorized under P.L.2009, c.307 (C.24:6I-1 et al.) **【or】** , P.L.2015,
25 c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of
26 P.L. , c. (C.) (pending before the Legislature as this bill).

27 f. No custodial parent, guardian, or person who has legal
28 custody of a qualifying patient who is a minor shall be subject to
29 arrest or prosecution for constructive possession, conspiracy, or any
30 other offense for assisting the minor in the medical use of marijuana
31 as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) **【or】** ,
32 P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66
33 of P.L. , c. (C.) (pending before the Legislature as this bill).

34 g. For the purposes of medical care, including organ
35 transplants, a registered qualifying patient's authorized use of
36 medical marijuana in accordance with the provisions of P.L.2009,
37 c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.),
38 and sections 57 through 66 of P.L. , c. (C.) (pending before
39 the Legislature as this bill), shall be considered equivalent to the
40 authorized use of any other medication used at the direction of a
41 health care practitioner, and shall not constitute the use of an illicit
42 substance or otherwise disqualify a qualifying patient from needed
43 medical care.

44 h. No public or private school or institution of higher education
45 may refuse to enroll a person solely based on the person's status as
46 a registry identification cardholder, unless failing to do so would
47 result in the school or institution losing a monetary or licensing-

1 related benefit granted pursuant to federal law. No public or private
2 school or institution of higher education shall be penalized or
3 denied any benefit under State law solely on the basis of enrolling a
4 person who is a registry identification cardholder.

5 i. No person shall refuse to rent, lease, or sublease any real
6 property or part or portion thereof, or discriminate in the terms,
7 conditions, or privileges of the rental or lease of any real property
8 or part or portion thereof or in the furnishing of facilities or services
9 in connection therewith, solely based on the status of the
10 prospective tenant as a registry identification cardholder, unless
11 failing to do so would result in the person losing a monetary or
12 licensing-related benefit granted pursuant to federal law. No such
13 person shall be penalized or denied any benefit under State law
14 solely on the basis of renting or leasing real property to a person
15 who is a registry identification cardholder.

16 (cf: P.L.2015, c.158, s.4)

17

18 50. Section 7 of P.L.2009, c.307 (C.24:6I-7) is amended to read
19 as follows:

20 7. a. (1) The department shall accept applications from
21 entities for permits to operate as alternative treatment centers **],** and
22 may charge a reasonable fee for the issuance of a permit under this
23 section**].** **[**The department shall seek to ensure the availability of a
24 sufficient number of**]**

25 (2) To ensure access to alternative treatment centers throughout
26 the State, **[**pursuant to need, including at least two each in**]** the
27 department shall grant permits authorizing up to a total of 15
28 medical marijuana cultivators and up to a total of 15 medical
29 marijuana processors, to be evenly distributed among the northern,
30 central, and southern regions of the State, and up to a total of 98
31 medical marijuana dispensaries, which shall be issued in a manner
32 that ensures that qualifying patients have reasonably sufficient
33 access to medical marijuana dispensaries throughout each region of
34 the State. This total number of permits shall include:

35 (a) the six alternative treatment center permits issued prior to
36 the effective date of P.L. , c. (pending before the Legislature as
37 this bill), which shall constitute six of the medical marijuana
38 cultivator permits, six of the medical marijuana processor permits,
39 and a total of 18 medical marijuana dispensary permits, with three
40 medical marijuana dispensary permits issued to each alternative
41 treatment center, as follows:

42 (i) one dispensary permit shall be issued for the location where
43 the alternative treatment center is located on the effective date of
44 P.L. , c. (C.) (pending before the Legislature as this bill);
45 and

46 (ii) the remaining two dispensary permits shall be issued
47 pursuant to a process that the department shall establish for this
48 purpose;

1 (b) the six medical marijuana cultivator permits, six medical
2 marijuana processor permits, and 40 medical marijuana dispensary
3 permits issued pursuant to section 61 of P.L. , c. (C.) (pending
4 before the Legislature as this bill);

5 (c) up to three additional medical marijuana cultivator permits,
6 up to three additional medical marijuana processor permits, and up
7 to 10 additional medical marijuana dispensary permits, which shall
8 be issued based on patient need at such time as at least 100,000
9 qualifying patients are currently registered with the department;

10 (d) up to 10 additional medical marijuana dispensary permits,
11 which shall be issued based on patient need at such time as at least
12 150,000 qualifying patients are currently registered with the
13 department;

14 (e) up to 10 additional medical marijuana dispensary permits,
15 which shall be issued based on patient need at such time as at least
16 200,000 qualifying patients are currently registered with the
17 department; and

18 (f) up to 10 additional medical marijuana dispensary permits,
19 which shall be issued based on patient need at such time as at least
20 250,000 qualifying patients are currently registered with the
21 department.

22 (3) (a) The request for applications for 40 additional medical
23 marijuana dispensary permits to be accepted and processed by the
24 department pursuant to section 61 of P.L. , c. (C.) (pending
25 before the Legislature as this bill) shall be solicited based on
26 legislative district, as the districts are constituted on the effective
27 date of P.L. , c. (C.) (pending before the Legislature as this
28 bill). The department shall seek to issue a permit to at least one
29 medical marijuana dispensary in each legislative district, provided
30 that each district has at least one qualified applicant for a permit to
31 operate a medical marijuana dispensary in the district.

32 (b) Subsequent requests for applications for medical marijuana
33 dispensary permits issued pursuant to subparagraphs (c), (d), (e),
34 and (f) of paragraph (2) of this subsection shall be solicited
35 according to geographic regions to be determined by the department
36 at the time of issuance, which shall ensure that qualifying patients
37 have reasonably sufficient access to medical marijuana dispensaries
38 throughout each region of the State.

39 (4) Any initial application for a medical marijuana cultivator
40 permit, medical marijuana processor permit, or medical marijuana
41 dispensary permit shall meet the application requirements set forth
42 in section 62 of P.L. , c. (C.) (pending before the Legislature
43 as this bill).

44 (5) (a) As provided in subparagraph (a) of paragraph (2) of this
45 subsection, an alternative treatment center holding a permit that was
46 issued prior to the effective date of P.L. , c. (C.) (pending
47 before the Legislature as this bill) shall be deemed to hold a medical
48 marijuana cultivator permit, a medical marijuana processor permit,

1 and up to three medical marijuana dispensary permits, and shall be
2 authorized to concurrently hold all three types of permit. [The first
3 two centers issued a permit in each region shall be nonprofit
4 entities, and centers subsequently issued permits may be nonprofit
5 or for-profit entities]

6 (b) For a period of 36 months after the effective date of
7 P.L. , c. (C.) (pending before the Legislature as this bill), no
8 interest holder, or natural person with a direct or indirect interest
9 through intermediary business entities or other structures, in any
10 medical marijuana cultivator, shall own, either in whole or in part,
11 or be directly or indirectly interested in, a medical marijuana
12 processor or a medical marijuana dispensary. The foregoing shall
13 not apply to interest holders of a medical marijuana alternative
14 treatment center issued a permit by the department prior to the
15 effective date of P.L. , c. (C.) (pending before the
16 Legislature as this bill).

17 (c) For a period of 36 months after the effective date of
18 P.L. , c. (C.) (pending before the Legislature as this bill), no
19 interest holder, or natural person with a direct or indirect interest
20 through intermediary business entities or other structures, in any
21 medical marijuana processor, shall own, either in whole or in part,
22 or be directly or indirectly interested in, a medical marijuana
23 cultivator or a medical marijuana dispensary. The foregoing shall
24 not apply to interest holders of a medical marijuana alternative
25 treatment center issued a permit by the department prior to the
26 effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill).

28 (d) For a period of 36 months after the effective date of
29 P.L. , c. (C.) (pending before the Legislature as this bill), no
30 interest holder, or natural person with a direct or indirect interest
31 through intermediary business entities or other structures, in any
32 medical marijuana dispensary, shall own, either in whole or in part,
33 or be directly or indirectly interested in, a medical marijuana
34 cultivator or a medical marijuana processor. The foregoing shall
35 not apply to interest holders of a medical marijuana alternative
36 treatment center issued a permit by the department prior to the
37 effective date of P.L. , c. (C.) (pending before the
38 Legislature as this bill).

39 (e) No applicant shall be awarded more than one medical
40 marijuana cultivator permit, more than one medical marijuana
41 processor permit, or more than three medical marijuana dispensary
42 permits pursuant to the request for applications issued pursuant to
43 section 61 of P.L. , c. (C.) (pending before the Legislature
44 as this bill).

45 (f) None of the ownership restrictions set forth in this paragraph
46 shall be construed to be implicated solely by any person's
47 ownership of less than 10 percent of the total capitalization of an
48 alternative treatment center.

1 **【An alternative treatment center】**
2 (6) (a) A medical marijuana cultivator shall be authorized to:
3 acquire a reasonable initial and ongoing inventory, as determined
4 by the department, of marijuana seeds or seedlings and
5 paraphernalia, possess, cultivate, plant, grow, harvest, and process
6 **【, display, manufacture,】** medical marijuana; purchase or obtain
7 medical marijuana from any other medical marijuana cultivator in
8 the State; and deliver, transfer, transport, distribute, supply, or sell
9 **【, or dispense】** medical marijuana 【, or】 and related supplies to any
10 medical marijuana cultivator, medical marijuana processor, or
11 medical marijuana dispensary in the State. If approved by the
12 department, a medical marijuana cultivator may operate, within the
13 scope of its permit, from more than one physical location.
14 (b) A medical marijuana processor shall be authorized to:
15 purchase or acquire medical marijuana from any medical marijuana
16 cultivator in the State; purchase or acquire medical marijuana,
17 marijuana-infused products, marijuana-derived products, and
18 related supplies from any other medical marijuana processor in the
19 State; process and manufacture medical marijuana and marijuana-
20 infused and marijuana-derived products; and deliver, transfer,
21 transport, supply, sell, or transfer medical marijuana, marijuana-
22 infused products, marijuana-derived products, and related supplies
23 to any other medical marijuana processor in the State and to any
24 medical marijuana dispensary in the State. If approved by the
25 department, a medical marijuana processor may operate, within the
26 scope of its permit, from more than one physical location.
27 (c) A medical marijuana dispensary shall be authorized to:
28 purchase or acquire medical marijuana, marijuana-infused products,
29 marijuana-derived products, paraphernalia, and related supplies
30 from any other medical marijuana dispensary in the State and from
31 any medical marijuana cultivator or medical marijuana processor in
32 the State; deliver, transfer, transport, distribute, supply, or sell
33 marijuana, marijuana-infused products, marijuana-derived products,
34 paraphernalia, and related supplies to any other medical marijuana
35 dispensary in the State; and distribute, supply, sell, or dispense
36 marijuana, marijuana-infused products, marijuana-derived products,
37 paraphernalia, and related supplies to qualifying patients or their
38 **【primary】** designated caregivers or institutional caregivers who are
39 registered with the department pursuant to section 4 of 【this act】
40 P.L.2009, c.307 (C.24:6I-4). **【An alternative treatment center】**
41 (7) A medical marijuana cultivator shall not be limited in the
42 number of strains of medical marijuana cultivated, and a medical
43 marijuana processor shall not be limited in the number of medical
44 marijuana products manufactured. A medical marijuana processor
45 may package, and a medical marijuana dispensary may directly
46 dispense **【marijuana】** to qualifying patients and their designated
47 and institutional caregivers, medical marijuana in dried form, oral

1 lozenges, topical formulations, transdermal form, sublingual form,
2 tincture form, or edible form, or any other form as authorized by the
3 commissioner. Edible form shall include tablets, capsules, oils,
4 drops or syrups, and any other form as authorized by the
5 commissioner. **【Edible forms shall be available only to qualifying**
6 **patients who are minors.】**

7 (8) Applicants that choose to apply for authorization as
8 **【nonprofit】** alternative treatment centers with nonprofit status shall
9 be subject to all applicable State laws governing nonprofit entities,
10 but need not be recognized as a 501(c)(3) organization by the
11 federal Internal Revenue Service.

12 b. The department shall require that an applicant provide such
13 information as the department determines to be necessary pursuant
14 to regulations adopted pursuant to **【this act】** P.L.2009, c.307
15 (C.24:6I-1 et al.) and may, in its discretion, require any applicant to
16 submit a personal history disclosure and conduct financial due
17 diligence on any person or entity providing \$100,000 or more in
18 financial backing to an applicant.

19 c. A person who has been convicted of a crime involving any
20 controlled dangerous substance or controlled substance analog as
21 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
22 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
23 of the United States or any other state shall not be issued a permit to
24 operate as an alternative treatment center or be **【a director, officer,**
25 **or employee of an alternative treatment center】** issued an ATC
26 identification card, unless such conviction occurred after the
27 effective date of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) and
28 was for a violation of federal law relating to possession or sale of
29 marijuana for conduct that is authorized under **【this act】** P.L.2009,
30 c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or
31 sections 57 through 66 of P.L. , c. (C.) (pending before the
32 Legislature as this bill).

33 d. (1) The commissioner shall require each applicant seeking
34 a permit to operate as an alternative treatment center to undergo a
35 criminal history record background check. For purposes of this
36 section, the term "applicant" shall include any applicant for an ATC
37 identification card authorizing the individual to be an owner,
38 director, board member, principal officer, or employee of an
39 alternative treatment center. The commissioner is authorized to
40 exchange fingerprint data with and receive criminal history record
41 background information from the Division of State Police and the
42 Federal Bureau of Investigation consistent with the provisions of
43 applicable federal and State laws, rules, and regulations. The
44 Division of State Police shall forward criminal history record
45 background information to the commissioner in a timely manner
46 when requested pursuant to the provisions of this section.

1 An applicant shall submit to being fingerprinted in accordance
2 with applicable State and federal laws, rules, and regulations. No
3 check of criminal history record background information shall be
4 performed pursuant to this section unless the applicant has
5 furnished **his** the applicant's written consent to that check. An
6 applicant who refuses to consent to, or cooperate in, the securing of
7 a check of criminal history record background information shall not
8 be considered for **a** permit to operate, or authorization to be
9 employed at, an alternative treatment center **issuance of an ATC**
10 identification card. An applicant shall bear the cost for the criminal
11 history record background check, including all costs of
12 administering and processing the check.

13 (2) The commissioner shall not approve an applicant for **a**
14 permit to operate, or authorization to be employed at, an alternative
15 treatment center **issuance of an ATC identification card** if the
16 criminal history record background information of the applicant
17 reveals a disqualifying conviction as set forth in subsection c. of
18 this section.

19 (3) Upon receipt of the criminal history record background
20 information from the Division of State Police and the Federal
21 Bureau of Investigation, the commissioner shall provide written
22 notification to the applicant of **his** the applicant's qualification
23 for or disqualification for **a** permit to operate or **issuance of an**
24 ATC identification card authorizing the individual to be a **a** an
25 owner, director, board member, principal officer, or employee of an
26 alternative treatment center, as applicable.

27 If the applicant is disqualified because of a disqualifying
28 conviction pursuant to the provisions of this section, the conviction
29 that constitutes the basis for the disqualification shall be identified
30 in the written notice.

31 (4) The Division of State Police shall promptly notify the
32 commissioner in the event that an individual who was the subject of
33 a criminal history record background check conducted pursuant to
34 this section is convicted of a crime or offense in this State after the
35 date the background check was performed. Upon receipt of that
36 notification, the commissioner shall make a determination regarding
37 the continued eligibility to operate or be **a** an owner, director,
38 board member, principal officer, or employee of an alternative
39 treatment center.

40 (5) Notwithstanding the provisions of subsection b. of this
41 section to the contrary, the commissioner may offer **provisional**
42 **authority for** an applicant to be an employee of an alternative
43 treatment center a provisional ATC identification card, which shall
44 be valid for a period not to exceed three months if the applicant
45 submits to the commissioner a sworn statement attesting that the
46 **person** applicant has not been convicted of any disqualifying
47 conviction pursuant to this section.

1 (6) Notwithstanding the provisions of subsection b. of this
2 section to the contrary, no employee of an alternative treatment
3 center shall be disqualified from issuance of an ATC identification
4 card on the basis of any conviction disclosed by a criminal history
5 record background check conducted pursuant to this section if the
6 individual has affirmatively demonstrated to the commissioner clear
7 and convincing evidence of rehabilitation. In determining whether
8 clear and convincing evidence of rehabilitation has been
9 demonstrated, the following factors shall be considered:

10 (a) the nature and responsibility of the position which the
11 convicted individual would hold, has held, or currently holds;

12 (b) the nature and seriousness of the crime or offense;

13 (c) the circumstances under which the crime or offense
14 occurred;

15 (d) the date of the crime or offense;

16 (e) the age of the individual when the crime or offense was
17 committed;

18 (f) whether the crime or offense was an isolated or repeated
19 incident;

20 (g) any social conditions which may have contributed to the
21 commission of the crime or offense; and

22 (h) any evidence of rehabilitation, including good conduct in
23 prison or in the community, counseling or psychiatric treatment
24 received, acquisition of additional academic or vocational
25 schooling, successful participation in correctional work-release
26 programs, or the recommendation of those who have had the
27 individual under their supervision.

28 e. The department shall issue **【a permit to a person to operate**
29 **as】** an alternative treatment center permit to an applicant if the
30 department finds that issuing such a permit would be consistent
31 with the purposes of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.)
32 and the requirements of this section are met and the department has
33 verified the information contained in the application. The
34 department shall approve or deny an application within 60 days
35 after receipt of a completed application. The denial of an
36 application shall be considered a final agency decision, subject to
37 review by the Appellate Division of the Superior Court. The
38 department may suspend or revoke a permit to operate as an
39 alternative treatment center for cause, which shall be subject to
40 review by the Appellate Division of the Superior Court. An initial
41 permit to operate an alternative treatment center issued on or after
42 the effective date of P.L. , c. (C.) (pending before the
43 Legislature as this bill) shall be valid for three years. Alternative
44 treatment center permits shall be renewable biennially.

45 f. A person **【who has been】** or entity issued **【a】** an alternative
46 treatment center permit pursuant to this section shall display the
47 permit at the premises of the alternative treatment center at all times
48 when the alternative treatment center is engaged in conduct

1 authorized pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) involving
2 medical marijuana, including, but not limited to, the cultivating,
3 manufacturing, or dispensing of medical marijuana **【is being**
4 **produced, or dispensed to a registered qualifying patient or the**
5 **patient's primary caregiver】.**

6 g. An alternative treatment center shall report any change in
7 information to the department not later than 10 days after such
8 change, or the permit shall be deemed null and void.

9 h. **【An alternative treatment center may charge a registered**
10 **qualifying patient or primary caregiver for the reasonable costs**
11 **associated with the production and distribution of marijuana for the**
12 **cardholder】** A medical marijuana cultivator may charge a medical
13 marijuana cultivator, medical marijuana processor, or medical
14 marijuana dispensary for the reasonable costs associated with the
15 cultivation of medical marijuana. A medical marijuana processor
16 may charge a medical marijuana processor or medical marijuana
17 dispensary the reasonable costs associated with the processing and
18 manufacture of medical marijuana, marijuana-infused products,
19 marijuana-derived products, and related supplies. A medical
20 marijuana dispensary may charge a medical marijuana dispensary, a
21 registered qualifying patient, or a designated or institutional
22 caregiver, for the reasonable costs associated with furnishing
23 medical marijuana, marijuana-infused products, marijuana-derived
24 products, paraphernalia, and related supplies to the medical
25 marijuana dispensary or the cardholder.

26 i. The commissioner shall adopt regulations to:

27 (1) require such written documentation of each delivery of
28 marijuana to, and pickup of marijuana for, a registered qualifying
29 patient, including the date and amount dispensed, to be maintained
30 in the records of the **【alternative treatment center】** medical
31 marijuana dispensary, as the commissioner determines necessary to
32 ensure effective documentation of the operations of each
33 **【alternative treatment center】** medical marijuana dispensary;

34 (2) monitor, oversee, and investigate all activities performed by
35 an alternative treatment center; **【and】**

36 (3) ensure adequate security of all facilities 24 hours per day,
37 including production and retail locations, and security of all
38 delivery methods to registered qualifying patients; and

39 (4) establish thresholds for administrative action to be taken
40 against an alternative treatment center and its employees, officers,
41 investors, directors, or governing board.

42 j. A medical marijuana cultivator or medical marijuana
43 processor may apply to the department for approval to relocate to
44 another location within the same region, and a medical marijuana
45 dispensary may apply to the department for approval to relocate to
46 another location within the same legislative district, as that district
47 is constituted as of the date of the application. The department may

1 approve an application for relocation if the department finds the
2 relocation would be consistent with the purposes of P.L.2009, c.307
3 (C.24:6I-1 et al.). The denial of an application to relocate a medical
4 marijuana cultivator, medical marijuana processor, or medical
5 marijuana dispensary shall be considered a final agency decision,
6 subject to review by the Appellate Division of the Superior Court.

7 k. (1) A medical marijuana cultivator, medical marijuana
8 processor, or medical marijuana dispensary may apply to the
9 department for approval to sell or transfer its permit to another
10 entity. The department shall not approve the sale or transfer of a
11 permit until each applicant at the entity applying to purchase or
12 receive the transfer of the permit undergoes a criminal history
13 record background check pursuant to subsection d. of this section,
14 the department finds that the sale or transfer of the permit would be
15 consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.),
16 the requirements of this section are met, and the department has
17 verified the information contained in the application. The
18 department shall approve or deny an application within 90 days
19 after receipt of a completed application. The denial of an
20 application to sell or transfer an alternative treatment center permit
21 shall be considered a final agency decision, subject to review by the
22 Appellate Division of the Superior Court. The sale or transfer of a
23 permit pursuant to this subsection shall not constitute authorization
24 to relocate the permitted facility unless the entity purchasing or
25 receiving transfer of the permit additionally receives approval for
26 the relocation from the department pursuant to subsection j. of this
27 section.

28 (2) If a nonprofit medical marijuana cultivator, medical
29 marijuana processor, or medical marijuana dispensary proposes to
30 sell or transfer its permit to a for-profit entity, its board of directors
31 may proceed with the sale or transfer upon receiving approval for
32 the sale or transfer from the department pursuant to paragraph (1) of
33 this subsection, and, except as provided in paragraph (3) of this
34 subsection, after obtaining an independent appraisal for the fair
35 market value of the permit. The sale or transfer of the permit shall
36 be consistent with the requirements of the "New Jersey Nonprofit
37 Corporation Act," N.J.S.15A:1-1 et seq. The proceeds of the sale or
38 transfer, following satisfaction of the obligations of the medical
39 marijuana cultivator, medical marijuana processor, or medical
40 marijuana dispensary, shall be retained or expended in a manner
41 consistent with the requirements of the "New Jersey Nonprofit
42 Corporation Act," N.J.S.15A:1-1 et seq., or until the organization is
43 lawfully wound down or dissolved. If a nonprofit medical
44 marijuana cultivator, medical marijuana processor, or medical
45 marijuana dispensary seeks to sell or transfer its permit to a for-
46 profit entity with which it shares common ownership or control, the
47 sale or transfer shall not proceed unless at least one disinterested
48 director or trustee approves the sale or transfer in accordance with

1 the requirements of the “New Jersey Nonprofit Corporation Act,”
2 N.J.S.15A:1-1 et seq.

3 (3) In the case of a nonprofit alternative treatment center that
4 was issued a permit prior to the effective date of P.L. , c. (C.)
5 (pending before the Legislature as this bill), in lieu of obtaining an
6 independent appraisal of the fair market value of the alternative
7 treatment center’s medical marijuana cultivator permit, medical
8 marijuana processor permit, and each medical marijuana dispensary
9 permit as required under paragraph (2) of this subsection, upon
10 receiving approval for the sale from the department pursuant to
11 paragraph (1) of this subsection, a nonprofit alternative treatment
12 center that was issued a permit prior to the effective date of
13 P.L. , c. (C.) (pending before the Legislature as this bill)
14 may, on a single occasion and no later than one year after the
15 effective date of P.L. , c. (C.) (pending before the
16 Legislature as this bill);

17 (a) elect to pay the department a fee of \$300,000 and sell or
18 transfer all of its permits for a sum that satisfies its outstanding
19 obligations; or

20 (b) elect to pay the department a fee of \$100,000 per permit and
21 sell or transfer one or more of its permits for a sum that satisfies its
22 outstanding obligations in connection with that permit. If the
23 alternative treatment center’s outstanding obligations for each
24 permit cannot be determined, each permit held by the alternative
25 treatment center shall be assigned a pro rata share of the total
26 outstanding obligations of the alternative treatment center, which
27 amount shall be deemed the outstanding obligation in connection
28 with that permit for the purposes of this subparagraph.

29 1. No employee of the department shall have any direct or
30 indirect financial interest in the cultivating, manufacturing, or
31 dispensing of medical marijuana or related paraphernalia, or
32 otherwise receive anything of value from an applicant for an
33 alternative treatment center permit in exchange for reviewing,
34 processing, or making any recommendations with respect to a
35 permit application.

36 m. In the event that an alternative treatment center fails to
37 comply with any requirements set forth in P.L.2009, c.307 (C.24:6I-
38 1 et al.) or any related law or regulation, the department may invoke
39 penalties or take administrative action against the alternative
40 treatment center and its employees, officers, investors, directors, or
41 governing board, including, but not limited to, assessing fines,
42 referring matters to another State agency, or suspending or
43 terminating any permit held by the alternative treatment center.

44 n. The maximum fees that may be charged in connection with
45 an alternative treatment center permit shall be as follows:

46 (1) for an initial three-year permit or biennial renewal of an
47 existing permit:

48 (a) for a medical marijuana cultivator, \$50,000;

- 1 **(b) for a medical marijuana processor, \$25,000; and**
2 **(c) for a medical marijuana dispensary, \$10,000;**
3 **(2) for authorization to relocate a medical marijuana cultivator**
4 **or medical marijuana processor to a new location within the same**
5 **region, or for authorization to relocate a medical marijuana**
6 **dispensary to another location within the same legislative district,**
7 **\$20,000; and**
8 **(3) except as otherwise provided in paragraph (3) of subsection**
9 **k. of this section, to sell or transfer an alternative treatment center**
10 **permit, \$150,000.**
11 (cf: P.L.2013, c.160, s.2)

12
13 51. Section 10 of P.L.2009, c.307 (C.24:6I-10) is amended to
14 read as follows:

15 10. a. A **【physician】** health care practitioner shall provide
16 written instructions for a registered qualifying patient or **【his】** the
17 patient's designated caregiver, or an institutional caregiver acting
18 on behalf of the patient, to present to an alternative treatment center
19 concerning the total amount of usable marijuana that a patient may
20 be dispensed, in weight, in a 30-day period, which amount shall not
21 exceed **【two ounces. If no amount is noted, the maximum amount**
22 **that may be dispensed at one time is two ounces】** the maximum
23 amount that may be authorized for the patient pursuant to
24 subsection f. of this section.

25 b. A **【physician】** health care practitioner may issue multiple
26 written instructions at one time authorizing the patient to receive a
27 total of up to a **【90-day】** 180-day supply, provided that the
28 following conditions are met:

29 (1) Each separate set of instructions shall be issued for a
30 legitimate medical purpose by the **【physician】** health care
31 practitioner, as provided in **【this act】** P.L.2009, c.307 (C.24:6I-1 et
32 al.);

33 (2) Each separate set of instructions shall indicate the earliest
34 date on which a center may dispense the marijuana, except for the
35 first dispensation if it is to be filled immediately; and

36 (3) The **【physician】** health care practitioner has determined that
37 providing the patient with multiple instructions in this manner does
38 not create an undue risk of diversion or abuse.

39 c. A registered qualifying patient or **【his primary】** the patient's
40 designated caregiver, or an institutional caregiver acting on behalf
41 of a qualifying patient, shall present the patient's or caregiver's
42 registry identification card, as applicable, and these written
43 instructions to **【the】** any alternative treatment center that is
44 authorized to dispense medical marijuana, which shall verify and
45 log the documentation presented. An institutional caregiver shall
46 additionally present an authorization executed by the patient
47 certifying that the institutional caregiver is authorized to obtain

1 medical marijuana on behalf of the patient. A [physician] health
2 care practitioner may provide a copy of a written instruction by
3 electronic or other means, as determined by the commissioner,
4 directly to an alternative treatment center on behalf of a registered
5 qualifying patient. The dispensation of marijuana pursuant to any
6 written instructions shall occur within one month of the date that
7 the instructions were written or the instructions are void.

8 d. [A patient may be registered at only one alternative
9 treatment center at any time.] (deleted by amendment, P.L. , c.)
10 (pending before the Legislature as this bill)

11 e. Prior to dispensing medical marijuana to a qualifying
12 patient, the patient's designated caregiver, or an institutional
13 caregiver, the alternative treatment center shall access the system
14 established pursuant to section 62 of P.L.2009, c.307 (C.45:1-45.1)
15 to ascertain whether medical marijuana was dispensed for the
16 patient by any alternative treatment center within the preceding 30
17 days. Upon dispensing medical marijuana to a qualifying patient,
18 the patient's designated caregiver, or an institutional caregiver, the
19 alternative treatment center shall transmit to the patient's health
20 care practitioner information concerning the amount, strain, and
21 form of medical marijuana that was dispensed.

22 f. (1) Except as provided paragraph (2) of this subsection, the
23 maximum amount of usable marijuana that a patient may be
24 dispensed, in weight, in a 30-day period, shall be:

25 (a) until January 1, 2019, two ounces in dried form or the
26 equivalent amount in any other form;

27 (b) commencing January 1, 2019 and continuing until July 1,
28 2019, two and one-half ounces in dried form or the equivalent
29 amount in any other form; and

30 (c) on or after July 1, 2019, three ounces in dried form or the
31 equivalent amount in any other form.

32 (2) The monthly limits set forth in paragraph (1) of this
33 subsection shall not apply to patients who are terminally ill or who
34 are currently receiving hospice care through a licensed hospice,
35 which patients may be dispensed an unlimited amount of medical
36 marijuana. Qualifying patients who are not receiving hospice care
37 or who are not terminally ill may petition the department, on a form
38 and in a manner as the department shall require by regulation, for
39 an exemption from the monthly limits set forth in paragraph (1) of
40 this paragraph, which petition the department shall approve if the
41 department finds that granting the exemption is necessary to meet
42 the patient's treatment needs and is consistent with the provisions of
43 P.L.2009, c.307 (C.24:6I-1 et al.).

44 g. The commissioner shall establish, by regulation, curricula
45 for health care practitioners and alternative treatment center staff.
46 With regard to health care practitioners, the curriculum shall be
47 designed to assist practitioners in counseling patients with regard to
48 the quantity, dosing, and administration of medical marijuana

1 appropriate to treat the patient's qualifying medical condition. With
2 regard to alternative treatment center employees, the curriculum
3 shall be designed to assist the employees in counseling patients with
4 regard to determining the strain and form of medical marijuana
5 appropriate to treat the patient's qualifying medical condition.

6 (cf: P.L.2009, c.307, s.10)

7
8 52. Section 14 of P.L.2009, c.307 (C.24:6I-12) is amended to
9 read as follows:

10 14. a. The commissioner shall report to the Governor, and to
11 the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-
12 19.1):

13 (1) no later than one year after the effective date of **【this act】**
14 P.L.2009, c.307 (C.24:6I-1 et al.), on the actions taken to
15 implement the provisions of **【this act】** P.L.2009, c.307 (C.24:6I-1
16 et al.); and

17 (2) annually thereafter on the number of applications for registry
18 identification cards, the number of qualifying patients registered,
19 the number of **【primary】** designated and institutional caregivers
20 registered, the nature of the **【debilitating】** qualifying medical
21 conditions of the patients, the number of registry identification
22 cards revoked, the number of alternative treatment center permits
23 and the number and types of endorsements issued and revoked, any
24 incidents of diversion of medical marijuana, and the number of
25 **【physicians providing certifications for】** health care practitioners
26 authorizing patients for the medical use of marijuana, including the
27 types of license or certification held by those practitioners.

28 b. The reports shall not contain any identifying information of
29 patients, caregivers, or **【physicians】** health care practitioners.

30 c. Within two years after the effective date of **【this act】**
31 P.L.2009, c.307 (C.24:6I-1 et al.) and every two years thereafter,
32 the commissioner shall: evaluate whether there are sufficient
33 numbers of alternative treatment centers to meet the needs of
34 registered qualifying patients throughout the State; evaluate
35 whether the maximum amount of medical marijuana allowed
36 pursuant to **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) is sufficient
37 to meet the medical needs of qualifying patients; and determine
38 whether any alternative treatment center has charged excessive
39 prices for marijuana that the center dispensed.

40 The commissioner shall report his findings no later than two
41 years after the effective date of **【this act】** P.L.2009, c.307 (C.24:6I-
42 1 et al.), and every two years thereafter, to the Governor, and to the
43 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).
44 (cf: P.L.2009, c.307, s.14)

45
46 53. Section 15 of P.L.2009, c.307 (C.24:6I-13) is amended to
47 read as follows:

1 15. a. The Department of Health is authorized to exchange
2 fingerprint data with, and receive information from, the Division of
3 State Police in the Department of Law and Public Safety and the
4 Federal Bureau of Investigation for use in reviewing applications
5 for individuals seeking to serve as **【primary】** designated caregivers
6 or institutional caregivers who, pursuant to section 4 of P.L.2009,
7 c.307 (C.24:6I-4), are required to undergo a criminal history record
8 background check, and for permits to operate as, or to be a director,
9 officer, or employee of, alternative treatment centers pursuant to
10 section 7 of P.L.2009, c.307 (C.24:6I-7).

11 b. The Division of State Police shall promptly notify the
12 Department of Health in the event an applicant seeking to serve as a
13 **【primary】** designated or institutional caregiver or an applicant for a
14 permit to operate as, or to be a director, officer, or employee of, an
15 alternative treatment center, who was the subject of a criminal
16 history record background check conducted pursuant to subsection
17 a. of this section, is convicted of a crime involving possession or
18 sale of a controlled dangerous substance.
19 (cf: P.L.2012, c.17, s.91)

20
21 54. Section 16 of P.L.2009, c.307 (C.24:6I-14) is amended to
22 read as follows:

23 16. Nothing in this act shall be construed to require a
24 government medical assistance program or private health insurer to
25 reimburse a person for costs associated with the medical use of
26 marijuana **【**, or an employer to accommodate the medical use of
27 marijuana in any workplace**】**.
28 (cf: P.L.2009, c.307, s.16)

29
30 55. Section 18 of P.L.2009, c.307 (C.24:6I-16) is amended to
31 read as follows:

32 18. a. Pursuant to the "Administrative Procedure Act,"
33 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
34 promulgate rules and regulations to effectuate the purposes of **【this**
35 **act】** P.L.2009, c.307 (C.24:6I-1 et al.), in consultation with the
36 Department of Law and Public Safety.

37 b. Notwithstanding any provision of P.L.1968, c.410
38 (C.52:14B-1 et seq.) to the contrary, the commissioner shall adopt,
39 immediately upon filing with the Office of Administrative Law and
40 no later than the 90th day after the effective date of **【this act】**
41 P.L.2009, c.307 (C.24:6I-1 set al.), such regulations as the
42 commissioner deems necessary to implement the provisions of **【this**
43 **act】** P.L.2009, c.307 (C.24:6I-1 set al.). Regulations adopted
44 pursuant to this subsection shall be effective until the adoption of
45 rules and regulations pursuant to subsection a. of this section and
46 may be amended, adopted, or readopted by the commissioner in

1 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
2 et seq.).

3 c. No later than 90 days after the effective date of
4 P.L. , c. (C.) (pending before the Legislature as this bill), the
5 commissioner shall establish, by regulation, recommended dosage
6 guidelines for medical marijuana in each form available to
7 qualifying patients that are equivalent to one ounce of medical
8 marijuana in dried form. The commissioner shall periodically
9 review and update the dosage amounts as appropriate, including to
10 establish equivalent dosage amounts for new forms of medical
11 marijuana that become available.

12 (cf: P.L.2009, c.307, s.18)

13

14 56. Section 11 of P.L.2009, c.307 (C.45:1-45.1) is amended to
15 read as follows:

16 11. a. A **【physician】** health care practitioner who **【provides a**
17 **certification】** authorizes a patient for the medical use of marijuana
18 or who provides a written instruction for the medical use of
19 marijuana to a qualifying patient pursuant to P.L.2009, c.307
20 (C.24:6I-1 et al.) and any alternative treatment center shall furnish
21 to the Director of the Division of Consumer Affairs in the
22 Department of Law and Public Safety such information, on a daily
23 basis and in such a format **【and at such intervals,】** as the director
24 shall prescribe by regulation, for inclusion in a system established
25 to monitor the dispensation of marijuana in this State for medical
26 use as authorized by the provisions of P.L.2009, c.307 (C.24:6I-1 et
27 al.), which system shall serve the same purpose as, and be cross-
28 referenced with, the electronic system for monitoring controlled
29 dangerous substances established pursuant to section 25 of
30 P.L.2007, c.244 (C.45:1-45).

31 b. The Director of the Division of Consumer Affairs, pursuant
32 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
33 1 et seq.), and in consultation with the Commissioner of Health
34 **【and Senior Services】**, shall adopt rules and regulations to
35 effectuate the purposes of subsection a. of this section.

36 c. Notwithstanding any provision of P.L.1968, c.410
37 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of
38 Consumer Affairs shall adopt, immediately upon filing with the
39 Office of Administrative Law and no later than the 90th day after
40 the effective date of P.L.2009, c.307 (C.24:6I-1 et al.), such
41 regulations as the director deems necessary to implement the
42 provisions of subsection a. of this section. Regulations adopted
43 pursuant to this subsection shall be effective until the adoption of
44 rules and regulations pursuant to subsection b. of this section and
45 may be amended, adopted, or readopted by the director in
46 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
47 et seq.).

48 (cf: P.L.2009, c.307, s.11)

1 57. (New section) a. A health care practitioner shall not be
2 required to be listed publicly in in any medical marijuana
3 practitioner registry as a condition of authorizing patients for the
4 medical use of marijuana.

5 b. When authorizing a qualifying patient who is a minor for the
6 medical use of marijuana, if the treating health care practitioner is
7 not trained in the care of pediatric patients, the treating health care
8 practitioner shall, prior to authorizing the patient for the medical
9 use of marijuana, obtain written confirmation from a health care
10 practitioner trained in the care of pediatric patients establishing, in
11 that health care practitioner's professional opinion, and following
12 an examination of the minor patient or review of the minor patient's
13 medical record, that the minor patient is likely to receive
14 therapeutic or palliative benefits from the medical use of marijuana
15 to treat or alleviate symptoms associated with the patient's
16 qualifying medical condition. If the treating health care practitioner
17 is trained in the care of pediatric patients, no additional written
18 confirmation from any other health care practitioner shall be
19 required as a condition of authorizing the patient for the medical
20 use of marijuana.

21

22 58. (New section) a. Except as provided in subsection b. of this
23 section, no health care practitioner who has authorized a patient for
24 the medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
25 et al.) within the past 90 days, and no member of such health care
26 practitioner's immediate family, shall be an interest holder in, or
27 receive any form of direct or indirect compensation from, any
28 alternative treatment center.

29 b. Nothing in subsection a. of this section shall be construed to
30 prevent a health care practitioner from serving on the governing
31 board of an alternative treatment center, or on the medical advisory
32 board of an alternative treatment center established pursuant to
33 section 64 of P.L. , c. (C.) (pending before the Legislature
34 as this bill), or from receiving a reasonable stipend for such service,
35 provided that:

36 (1) the stipend does not exceed the stipend paid to any other
37 member of the medical advisory board for serving on the board; and

38 (2) the amount of the stipend is not based on patient volumes at
39 any medical marijuana dispensary or on the number of
40 authorizations for the medical use of marijuana the health care
41 practitioner issues pursuant to P.L.2009, c.307 (C.24:6I-1 et al.).

42 c. A health care practitioner, or an immediate family member
43 of a health care practitioner, who applies to be an owner, director,
44 officer, or employee of an alternative treatment center, or who
45 otherwise seeks to be an interest holder in, or receive any form of
46 direct or indirect compensation from, an alternative treatment
47 center, shall certify that the health care practitioner has not
48 authorized a patient for the medical use of marijuana pursuant to

1 P.L.2009, c.307 (C.24:6I-1 et al.) within the 90 days immediately
2 preceding the date of the application.

3 d. A person who violates subsection a. of this section shall be
4 guilty of a crime of the fourth degree.

5
6 59. (New section) a. An individual who is registered as a
7 qualifying patient in another state or jurisdiction within the United
8 States that authorizes the medical use of marijuana shall be
9 considered a qualifying patient for the purposes of P.L.2009, c.307
10 (C.24:6I-1 et al.), provided that the individual possesses both a
11 valid patient registry card and a valid photo identification card
12 issued by the other state or jurisdiction. The individual shall be
13 authorized to possess, use, and engage in such other conduct in
14 connection with medical marijuana as is consistent with the
15 requirements of P.L.2009, c.307 (C.24:6I-1 et al.) and the laws of
16 the state or jurisdiction that issued the patient's registry card, except
17 that in no case shall any individual be dispensed medical marijuana
18 by an alternative treatment center in New Jersey pursuant to a
19 patient registration issued by another state or jurisdiction.

20 b. An individual who is registered as a designated caregiver in
21 another state or jurisdiction within the United States that authorizes
22 the medical use of marijuana shall be considered a designated
23 caregiver for the purposes of P.L.2009, c.307 (C.24:6I-1 et al.),
24 provided that the individual is in possession of both a valid registry
25 card and a valid photo identification card issued by the other state
26 or jurisdiction. The individual shall be authorized to assist a
27 registered qualifying patient with the medical use of marijuana and
28 engage in such other conduct in connection with medical marijuana
29 as is consistent with the requirements of P.L.2009, c.307 (C.24:6I-1
30 et al.) and the laws of the state or jurisdiction that issued the
31 caregiver's registry card, except that in no case shall any individual
32 be dispensed medical marijuana by an alternative treatment center
33 in New Jersey pursuant to a caregiver registration issued by another
34 state or jurisdiction.

35 c. The department shall seek to enter into reciprocity
36 agreements with other states and jurisdictions within the United
37 States that authorize the medical use of marijuana.

38
39 60. (New section) a. Unless an employer establishes by a
40 preponderance of the evidence that the lawful use of medical
41 marijuana has impaired the employee's ability to perform the
42 employee's job responsibilities, it shall be unlawful to take any
43 adverse employment action against an employee who is a registered
44 qualifying patient solely based on either: (1) the employee's status
45 as a registry identification cardholder; or (2) the employee's
46 positive drug test for marijuana components or metabolites.

47 For the purposes of this section, an employer may consider an
48 employee's ability to perform the employee's job responsibilities to

1 be impaired when the employee manifests specific articulable
2 symptoms while working that decrease or lessen the employee's
3 performance of the duties or tasks of the employee's job position.

4 b. (1) If an employer has a drug testing policy and an
5 employee or job applicant tests positive for marijuana, the employer
6 shall offer the employee or job applicant an opportunity to present a
7 legitimate medical explanation for the positive test result, and shall
8 provide written notice of the right to explain to the employee or job
9 applicant.

10 (2) Within three working days after receiving notice pursuant to
11 paragraph (1) of this subsection, the employee or job applicant may
12 submit information to the employer to explain the positive test
13 result, or may request a confirmatory retest of the original sample at
14 the employee's or job applicant's own expense. As part of an
15 employee's or job applicant's explanation for the positive test
16 result, the employee or job applicant may present an authorization
17 for medical marijuana issued by a health care practitioner, a registry
18 identification card, or both.

19 c. Nothing in this section shall be deemed to:

20 (1) restrict an employer's ability to prohibit, or take adverse
21 employment action for, the possession or use of intoxicating
22 substances during work hours; or

23 (2) require an employer to commit any act that would cause the
24 employer to be in violation of federal law, that would result in a
25 loss of a licensing-related benefit pursuant to federal law, or that
26 would result in the loss of a federal contract or federal funding.

27 d. No employer shall be penalized or denied any benefit under
28 State law solely on the basis of employing a person who is a
29 registry identification cardholder.

30 e. As used in this section, "adverse employment action" means
31 refusing to hire or employ a registered qualifying patient, barring or
32 discharging a registered qualifying patient from employment,
33 requiring a registered qualifying patient to retire from employment,
34 or discriminating against a registered qualifying patient in
35 compensation or in any terms, conditions, or privileges of
36 employment.

37
38 61. (New section) The department shall begin accepting and
39 processing applications for six additional medical marijuana
40 cultivators, six additional medical marijuana processors, and 40
41 additional medical marijuana dispensaries no later than 90 days
42 after the effective date of P.L. , c. (pending before the
43 Legislature as this bill). Thereafter, the department shall
44 subsequently accept and process applications for up to three
45 additional medical marijuana cultivators, up to three additional
46 medical marijuana processors, and up to 40 additional medical
47 marijuana dispensaries, consistent with the requirements of
48 subparagraphs (c), (d), (e), and (f) of paragraph (2) of subsection a.

1 of section 7 of P.L.2009, c.307 (C.24:6I-7). The department may
2 establish nonrefundable application fees, which shall be consistent
3 with the fees established pursuant to paragraph (1) of subsection l.
4 of section 7 of P.L.2009, c.307 (C.24:6I-7).

5 The department shall make a determination as to a permit
6 application within 90 days after receiving the application, and shall
7 issue an initial permit to an approved applicant immediately upon
8 collection of the permit fee, unless the department finds the
9 applicant is not implementing the plans, procedures, protocols,
10 actions, or other measures set forth in the applicant's permit
11 application submitted pursuant to section 62 of P.L. , c. (C.)
12 (pending before the Legislature as this bill), or is otherwise not in
13 compliance with the requirements of P.L.2009, c.307 (C.24:6I-
14 1 et al.), in which case the department shall issue the permit to the
15 next highest scoring applicant in the same region or legislative
16 district that is in compliance with the applicant's permit application
17 and the requirements of P.L.2009, c.307 (C.24:6I-1 et al.).
18

19 62. (New section) a. Each application for an initial three year
20 permit to operate a medical marijuana cultivator, medical marijuana
21 processor, or medical marijuana dispensary, and for biennial
22 renewal of such permit, shall be submitted to the department. A
23 separate application shall be required for each location at which an
24 applicant seeks to operate. Renewal applications shall be submitted
25 to the department no later than 90 days before the date the current
26 permit will expire.

27 b. An initial medical marijuana cultivator, medical marijuana
28 processor, or medical marijuana dispensary permit application shall
29 be evaluated and scored on a 100 point scale, consistent with the
30 requirements of subsections c. and d. of this section, plus any bonus
31 points awarded pursuant to subsection e. of this section.

32 c. In addition to any points awarded for an initial application
33 for a medical marijuana cultivator permit, medical marijuana
34 processor permit, or a medical marijuana dispensary permit
35 pursuant to subsection d. of this section and any bonus points
36 awarded pursuant to subsection e. of this section, up to 21 points
37 may be awarded for the summary of the applicant's operating plan,
38 excluding safety and security criteria:

39 (1) In the case of an applicant for a medical marijuana cultivator
40 permit, the operating plan summary shall include a written
41 description, of up to 1,000 words per topic, concerning the
42 applicant's qualifications for, experience in, and knowledge of each
43 of the following topics:

44 (a) State-licensed cultivation of medical marijuana;

45 (b) conventional horticulture or agriculture, familiarity with
46 good agricultural practices, and any relevant certifications or
47 degrees;

48 (c) quality control and quality assurance;

- 1 (d) recall plans;
- 2 (e) packaging and labeling;
- 3 (f) inventory control and tracking software or systems for the
- 4 cultivation of medical marijuana;
- 5 (g) analytical chemistry and testing of marijuana;
- 6 (h) water management practices;
- 7 (i) odor mitigation practices;
- 8 (j) onsite and offsite recordkeeping;
- 9 (k) strain variety and plant genetics;
- 10 (l) pest control and disease management practices, including
- 11 plans for the use of pesticides, nutrients, and additives;
- 12 (m) waste disposal plans; and
- 13 (n) compliance with applicable laws and regulations.
- 14 (2) In the case of an applicant for a medical marijuana processor
- 15 permit, the operating plan summary shall include a written
- 16 description, of up to 1,000 words per topic, concerning the
- 17 applicant's qualifications for, experience in, and knowledge of each
- 18 of the following topics:
 - 19 (a) State-licensed manufacture or production of marijuana
 - 20 products using appropriate extraction methods, including intended
 - 21 use and sourcing of extraction equipment and associated solvents or
 - 22 intended methods and equipment for non-solvent extraction;
 - 23 (b) pharmaceutical manufacturing, good manufacturing
 - 24 practices, and good laboratory practices;
 - 25 (c) quality control and quality assurance;
 - 26 (d) recall plans;
 - 27 (e) packaging and labeling;
 - 28 (f) inventory control and tracking software or systems for the
 - 29 processing of medical marijuana and the manufacturing and
 - 30 production of medical marijuana products;
 - 31 (g) analytical chemistry and testing of marijuana and marijuana-
 - 32 infused or marijuana-derived products and formulations;
 - 33 (h) water management practices;
 - 34 (i) odor mitigation practices;
 - 35 (j) onsite and offsite recordkeeping;
 - 36 (k) a list of product formulations or products proposed to be
 - 37 manufactured or produced, with estimated cannabinoid profiles, if
 - 38 known, including varieties with a high cannabidiol content;
 - 39 (l) intended use and sourcing of all non-marijuana ingredients
 - 40 used in the manufacture or production of marijuana products,
 - 41 including methods to verify or ensure the safety and integrity of
 - 42 those ingredients and their potential to be or contain allergens;
 - 43 (m) waste disposal plans; and
 - 44 (n) compliance with applicable laws and regulations.
- 45 (3) In the case of an applicant for a medical marijuana
- 46 dispensary permit, the operating plan summary shall include a
- 47 written description, of up 1,000 words per topic, concerning the

1 applicant's qualifications for, experience in, and knowledge of each
2 of the following topics:

- 3 (a) State-licensed dispensation of medical marijuana to
4 qualifying patients;
- 5 (b) healthcare, medicine, and treatment of patients with
6 debilitating medical conditions;
- 7 (c) marijuana product evaluation procedures;
- 8 (d) recall plans;
- 9 (e) packaging and labeling;
- 10 (f) inventory control and point-of-sale software or systems for
11 the sale of medical marijuana;
- 12 (g) patient counseling procedures;
- 13 (h) the routes of administration, strains, varieties, and
14 cannabinoid profiles of medical marijuana products;
- 15 (i) odor mitigation practices;
- 16 (j) onsite and offsite recordkeeping;
- 17 (k) the composition of the applicant's medical advisory board, if
18 any;
- 19 (l) compliance with State and federal patient privacy rules;
- 20 (m) waste disposal plans; and
- 21 (n) compliance with applicable laws and regulations.

22 d. In addition to any points awarded for an operating plan
23 summary submitted pursuant to subsection c. of this section and any
24 bonus points awarded pursuant to subsection e. of this section, up
25 79 points may be awarded for an initial application for a medical
26 marijuana cultivator permit, medical marijuana processor permit, or
27 medical marijuana dispensary permit, as follows:

28 (1) Up to four points may be awarded for the applicant's
29 environmental impact plan, which shall not exceed five pages.

30 (2) Up to 7.5 points may be awarded for the summary of the
31 applicant's safety and security plans and procedures, which shall
32 include descriptions of the following:

- 33 (a) plans for the use of security personnel;
- 34 (b) the experience or qualifications of existing security
35 personnel;
- 36 (c) security and surveillance features, including descriptions of
37 any alarm systems, video surveillance systems, and access and
38 visitor management systems, along with drawings identifying the
39 proposed locations for surveillance cameras and other security
40 features;
- 41 (d) plans for the storage of medical marijuana and medical
42 marijuana products, including any safes, vaults, and climate control
43 systems that will be utilized for this purpose;
- 44 (e) a diversion prevention plan;
- 45 (f) an emergency management plan;
- 46 (g) procedures for screening, monitoring, and performing
47 criminal history record background checks of employees and other
48 ATC identification card holders;

- 1 (h) cybersecurity procedures, including, in the case of an
2 applicant for a medical marijuana dispensary permit, procedures for
3 collecting, processing, and storing patient data;
- 4 (i) the applicant's familiarity with State and federal privacy
5 laws;
- 6 (j) workplace safety plans and the applicant's familiarity with
7 federal Occupational Safety and Health Administration regulations;
- 8 (k) the applicant's history of workers' compensation claims and
9 safety assessments;
- 10 (l) procedures for reporting adverse events; and
11 (m) a sanitation practices plan.
- 12 (3) Up to 15 total points may be awarded for the summary of the
13 applicant's business experience, which shall be awarded as follows:
- 14 (a) up to six points may be awarded for the description of the
15 applicant's experience operating businesses in highly-regulated
16 industries;
- 17 (b) up to six points may be awarded for a description of the
18 applicant's experience in operating alternative treatment centers and
19 related medical marijuana cultivation, processing, and dispensing
20 entities under the laws of New Jersey or any other state; and
- 21 (c) up to three points may be awarded for the applicant's plan,
22 which shall not exceed three pages, to comply with and mitigate the
23 effects of 26 U.S.C. s.280E on marijuana businesses, and for
24 evidence that the applicant is not in arrears with respect to any tax
25 obligation to the State.
- 26 In evaluating the experience described under subparagraphs (a)
27 and (b) of this paragraph, the department shall afford the greatest
28 weight to the experience of the applicant itself, controlling owners,
29 and entities with common ownership or control with the applicant;
30 followed by the experience of those with a 15 percent or greater
31 ownership interest in the applicant's organization; followed by
32 interest holders in the applicant's organization; followed by other
33 officers, directors, and bona fide full-time employees of the
34 applicant as of the submission date of the application.
- 35 (4) Up to 15 points may be awarded based on a description of
36 the proposed location for the applicant's alternative treatment center
37 site, which shall be awarded as follows:
- 38 (a) up to seven points may be awarded for a description of the
39 proposed location, the surrounding area, and the suitability or
40 advantages of the proposed location, along with a floor plan and
41 optional renderings or architectural or engineering plans;
- 42 (b) four points may be awarded for submitting zoning approvals
43 for the proposed location, which shall consist of a letter or affidavit
44 from appropriate municipal officials that the location will conform
45 to municipal zoning requirements allowing for the cultivation,
46 processing, or dispensing of medical marijuana, medical marijuana
47 products, and related supplies, as appropriate; and

1 (c) four points may be awarded for submitting proof of local
2 support for the suitability of the location, which may be
3 demonstrated by a letter from the municipality's highest-ranking
4 official or by a resolution adopted by the municipality's governing
5 body indicating that the intended location is appropriately located
6 or otherwise suitable for the cultivation, processing, or dispensing
7 of medical marijuana, medical marijuana products, and related
8 supplies, as appropriate.

9 Notwithstanding any other provision of this subsection, an
10 application shall be disqualified from consideration unless it
11 includes documentation demonstrating that the applicant will have
12 final control of the premises upon approval of the application,
13 including, but not limited to, a lease agreement, contract for sale,
14 title, deed, or similar documentation. In addition, if the applicant
15 will lease the premises, the application will be disqualified from
16 consideration unless it includes certification from the landlord that
17 the landlord is aware that the tenant's use of the premises will
18 involve cultivation, processing, or dispensing of medical marijuana
19 and medical marijuana products, as appropriate. An application
20 shall not be disqualified from consideration if the application does
21 not include the materials described in subparagraphs (b) or (c) of
22 this paragraph.

23 (5) Up to 15 total points may be awarded based on a description
24 of the applicant's experience and plans with regard to community
25 impact and social responsibility, which shall be awarded as follows:

26 (a) up to four points may be awarded for a community impact
27 plan, not to exceed five pages, summarizing how the applicant
28 intends to have a positive impact on the community in which the
29 proposed medical marijuana cultivator, medical marijuana
30 processor, or medical marijuana dispensary is to be located, which
31 shall include an economic impact plan, a description of outreach
32 activities, and, in the case of a medical marijuana dispensary, any
33 financial assistance or discount plans the applicant will provide to
34 qualifying patients;

35 (b) up to three points may be awarded for a written description
36 of the applicant's record of social responsibility, philanthropy, and
37 ties to the proposed host community, which shall not exceed five
38 pages;

39 (c) up to four points may be awarded for a written description of
40 any research the applicant has conducted on the medical efficacy or
41 adverse effects of marijuana use and the applicant's participation in
42 or support of marijuana-related research and educational activities,
43 which shall not exceed three pages; and

44 (d) up to four points may be awarded for a written plan, which
45 shall not exceed three pages, describing any research and
46 development regarding the medical efficacy or adverse effects of
47 marijuana, and any marijuana-related educational and outreach

1 activities, the applicant intends to conduct if issued a permit by the
2 department.

3 In evaluating the information submitted pursuant to
4 subparagraphs (b) and (c) of this paragraph, the department shall
5 afford the greatest weight to the experience of the applicant itself,
6 controlling owners, and entities with common ownership or control
7 with the applicant; followed by the experience of those with a 15
8 percent or greater ownership interest in the applicant's organization;
9 followed by interest holders in the applicant's organization;
10 followed by other officers, directors, and bona fide full-time
11 employees of the applicant as of the submission date of the
12 application.

13 (6) Up to 7.5 total points may be awarded for the applicant's
14 workforce development and job creation plan, which shall be
15 awarded as follows:

16 (a) up to four points may be awarded for a description of the
17 applicant's workforce development and job creation plan, which
18 may include information on the applicant or its owners' history of
19 job creation and planned job creation at its proposed facility;
20 education, training, and resources to be made available for
21 employees; any relevant certifications; and an optional diversity
22 plan; and

23 (b) 3.5 points shall be awarded to any applicant that has
24 executed a labor peace agreement or card check and neutrality
25 agreement with a collective bargaining unit for the proposed
26 facility. An applicant that does not submit the information
27 described in this subparagraph shall not be disqualified from
28 consideration.

29 (7) Up to 15 total points may be awarded for the description of
30 applicant's business and financial plan, which shall be awarded as
31 follows:

32 (a) up to five points may be awarded for an executive summary
33 of the applicant's business plan, which shall not exceed 1,500
34 words;

35 (b) up to five points may be awarded for a demonstration of the
36 applicant's financial ability to implement its business plan, which
37 shall not exceed 10 pages including attachments, and which may
38 include, but shall not be limited to, bank statements, business and
39 individual financial statements, net worth statements, and debt and
40 equity financing statements. An applicant who demonstrates the
41 availability of at least \$500,000 in a bank account in the applicant's
42 name at the time the application is submitted shall be awarded full
43 points under this subparagraph;

44 (c) up to five points may be awarded for a description of the
45 applicant's experience complying with guidance pertaining to
46 marijuana issued by the Financial Crimes Enforcement Network
47 under 31 U.S.C. s.5311 et seq., the federal Bank Secrecy Act, which
48 may be demonstrated by submitting letters regarding its banking

1 history from banks or credit unions that certify they are aware of the
2 business activities of the applicant, or entities with common
3 ownership or control of the applicant's organization, in any state
4 where the applicant has operated a business related to medical
5 marijuana. For the purposes of this subparagraph, the department
6 shall consider only bank references involving accounts in the name
7 of the applicant or of an entity with common ownership or control
8 of the applicant's organization. An applicant who does not submit
9 the information described in this subparagraph shall not be
10 disqualified from consideration.

11 e. Up to a total of 40 bonus points may be added to the
12 applicant's total score based on the following:

13 (1) If any of the applicant's majority or controlling owners were
14 previously approved by the department to serve as an officer,
15 director, principal, or key employee of an alternative treatment
16 center, and the individual served in such capacity at the alternative
17 treatment center for at least six months, the department shall award
18 10 bonus points, which shall be added to the applicant's total score.
19 No points shall be deducted from the applicant's total score if none
20 of the majority or controlling owners meet the requirements of this
21 paragraph.

22 (2) If an applicant can demonstrate that its governance structure
23 includes the involvement of a licensed and accredited school of
24 medicine or osteopathic medicine in the United States or a general
25 acute care hospital, an ambulatory care facility licensed in New
26 Jersey, an adult day care services program licensed in New Jersey,
27 or a pharmacy licensed in New Jersey, the department shall award
28 15 bonus points, which shall be added to the applicant's total score,
29 provided the following conditions are met:

30 (a) the school, hospital, facility, or pharmacy has conducted or
31 participated in institutional review board-approved research related
32 to marijuana involving the use of human subjects, except in the case
33 of an accredited school of medicine or osteopathic medicine that is
34 located and licensed in New Jersey;

35 (b) the school, hospital, facility, or pharmacy holds a profit
36 share or ownership interest in the applicant's organization of 10
37 percent or more, except in the case of an accredited school of
38 medicine or osteopathic medicine that is located and licensed in
39 New Jersey; and

40 (c) the school, hospital, facility, or pharmacy participates in
41 major decision-making activities within the applicant's
42 organization, which may be demonstrated by representation on the
43 board of directors of the applicant's organization.

44 No points shall be deducted from the applicant's total score if the
45 applicant's governance structure does not include a school, hospital,
46 facility, or pharmacy that meets the requirements of this paragraph.

47 (3) If the applicant submits evidence that the applicant, or an
48 entity with common ownership or control with the applicant, has

1 executed a collective bargaining agreement in the cannabis industry
2 that has been in effect for at least six months as of the submission
3 date of the application, the department shall award 15 bonus points,
4 which shall be added to the applicant's total score. No points shall
5 be deducted from the applicant's total score if the applicant has not
6 executed a collective bargaining agreement in the cannabis industry
7 that meets the requirements of this paragraph.

8 f. In reviewing a medical marijuana cultivator, medical
9 marijuana processor, or medical marijuana dispensary initial permit
10 application, unless the information is otherwise solicited by the
11 department in a specific application question, the department's
12 evaluation of the application shall be limited to the experience and
13 qualifications of the applicant's organization, including any entities
14 with common ownership or control of the applicant's organization,
15 controlling owners or interest holders in the applicant's
16 organization, and the officers, directors, and actual full-time
17 existing employees of the applicant's organization. Responses
18 pertaining to consultants, independent contractors, and prospective
19 or part-time employees of the entity shall not be considered or
20 scored. Each applicant shall certify as to the status of the
21 individuals and entities included in the application.

22 g. (1) To the extent possible, the department shall take all
23 necessary affirmative steps and best efforts to afford business
24 enterprises owned by women, minorities, and veterans the
25 opportunity to apply for permits, and shall seek to ensure that at
26 least 15 percent of the total number of new medical marijuana
27 dispensary permits issued on or after the effective date of
28 P.L. , c. (C.) (pending before the Legislature as this bill) are
29 issued to a qualified applicant that:

30 (a) has been certified as a minority business or as a women's
31 business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.);

32 (b) has been certified as a veteran-owned business pursuant to
33 P.L.2011, c.147 (C.52:32-49 et seq.); or

34 (c) is a disabled-veterans' business, as defined in section 2 of
35 P.L.2015, c.116 (C.52:32-31.2).

36 (2) In selecting among applicants who meet the criteria set forth
37 in paragraph (1) of this subsection, the department shall grant a
38 higher preference to applicants with up to two of the certifications
39 described in this subsection.

40 h. (1) To the extent possible, the department shall seek to
41 ensure that at least 25 percent of new medical marijuana dispensary
42 permit applications are awarded to applicants who are a Tier 1, Tier
43 2, or Tier 3 dispensary, with greater preference being given to an
44 applicant for a Tier 1 dispensary over an applicant for a Tier 2 or
45 Tier 3 dispensary, and higher preference being given to an applicant
46 for a Tier 2 dispensary over an applicant for a Tier 3 dispensary.

47 (2) Of the permits awarded to Tier 1, Tier 2, and Tier 3
48 dispensaries pursuant to paragraph (1) of this subsection, the

1 department shall seek to ensure that at least 75 percent of the
2 permits are awarded to dispensaries located in an impact zone.

3 (3) For the purposes of this subsection:

4 (a) "Tier 1 dispensary" means a medical marijuana dispensary
5 for which at least 51 percent of the equity associated with the
6 ownership of the dispensary belongs to individuals who lived in an
7 impact zone for at least five of the past 10 years;

8 (b) "Tier 2 dispensary" means a medical marijuana dispensary
9 for which at least 20 percent of the equity associated with the
10 ownership of the dispensary belongs to individuals who lived in an
11 impact zone for at least five of the past 10 years; and

12 (c) "Tier 3 dispensary" means a medical marijuana dispensary
13 for which less than 20 percent of the equity associated with the
14 ownership of the dispensary belongs to individuals who lived in an
15 impact zone for at least five of the past 10 years, but the dispensary
16 provides support to a Tier 1 or Tier 2 medical marijuana dispensary
17 in the form of free leased space, financial support, or other forms of
18 material support.

19 i. No employee of the department shall have any direct or
20 indirect financial interest in the cultivation, processing, or
21 dispensing of medical marijuana or related paraphernalia, or
22 otherwise receive anything of value from a medical marijuana
23 cultivator, medical marijuana processor, or medical marijuana
24 dispensary permit applicant in exchange for reviewing, processing,
25 or making any recommendations with respect to a permit
26 application.

27 j. Application materials submitted to the department pursuant
28 to this section not be considered a public record pursuant to
29 P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et
30 al.), or the common law concerning access to public records.

31 k. If the department notifies an applicant that it has scored
32 sufficiently high on multiple applications to be awarded more than
33 one medical marijuana cultivator permit, more than one medical
34 marijuana processor permit, or more than three medical marijuana
35 dispensary permits by the department, the applicant shall notify the
36 department, within seven business days after receiving such notice,
37 as to which permit it will accept, or, in the case of an applicant for
38 more than one medical marijuana dispensary permit, which permits
39 it will accept. For any permit award declined by an applicant
40 pursuant to this subsection, the department shall, upon receiving
41 notice from the applicant of the declination, award the permit to the
42 applicant with the next highest score on an application for that
43 permit in the same region or legislative district, as applicable. If an
44 applicant fails to notify the department as to which permit it will
45 accept, the department shall have the discretion to determine which
46 permit it will award to the applicant, based on the department's
47 determination of Statewide need and the scores awarded to other

1 applications in the affected region or legislative district, as
2 applicable.

3
4 63. (New section) The commissioner may establish, by
5 regulation, such additional permit types in connection with medical
6 marijuana as the commissioner deems necessary and appropriate to
7 maximize the effectiveness and efficiency of the State medical
8 marijuana program and meet the needs of qualifying patients, health
9 care practitioners, alternative treatment centers, and related entities.
10 Such permits may include, but shall not be limited to, permits for
11 providing laboratory services and conducting research in connection
12 with the medical use of marijuana.

13
14 64. (New section) a. An alternative treatment center may
15 appoint a medical advisory board to provide advice to the
16 alternative treatment center on all aspects of its business.

17 b. A medical advisory board appointed pursuant to this section
18 shall comprise five members: three health care practitioners
19 licensed to practice in New Jersey; one qualifying patient who
20 resides in the same area in which the alternative treatment center is
21 located; and one individual who owns a business in the same area in
22 which the alternative treatment center is located. No owner,
23 director, officer, or employee of an alternative treatment center may
24 serve on a medical advisory board.

25 c. A medical advisory board appointed pursuant to this section
26 shall meet at least two times per calendar year.

27
28 65. (New section) If any provision of P.L.2009, c.307
29 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or
30 sections 57 through 66 of P.L. , c. (C.) (pending before the
31 Legislature as this bill) or its application to any person or
32 circumstance is held invalid, the invalidity does not affect other
33 provisions or applications of P.L.2009, c.307 (C.24:6I-1 et al.),
34 P.L.2015, c.158 (C.18A:40-12.22 et al.), and sections 57 through 66
35 of P.L. , c. (C.) (pending before the Legislature as this bill)
36 which can be given effect without the invalid provision or
37 application, and to this end the provisions of P.L.2009, c.307
38 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and
39 sections 57 through 66 of P.L. , c. (C.) (pending before the
40 Legislature as this bill) are severable.

41
42 66. Section 5 of P.L.2009, c.307 (C.24:6I-5) is repealed.

43
44 67. This act shall take effect as follows:
45 a. sections 1 through 40, and sections 42 through 45 shall take
46 effect 180 days after enactment, except the Director of the Division
47 of Marijuana Enforcement may take such anticipatory action as may
48 be necessary to effectuate the provisions of this act;

1 grams or less of marijuana concentrate; and up to 6 immature
2 plants, without marijuana cultivation facility to a person who is of
3 or over the legal age for purchasing marijuana items, provided that
4 such transfer is for non-promotional, non-business purposes.

5 The section also provides that a person cannot consume or smoke
6 marijuana items openly in a public place, except as may be
7 permitted in consumption areas.

8 Section 5 concerns the lawful operation of marijuana
9 establishments.

10 Section 6 establishes penalties for any licensee or employee or
11 agent of any licensee who sells, offers for sale, distributes for
12 commercial purpose to a person under the age of 21. The
13 prohibited act, in each instance, constitutes a disorderly persons
14 offense. Additionally, a fine or a civil penalty may be imposed. A
15 disorderly persons offense is punishable by up to six months
16 imprisonment, a fine of up to \$1,000, or both. It shall be unlawful
17 for a person under the age of 21 to attempt to purchase, or acquire a
18 marijuana item, even if such marijuana items may be legally
19 purchased by persons at or above the legal age for purchasing
20 marijuana items.

21 Section 7 establishes the new Division of Marijuana
22 Enforcement in the Department of Treasury.

23 Sections 8 concerns the powers and duties of the newly created
24 Division of Marijuana Enforcement.

25 Section 9 provides for the division to adopt rules and regulations
26 necessary for implementation of the bill. The bill would require
27 regulations to include the following: procedures for the application,
28 issuance, denial, renewal, suspension, and revocation of a license to
29 operate a marijuana establishment; license application fees;
30 licensing goals; security requirements for marijuana establishments;
31 requirements to prevent the sale or diversion of marijuana and
32 marijuana products to underage persons; labeling and packaging
33 requirements; health and safety regulations and standards for the
34 manufacture and sale of marijuana products; advertisement
35 restrictions; record keeping requirements; and civil penalties for the
36 failure to comply with the regulations.

37 Section 10 mandates that the division develop a system for
38 tracking the transfer of marijuana items between licensed premises.

39 Section 11 establishes a tax levied upon marijuana sold or
40 otherwise transferred by a marijuana cultivation facility to a
41 marijuana product manufacturing facility or to a retail marijuana
42 store. That tax shall include the prevailing sales tax. To encourage
43 early participation in and development of marijuana establishments
44 and to undermine the illegal market, the bill proposes an escalating
45 tax rate as follows: in one year following enactment of the bill, the
46 excise tax shall be 10 percent; 15 percent in year two; 20% in year
47 three; and 25% in year four and beyond. These excise taxes set forth
48 in this subsection shall include the prevailing sales tax. The

1 Department of the Treasury would establish procedures for the
2 collection of all taxes levied. The tax revenue into the new fund but
3 one percent shall be allocated annually to the local governmental
4 entity where the marijuana establishment is located to be dedicated
5 to drug prevention and treatment.

6 The bill specifies that no tax would be levied upon marijuana
7 intended for sale at medical marijuana centers pursuant to the “New
8 Jersey Compassionate Use Medical Marijuana Act,” P.L.2009,
9 c.307 (C.24:6I-1 et seq.).

10 Section 12 provides for local governmental entity regulations or
11 ordinances. The bill provides that each local governmental entity
12 may enact an ordinance or regulation governing the time, place or
13 manner and number of marijuana establishment operations and
14 provides for civil penalties violating those ordinances. The local
15 governmental entity may enact ordinances or regulations, not in
16 conflict with the provisions of the bill.

17 The bill provides that a local governmental entity may prohibit
18 the operation of marijuana cultivation facilities, marijuana product
19 manufacturing facilities, marijuana testing facilities, or retail
20 marijuana stores through the enactment of an ordinance. Under the
21 bill, the failure of a local governmental entity to enact an ordinance
22 prohibiting the operation of a marijuana establishment within 180
23 days following the effective date of the bill shall thereby permit the
24 operation of a marijuana retail establishment within the local
25 governmental entity for a period of five years, at the end of which
26 five year period, and every five year period thereafter, the local
27 governmental entity shall again be permitted to prohibit the
28 operation of a marijuana establishment.

29 Section 13 establishes the license application process. Under the
30 bill, each application for an annual license to operate a marijuana
31 establishment would be submitted to the division. A separate
32 license shall be required for each location at which a marijuana
33 establishment seeks to operate. Renewal applications may be filed
34 up to 90 days prior to the expiration of the establishment’s license.
35 The division is to begin accepting applications 30 days after the
36 regulations are implemented.

37 Sections 14 through 18 establish the different classes of licenses,
38 requirements to obtain licenses, and plant grow size regulations.

39 The licenses are enumerated as follows:

40 Class 1 Marijuana Grower license for the premises at which the
41 marijuana is grown or cultivated. (Section 14)

42 Class 2 Marijuana Processor license for the premises at which
43 the marijuana is processed. (Section 16)

44 Class 3 Marijuana Wholesaler license for the premises at which
45 the marijuana is warehoused.(Section 17)

46 Class 4 Marijuana Retailer license for the premises at which the
47 marijuana is retailed. (Section 18)

1 All prospective licensees shall complete application
2 requirements, meet residency requirements, and undergo a criminal
3 history record background check.

4 Section 15 regulates plant grow size.

5 Section 19 concerns the regulation of marijuana handlers who
6 perform work for a licensee.

7 Section 20 addresses marketplace regulation and essentially bars
8 an owner, officer or other person interested in a marijuana
9 cultivation facility, marijuana testing facility, product
10 manufacturing facility, or a wholesaler of marijuana to be involved
11 in retailing marijuana. The section further bars a retailer of
12 marijuana from being a shareholder, officer or director of a
13 company or association concerned with marijuana cultivation,
14 testing product manufacturing or marijuana wholesale.

15 Section 21 provides nothing in the bill is intended to: require an
16 employer to permit or accommodate marijuana in the workplace;
17 allow driving under the influence of marijuana; permit marijuana in
18 a school, hospital or correctional facility.

19 Section 22 provides that a currently operating medical marijuana
20 facility licensed under the “New Jersey Compassionate Use Medical
21 Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.), operating in
22 good standing can immediately apply for a license to operate to
23 distribute marijuana to a person who is not a medical marijuana
24 patient.

25 Section 23 provides that an entity licensed under the “New
26 Jersey Compassionate Use Medical Marijuana Act,” P.L.2009,
27 c.307 (C.24:6I-1 et seq.) shall certify to the Department of Health,
28 at intervals established by the division, sufficient quantities of
29 approved medical marijuana to service medical clients, before
30 personal use marijuana can be sold. Such facilities shall further
31 maintain separate areas for medical and personal use customers.

32 Section 24 permits a person convicted of marijuana possession as
33 defined in paragraph (4) of subsection a. of N.J.S.2C:35-10
34 (*possession of 50 grams or less of marijuana, or five grams or less*
35 *of hashish*) to present an application for expungement to the
36 Superior Court.

37 Section 25 concerns limitations as may be related to federal law.

38 Section 27 provides for the personal use of cannabis resin.

39 Section 35 establishes consumer protections barring marijuana
40 related arrest, prosecution, or penalty for conduct permitted under
41 the bill.

42 Section 36 addresses law enforcement agencies obligation under
43 federal law.

44 Section 37 concerns contract enforcement and bars
45 unenforceability on the grounds that the conduct is prohibited by
46 federal law.

47 Section 38 concerns criminal investigations and establishes that
48 certain conduct shall not constitute “articulable suspicion,”

1 including the odor of marijuana or burnt marijuana, the possession
2 of or the suspicion of possession of marijuana without evidence of
3 quantity in excess of one ounce, and the possession of marijuana
4 without evidence of quantity in excess of one ounce in proximity to
5 any amount of cash or currency.

6 Section 39 creates the “Marijuana Control and Regulation Fund.”
7 All fees, penalties and tax revenues collected by the director shall
8 be forwarded to the fund. Monies in the fund will be used
9 exclusively for the operation of the Division of Marijuana
10 Enforcement and for reimbursement of all additional costs of
11 enforcement.

12 Section 40 establishes a Marijuana Regulation Review
13 Commission which shall be responsible to review and approve
14 regulations developed by the division. The commission shall
15 consist of three members as follows: one member appointed by the
16 Governor, who shall be the presiding officer, one member
17 appointed by the President of the Senate, who shall be a member of
18 the Senate, and one member appointed by the Speaker of the
19 General Assembly, who shall be a member of the General
20 Assembly. The concurrence of two of the members of the
21 commission shall be necessary to validate all acts of the
22 commission.

23 Section 41 permits possession of up to an ounce of marijuana
24 punishable by a civil violation during the period of enactment until
25 legalization becomes effective.

26 Section 42 permits the establishment of retail marijuana
27 consumption area. The division may issue a retail marijuana
28 consumption area endorsement only to a marijuana retail licensee to
29 sell retail marijuana, retail concentrate, or retail marijuana products
30 for on-premises consumption. Applications for an endorsement
31 would be made to the division. The endorsement is conditioned
32 upon approval by a local governmental entity. An applicant is
33 prohibited from operating a retail marijuana consumption area
34 without State and local licensing authority. A retail marijuana
35 consumption area would be subject to the provisions of P.L.2005,
36 c.383 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act.”

37 The bill would also amend sections 3 and 5 of P.L.2005, c.383
38 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act” to
39 include a definition of retail marijuana consumption area that is
40 specific about the ventilation and separation of this area from the
41 retail store. As so defined, this area would be exempt from the
42 provisions of the “New Jersey Smoke-Free Air Act.”

43 Section 45 establishes the socioeconomic factors for a priority
44 system for awarding retail marijuana licenses (impact zones).

45 The bill also amends several sections of Title 2C of New Jersey
46 Statutes, the criminal code, to reflect the decriminalization of
47 marijuana under the bill.

1 AUTHORIZING PATIENTS FOR MEDICAL MARIJUANA

2 Current law sets for an enumerated list of debilitating medical
3 conditions that can qualify a patient for the medical use of
4 marijuana. The bill changes the term “debilitating medical
5 condition” to “qualifying medical condition,” and updates and
6 revises the list of conditions in certain ways, including adding
7 additional conditions and providing that medical marijuana may be
8 used as a treatment of first resort for any condition included in the
9 list, which are: seizure disorder, including epilepsy; intractable
10 skeletal muscular spasticity; post-traumatic stress disorder;
11 glaucoma; positive status for human immunodeficiency virus;
12 acquired immune deficiency syndrome; cancer; amyotrophic lateral
13 sclerosis; multiple sclerosis; muscular dystrophy; inflammatory
14 bowel disease, including Crohn's disease; terminal illness, if the
15 patient has a prognosis of less than 12 months of life; anxiety;
16 migraine; Tourette’s syndrome; chronic pain; or any other medical
17 condition or its treatment that is approved by the Department of
18 Health (DOH).

19 The bill expands the list of professionals who can authorize
20 patients for the medical use of marijuana. Current law only allows
21 physicians to authorize patients; the bill would provide that any
22 health care practitioner who is authorized under State and federal
23 law to prescribe controlled dangerous substances may authorize
24 patients for medical marijuana, including physicians, physician
25 assistants, and advanced practice nurses.

26 The bill provides that health care practitioners will not be
27 required to register with the DOH, or be publicly listed in any DOH
28 registry, as a condition of authorizing patients for medical
29 marijuana.

30 The bill provides that, in order to authorize a qualifying patient
31 who is a minor for medical marijuana, the health care practitioner
32 will be required to either: (1) be trained in the care of pediatric
33 patients; or (2) obtain written confirmation from a health care
34 practitioner trained in the care of pediatric patients establishing that,
35 following examination of the patient or a review of the patient’s
36 record, the minor patient is likely to receive therapeutic or palliative
37 benefits from the medical use of marijuana to treat or alleviate
38 symptoms associated with the patient’s debilitating medical
39 condition.

40 The bill provides that qualifying patients and designated
41 caregivers who are registered with a medical marijuana program in
42 another state will be deemed to be qualifying patients and
43 designated caregivers for the purposes of New Jersey law, provided
44 the individual possesses a valid registry card and a photo
45 identification card issued by the other state; the patient or caregiver
46 will be authorized to possess and administer medical marijuana
47 while in New Jersey and will be subject to the other protections of
48 New Jersey law, but will not be authorized to obtain medical

1 marijuana from an ATC in the State. The DOH is to seek to
2 establish medical marijuana reciprocity agreements with other
3 states.

4 DISPENSING REQUIREMENTS FOR MEDICAL MARIJUANA

5 The bill increases the maximum amount of medical marijuana
6 that may be dispensed to a patient for a 30-day period from two
7 ounces to two and one-half ounces commencing January 1, 2019
8 and continuing until July 1, 2019, whereupon the maximum amount
9 will increase to three ounces, or the equivalent amount of medical
10 marijuana in any other form according to guidelines for
11 recommended equivalent dosage amounts, to be established by the
12 Commissioner of Health by regulation. These quantity limits will
13 not apply to a qualifying patient who is receiving hospice care or
14 who is terminally ill with a prognosis of less than 12 months to live.
15 Additionally, qualifying patients who are not on hospice care or
16 who are not terminally ill may petition the DOH for a waiver from
17 the quantity limits, which may be granted if it is deemed necessary
18 to meet the patient's treatment needs and is consistent with the
19 purposes of the medical marijuana program.

20 Current law authorizes a patient to be issued multiple written
21 instructions for medical marijuana authorizing up to a 90-day
22 supply; the bill revises this to authorize up to 180-day supply.

23 The bill removes a provision that limited distribution of edible
24 forms of medical marijuana to qualifying patients who are minors,
25 and specifies that medical marijuana may be distributed in
26 transdermal, sublingual, and tincture forms, as well as in the forms
27 authorized under current law.

28 The bill provides that medical marijuana may be dispensed to a
29 patient by any ATC in the State that is authorized to dispense
30 medical marijuana; under current law, patients are to be registered
31 with, and may only be dispensed medical marijuana from, a single
32 ATC where the patient is registered. The bill requires that, prior to
33 dispensing medical marijuana, an ATC will be required to access a
34 system currently maintained by the Division of Consumer Affairs in
35 the Department of Law and Public Safety that tracks medical
36 marijuana dispensations in the State, in order to ascertain whether
37 any medical marijuana was dispensed for the patient within the
38 preceding 30 days. Upon dispensing medical marijuana, the ATC
39 will be required to transmit to the authorizing health care
40 practitioner information concerning the amount, form, and strain of
41 medical marijuana that was dispensed. Health care practitioners
42 will be required to update the system on a daily basis with
43 authorizations and written instructions issued by the practitioner for
44 medical marijuana.

45 The commissioner will be required to develop curricula for
46 health care practitioners to assist them in counseling patients
47 regarding the quantity, dosing, and administration of medical
48 marijuana appropriate for the patient, and for alternative treatment

1 center employees to assist them in counseling patients regarding the
2 form and strain of medical marijuana appropriate for the patient.

3 DESIGNATED AND INSTITUTIONAL CAREGIVERS

4 The bill changes the term “primary caregiver” to “designated
5 caregiver and allows patients to concurrently have up to two
6 designated caregivers, or more with DOH approval. Additionally,
7 each caregiver will be permitted to concurrently care for up to two
8 qualifying patients. The bill further provides that a designated
9 caregiver who is an immediate family member of the patient will
10 not be required to complete a criminal history record background
11 check. “Immediate family” is defined to mean a spouse, child,
12 sibling, or parent; the parents or siblings of a spouse; and the
13 spouses of the individual’s siblings and children.

14 The bill also establishes the position of “institutional caregiver,”
15 which is an employee of a health care facility who is authorized to
16 obtain and administer medical marijuana to qualifying patients who
17 are patients or residents at the health care facility. An institutional
18 caregiver will be required to be a New Jersey resident, at least 18
19 years of age, and authorized, within the employee’s scope of
20 practice, to possess and administer controlled dangerous substances
21 to patients and residents. An institutional caregiver will be required
22 to undergo a criminal history background check unless the
23 individual has already done so as a condition of employment in the
24 individual’s current position. An institutional caregiver registration
25 will be valid for one year. Medical marijuana may be dispensed to
26 an institutional caregiver, provided the caregiver furnishes an
27 authorization from the patient indicating the caregiver is authorized
28 to obtain medical marijuana on the patient’s behalf.

29 The bill requires an institutional caregiver application to include
30 a certification from the applicant’s employer attesting that: the
31 health care facility has authorized the applicant to serve as an
32 institutional caregiver assisting patients or residents with medical
33 marijuana; the facility has established appropriate security measures
34 to guard against theft, diversion, adulteration, and unauthorized
35 access of medical marijuana; the facility has established protocols
36 to guard against adverse drug interactions between medical
37 marijuana and other medications; the facility will not charge a
38 patient for medical marijuana in excess of the actual cost of
39 acquiring the medical marijuana plus the reasonable costs incurred
40 in acquiring the medical marijuana; and the facility will promptly
41 notify the DOH in the event that an institutional caregiver ceases to
42 be employed by the facility or is convicted of a crime or offense.

43 The bill expressly provides that nothing in its provisions is to be
44 construed to require any facility to authorize employees to serve as
45 institutional caregivers.

46 ALTERNATIVE TREATMENT CENTERS

47 The bill establishes three different types of ATC permit: medical
48 marijuana cultivator, medical marijuana processor, and medical

1 marijuana dispensary. Medical marijuana cultivators are facilities
2 that will be authorized to cultivate medical marijuana, which may
3 then be supplied to other medical marijuana cultivators and to
4 medical marijuana processors and medical marijuana dispensaries.
5 Medical marijuana processors will be authorized to process
6 marijuana into marijuana-infused and marijuana-derived products,
7 which it may supply to other medical marijuana processors and to
8 medical marijuana dispensaries. Medical marijuana dispensaries
9 will be authorized to furnish medical marijuana, marijuana-infused
10 products, marijuana-derived products, paraphernalia, and related
11 supplies to other medical marijuana dispensaries and to qualifying
12 patients. An ATC holding a permit as of the effective date of the
13 bill will be deemed to hold all three permit types: one medical
14 marijuana cultivator permit; one medical marijuana processor
15 permit; and three medical marijuana dispensary permits, with one
16 dispensary permit for the ATC's current site and two new permits
17 for additional locations, which will be issued pursuant to a process
18 to be established by the DOH.

19 The bill restricts new ATC permit holders from holding a direct
20 or indirect interest in any other ATC for 36 months following the
21 effective date of the bill, except that a single person or entity may
22 hold up to three medical marijuana dispensary permits at one time,
23 and the ownership restrictions will not apply in the case of a person
24 or entity holding an ownership interest of less than 10 percent of the
25 total capitalization of an ATC. ATCs may, but are not required to
26 be, nonprofit entities.

27 To ensure adequate access to ATCs throughout the State, the bill
28 establishes requirements for the DOH to issue up to a total of 15
29 medical marijuana cultivator permits, up to a total of 15 medical
30 marijuana processor permits, and up to a total of 98 medical
31 marijuana dispensary permits. The total number of permits will
32 include:

- 33 • the six alternative treatment center permits issued prior to
34 the effective date of the bill, which will constitute six of the
35 medical marijuana cultivator permits, six of the medical
36 marijuana processor permits, and 18 of the medical
37 marijuana dispensary permits;
- 38 • six additional medical marijuana cultivator permits, six
39 additional medical marijuana processor permits, and 40
40 additional medical marijuana dispensary permits, to be
41 issued no later than 180 days after the effective date of the
42 bill;
- 43 • up to three additional medical marijuana cultivator permits,
44 three additional medical marijuana processor permits, and 10
45 additional medical marijuana dispensary permits, which may
46 be issued by the DOH based on patient need at such time as
47 the DOH patient registry reaches 100,000 active qualifying
48 patients; and

- 1 • up to 30 additional medical marijuana permits, to be issued
2 in groups of up to 10 at such times as the DOH patient
3 registry reaches 150,000 active qualifying patients, 200,000
4 active qualifying patients, and 250,000 active qualifying
5 patients, respectively.

6 Of the 40 new dispensary permits to be issued within 180 days
7 after the effective date of the bill, the DOH will be required to
8 solicit applications by legislative district, as the districts are
9 constituted at the time of application. The DOH will be required to
10 endeavor to issue a permit to at least one medical marijuana
11 dispensary per legislative district, provided that a sufficiently
12 qualified applicant applies for a permit in each district. Of the 40
13 additional medical marijuana dispensary permits that may be issued
14 based on increases in the number of registered patients, the DOH
15 will solicit applications according to geographic regions which will
16 be determined by the DOH at the time of issuance; these regions are
17 to be established in a way that ensures qualifying patients have
18 reasonably sufficient access to medical marijuana dispensaries
19 throughout the State.

20 Applicants are to submit a separate application for each proposed
21 medical marijuana cultivator, medical marijuana processor, or
22 medical marijuana dispensary location. If an applicant scores
23 sufficiently high on multiple applications to be awarded more
24 permits than it is permitted to hold under the bill, the applicant is to
25 notify the DOH within seven business days as to which permit or
26 permits it will accept; for any permit declined by an applicant, the
27 DOH will award the permit to the next highest-scoring applicant in
28 that region or legislative district. If an applicant fails to provide
29 notice as to which permit or permits it will accept within seven
30 business days, the DOH will have the discretion to determine which
31 permit or permits to award the applicant, based on its determination
32 of Statewide need and the scores awarded to other applicants in the
33 relevant locations.

34 The bill sets forth specific requirements for DOH to review and
35 score initial permit applications for new medical marijuana
36 cultivators, medical marijuana processors, and medical marijuana
37 dispensaries based on a 100-point scale, which includes evaluations
38 of the applicant's operational plan, environmental impact plan,
39 safety and security plan, business experience, proposed location,
40 record of social responsibility, philanthropy, involvement in
41 research concerning the medical efficacy and adverse effects of
42 medical marijuana, workforce development and job creation plan,
43 and business and financial plan. In evaluating an application, DOH
44 is to limit its review to the applicant's controlling owners, officers,
45 directors, and employees, and is not to consider responses
46 pertaining to consultants, independent contractors, or prospective or
47 part-time employees.

1 To the extent possible, DOH is to seek to ensure that at least 15
2 percent of the new medical marijuana dispensary permits issued
3 under the bill are awarded to entities certified as a minority
4 business, a women's business, a veteran-owned business, or a
5 disabled-veteran business, with higher preference going to entities
6 that are certified in up to two such categories. Additionally, the
7 DOH is to seek to ensure that at least 25 percent of new medical
8 marijuana dispensary permits are awarded Tier 1, Tier 2, and Tier 3
9 dispensaries. A Tier 1 dispensary means a dispensary for which at
10 least 51 percent of the equity associated with the ownership of the
11 dispensary belongs to individuals who lived in an impact zone for at
12 least five of the past 10 years; a Tier 2 dispensary means a medical
13 marijuana dispensary for which at least 20 percent of the equity
14 associated with the ownership of the dispensary belongs to
15 individuals who lived in an impact zone for at least five of the past
16 10 years; and a Tier 3 dispensary means a medical marijuana
17 dispensary for which less than 20 percent of the equity associated
18 with the ownership of the dispensary belongs to individuals who
19 lived in an impact zone for at least five of the past 10 years, but the
20 dispensary provides support to a Tier 1 or Tier 2 medical marijuana
21 dispensary in the form of free leased space, financial support, or
22 other forms of material support. "Impact zone" is defined to mean
23 any census tract that ranks in the top 33 percent of census tracts in
24 the State for marijuana-related arrests and that ranks in the bottom
25 33 percent of census tracts in the State for median household
26 income. The DOH is additionally required to seek to ensure that at
27 least 75 percent of the permits awarded to Tier 1, 2, and 3
28 dispensaries are awarded to dispensaries located in an impact zone.

29 Application materials submitted to the DOH will not constitute a
30 public record subject to the statutory or common laws concerning
31 access to public records.

32 The bill provides that the DOH may require ATC permit
33 applicants to submit a personal history disclosure and may conduct
34 financial due diligence on any person or entity providing \$100,000
35 or more in financial backing to an applicant.

36 The bill clarifies that the officers, directors, board members,
37 owners, and employees of an ATC will be issued "ATC
38 identification cards" upon approval of the ATC's permit
39 application.

40 The bill sets forth certain requirements for the sale or transfer of
41 an ATC permit, which include completing a criminal history record
42 background check of the entity purchasing or receiving the permit,
43 as well as certain requirements specific to nonprofit ATCs, which
44 will be required to comply with the requirements of the "New
45 Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq. In the
46 case of an ATC that holds a permit on the effective date of the bill,
47 the ATC will be permitted, one time only and within one year of the
48 effective date of the bill, to pay the DOH a fee and sell one or more

1 of its permits for a sum that satisfies its outstanding obligations. If
2 the ATC seeks to sell all of its permits, the fee will be \$300,000; if
3 the ATC seeks to sell some, but not all, of its permits, the fee is
4 \$100,000 per permit. DOH approval is required for any such sale.

5 The bill provides that, with DOH approval, medical marijuana
6 cultivators and medical marijuana processors may relocate within
7 the same region, and medical marijuana dispensaries may relocate
8 within the same legislative district.

9 The bill provides that the maximum fee for initial issuance or
10 renewal of an ATC permit will be \$50,000 for a medical marijuana
11 cultivator, \$25,000 for a medical marijuana processor, and \$10,000
12 for a medical marijuana dispensary. Additionally, the maximum fee
13 for relocation of an ATC will be \$20,000 and the maximum fee to
14 sell or transfer an ATC permit will be \$150,000.

15 The bill prohibits DOH employees from holding any financial
16 interest in an ATC or receiving anything of value from an ATC in
17 connection with reviewing, processing, or making recommendations
18 with respect to an ATC permit application.

19 The bill provides that an initial ATC permit will be valid for
20 three years and will thereafter be renewable on a biennial basis.

21 LEGAL PROTECTIONS FOR PATIENTS AND CAREGIVERS

22 The bill provides that qualifying patients and designated
23 caregivers may not be discriminated against when enrolling in
24 schools and institutions of higher education, or when renting or
25 leasing real property, solely on the basis of the medical use of
26 marijuana or their status as a registry cardholder. However, the bill
27 provides that nothing is to require a school, institution of higher
28 education, or landlord to take any action that would jeopardize a
29 monetary grant or privilege of licensure based on federal law.
30 Schools, institutions, and landlords may not be penalized or denied
31 benefits under State law solely on the basis of enrolling or renting
32 or leasing real property to a registered patient.

33 Further, the bill provides that medical marijuana is to be treated
34 the same as any other medication for the purposes of furnishing
35 medical care, including determining the individual's eligibility for
36 an organ transplant.

37 The bill establishes protections from adverse employment
38 actions for qualifying patients. Specifically, employers will be
39 prohibited from taking any adverse employment action against an
40 employee based on the employee's status as a registry identification
41 cardholder or based on a positive test for marijuana, unless the
42 employer establishes, by a preponderance of the evidence, that the
43 lawful use of medical marijuana impaired the employee's ability to
44 perform the employee's job responsibilities. An employer may
45 consider an employee's ability to perform the employee's job
46 responsibilities to be impaired when the employee manifests
47 specific articulable symptoms while working that decrease or lessen
48 the employee's performance of the duties or tasks of the employee's

1 job position. If an employer has a drug testing policy and an
2 employee or job applicant tests positive for marijuana, the
3 employee or job applicant is to be offered an opportunity to present
4 a legitimate medical explanation for the positive test result, such as
5 a practitioner's recommendation for medical marijuana, a registry
6 identification card, or both, or request a retest of the original sample
7 at the employee's or job applicant's own expense. Nothing in the
8 bill will restrict an employer's ability to prohibit or take adverse
9 employment action for the possession or use of intoxicating
10 substances during work hours, require an employer to commit any
11 act that would cause the employer to be in violation of federal law,
12 or require the employer to take any action that would result in the
13 loss of a federal contract or federal funding. Employers will not be
14 penalized or denied any benefit under State law for employing a
15 person who is a registry cardholder.

16 The bill updates the current annual reporting requirements
17 concerning the medical marijuana program to reflect the changes
18 made to the program under the bill, and additionally requires that
19 DOH include in the report any incidents of diversion of medical
20 marijuana that occur.

21 EFFECTIVE DATE

22 Section 67 of the bill provides an effective date as follows: a.
23 sections 1 through 40, and sections 42 through 45 shall take effect
24 180 days after enactment, except the Director of the Division of
25 Marijuana Enforcement may take such anticipatory action as may
26 be necessary to effectuate the provisions of this act; b. section 41
27 shall take effect immediately, but shall expire 180 days after
28 enactment; and c. sections 46 through 55 shall take immediately.