

**SENATE, No. 3877**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MAY 22, 2023

**Sponsored by:**  
**Senator VINCENT J. POLISTINA**  
**District 2 (Atlantic)**

**SYNOPSIS**

Requires grading of offenses involving manufacturing, distributing, and dispensing heroin based on dosage units in addition to weight.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning controlled dangerous substances and amending  
2 N.J.S.2C:35-2 and N.J.S.2C:35-5.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. N.J.S.2C:35-2 is amended to read as follows:

8 2C:35-2. As used in this chapter:

9 "Administer" means the direct application of a controlled  
10 dangerous substance or controlled substance analog, whether by  
11 injection, inhalation, ingestion, or any other means, to the body of a  
12 patient or research subject by: (1) a practitioner, or, in his presence,  
13 by his lawfully authorized agent, or (2) the patient or research  
14 subject at the lawful direction and in the presence of the  
15 practitioner.

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

20 "Controlled dangerous substance" means a drug, substance, or  
21 immediate precursor in Schedules I through V, marijuana and  
22 hashish as defined in this section, any substance the distribution of  
23 which is specifically prohibited in N.J.S.2C:35-3, in section 3 of  
24 P.L.1997, c.194 (C.2C:35-5.2), in section 5 of P.L.1997, c.194  
25 (C.2C:35-5.3), in section 2 of P.L.2011, c.120 (C.2C:35-5.3a), or in  
26 section 2 of P.L.2013, c.35 (C.2C:35-5.3b), and any drug or  
27 substance which, when ingested, is metabolized or otherwise  
28 becomes a controlled dangerous substance in the human body.  
29 When any statute refers to controlled dangerous substances, or to a  
30 specific controlled dangerous substance, it shall also be deemed to  
31 refer to any drug or substance which, when ingested, is metabolized  
32 or otherwise becomes a controlled dangerous substance or the  
33 specific controlled dangerous substance, and to any substance that  
34 is an immediate precursor of a controlled dangerous substance or  
35 the specific controlled dangerous substance. The term shall not  
36 include distilled spirits, wine, malt beverages, as those terms are  
37 defined or used in R.S.33:1-1 et seq., tobacco and tobacco products,  
38 or cannabis and cannabis as defined in section 3 of P.L.2021, c.16  
39 (C.24:6I-33). The term, wherever it appears in any law or  
40 administrative regulation of this State, shall include controlled  
41 substance analogs.

42 "Controlled substance analog" means a substance that has a  
43 chemical structure substantially similar to that of a controlled  
44 dangerous substance and that was specifically designed to produce  
45 an effect substantially similar to that of a controlled dangerous

**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 substance. The term shall not include a substance manufactured or  
2 distributed in conformance with the provisions of an approved new  
3 drug application or an exemption for investigational use within the  
4 meaning of section 505 of the "Federal Food, Drug and Cosmetic  
5 Act," 52 Stat. 1052 (21U.S.C. s.355).

6 "Counterfeit substance" means a controlled dangerous substance  
7 or controlled substance analog which, or the container or labeling of  
8 which, without authorization, bears the trademark, trade name, or  
9 other identifying mark, imprint, number, or device, or any likeness  
10 thereof, of a manufacturer, distributor, or dispenser other than the  
11 person or persons who in fact manufactured, distributed, or  
12 dispensed the substance and which thereby falsely purports or is  
13 represented to be the product of, or to have been distributed by,  
14 such other manufacturer, distributor, or dispenser.

15 "Deliver" or "delivery" means the actual, constructive, or  
16 attempted transfer from one person to another of a controlled  
17 dangerous substance or controlled substance analog, whether or not  
18 there is an agency relationship.

19 "Dispense" means to deliver a controlled dangerous substance or  
20 controlled substance analog to an ultimate user or research subject  
21 by or pursuant to the lawful order of a practitioner, including the  
22 prescribing, administering, packaging, labeling, or compounding  
23 necessary to prepare the substance for that delivery. "Dispenser"  
24 means a practitioner who dispenses.

25 "Distribute" means to deliver other than by administering or  
26 dispensing a controlled dangerous substance or controlled substance  
27 analog. "Distributor" means a person who distributes.

28 "Dosage unit" means either the smallest discrete pill, tablet,  
29 capsule, vial, packet, fold or other unit of distribution or packaging  
30 of the controlled dangerous substance, or the amount which is  
31 commonly distributed for consumption at one time by an individual  
32 to achieve the desired effect, whichever method of measurement  
33 results in the greater number of dosage units.

34 "Drugs" means (1) substances recognized in the official United  
35 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
36 United States, or official National Formulary, or any supplement to  
37 any of them; and (2) substances intended for use in the diagnosis,  
38 cure, mitigation, treatment, or prevention of disease in man or other  
39 animals; and (3) substances, other than food, intended to affect the  
40 structure or any function of the body of man or other animals; and  
41 (4) substances intended for use as a component of any substance  
42 specified in (1), (2), and (3) of this definition; but does not include  
43 devices or their components, parts, or accessories. The term "drug"  
44 also does not include: hemp and hemp products cultivated, handled,  
45 processed, transported, or sold pursuant to the "New Jersey Hemp  
46 Farming Act," P.L.2019, c.238 (C.4:28-6 et al.); cannabis as defined  
47 in section 3 of P.L.2021, c.16 (C.24:6I-31 et al.) which is cultivated  
48 and produced for use in a cannabis item, as defined in that section,

1 in accordance with the "New Jersey Cannabis Regulatory,  
2 Enforcement Assistance, and Marketplace Modernization Act,"  
3 P.L.2021, c.16 (C.24:6I-31 et al.); and cannabis resin as defined in  
4 that section 3 (C.24:6I-33) which is extracted for use in a cannabis  
5 item, as defined in that section, in accordance with that act.

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

16 "Hashish" means the resin extracted from any part of the plant  
17 Cannabis sativa L. and any compound, manufacture, salt,  
18 derivative, mixture, or preparation of such resin. "Hashish" shall  
19 not mean: hemp and hemp products cultivated, handled, processed,  
20 transported, or sold pursuant to the "New Jersey Hemp Farming  
21 Act," P.L.2019, c.238 (C.4:28-6 et al.); or cannabis resin as defined  
22 in section 3 of P.L.2021, c.16 (C.24:6I-33) which is extracted for  
23 use in a cannabis item, as defined in that section, in accordance with  
24 the "New Jersey Cannabis Regulatory, Enforcement Assistance, and  
25 Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.).

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

42 "Marijuana" means all parts of the plant Cannabis sativa L.,  
43 whether growing or not; the seeds thereof, and every compound,  
44 manufacture, salt, derivative, mixture, or preparation of the plant or  
45 its seeds, except those containing resin extracted from the plant.  
46 "Marijuana" shall not mean: hemp and hemp products cultivated,  
47 handled, processed, transported, or sold pursuant to the "New Jersey  
48 Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.); or cannabis

1 as defined in section 3 of P.L.2021, c.16 (C.24:6I-33) which is  
2 cultivated and produced for use in a cannabis item, as defined in  
3 that section, in accordance with the "New Jersey Cannabis  
4 Regulatory, Enforcement Assistance, and Marketplace  
5 Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.).

6 "Narcotic drug" means any of the following, whether produced  
7 directly or indirectly by extraction from substances of vegetable  
8 origin, or independently by means of chemical synthesis, or by a  
9 combination of extraction and chemical synthesis:

10 (1) Opium, coca leaves, and opiates;

11 (2) A compound, manufacture, salt, derivative, or preparation of  
12 opium, coca leaves, or opiates;

13 (3) A substance, and any compound, manufacture, salt,  
14 derivative, or preparation thereof, which is chemically identical  
15 with any of the substances referred to in (1) and (3) of this  
16 definition, except that the words "narcotic drug" as used in this act  
17 shall not include decocainized coca leaves or extracts of coca  
18 leaves, which extracts do not contain cocaine or ecogine.

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

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

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

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

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

36 "Practitioner" means a physician, dentist, veterinarian, scientific  
37 investigator, laboratory, pharmacy, hospital, or other person  
38 licensed, registered, or otherwise permitted to distribute, dispense,  
39 conduct research with respect to, or administer a controlled  
40 dangerous substance or controlled substance analog in the course of  
41 professional practice or research in this State. As used in this  
42 definition:

43 (1) "Physician" means a physician authorized by law to practice  
44 medicine in this or any other state and any other person authorized  
45 by law to treat sick and injured human beings in this or any other  
46 state.

47 (2) "Veterinarian" means a veterinarian authorized by law to  
48 practice veterinary medicine in this State.

1       (3) "Dentist" means a dentist authorized by law to practice  
2 dentistry in this State.

3       (4) "Hospital" means any federal institution, or any institution  
4 for the care and treatment of the sick and injured, operated or  
5 approved by the appropriate State department as proper to be  
6 entrusted with the custody and professional use of controlled  
7 dangerous substances or controlled substance analogs.

8       (5) "Laboratory" means a laboratory to be entrusted with the  
9 custody of narcotic drugs and the use of controlled dangerous  
10 substances or controlled substance analogs for scientific,  
11 experimental, and medical purposes and for purposes of instruction  
12 approved by the Department of Health.

13       "Production" includes the manufacture, planting, cultivation,  
14 growing, or harvesting of a controlled dangerous substance or  
15 controlled substance analog.

16       "Immediate precursor" means a substance which the Division of  
17 Consumer Affairs in the Department of Law and Public Safety has  
18 found to be and by regulation designates as being the principal  
19 compound commonly used or produced primarily for use, and  
20 which is an immediate chemical intermediary used or likely to be  
21 used in the manufacture of a controlled dangerous substance or  
22 controlled substance analog, the control of which is necessary to  
23 prevent, curtail, or limit such manufacture.

24       "Residential treatment facility" means any facility licensed and  
25 approved by the Department of Human Services and which is  
26 approved by any county probation department for the inpatient  
27 treatment and rehabilitation of drug or alcohol dependent persons.

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

35       "State" means the State of New Jersey.

36       "Ultimate user" means a person who lawfully possesses a  
37 controlled dangerous substance or controlled substance analog for  
38 his own use or for the use of a member of his household or for  
39 administration to an animal owned by him or by a member of his  
40 household.

41       "Prescription legend drug" means any drug which under federal  
42 or State law requires dispensing by prescription or order of a  
43 licensed physician, veterinarian, or dentist and is required to bear  
44 the statement "Rx only" or similar wording indicating that such  
45 drug may be sold or dispensed only upon the prescription of a  
46 licensed medical practitioner and is not a controlled dangerous  
47 substance or stramonium preparation.

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

4 "Stramonium plant" means the plant *Datura Stramonium* Linne,  
5 including *Datura Tatula* Linne.

6 (cf: P.L.2021, c.16, s.54)  
7

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

9 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except  
10 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be  
11 unlawful for any person knowingly or purposely:

12 (1) To manufacture, distribute or dispense, or to possess or have  
13 under his control with intent to manufacture, distribute or dispense,  
14 a controlled dangerous substance or controlled substance analog; or

15 (2) To create, distribute, or possess or have under his control  
16 with intent to distribute, a counterfeit controlled dangerous  
17 substance.

18 b. Any person who violates subsection a. of this section with  
19 respect to:

20 (1) (a) Heroin, or its analog, in a quantity of 50 grams or more,  
21 or 2,500 dosage units or more is guilty of a crime of the first  
22 degree; or

23 **【coca】** (b) Coca leaves and any salt, compound, derivative, or  
24 preparation of coca leaves, and any salt, compound, derivative, or  
25 preparation thereof which is chemically equivalent or identical with  
26 any of these substances, or analogs, except that the substances shall  
27 not include decocainized coca leaves or extractions which do not  
28 contain cocaine or ecogine, or 3,4-  
29 methylenedioxymethamphetamine or 3,4-  
30 methylenedioxyamphetamine, in a quantity of five ounces or more  
31 including any adulterants or dilutants is guilty of a crime of the first  
32 degree.

33 **【The】** A defendant convicted of a crime of the first degree  
34 pursuant to this paragraph shall, except as provided in N.J.S.2C:35-  
35 12, be sentenced to a term of imprisonment by the court. The term  
36 of imprisonment shall include the imposition of a minimum term  
37 which shall be fixed at, or between, one-third and one-half of the  
38 sentence imposed, during which the defendant shall be ineligible for  
39 parole. Notwithstanding the provisions of subsection a. of  
40 N.J.S.2C:43-3, a fine of up to \$500,000 may be imposed;

41 (2) (a) Heroin, or its analog, in a quantity greater than two  
42 grams but less than 50 grams, or greater than 100 dosage units but  
43 fewer than 2,500 dosage units, is guilty of a crime of the second  
44 degree;

45 (b) A substance referred to in subparagraph (b) of paragraph (1)  
46 of this subsection, in a quantity of one-half ounce or more but less  
47 than five ounces, including any adulterants or dilutants is guilty of a  
48 crime of the second degree;

1       (3) Any person who violates subsection a. of this section with  
2 respect to:

3       (a) Heroin, or its analog, in a quantity of two grams or less, or  
4 100 or fewer dosage units, is guilty of a crime of the third degree;

5       (b) A substance referred to in subparagraph (b) of paragraph (1)  
6 of this subsection in a quantity less than one-half ounce including  
7 any adulterants or dilutants is guilty of a crime of the third degree  
8 except that, notwithstanding the provisions of subsection b. of  
9 N.J.S.2C:43-3, a fine of up to \$75,000 may be imposed;

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

15       (5) A substance classified as a narcotic drug in Schedule I or II  
16 other than those specifically covered in this section, or the analog of  
17 any such substance, in a quantity of less than one ounce including  
18 any adulterants or dilutants is guilty of a crime of the third degree  
19 except that, notwithstanding the provisions of subsection b. of  
20 N.J.S.2C:43-3, a fine of up to \$75,000 may be imposed;

21       (6) Lysergic acid diethylamide, or its analog, in a quantity of  
22 100 milligrams or more including any adulterants or dilutants, or  
23 phencyclidine, or its analog, in a quantity of 10 grams or more  
24 including any adulterants or dilutants, is guilty of a crime of the  
25 first degree. Except as provided in N.J.S.2C:35-12, the court shall  
26 impose a term of imprisonment which shall include the imposition  
27 of a minimum term, fixed at, or between, one-third and one-half of  
28 the sentence imposed by the court, during which the defendant shall  
29 be ineligible for parole. Notwithstanding the provisions of  
30 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000 may be  
31 imposed;

32       (7) Lysergic acid diethylamide, or its analog, in a quantity of  
33 less than 100 milligrams including any adulterants or dilutants, or  
34 where the amount is undetermined, or phencyclidine, or its analog,  
35 in a quantity of less than 10 grams including any adulterants or  
36 dilutants, or where the amount is undetermined, is guilty of a crime  
37 of the second degree;

38       (8) Methamphetamine, or its analog, or phenyl-2-propanone  
39 (P2P), in a quantity of five ounces or more including any  
40 adulterants or dilutants is guilty of a crime of the first degree.  
41 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a  
42 fine of up to \$300,000 may be imposed;

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

47       (b) Methamphetamine, or its analog, or phenyl-2-propanone  
48 (P2P), in a quantity of less than one-half ounce including any



1 adulterants or dilutants is guilty of a crime of the third degree  
2 except that notwithstanding the provisions of subsection b. of  
3 N.J.S.2C:43-3, a fine of up to \$75,000 may be imposed;

4 (10) (a) Marijuana in a quantity of 25 pounds or more including  
5 any adulterants or dilutants, or 50 or more marijuana plants,  
6 regardless of weight, or hashish in a quantity of five pounds or  
7 more including any adulterants or dilutants, is guilty of a crime of  
8 the first degree. Notwithstanding the provisions of subsection a. of  
9 N.J.S.2C:43-3, a fine of up to \$300,000 may be imposed;

10 (b) Marijuana in a quantity of five pounds or more but less than  
11 25 pounds including any adulterants or dilutants, or 10 or more but  
12 fewer than 50 marijuana plants, regardless of weight, or hashish in a  
13 quantity of one pound or more but less than five pounds, including  
14 any adulterants and dilutants, is guilty of a crime of the second  
15 degree;

16 (11) (a) Prior to the effective date of P.L.2021, c.19 (C.2C:35-  
17 23.1 et al.), marijuana in a quantity of one ounce or more but less  
18 than five pounds including any adulterants or dilutants, or hashish  
19 in a quantity of five grams or more but less than one pound  
20 including any adulterants or dilutants, is guilty of a crime of the  
21 third degree except that, notwithstanding the provisions of  
22 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be  
23 imposed;

24 (b) On and after the effective date of P.L.2021, c.19 (C.2C:35-  
25 23.1 et al.), marijuana in a quantity of more than one ounce but less  
26 than five pounds including any adulterants or dilutants, or hashish  
27 in a quantity of more than five grams but less than one pound  
28 including any adulterants or dilutants, is guilty of a crime of the  
29 third degree except that, notwithstanding the provisions of  
30 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be  
31 imposed;

32 (12) (a) Prior to the effective date of P.L.2021, c.19 (C.2C:35-  
33 23.1 et al.), marijuana in a quantity of less than one ounce including  
34 any adulterants or dilutants, or hashish in a quantity of less than five  
35 grams including any adulterants or dilutants, is guilty of a crime of  
36 the fourth degree;

37 (b) On and after the effective date of P.L.2021, c.19 (C.2C:35-  
38 23.1 et al.), marijuana in a quantity of one ounce or less including  
39 any adulterants or dilutants, or hashish in a quantity of five grams  
40 or less including any adulterants or dilutants, is, for a first offense,  
41 subject to a written warning, which also indicates that any  
42 subsequent violation is a crime punishable by a term of  
43 imprisonment, a fine, or both, and for a second or subsequent  
44 offense, is guilty of a crime of the fourth degree;

45 (i) The odor of marijuana or hashish, or burnt marijuana or  
46 hashish, shall not constitute reasonable articulable suspicion to  
47 initiate a search of a person to determine a violation of  
48 subparagraph (b) of paragraph (12) of this subsection. A person

1 who violates this subparagraph shall not be subject to arrest,  
2 detention, or otherwise be taken into custody, unless the person is  
3 being arrested, detained, or otherwise taken into custody for also  
4 committing another violation of law for which that action is legally  
5 permitted or required;

6 (ii) A person shall not be deprived of any legal or civil right,  
7 privilege, benefit, or opportunity provided pursuant to any law  
8 solely by reason of committing a violation of subparagraph (b) of  
9 paragraph (12) of this subsection, nor shall committing one or more  
10 violations modify any legal or civil right, privilege, benefit, or  
11 opportunity provided pursuant to any law, including, but not limited  
12 to, the granting, renewal, forfeiture, or denial of a license, permit,  
13 or certification, qualification for and the receipt, alteration,  
14 continuation, or denial of any form of financial assistance, housing  
15 assistance, or other social services, rights of or custody by a  
16 biological parent, or adoptive or foster parent, or other legal  
17 guardian of a child or newborn infant, or pregnant woman, in any  
18 action or proceeding by the Division of Child Protection and  
19 Permanency in the Department of Children and Families, or  
20 qualification, approval, or disapproval to serve as a foster parent or  
21 other legal guardian;

22 (iii) All local and county law enforcement authorities shall,  
23 following the submission process used for the uniform crime  
24 reporting system established by P.L.1966, c.37 (C.52:17B-5.1 et  
25 seq.), submit a quarterly report to the Uniform Crime Reporting  
26 Unit, within the Division of State Police in the Department of Law  
27 and Public Safety, or to another designated recipient determined by  
28 the Attorney General, containing the number of violations of  
29 subparagraph (b) of paragraph (12) of this subsection committed  
30 within their respective jurisdictions, plus the race, ethnicity, gender,  
31 and age of each person committing a violation, and the disposition  
32 of each person's violation. These violations and associated  
33 information, along with a quarterly summary of violations  
34 investigated, and associated information collected, by the Division  
35 of State Police for the same period shall be summarized by county  
36 and municipality in an annual report, and both quarterly summaries  
37 and annual reports shall be made available at no cost to the public  
38 on the Division of State Police's Internet website;

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

44 (14) Any Schedule V substance, or its analog, is guilty of a crime  
45 of the fourth degree except that, notwithstanding the provisions of  
46 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be  
47 imposed.

c. Where the degree of the offense for violation of this section depends on the quantity of the substance, the quantity involved shall be determined by the trier of fact, other than with respect to a first violation of subparagraph (b) of paragraph (12) of subsection b. of this section which is subject to a written warning as set forth in that subparagraph. Where the indictment or accusation so provides, the quantity involved in individual acts of manufacturing, distribution, dispensing or possessing with intent to distribute may be aggregated in determining the grade of the offense, whether distribution or dispensing is to the same person or several persons, provided that each individual act of manufacturing, distribution, dispensing or possession with intent to distribute was committed within the applicable statute of limitations.

(cf: P.L.2021, c.19, s.1)

16        3. This act shall take effect immediately.

18

19 STATEMENT

21 This bill requires offenses involving manufacturing, distributing,  
22 and dispensing heroin to be graded based on the number of dosage  
23 units of heroin, in addition to the weight.

25 punishable as if they were the same substance. However, heroin  
26 provides more pharmacological effect from a given weight than  
27 does cocaine. A dosage unit of heroin typically weighs  
28 approximately 0.02 grams. It is not uncommon for a dosage unit of  
29 cocaine to weigh approximately 14 grams, or 0.49 ounces.

with intent to distribute a dosage unit of cocaine in the amount of up to 0.5 ounces would be punishable as crimes of the third degree. Accordingly, a single dosage unit of cocaine that weighs 0.49 ounces would be would be punishable as a crime of the third degree. A person who manufactures, distributes, or possesses approximately 700 dosage units of heroin would also only be guilty of a crime of the third degree. Thus, in effect, the current statutes allow those who distribute heroin to be treated far more leniently than those who distribute cocaine. The new classification scheme established under the bill for the crime of distribution of heroin would be as follows:

- manufacturing, distributing, or possessing with intent to distribute heroin, or its analog, in a quantity of 50 grams or more, or 2,500 dosage units or greater;
- A person would be guilty of a crime of the second degree for manufacturing, distributing, or possessing with intent to distribute heroin or its analog, in a quantity greater than two

1           grams but less than 50 grams, or greater than 100 dosage  
2           units but fewer than 2,500 dosage units.

- 3           • A person would be guilty of a crime of the third degree for  
4           manufacturing, distributing, or possessing with intent to  
5           distribute heroin or its analog, in a quantity of two grams or  
6           less or 100 or fewer dosage units.

7           Under the bill, “dosage unit” is defined as either the smallest  
8           discrete pill, tablet, capsule, vial, packet, fold or other unit of  
9           distribution or packaging of the controlled dangerous substance, or the  
10          amount which is commonly distributed for consumption at one time by  
11          an individual to achieve the desired effect, whichever method of  
12          measurement results in the greater number of dosage units.