

# ASSEMBLY, No. 414

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman ROBERT AUTH**

**District 39 (Bergen and Passaic)**

**SYNOPSIS**

Legalizes possession of six or fewer marijuana plants, subject to enactment of legislation legalizing marijuana or cannabis for personal use.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning marijuana and amending N.J.S.2C:35-10.

2

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

5

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

7 2C:35-10. Possession, Use or Being Under the Influence, or  
8 Failure to Make Lawful Disposition.

9 a. It is unlawful for any person, knowingly or purposely, to  
10 obtain, or to possess, actually or constructively, a controlled  
11 dangerous substance or controlled substance analog, unless the  
12 substance was obtained directly, or pursuant to a valid prescription  
13 or order form from a practitioner, while acting in the course of his  
14 professional practice, or except as otherwise authorized by  
15 P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this  
16 section with respect to:

17 (1) A controlled dangerous substance, or its analog, classified in  
18 Schedule I, II, III or IV other than those specifically covered in this  
19 section, is guilty of a crime of the third degree except that,  
20 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a  
21 fine of up to **[\$35,000.00]** \$35,000 may be imposed;

22 (2) Any controlled dangerous substance, or its analog, classified  
23 in Schedule V, is guilty of a crime of the fourth degree except that,  
24 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a  
25 fine of up to **[\$15,000.00]** \$15,000 may be imposed;

26 (3) **[Possession]** (a) Prior to the effective date of  
27 P.L. , c. (C. ) (pending before the Legislature as Assembly,  
28 No. 21(2R) of 2020-2021), possession of more than 50 grams of  
29 marijuana, including any adulterants or dilutants, or more than five  
30 grams of hashish is guilty of a crime of the fourth degree, except  
31 that, notwithstanding the provisions of subsection b. of  
32 N.J.S.2C:43-3, a fine of up to **[\$25,000.00]** \$25,000 may be  
33 imposed; **[or]**

34 (b) On and after to the effective date of P.L. , c. (C. )  
35 (pending before the Legislature as Assembly, No. 21(2R) of 2020-  
36 2021), possession of more than six ounces of marijuana, including  
37 any adulterants or dilutants, or more than 17 grams of hashish is  
38 guilty of a crime of the fourth degree, except that, notwithstanding  
39 the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to  
40 \$25,000 may be imposed;

41 (i) The odor of marijuana or hashish, or burnt marijuana or  
42 hashish, shall not constitute reasonable articulable suspicion to  
43 initiate a search of a person to determine a violation of  
44 subparagraph (b) of paragraph (3) of this subsection. A person

**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 who violates this paragraph shall not be subject to arrest, detention,  
2 or otherwise be taken into custody, unless the person is being  
3 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 (3) 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-  
25 5.1 et seq.), submit a quarterly report to the Uniform Crime  
26 Reporting Unit, within the Division of State Police in the  
27 Department of Law and Public Safety, or to another designated  
28 recipient determined by the Attorney General, containing the  
29 number of violations of subparagraph (b) of paragraph (3) of this  
30 subsection committed within their respective jurisdictions, plus the  
31 race, ethnicity, gender, and age of each person committing a  
32 violation, and the disposition of each person's violation. These  
33 violations and associated information, along with a quarterly  
34 summary of violations investigated, and associated information  
35 collected, by the Division of State Police for the same period shall  
36 be summarized by county and municipality in an annual report, and  
37 both quarterly summaries and annual reports shall be made  
38 available at no cost to the public on the Division of State Police's  
39 Internet website; or

40 (4) **【Possession】** (a) Prior to the effective date of P.L. \_\_\_\_\_,  
41 c. (C. \_\_\_\_\_) (pending before the Legislature as Assembly, No.  
42 21(2R) of 2020-2021), possession of 50 grams or less of marijuana,  
43 including any adulterants or dilutants, or five grams or less of  
44 hashish is a disorderly person;

45 (b) On and after the effective date of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
46 (pending before the Legislature as Assembly, No. 21(2R) of 2020-  
47 2021), possession of six ounces or less of marijuana, including any  
48 adulterants or dilutants, six or fewer marijuana plants, or 17 grams

1 or less of hashish is not subject to any punishment, as this  
2 possession is not a crime, offense, act of delinquency, or civil  
3 violation of law;

4 Any person who commits any offense [defined in] set forth in  
5 paragraphs (1) through (3) of this [section] subsection while on any  
6 property used for school purposes which is owned by or leased to  
7 any elementary or secondary school or school board, or within  
8 1,000 feet of any such school property or a school bus, or while on  
9 any school bus, and who is not sentenced to a term of  
10 imprisonment, shall, in addition to any other sentence which the  
11 court may impose, be required to perform not less than 100 hours of  
12 community service.

13 b. (1) Any person who uses or who is under the influence of  
14 any controlled dangerous substance, or its analog, not including  
15 marijuana or hashish, for a purpose other than the treatment of  
16 sickness or injury as lawfully prescribed or administered by a  
17 physician is a disorderly person.

18 In a prosecution under this subsection, it shall not be necessary  
19 for the State to prove that the accused did use or was under the  
20 influence of any specific, prohibited drug, but it shall be sufficient  
21 for a conviction under this subsection for the State to prove that the  
22 accused did use or was under the influence of some prohibited  
23 controlled dangerous substance, counterfeit controlled dangerous  
24 substance, or controlled substance analog, by proving that the  
25 accused did manifest physical and physiological symptoms or  
26 reactions caused by the use of any prohibited controlled dangerous  
27 substance or controlled substance analog.

28 (2) Notwithstanding that using or being under the influence of  
29 marijuana or hashish is not a punishable crime, offense, act of  
30 delinquency, or civil violation pursuant to this subsection, the  
31 smoking, vaping, or aerosolizing of marijuana or hashish may be  
32 prohibited or otherwise regulated on or in any property by the  
33 person or entity that owns or controls that property, including  
34 multifamily housing that is a multiple dwelling as defined in section  
35 3 of P.L.1967, c.76 (C.55:13A-3), the structure or specific units of  
36 the structure of a cooperative as defined in section 3 of P.L.1987,  
37 c.381 (C.46:8D-3), the units of a condominium, as those terms are  
38 defined by section 3 of P.L.1969, c.257 (C.46:8B-3), or a site in a  
39 mobile home park as defined in section 3 of P.L.1983, c.386  
40 (C.40:55D-102), which site is leased to the owner of a  
41 manufactured home, as defined in that section, that is installed  
42 thereon.

43 c. Any person who knowingly obtains or possesses a controlled  
44 dangerous substance or controlled substance analog in violation of  
45 paragraph (1) or (2) of subsection a. of this section and who fails to  
46 voluntarily deliver the substance to the nearest law enforcement  
47 officer is guilty of a disorderly persons offense. Nothing in this  
48 subsection shall be construed to preclude a prosecution or

1 conviction for any other offense defined in this title or any other  
2 statute.

3 (cf: P.L.1997, c.181, s.6)

4

5 2. N.J.S 2C:36-1 is amended to read as follows:

6 2C:36-1. Drug paraphernalia, defined; determination.

7 a. As used in this act, "drug paraphernalia" means all  
8 equipment, products and materials of any kind which are used or  
9 intended for use in planting, propagating, cultivating, growing,  
10 harvesting, manufacturing, compounding, converting, producing,  
11 processing, preparing, testing, analyzing, packaging, repackaging,  
12 storing, containing, concealing, ingesting, inhaling, or otherwise  
13 introducing into the human body a controlled dangerous substance,  
14 controlled substance analog or toxic chemical, other than marijuana  
15 or hashish, in violation of the provisions of chapter 35 of this title.

16 It shall include, but not be limited to:

17 **[a.]** (1) kits used or intended for use in planting, propagating,  
18 cultivating, growing or harvesting of any species of plant, other  
19 than the plant Cannabis sativa L., which is a controlled dangerous  
20 substance or from which a controlled dangerous substance can be  
21 derived;

22 **[b.]** (2) kits used or intended for use in manufacturing,  
23 compounding, converting, producing, processing, or preparing  
24 controlled dangerous substances or controlled substance analogs;

25 **[c.]** (3) isomerization devices used or intended for use in  
26 increasing the potency of any species of plant, other than the plant  
27 Cannabis sativa L., which is a controlled dangerous substance;

28 **[d.]** (4) testing equipment used or intended for use identifying,  
29 or in analyzing the strength, effectiveness or purity of controlled  
30 dangerous substances or controlled substance analogs;

31 **[e.]** (5) scales and balances used or intended for use in  
32 weighing or measuring controlled dangerous substances or  
33 controlled substance analogs;

34 **[f.]** (6) dilutants and adulterants, such as quinine hydrochloride,  
35 mannitol, mannite, dextrose and lactose, used or intended for use in  
36 cutting controlled dangerous substances or controlled substance  
37 analogs;

38 **[g.]** separation gins and sifters used or intended for use in  
39 removing twigs and seeds from, or in otherwise cleaning or  
40 refining, marihuana;

41 **[h.]** (7) blenders, bowls, containers, spoons and mixing devices  
42 used or intended for use in compounding controlled dangerous  
43 substances or controlled substance analogs;

44 **[i.]** (8) capsules, balloons, envelopes and other containers used  
45 or intended for use in packaging small quantities of controlled  
46 dangerous substances or controlled substance analogs;

1       **【j.】** (9) containers and other objects used or intended for use in  
2 storing or concealing controlled dangerous substances, controlled  
3 substance analogs or toxic chemicals;

4       **【k.】** (10) objects used or intended for use in ingesting, inhaling,  
5 or otherwise introducing **【marihuana,】** cocaine, **【hashish, hashish**  
6 **oil,】** nitrous oxide or the fumes of a toxic chemical into the human  
7 body, such as **【(1)】** (a) metal, wooden, acrylic, glass, stone, plastic,  
8 or ceramic pipes with or without screens, permanent screens,  
9 **【hashish heads,】** or punctured metal bowls; **【(2)】** (b) water pipes;  
10 **【(3)】** (c) carburetion tubes and devices; **【(4)】** (d) smoking and  
11 carburetion masks; **【(5)】** (e) roach clips, meaning objects used to  
12 hold burning material **【,** such as a marihuana cigarette,**】** that has  
13 become too small or too short to be held in the hand; **【(6)】** (f)  
14 miniature cocaine spoons, and cocaine vials; **【(7)】** (g) chamber  
15 pipes; **【(8)】** (h) carburetor pipes; **【(9)】** (i) electric pipes; **【(10)】** (j)  
16 air-driven pipes; **【(11)】** (k) chillums; **【(12)】** (l) bonges; **【(13)】** (m)  
17 ice pipes or chillers; **【(14)】** (n) compressed gas containers, such as  
18 tanks, cartridges or canisters, that contain food grade or  
19 pharmaceutical grade nitrous oxide as a principal ingredient; **【(15)】**  
20 (o) chargers or charging bottles, meaning metal, ceramic or plastic  
21 devices that contain an interior pin that may be used to expel  
22 compressed gas from a cartridge or canister; and **【(16)】** (p) tubes,  
23 balloons, bags, fabrics, bottles or other containers used to  
24 concentrate or hold in suspension a toxic chemical or the fumes of a  
25 toxic chemical.

26       **【b.】** In determining whether or not an object is drug  
27 paraphernalia, the trier of fact, in addition to or as part of the  
28 proofs, may consider the following factors:

29       **【a.】** (1) (a) statements by an owner or by anyone in control of  
30 the object concerning its use;

31       **【b.】** (b) the proximity of the object **【of】** to illegally possessed  
32 controlled dangerous substances, controlled substance analogs or  
33 toxic chemicals;

34       **【c.】** (c) the existence of any residue of illegally possessed  
35 controlled dangerous substances, controlled substance analogs or  
36 toxic chemicals on the object;

37       **【d.】** (d) direct or circumstantial evidence of the intent of an  
38 owner, or of anyone in control of the object, to deliver it to persons  
39 whom he knows intend to use the object to facilitate a violation of  
40 this act; the innocence of an owner, or of anyone in control of the  
41 object, as to a direct violation of this act shall not prevent a finding  
42 that the object is intended for use as drug paraphernalia;

43       **【e.】** (e) instructions, oral or written, provided with the object  
44 concerning its use;

45       **【f.】** (f) descriptive materials accompanying the object which  
46 explain or depict its use;

1       **[g.]** (g) national or local advertising whose purpose the person  
2 knows or should know is to promote the sale of objects intended for  
3 use as drug paraphernalia;

4       **[h.]** (h) the manner in which the object is displayed for sale;

5       **[i.]** (i) the existence and scope of legitimate uses for the object  
6 in the community; and

7       **[j.]** (j) expert testimony concerning its use.

8       (2) If an object appears to be for use, intended for use, or  
9 designed for use with cannabis or cannabis items in accordance with  
10 the “New Jersey Cannabis Regulatory, Enforcement Assistance, and  
11 Marketplace Modernization Act,” P.L. , c. (C. ) (pending  
12 before the Legislature as Assembly, No. 21(2R) of 2020-2021), the  
13 object is presumed to be a lawful cannabis paraphernalia as defined  
14 in section 3 of Assembly, No. 21(2R) of 2020-2021 (C. ), and  
15 does not alone constitute reasonable articulable suspicion that the  
16 object is a drug paraphernalia, notwithstanding that the object could  
17 also be used with an illegal controlled substance or controlled  
18 substance analog, unless the owner or any other person in proximity  
19 to or in control of the object was in possession of an illegal  
20 controlled dangerous substance or controlled substance analog, or  
21 the object was in proximity of an illegally possessed controlled  
22 dangerous substance or controlled substance analog to indicate its  
23 use, intended use, or design for use with that controlled dangerous  
24 substance or controlled substance analog.

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

26

27       3. N.J.S.2C:36-2 is amended to read as follows:

28       2C:36-2.   a. Use or possession with intent to use, disorderly  
29 persons offense. It shall be unlawful for any person to use, or to  
30 possess with intent to use, drug paraphernalia to plant, propagate,  
31 cultivate, grow, harvest, manufacture, compound, convert, produce,  
32 process, prepare, test, analyze, pack, repack, store, contain, conceal,  
33 ingest, inhale, or otherwise introduce into the human body a  
34 controlled dangerous substance, controlled substance analog or  
35 toxic chemical in violation of the provisions of chapter 35 of this  
36 title, other than when used, or possessed with intent to use, for  
37 ingesting, inhaling, or otherwise introducing marijuana or hashish  
38 into the human body. Any person who violates this section is guilty  
39 of a disorderly persons offense.

40       b. Notwithstanding that using or possessing with intent to use  
41 drug paraphernalia to ingest, inhale, or otherwise introduce  
42 marijuana or hashish into the human body is not a punishable crime,  
43 offense, act of delinquency, or civil violation pursuant to this  
44 section, the use of drug paraphernalia for that purpose may be  
45 prohibited or otherwise regulated on or in any property by the  
46 person or entity that owns or controls that property, including  
47 multifamily housing that is a multiple dwelling as defined in section  
48 3 of P.L.1967, c.76 (C.55:13A-3), the structure or specific units of

1 the structure of a cooperative as defined in section 3 of P.L.1987,  
2 c.381 (C.46:8D-3), the units of a condominium, as those terms are  
3 defined by section 3 of P.L.1969, c.257 (C.46:8B-3), or a site in a  
4 mobile home park as defined in section 3 of P.L.1983, c.386  
5 (C.40:55D-102), which site is leased to the owner of a  
6 manufactured home, as defined in that section, that is installed  
7 thereon.

8 (cf: P.L.2007, c.31, s.3)

9

10 4. This act shall take effect upon the enactment of Assembly,  
11 No. 21(2R) of 2020-2021.

12

13

14

#### STATEMENT

15

16 This bill would legalize the possession of six or fewer marijuana  
17 plants, subject to the enactment of legislation that legalizes the  
18 personal use of marijuana or cannabis. Assembly, No. 21(2R), the  
19 “Cannabis Regulatory, Enforcement Assistance, and Marketplace  
20 Modernization Act,” would legalize personal use.

21 A-21(2R) was substituted for identical bill Senate, No. 21(2R) on  
22 December 17, 2020, and passed both Houses. The bill is currently  
23 on the Governor’s desk. However, A-21(2R) would not allow the  
24 “home grow” of marijuana for personal use. This bill would allow  
25 “home grow” in an amount of up to six marijuana plants.