ASSEMBLY, No. 5649

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 19, 2026

Sponsored by:
Assemblyman LARRY WAINSTEIN
District 33 (Hudson)

SYNOPSIS

Prohibits law enforcement officers, first responders, CDL drivers, or persons who operate heavy equipment from engaging in recreational use of cannabis items.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning use of cannabis by certain employees, amending various parts of the law, and supplementing Title 24 of the Revised Statutes.

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

1. (New Section) a. For the purposes of this section:

"CDL driver" means a person who has been issued a commercial driver license (CDL) as that term is defined in section 3 of P.L.1990, c.103 (C.39:3-10.11) and is employed to drive a commercial motor vehicle as that term is defined in section 3 of P.L.1990, c.103 (C.39:3-10.11).

"Employer" means an entity that employs law enforcement officers, first responders, CDL drivers, or persons who operate heavy equipment.

"First responder" means a law enforcement officer; paid firefighter; paid member of a duly incorporated first aid, emergency, ambulance, or rescue squad association; paid emergency medical technician; paid paramedic; or paid 9-1-1 first responder dispatcher.

"Heavy equipment" means machinery that is self-propelled, self-powered, or pulleyed and weighs 5,000 pounds or more, including but not limited to, road-building machines, construction equipment, or apparatus of unusual size or weight that require special permits for transportation on public roads; or motor vehicle that requires a commercial driver's license to operate.

"Person who operates heavy equipment" means any person who operates, navigates, or is in actual physical control of any mobile or stationary heavy equipment.

"Law enforcement officer" means a person employed as a permanent full-time member of any State, county or municipal law enforcement agency, department, or division of those governments who is statutorily empowered to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State or of the United States and statutorily required to successfully complete a training course approved by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), or certified by the commission as being substantially equivalent to an approved course.

b. No person employed as a law enforcement officer, as a first responder, as a CDL driver, or to operate heavy equipment shall engage in the use of a cannabis item, as otherwise permitted under P.L.2021, c.16 (C.24:6I-31 et al.), at any time during the course of the person's employment whether on or off duty or otherwise

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 <u>thus</u> is new matter.

engaged in work responsibilities. An employer may take the following actions to ensure compliance:

(1) An employer may discharge from employment or take any punitive action against an employee who is a law enforcement officer, first responder, CDL driver, or a person who operates heavy equipment with respect to compensation, terms, conditions, or other privileges of employment if that person uses cannabis items, as otherwise permitted under P.L.2021, c.16 (C.24:6I-31 et seq.), while employed by the employer. An employee who is a law enforcement officer, first responder, CDL driver, or a person who operates heavy equipment may be subject to adverse action by an employer solely due to the presence of cannabinoid metabolites in the employee's bodily fluid from engaging in conduct otherwise permitted under P.L.2021, c.16 (C.24:6I-31 et al.).

(2) An employer may conduct random drug tests of employees to ensure that employees restricted from cannabis use are in compliance with the provisions of this act. The drug test shall include scientifically reliable objective testing methods and procedures, such as testing of blood, urine, or saliva, in order to determine whether an employee who is a law enforcement officer, first responder, CDL driver, or a person who operates heavy equipment engaged in the use of cannabis items.

(3) An employer may refuse to hire a prospective law enforcement officer, first responder, CDL driver, or a person who operates heavy equipment due to use of cannabis items, as otherwise permitted under P.L.2021, c.16 (C.24:6I-31 et al.), and may employ the use of drug testing in accordance with subsection b. of this section as part of pre-employment screening.

c. Nothing in this section shall be construed to apply to employees who do not meet the definition of "CDL driver," "law enforcement officer," "first responder," or a "person who operates heavy equipment" as set forth in this section, or to limit any of the provisions set forth in subsection b. of section 48 of P.L.2021, c.16 (C.24:6I-52).

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

8. The provisions of P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.) shall not be construed to permit a person to:

a. operate, navigate, or be in actual physical control of any vehicle, aircraft, railroad train, stationary heavy equipment or vessel while under the influence of cannabis; or

b. smoke cannabis in <u>a private vehicle, unless the vehicle is not in operation, or in</u> a school bus or other form of public transportation, **[**in a private vehicle unless the vehicle is not in operation**]**, on any school grounds, in any correctional facility, at

any public park or beach, at any recreation center, or in any place where smoking is prohibited pursuant to N.J.S.2C:33-13.

A person who commits an act as provided in this section shall be subject to such penalties as are provided by law.

(cf: P.L.2019, c.153, s.17)

3. Section 48 of P.L.2021, c.16 (C.24:6I-52) is amended to read as follows:

48. Employers, Driving, Minors and Control of Property.

a. (1) 【No】 Except as provided in section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), no employer shall refuse to hire or employ any person or shall discharge from employment or take any adverse action against any employee with respect to compensation, terms, conditions, or other privileges of employment because that person does or does not smoke, vape, aerosolize or otherwise use cannabis items, and an employee shall not be subject to any adverse action by an employer solely due to the presence of cannabinoid metabolites in the employee's bodily fluid from engaging in conduct permitted under P.L.2021, c.16 (C.24:6I-31 et al.). However, an employer may require an employee to undergo a drug test upon reasonable suspicion of an employee's usage of a cannabis item while engaged in the performance of the employee's work responsibilities, or upon finding any observable signs of intoxication related to usage of a cannabis item, or following a work-related accident subject to investigation by the employer. A drug test may also be done randomly by the employer, or as part of a pre-employment screening, or regular screening of current employees to determine use during an employee's prescribed work hours. The drug test shall include scientifically reliable objective testing methods and procedures, such as testing of blood, urine, or saliva, and a physical evaluation in order to determine an employee's state of impairment. The physical evaluation shall be conducted by an individual with the necessary certification to opine on the employee's state of impairment, or lack thereof, related to the usage of a cannabis item in accordance with paragraph (2) of this subsection. The employer may use the results of the drug test when determining the appropriate employment action concerning the employee, including, but not limited to dismissal, suspension, demotion, or other disciplinary action.

(2) (a) In order to better ensure the protections for prospective employees and employees against refusals to hire or employ, or against being discharged or having any other adverse action taken by an employer, while simultaneously supporting the authority of employers to require employees undergo drug tests under the circumstances set forth in paragraph (1) of this subsection, as well as employer efforts to maintain a drug- and alcohol-free workplace or other drug- or alcohol workplace policy as described in

paragraph (1) of subsection b. of this section, the commission, in consultation with the Police Training Commission established pursuant to section 5 of P.L.1961, c.56 (C.52:17B-70), shall prescribe standards in regulation for a Workplace Impairment Recognition Expert certification, to be issued to full- or part-time employees, or others contracted to perform services on behalf of an employer, based on education and training in detecting and identifying an employee's usage of, or impairment from, a cannabis item or other intoxicating substance, and for assisting in the investigation of workplace accidents. The commission's regulations shall also prescribe minimum curriculum courses of study for the certifications, as well as standards for the commission's approval and continuation of approval of non-profit and for-profit programs, organizations, or schools and their instructors to offer courses of study, and may include the use of a Police Training Commission approved school as that term is defined in section 2 of P.L.1961, c.56 (C.52:17B-67) if consented to by the Police Training Commission.

(b) Any person who demonstrates to the commission's satisfaction that the person has successfully completed a Drug Recognition Expert program provided by a Police Training Commission approved school, or another program or course conducted by any federal, State, or other public or private agency, the requirements of which are substantially equivalent to the requirements established by the commission pursuant to subparagraph (a) of this paragraph for a Workplace Impairment Recognition Expert certification, may, at the discretion of the commission, be issued this certification, subject to subsequent continuation of certification approval by the commission.

b. Nothing in P.L.2021, c.16 (C.24:6I-31 et al.):

(1) (a) Requires an employer to amend or repeal, or affect, restrict or preempt the rights and obligations of employers to maintain a drug- and alcohol-free workplace or require an employer to permit or accommodate the use, consumption, being under the influence, possession, transfer, display, transportation, sale, or growth of cannabis or cannabis items in the workplace, or to affect the ability of employers to have policies prohibiting use of cannabis items or intoxication by employees during work hours;

(b) If any of the provisions set forth in this paragraph or subsection a. of this section result in a provable adverse impact on an employer subject to the requirements of a federal contract, then the employer may revise their employee prohibitions consistent with federal law, rules, and regulations;

(2) Is intended to allow driving under the influence of cannabis items or driving while impaired by cannabis items or to supersede laws related to driving under the influence of marijuana or cannabis items or driving while impaired by marijuana or cannabis items;

(3) Is intended to permit the transfer of cannabis items, with or without remuneration, to a person under 21 years of age or to allow a person under 21 years of age to purchase, possess, use, transport, grow, or consume cannabis items, unless the person is under 21 years of age, but at least 18 years of age, and an employee of a cannabis establishment, distributor, or delivery service acting in the person's employment capacity;

(4) Shall, consistent with subsection c. of section 46 of P.L.2021, c.16 (C.2C:35-10a), prohibit a person or entity that owns or controls a property from prohibiting or otherwise regulating the consumption, use, display, transfer, distribution, sale, or transportation of cannabis items on or in that property, or portion thereof, including a hotel property that is a casino hotel facility as defined in section 19 of P.L.1977, c.110 (C.5:12-19), a casino as defined in section 6 of P.L.1977, c.110 (C.5:12-6), or casino simulcasting facility authorized pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.), provided that a person or entity that owns or controls multifamily housing that is a multiple dwelling as defined in section 3 of P.L.1967, c.76 (C.55:13A-3), the structure or specific units of the structure of a cooperative as defined in section 3 of P.L.1987, c.381 (C.46:8D-3),a unit of a condominium as defined in section 3 of P.L.1969, c.257 (C.46:8B-3), or a site in a mobile home park as defined in section 3 of P.L.1983, c.386 (C.40:55D-102), which site is leased to the owner of a manufactured home, as defined in that section, that is installed thereon, may only prohibit or otherwise regulate the smoking, vaping, or aerosolizing, but not other consumption, of cannabis items, and further provided that municipalities may not prohibit delivery, possession, or consumption of cannabis items by a person 21 years of age or older as permitted by section 46 of P.L.2021, c.16 (C.2C:35-10a);

(5) Is intended to permit any person to possess, consume, use, display, transfer, distribute, sell, transport, or grow or manufacture cannabis or cannabis items in a school, hospital, detention facility, adult correctional facility, or youth correctional facility;

(6) Is intended to permit the smoking, vaping, or aerosolizing of cannabis items in any place that any other law prohibits the smoking of tobacco, including N.J.S.2C:33-13 and the "New Jersey Smoke-Free Air Act," P.L.2005, c.383 (C.26:3D-55 et seq.). Except as otherwise provided by P.L.2021, c.16 (C.24:6I-31 et al.), any fines or civil penalties that may be assessed for the smoking of tobacco in designated places shall be applicable to the smoking, vaping, or aerosolizing of cannabis items.

(cf: P.L.2021, c.16, s.48)

4. Section 53 of P.L. 2021 (C.24:6I-55) is amended to read as follows:

53. Limitations.

【The】 Except as provided in section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), the provisions of P.L.2021, c.16 (C.24:6I-31 et al.) concerning the development, regulation, and enforcement of activities associated with personal use cannabis, as well as acts involving personal use cannabis or cannabis items, shall not be construed:

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

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

c. To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, transportation, delivery, possession, or use of cannabis items to the extent necessary to satisfy federal requirements for the grant;

d. To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, transport, distribution, delivery, possession, or use of cannabis items to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;

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

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

(cf: P.L.2021, c.16, s.53)

5. Section 5 of P.L.1990, c.103 (C.39:3-10.13) is amended to read as follows:

Notwithstanding any other provision of law to the contrary, a person shall not operate a commercial motor vehicle in this State with an alcohol concentration of 0.04【%】 percent or more, or while under the influence of a controlled substance or any amount of cannabis.

(cf: P.L.1990, c.103, s.5)

6. This act shall take effect immediately.

STATEMENT

This bill prohibits law enforcement officers, first responders, CDL drivers, or persons who operate heavy equipment from using cannabis items under the recreational use statute.

Under current law, employers are prohibited from refusing to hire a prospective employee or taking adverse action against a current employee, including discharge from employment, because the person does or does not use cannabis items. Employers are permitted to drug test employees based on a reasonable suspicion of

an employee's use of a cannabis item while engaged in the performance of the employee's work responsibilities or upon finding observable signs of intoxication. However, an employer may not require an employee to abstain from recreational usage while off-duty.

Under the bill, law enforcement officers, first responders, CDL drivers, or persons who operate heavy equipment are prohibited from using cannabis items on or off-duty. The bill provides that employers of law enforcement officers, first responders, CDL drivers, or persons who operate heavy equipment may discharge from employment or take any adverse action against an employee who is a law enforcement officer, first responder, CDL driver, or a person who operates heavy equipment with respect to compensation, terms, conditions, or other privileges of employment if that person uses cannabis items. Additionally, the bill provides that a law enforcement officer, first responder, CDL driver, or a person who operates heavy equipment may be subject to adverse action by an employer solely due to the presence of cannabinoid metabolites in the employee's bodily fluid from engaging in conduct otherwise permitted under the recreational use statute.

Additionally, the bill permits employers to conduct random drug tests to ensure compliance with the prohibition. The drug test is required to include scientifically reliable objective testing methods and procedures, such as testing of blood, urine, or saliva, in order to determine whether the employee has engaged in the use of cannabis items.

The bill also permits an employer to refuse to hire a prospective law enforcement officer, first responder, or a person who operates heavy equipment due to use of cannabis items, as otherwise permitted under the recreational use statute and employ the use of drug testing as part of pre-employment screening.

The bill provides for definitions of law enforcement officer, first responder, CDL driver, and person who operates heavy equipment.

Lastly, the bill amends current law to prohibit 1) the operation of a commercial motor vehicle while using cannabis items, and 2) use of cannabis items in a school bus or other form of public transportation, while the vehicle is not in operation.