AN ACT concerning marijuana, amending and supplementing various parts of the statutory law.

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

1. This act shall be known and may be cited as the “New Jersey Tax, Regulate and Control Marijuana Act.”

2. (New section) The Legislature finds and declares that:
   a. New Jersey currently wastes more than $125 million dollars a year arresting people for marijuana possession.
   b. A conviction for marijuana possession has severe long-term consequences. A person with a marijuana conviction is subject to a system of legal discrimination that can last a lifetime and can make it difficult to secure employment, housing, student loans, or even a driver’s license. Even without a conviction, the consequences of an arrest can include stigma and humiliation, the financial burden of hiring a lawyer, and lost hours at work or school.
   c. Marijuana laws have a disparate racial impact on communities of color. In New Jersey, black people are almost three times more likely to be arrested for marijuana possession than white people even though both races use marijuana at the similar rates. On a county level, these disparities are even starker. In one county, black people are over five times more likely to be arrested than white people. In six New Jersey counties the disparate rates at which black people are arrested exceed the national average.
   d. Taxing and regulating marijuana would create a predictable and significant revenue stream for New Jersey to be used to fund infrastructure upgrades, substance use disorder treatment programs and for education.
and reinvestment in the communities most negatively harmed by New Jersey’s current marijuana laws.

c. Four states (Alaska, Colorado, Oregon and Washington) and the District of Columbia have now legalized marijuana, and a majority of New Jersey residents support legalizing, taxing and regulating marijuana like alcohol for adults. This legislation would make New Jersey’s marijuana laws consistent with the values and opinions of New Jersey residents and would build on smart and popular reforms across the country.

3. (New section) Definitions.

As used in this act:

a. “Advertise” means the publication or dissemination of an advertisement.

b. “Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

c. “Advertising sign” is any sign, poster, display, billboard, or any other stationary or permanently-affixed advertisement promoting the sale
of marijuana or marijuana products which are not cultivated,
manufactured, distributed, or sold on the same lot.

d. “Alternative treatment center” shall have the same meaning given

e. “Child resistant” means designed or constructed to be significantly
difficult for children under five years of age to open, and not difficult for
normal adults to use properly.

f. “Commercial marijuana activity” includes the cultivation,
possession, manufacture, distribution, processing, storing, laboratory
testing, labeling, transportation, delivery or sale of marijuana and
marijuana products as provided for in P.L.  c. (pending
before the Legislature as this bill); but shall not include medical marijuana
activities provided for in P.L.2009, c.307 (C.24:6I-1 et seq.).

g. “Controlling person” means an officer, board member, or other
individual who has a financial or voting interest of 10 percent or greater in
a marijuana establishment. “Controlling person” does not include a bank
or licensed lending institution.

h. “Cultivation” means any activity involving the planting, growing,
harvesting, drying, curing, grading, or trimming of marijuana.
i. “Cultivator” means a person licensed by the Division to cultivate
and package marijuana, to have marijuana tested by a marijuana testing
facility, and to sell marijuana to other marijuana establishments.
j. “Customer” means a natural person 21 years of age or over.
k. “Delivery” means the commercial transfer of marijuana or
marijuana products to a customer.
l. “Distribution” means the procurement, sale, and transport of
marijuana and marijuana products between marijuana entities licensed
under P.L.  c. (pending before the Legislature as this bill).
m. “Distributor” means a person licensed for the distribution of
marijuana and marijuana products.
n. “Division” means the Division of Marijuana Control within the Department of Law and Public Safety.

o. “Division of Taxation” means the Division of Taxation within the Department of the Treasury.

p. “Hashish” shall have the same meaning given in N.J.S.24:21-2.

q. “Health-related statement” means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

r. “Industrial hemp” means a fiber or oilseed crop, or both, that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and the seed whether growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.

s. “License” means a state license issued under P.L. c. (C. ) (pending before the Legislature as this bill).

t. “Licensee” means any person holding a license under P.L. c. (C. ) (pending before the Legislature as this bill).

u. “Local jurisdiction” means a borough, township, city, village or other municipality.
v. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product, but does not include producing the marijuana contained in the marijuana product.

w. “Manufacturer” means a person licensed by the Division to manufacture marijuana products, to have marijuana products tested by a marijuana testing facility, and to sell marijuana products to other marijuana establishments.

x. “Marijuana” means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, but shall not include:

(1) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination;

(2) industrial hemp, as defined in subsection r. of this section;

(3) or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

y. “Marijuana establishment” means a marijuana cultivator, marijuana manufacturer, marijuana microbusiness, marijuana nursery, marijuana distributor, marijuana retailer, marijuana testing facility, or other type of licensee whose operations are allowed by the Division or the Legislature.

z. “Marijuana flowers” shall mean the dried flowers of the marijuana plant.

aa. “Marijuana leaves” shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.

bb. “Marijuana paraphernalia” shall mean all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing,
analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana, marijuana products, or hashish. It shall include, but not be limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting marijuana plants;

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing marijuana, marijuana products, or hashish;

(3) Isomerization devices used or intended for use in increasing the potency of any marijuana plant;

(4) Testing equipment used or intended for use identifying, or in analyzing the strength, effectiveness or purity of marijuana, marijuana products, or hashish;

(5) Scales and balances used or intended for use in weighing or measuring marijuana, marijuana products, or hashish;

(6) Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(7) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding hashish or marijuana products;

(8) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of marijuana, marijuana products, or hashish;

(9) Containers and other objects used or intended for use in storing or concealing marijuana, marijuana products, or hashish;

(10) Objects used or intended for use in ingesting, inhaling, or otherwise introducing marijuana, marijuana products, or hashish into the human body, such as (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; (ii) water pipes; (iii) carburetion tubes and devices; (iv) smoking and carburetion masks; (v) roach clips, meaning
objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

c. “Marijuana products” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, hashish, or an edible or topical product containing marijuana or hashish and other ingredients.

d. “Market” or “Marketing” means any act or process of promoting or selling marijuana or marijuana products, including but not limited to, sponsorship of sporting events, point of sale advertising, development of products specifically designed to appeal to certain demographics, etc.

e. “Microbusiness” means a person licensed by the Division to cultivate marijuana on an area less than 10,000 square feet and to act as a licensed distributor, manufacturer, and retailer.

f. “Nursery” means a person licensed by the Division to produce only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

g. “Package” means any container or receptacle used for holding marijuana or marijuana products.

h. “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

i. “Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling.

j. “Retailer” means a person licensed by the Division for the retail sale and delivery of marijuana or marijuana products to customers.

k. “Sell,” “sale,” and “to sell” include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of
marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

II. “Testing service” means a laboratory, facility, or person licensed by the Division, that offers or performs tests of marijuana or marijuana products and that is registered with the Division.

mm. “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.

4. Section 3 of P.L.1948, c.439 (C.52:17B-3) is amended to read as follows:

52:17B-3. Divisions established in Department
There is hereby established in the Department of Law and Public Safety a Division of Law, a Division of State Police, a Division of Alcoholic Beverage Control, a Division of Marijuana Control, a Division of Motor Vehicles, a Division of Weights and Measures and a Division of Professional Boards.

The Attorney General shall have the authority to organize and maintain in his offices an Administrative Division and to assign to employment therein such secretarial, clerical and other assistants in the department as his office and the internal operations of the department shall require.

(cf: P.L.1948, c. 439, s. 3)

5. (New section) Administration.

a. The Division of Marijuana Control established in Section 52:17B-17 shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in P.L. , c. (C. )(pending before the Legislature as this bill).
b. The Division shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for commercial marijuana activities in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

(1) The Division shall consult with the Department of Agriculture regarding rules, regulations, and licenses for the cultivation of marijuana.

(2) The Division shall begin issuing licenses not later than 18 months following the effective date of P.L. c. (C. ) (pending before the Legislature as this bill).

(3) The Division shall have the authority to collect fees in connection with activities they regulate concerning marijuana.

(4) The Division may limit the total amount of marijuana produced in New Jersey based on the demand for marijuana and marijuana products and in an effort to reduce illicit marijuana markets.

(5) The Director of the Division shall not have any interest in the marijuana industry nor accept gift from marijuana establishments.

6. (New section) Rulemaking.

a. Not later than six months following the effective date of P.L. c. (C. ) (pending before the Legislature as this bill), the Division shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce its respective duties under P.L. c. (C. ) (pending before the Legislature as this bill) and in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). Such rules and regulations shall be consistent with the purpose of P.L. c. (C. ) (pending before the Legislature as this bill). Such regulations shall include:

(1) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment, with such procedures subject to all requirements of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.);
(2) A schedule of application, licensing and renewal fees pursuant to Section 10 of P.L. c. (C. ) (pending before the Legislature as this bill);

(3) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;

(4) Security requirements for marijuana establishments;

(5) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21;

(6) Labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment pursuant to Section 18 of P.L. c. (C. ) (pending before the Legislature as this bill);

(1) Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;

(2) In consultation with the Department of Health and Senior Services, standards for quality control, inspection, and testing;

(3) Restrictions on the advertising, marketing, and display of marijuana and marijuana products pursuant to Section 21 of P.L. c. (C. ) (pending before the Legislature as this bill);

(4) Civil penalties for the failure to comply with regulations made pursuant to this section; and

(5) Procedures and policies that promote and encourage full participation in the regulated marijuana industry by people from communities disproportionately harmed by marijuana prohibition and enforcement. Such harms include disproportionate rates of stops, arrests, incarceration, and collateral consequences for marijuana violations.

b. The Division may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under of P.L. c. (C. ) (pending before the Legislature as this bill). Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with N.J.A.C. 1:30–6.5.
The Division may make or cause to be made such investigation as it deems necessary to carry out its duties under P.L. (pending before the Legislature as this bill).

d. The Pesticide Control Council in the Department of Environmental Protection, in consultation with the Department of Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested marijuana. These standards shall apply to licensed cultivators under P.L. (pending before the Legislature as this bill).

e. The Department of Agriculture shall develop environmental protections which shall apply to all licensees.

f. The regulations made in accordance with this section cannot be unreasonably impracticable.

7. (New section) Administrative Hearings.

An applicant denied a license or license renewal, or who has a license revoked pursuant to this section, shall have the right to an administrative hearing and decision, and the matter shall be treated as a contested case, under the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.)."

8. (New section) Local Control.

a. A local jurisdiction may enact ordinances or regulations, including, but not limited to, local zoning and land use requirements, business license requirements, not in conflict with the provisions of P.L. (pending before the Legislature as this bill) governing the time, place and manner so long as such regulations are not unreasonably impracticable.

b. Notwithstanding paragraph 2 of subsection a. of Section 34 of P.L. (pending before the Legislature as this bill), a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or
marijuana products on the premises of a marijuana retailer or
microbusiness licensed under this division if:

(1) Access to the area where marijuana consumption is allowed is
restricted to persons 21 years of age and older;

(2) Marijuana consumption is not visible from any public place or
non-age restricted area; and

(3) Consumption of alcohol or tobacco is not allowed on the premises.

9. (New section) Licensing.

a. Notwithstanding any other provision of law, the Division shall
have the authority to issue licenses that it deems necessary to carry out the
purpose of P.L. , c. (C. ) (pending before the Legislature as this
bill).

b. The Division shall issue licenses pursuant to this authority,
including but not necessarily limited to marijuana cultivators, marijuana
manufacturers, marijuana microbusinesses, marijuana nurseries, marijuana
distributors, marijuana retailers and marijuana testing facilities as defined
in Section 3 of P.L. , c. (C. ) (pending before the Legislature as
this bill).

c. All licenses issued under this division shall bear a clear designation
indicating that the license is for commercial marijuana activity as distinct
from medical marijuana manufactured, produced and sold for medical use
pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.).

d. A marijuana retail licensee shall not hold a license in another
license category of Section 10 of P.L. , c. (C. ) (pending before the
Legislature as this bill) and shall not own or have ownership interest in a
non-retail facility licensed pursuant to P.L. , c. (C. ) (pending
before the Legislature as this bill).

e. A marijuana microbusiness licensee shall not hold a license in
another license category of Section 10 of P.L. , c. (C. ) (pending
before the Legislature as this bill) and shall not own or have ownership
interest in a non-microbusiness facility licensed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

f. A testing licensee shall not hold a license in another license category of Section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill) and shall not own or have ownership interest in a non-testing facility licensed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

g. A license issued pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) shall be valid for 12 months from the date of issuance. The license may be renewed annually.

h. The Division shall establish procedures for the issuance and renewal of licenses.

i. Notwithstanding subsection g., the Division may issue a temporary license valid for a period of less than 12 months. This subsection shall cease to be operable not less than two years following the effective date of P.L. c. (C. ) (pending before the Legislature as this bill).

10. (New section) Application.

a. The Division shall establish procedures for the issuance and renewal of licenses for marijuana establishments.

b. Each application for an annual license to operate a marijuana establishment shall be submitted to the Division. The Division shall:

(1) Begin accepting and processing applications not more than 12 months following the effective date of P.L. c. (C. ) (pending before the Legislature as this bill);

(2) Issue an annual license to the applicant between 45 and 90 days after receipt of an application unless the Division finds a controlling person does not qualify for a license pursuant to Section 10 of P.L. c. (C. ) (pending before the Legislature as this bill); and

(3) Upon denial of an application, notify the applicant in writing of the specific reason for its denial.
c. The Division shall:

(1) Actively seek to achieve racial, ethnic, gender, and geographic
diversity among license holders when issuing licenses; and

(2) Encourage applicants who qualify as a minority business or
women’s business, as defined in N.J.S.52:27H-21.18, to apply for
licensure.

11. (New section) Licensing equity program.

a. The Division shall process low income applications on a priority
basis.

b. For the purpose of this section, “low income” means an applicant
with at least one controlling person with a household income lower than
the basic cost of living in New Jersey.

12. (New section) Denial of a marijuana license.

a. The Division shall deny an application if either a controlling
person, or the premises for which a state license is applied, do not qualify
for licensure under this division.

b. The Division may deny the application for licensure or renewal of
a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of P.L.    c. (C.    )
(pending before the Legislature as this bill) or any rule or regulation
adopted pursuant to P.L.    c. (C.    ) (pending before the Legislature
as this bill).

(2) Failure to provide information required by the Division.

(3) Licensure or renewal of a license will lead to monopolization or
unreasonably restrain competition.

(4) The premises is licensed to sell alcohol or tobacco.

(5) A controlling person has been convicted of an offense that is
substantially related to the qualifications, functions, or duties of the
business or profession for which the application is made, except that if the
Division determines that the controlling person or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the Division shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the controlling person, and shall evaluate the suitability of the controlling person or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the Division shall include, but not be limited to, the following:

(A) A felony conviction involving fraud, deceit, or embezzlement.

(B) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(6) A controlling person has been sanctioned by the Division for unauthorized commercial marijuana activities or medical marijuana activities pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.), has had a license revoked under P.L. (C.) (pending before the Legislature as this bill) in the three years immediately preceding the date the application is filed with the Division.

c. Except as provided in subparagraphs (A) and (B) of paragraph (5) of subsection b. of this Section, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possessing, using, being under the influence of, manufacturing, distributing or dispensing, or possessing with intent to manufacture, distribute or dispense a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to
licensure shall be grounds for revocation of a license or denial of the
renewal of a license.

13. (New section) Protections for licensees.

a. Actions and conduct by a licensee, its employees, and its agents
that are permitted pursuant to a valid license issued by the Division, and
by those who allow property to be used by a licensee, its employees, or its
agents as permitted pursuant to a valid license issued by the Division, are
lawful under state and local law, and shall not be a violation of state or
local law.

b. No state or local government agency shall impose any criminal,
civil, or administrative penalty on any licensee, its employees, or its
agents, or on those who allow property to be used by a licensee, its
employees, or its agents, solely for actions or conduct permitted pursuant
to a valid license issued by the Division.

c. Actions and conduct by a licensee, its employees, and its agents
that are permitted pursuant to a valid license issued by the Division, and
by those who allow property to be used by a licensee, its employees, or its
agents as permitted pursuant to a valid license issued by the Division, shall
not be a basis for seizure or forfeiture of any products, materials,
equipment, property, or assets under state or local law.

d. Anyone who sells any marijuana or marijuana products to a person
under the legal age for purchasing marijuana and marijuana products shall
be subject to a civil penalty, collected pursuant to the “Penalty
less than $250 for the first violation not less than $500 for the second
violation, and $1,000 for the third and each subsequent violation;
provided, however, that the establishment of all of the following facts by a
person making any such sale shall constitute a defense to any prosecution
therefor:
(1) that the purchaser falsely represented in writing, or by producing a driver's license bearing a photograph of the licensee, or by producing a photographic identification card issued pursuant to section 2 of P.L.1980, c. 47 (C.39:3-29.3), or a similar card issued pursuant to the laws of this State, another state or the federal government that he or she was of legal age to make the purchase,

(2) that the appearance of the purchaser was such that an ordinary prudent person would believe him or her to be of legal age to make the purchase, and

(3) that the sale was made in good faith relying upon such written representation, or production of a driver's license bearing a photograph of the licensee, or production of a photographic identification card issued pursuant to section 2 of P.L.1980, c. 47 (C.39:3-29.3), or a similar card issued pursuant to the laws of this State, another state or the federal government and appearance and in the reasonable belief that the purchaser was actually of legal age to make the purchase.

e. Nothing in this section shall be construed or interpreted to:

(1) Prevent the Division from enforcing its rules and regulations against a licensee.

(2) Prevent a state agency from enforcing a law, rule, or regulation that is not in conflict with the provisions of P.L. c. (C. ) (pending before the Legislature as this bill) or the rules and regulations of the Division.

(3) Prevent a locality from enforcing a local zoning ordinance or local ordinance consistent with Section 9 of P.L. c. (C. ) (pending before the Legislature as this bill).

14. (New section) License fees.

The Division shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:
a. The Division shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering P.L. , c. (C. ) (pending before the Legislature as this bill). The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of P.L. , c. (C. ) (pending before the Legislature as this bill) as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace system required pursuant to Section 22 of P.L. , c. (C. ) (pending before the Legislature as this bill), but shall not exceed the reasonable regulatory costs to the Division.

b. The total fees assessed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering P.L. , c. (C. ) (pending before the Legislature as this bill).

c. All license fees shall be set on a scaled basis by the Division, dependent on the size of the business and shall not create barriers to entry for smaller businesses.

d. The Division shall deposit all fees collected in the Marijuana Regulation Fund established in Section 14 P.L. , c. (C. ) (pending before the Legislature as this bill). Monies in the Division fee accounts shall be used, upon appropriation by the Legislature, by the Division for the administration of P.L. , c. (C. ) (pending before the Legislature as this bill).

e. The total fees charged to any one licensee shall not be unreasonably impracticable.

15. (New section) Funding.

There is hereby created and established in the Department of the Treasury a separate nonlapsing fund to be known as the “Marijuana
Regulation Fund.” Commencing 18 months following the effective date of
P.L. c. (C. ) (pending before the Legislature as this bill) and
annually for each succeeding State fiscal year, the State Treasurer shall
credit to the Marijuana Regulation Fund, on a monthly basis, an amount
equivalent to the dedicated marijuana license fees received by the State
during each calendar month of such fiscal year.

16. (New section) Distribution and Transport.
   a. P.L. , c. (C. ) (pending before the Legislature as this bill)
   shall not be construed to authorize or permit a licensee to transport or
distribute, or cause to be transported or distributed, marijuana or marijuana
products outside the state, unless authorized by federal law.
   b. A local jurisdiction shall not prevent transportation of marijuana or
marijuana products on public roads by a licensee transporting marijuana or
marijuana products in compliance with this division.

17. (New section) Delivery.
   a. Deliveries, as defined in this division, may only be made by a
marijuana retailer, marijuana microbusiness, or other person licensed by
the Division to sell marijuana or marijuana products to customers.
   b. A customer requesting delivery shall maintain a physical or
electronic copy of the delivery request and shall make it available upon
request by the Division and law enforcement officers.
   c. A local jurisdiction shall not prevent delivery of marijuana or
marijuana products to a customer by a licensee acting in compliance with
this division and local law as adopted under Section 9 of P.L. , c. (C. )
(pending before the Legislature as this bill).

18. (New section) Packaging and labeling.
   a. The Division shall develop standards for the production and
labeling of all marijuana and marijuana products and these standards shall
apply to all licensed manufacturers and microbusinesses licensed by the
Division.

b. Prior to delivery or sale at a retailer, marijuana and marijuana
products shall be labeled and placed in a resealable, child resistant
package.

c. Packages and labels shall not be made to be attractive to children.

d. Labels shall include:

(1) For packages containing only dried flower, the net weight of
marijuana in the package.

(2) Identification of the source and date of cultivation, the type of
marijuana or marijuana product and the date of manufacturing and
packaging.

(3) List of pharmacologically active ingredients.

(4) For marijuana products, a list of all ingredients and disclosure of
nutritional information in the same manner as the federal nutritional
labeling requirements in 21 C.F.R. section 101.9.

(5) A warning if nuts or other known allergens are used.

19. (New section) Marijuana products.

a. Marijuana products shall be:

(1) Not designed to be appealing to children or easily confused with
commercially sold candy or foods that do not contain marijuana.

(2) Produced and sold with a standardized dosage of cannabinoids not
to exceed ten (10) milligrams tetrahydrocannabinol per serving.

(3) Delineated or scored into standardized serving sizes if the
marijuana product contains more than one serving and is an edible
marijuana product in solid form.

(4) Homogenized to ensure uniform disbursement of cannabinoids
throughout the product.

(5) Manufactured and sold under sanitation standards established by
the Division, for preparation, storage, handling and sale of food products.
Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

b. Marijuana, including hashish, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

20. (New section) Protection of minors.

a. No licensee shall:
   (1) Sell marijuana or marijuana products to persons under 21 years of age.
   (2) Employ or retain persons under 21 years of age.

b. Notwithstanding subsection a., a licensee that is also an alternative treatment center licensed under P.L.2009, c.307 (C.24:6I-1 et seq.) may:
   (1) Allow any person 18 years of age or older who possesses a valid identification card under P.L.2009, c.307 (C.24:6I-1 et seq.) and a valid government-issued identification card to purchase marijuana or marijuana products;
   (2) Sell marijuana, marijuana products, and marijuana paraphernalia to a person 18 years of age or older who possesses a valid identification card under P.L.2009, c.307 (C.24:6I-1 et seq.) and a valid government-issued identification card.

21. (New section) Advertising and marketing restrictions.

a. All marketing strategies and implementation including, but not limited to, branding, packaging, labeling, location of marijuana retailers and marijuana microbusinesses, and advertisements shall not be designed to:
   (1) Appeal to persons less than 21 years of age; or
   (2) Disseminate false or misleading information to customers.
b. All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.

c. Any broadcast, cable, radio, print and digital communications advertisements shall only be placed where the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

d. Any advertising involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee.

For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

e. All advertising shall be truthful and appropriately substantiated.

f. No licensee shall:

(1) Advertise in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression;

(2) Publish or disseminate advertising containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;

(3) Publish or disseminate advertising containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;

(4) Advertise on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;
(5) Advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;

(6) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or

(7) Advertise marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

g. No licensee shall give away any amount of marijuana or marijuana products, or any marijuana paraphernalia, as part of a business promotion or other commercial activity.

h. No licensee shall publish or disseminate advertising containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

i. The provisions of paragraph (7) of subsection (e) shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

j. This Section does not apply to any noncommercial speech.

22. (New section) Track and Trace System.

a. The Division, in consultation with the bureau and the Division of Taxation, shall establish a track and trace program for reporting the movement of marijuana and marijuana products throughout the distribution chain and shall capture, at a minimum, the following:

(1) The licensees receiving the product.
23. (New section) Contracts.

It is the public Policy of the People of the State of New Jersey that contracts related to the operation of licenses under P.L. , c. (C. ) (pending before the Legislature as this bill) should be enforceable and no contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Division under Section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill), or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Division under Section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.
An attorney, accountant, insurance agent, real estate agent, security
guard, or other person engaged in a profession subject to state licensure
may not be subject to disciplinary action by the state bar association, other
state professional board, or state licensing association for providing
professional services or assistance to prospective or licensed marijuana
establishments or others related to activity that the person reasonably
believes is permitted by the provisions of P.L. , c. (pending
before the Legislature as this bill) and the statutes, regulations, orders, and
other state or local provisions implementing P.L. , c. (pending
before the Legislature as this bill).

25. (New section) Marijuana Tax.
   a. There is hereby levied and imposed a cultivation tax upon all
      harvested marijuana that enters the commercial market upon all persons
      required to be licensed to cultivate marijuana pursuant to Section 9 of P.L.
      c. (pending before the Legislature as this bill). The tax shall be
due after the marijuana is harvested.
      (1) Marijuana flowers shall be taxed at a rate of $0.62 per dry-weight
      gram.
      (2) Marijuana leaves shall be taxed at a rate of $0.10 per dry-weight
      gram.
   b. There is hereby levied and imposed a nursery tax upon all
      immature plants that enter the commercial market upon all persons
      required to be licensed to produce immature plants pursuant to Section 9
      of P.L. c. (pending before the Legislature as this bill).
      Immature plants shall be taxed at a rate of $1.35 each.
   c. There is hereby levied and imposed a tax upon marijuana sold or
      otherwise transferred by a marijuana cultivation facility to a marijuana
      product manufacturing facility or to a retail marijuana store at a rate
equivalent to the rate established under the “Sales and Use Tax Act,”
P.L.1966, c.30 (C.54:32B-1 et seq.).
In addition to the excise tax imposed pursuant to subsection b., there is hereby levied and imposed a marijuana excise tax upon customers of nonmedical marijuana or nonmedical marijuana products sold in this State at the rate 15% of any sale by a retailer, microbusiness, or other person required to be licensed pursuant Section 9 of P.L. (C. ) (pending before the Legislature as this bill) to sell marijuana and marijuana products directly to a customer.

The Division of Taxation shall establish procedures for the collection of all taxes levied.

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

26. (New section) Revenue.

a. There is hereby created and established in the Department of the Treasury a separate nonlapsing fund to be known as the “Dedicated Marijuana Tax Revenue Fund.” During the State fiscal year in which licensing commences for the collection of the cultivation tax, established in subsection a. of Section 25 of P.L. (C. ) (pending before the Legislature as this bill), and during each succeeding State fiscal year, the State Treasurer shall credit to such Fund, on a monthly basis, an amount equivalent to the dedicated marijuana tax revenues received by the State during each calendar month of such fiscal year.

b. Before any funds are disbursed pursuant to Subsections c., d., e., f. and g. of this section the State Treasurer shall disburse from the Dedicated Marijuana Tax Revenue Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the Division of Taxation for administering and collecting the taxes imposed by this part; provided,
however, such costs shall not exceed four percent (4%) of tax revenues received.

(2) Reasonable costs incurred by the Division for implementing, administering, and enforcing P.L. c. (C. ) (pending before the Legislature as this bill) to the extent those costs are not reimbursed pursuant to Section 13 of P.L. c. (C. ) (pending before the Legislature as this bill). This paragraph shall remain operative through fiscal year 2022-2023., and

c. The remaining funds shall be disbursed as follows:

(1) Five percent (5%) shall be deposited in the Drug Treatment and Public Education Fund, and disbursed by the State Treasurer for the following purposes:

(A) To develop and implement a youth-focused public health education and prevention campaign, including school-based prevention, early intervention, and health care services and programs to reduce the risk of marijuana and other substance use and abuse by school-aged children;

(B) To develop and implement a statewide public health campaign focused on the health effects of marijuana and legal use, including an ongoing education and prevention campaign that educates the general public, including parents, consumers and retailers, on the legal use of marijuana, the importance of preventing youth access, the importance of safe storage and preventing secondhand marijuana smoke exposure, information for pregnant or breastfeeding women, and the overconsumption of edibles;

(C) To provide substance use disorder treatment programs for youth and adults, with an emphasis on programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for
substance use and other co-occurring behavioral health disorders, 
vocational services, literacy services, parenting classes, family therapy and 
counseling services, medication-assisted treatments, psychiatric 
medication and psychotherapy.

(D) To evaluate the programs being funded to determine their 
effectiveness.

(2.) Fifty percent (50%) shall be deposited in the Community Grants 
Reinvestment Fund, and disbursed by the State Treasurer for the 
establishment of a Community Grants Reinvestment Program that shall 
administer the monies to qualified community-based nonprofit 
organizations for the purpose of reinvesting in communities 
disproportionately affected by incarceration, lack of economic 
opportunity, and poverty—including inability to afford the basic 
necessities of housing, food, child care, health care, and 
transportation—as defined by a series of standardized 
measurements.” The grants from this program shall be used to support 
job placement, mental health treatment, substance use disorder 
treatment, system navigation services, legal services to address barriers 
to reentry, and linkages to medical care and women’s health services. 
The programs may include, but are not limited to, the following 
components:

(A) The Community Grants Reinvestment Program shall periodically 
evaluate the programs it is funding to determine the effectiveness 
of the programs.

(B) The Community Grants Reinvestment Program shall be governed 
and administered by an executive steering committee that includes, 
but is not limited to, a balanced and diverse membership from 
relevant state and local government entities and community-based 
job skills and job placement service providers. The committee 
shall have expertise in job placement, homelessness and housing,
behavioral health and substance abuse treatment, and effective rehabilitative treatment for adults and juveniles.

(C) The committee shall make recommendations regarding the design, efficacy, and viability of proposals.

(D) The committee shall prioritize proposals that provide any of the following:

(i) Community-based job skills services.

(ii) Community-based job placement services.

(iii) Adult education services.

Other community-based supportive services.

27. (New section) Annual reports; performance audit

a. Beginning on March 1, 2020, and on or before March 1 of each year thereafter, the Division shall prepare and submit to the Legislature an annual report on the Division’s activities concerning commercial marijuana activities and post the report on the Division’s website. The report shall include, but not be limited to:

(1) The amount of funds allocated and spent by the Division for marijuana licensing, enforcement, and administration.

(2) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

(3) The demographics of licensees including, but not limited to, gender, race, and ethnicity of license holders and geographic location of marijuana establishments.

(4) The average time for processing state license applications, by state license category.

(5) The number and type of enforcement activities conducted by the Division and by local law enforcement agencies in conjunction with the Division or the bureau.

(6) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the Division.
(7) A detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

The State Treasurer, pursuant to his or her statutory authority, shall audit the Marijuana Tax Revenue Fund every two (2) years to ensure that those funds are used and accounted for in a manner consistent with Section 26 P.L. , c. (C. ) (pending before the Legislature as this bill).

28. (New section) Medical marijuana provisions unaffected. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) shall be construed:

a. to limit any privileges or rights of a medical marijuana patient, primary caregiver, or a person issued a permit to operate as an alternative treatment center or be a director, officer, or employee of an alternative treatment center as provided in the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.);

b. to permit an alternative treatment center to distribute marijuana to a person who is not a medical marijuana patient without first obtaining a valid marijuana retail or marijuana microbusiness license from the Division pursuant to Section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill);

c. to permit an alternative treatment center to purchase marijuana or marijuana products in a manner or from a source not authorized under P.L.2009, c.307 (C.24:6I-1 et seq.) without first obtaining a valid marijuana retail or marijuana microbusiness license from the Division pursuant to Section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill);

d. to discharge the Department of Health from its duties to regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et seq.).
29. (New section) Discrimination protections.
   a. No school or landlord may refuse to enroll or lease to and may not
   otherwise penalize a person solely for conduct allowed under P.L.   , c.
   (C.   ) (pending before the Legislature as this bill) or P.L.2009, c.307
   (C.24:6I-1 et seq.), unless failing to do so would cause the school or
   landlord to lose a monetary or licensing related benefit under federal law
   or regulations.
   b. For the purposes of medical care, including organ transplants, a
   registered qualifying patient's authorized use of marijuana must be
   considered the equivalent of the use of any other medication under the
   direction of a physician and does not constitute the use of an illicit
   substance or otherwise disqualify a registered qualifying patient from
   medical care.
   c. No person may be denied custody of or visitation or parenting time
   with a minor, and there is no presumption of neglect or child
   endangerment for conduct allowed under P.L.   , c. (C.   ) (pending
   before the Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.),
   unless the person’s behavior creates an unreasonable danger to the safety
   of the minor as established by clear and convincing evidence.

30. Section 16 of P.L.2009, c.307 (C.24:6I-14) is amended to read as
    follows:
    16. Nothing in this act shall be construed to require a government
    medical assistance program or private health insurer to reimburse a person
    for costs associated with the medical use of marijuana, or, except as
    provided in section 30 of P.L.   , c. (C.   ) (pending before the
    Legislature as this bill), an employer to accommodate the medical use of
    marijuana in any workplace.
    (cf: P.L.2009, c.307, s.16)

31. (New section) Employment protections.
a. Unless an employer establishes by a preponderance of the evidence that the lawful use of marijuana has impaired the employee’s ability to perform the employee’s job responsibilities, it shall be unlawful to take any adverse employment action against an employee based on either: (1) conduct allowed under P.L. , c. (C. ) (pending before the Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.); or (2) the employee’s positive drug test for marijuana components or metabolites.

For the purposes of this section, an employer may consider an employee’s ability to perform the employee’s job responsibilities to be impaired when the employee manifests specific articulable symptoms while working that decrease or lessen the employee’s performance of the duties or tasks of the employee’s job position.

b. Nothing in this section shall restrict an employer’s ability to prohibit or take adverse employment action for the possession or use of intoxicating substances during work hours, or require an employer to commit any act that would cause the employer to be in violation of federal law, or that would result in the loss of a federal contract or federal funding.

c. As used in this section, “adverse employment action” means refusing to hire or employ, barring or discharging from employment, requiring a person to retire from employment, or discriminating against in compensation or in terms, conditions, or privileges of employment.

32. (New section) Protections for persons under state supervision.

A person currently under parole, probation or other state supervision, or released on bail awaiting trial may not be punished or otherwise penalized for conduct allowed under P.L. , c. (C. ) (pending before the Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.).

33. (New section) Personal use of marijuana.
a. Notwithstanding any other provision of law, the following acts are lawful under state and local law for persons 21 years of age and older:

   (1) Possessing, using, being under the influence, displaying, purchasing, obtaining, or transporting not more than 50 grams of marijuana not in the form of hashish.

   (2) Transferring, without remuneration, to a person 21 years of age and older not more than 50 grams of marijuana.

   (3) Possessing, using, being under the influence, displaying, purchasing, obtaining, transporting or transferring, without remuneration, to persons 21 years of age and older not more than 14 grams of marijuana in the form of hashish, including as contained in marijuana products.

   (4) Possessing, planting, cultivating, harvesting, drying, processing or transporting not more than six living marijuana plants and possessing the marijuana produced by the plants.

   (5) Smoking, ingesting or otherwise consuming marijuana or marijuana products.

   (6) Possessing, using, displaying, purchasing, obtaining, manufacturing, transporting or giving away to persons 21 years of age and older marijuana paraphernalia.

   (7) Assisting another person who is 21 years of age and older or allow property to be used in any of the acts described in paragraphs (1) through (7) of this subsection.

b. Paragraph (6) of subsection a. is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. § 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute marijuana paraphernalia.

c. Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other
applicable law, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

d. Except as provided in subsection e. of this section, none of the following shall, individually or in combination with each other, constitute reasonable articulable suspicion of a crime:

(1) The odor of marijuana or of burnt marijuana;
(2) The possession of or the suspicion of possession of marijuana without evidence of quantity in excess of 50 grams;
(3) The possession of multiple containers of marijuana without evidence of quantity in excess of 50 grams; or
(4) The possession of marijuana in proximity to any amount of cash or currency without evidence of marijuana quantity in excess of 50 grams.

e. Subsection d. of this section shall not apply when a law enforcement officer is investigating whether a person is operating or in physical control of a vehicle or watercraft while intoxicated, under the influence of, or impaired by alcohol or a drug or any combination thereof in violation of N.J.S. 39:4-50.

34. (New section) Personal cultivation of marijuana.
a. Personal cultivation of marijuana under paragraph (5) subsection a. of Section 32 of P.L. , c. (C. )(pending before the Legislature as this bill) is subject to the following restrictions:

(1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subsection b. of this section.
(2) The living plants and any marijuana produced by the plants in excess of 50 grams are kept within the person’s private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.
(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

b. (1) A local jurisdiction may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (5) of subsection a. of Section 32 of P.L. , c. (C. )(pending before the Legislature as this bill).

(2) Notwithstanding paragraph (1), no local jurisdiction may completely prohibit persons engaging in the actions and conduct under paragraph (5) of subsection a. of Section 32 of P.L. , c. (C. )(pending before the Legislature as this bill).

35. (New section) Restrictions on personal consumption.

a. Nothing in Sections 32 and 33 of P.L. , c. (C. )(pending before the Legislature as this bill) shall be construed to permit any person to:

(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with subsection b. of Section 9 of P.L. , c. (C. ) (pending before the Legislature as this bill).

(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.

(3) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board while children are present.

(4) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

b. For purposes of this section:

(5) “Smoke” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or
marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form.

(6) “Smoke” does not include the use of an electronic smoking device that creates an aerosol or vapor.

36. N.J.S.A. 24:21-5 is amended to read as follows:

a. Tests. The director shall place a substance in Schedule I if he finds that the substance: (1) has high potential for abuse; and (2) has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.

b. The controlled dangerous substances listed in this section are included in Schedule I, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c. 226 (C.24:21-3), and except to the extent provided in any other schedule.

c. Any of the following opiates, including their isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetylmethadol
(2) Allylprodine
(3) Alphacetylmethadol
(4) Alphameprodine
(5) Alphamethadol
(6) Benzethidine
(7) Betacetylmethadol
(8) Betameprodine
(9) Betamethadol
(10) Betaprodine
(11) Clonitazene
(12) Dextromoramide
(13) Dextrorphan
1. (14) Diampromide
2. (15) Diethylthiambutene
3. (16) Dimenoxadol
4. (17) Dimepheptanol
5. (18) Dimethylthiambutene
6. (19) Dioxaphetyl butyrate
7. (20) Dipipanone
8. (21) Ethylmethylthiambutene
9. (22) Etonitazene
10. (23) Etoxeridine
11. (24) Furethidine
12. (25) Hydroxypethidine
13. (26) Ketobemidone
14. (27) Levomoramide
15. (28) Levophenacylmorphan
16. (29) Morpheridine
17. (30) Noracymethadol
18. (31) Norlevorphanol
19. (32) Normethadone
20. (33) Norpipanone
21. (34) Phenadoxone
22. (35) Phenampromide
23. (36) Phenomorphan
24. (37) Phenoperidine
25. (38) Piritramide
26. (39) Proheptazine
27. (40) Properidine
28. (41) Racemoramide
29. (42) Trimeperidine.
30. d. Any of the following narcotic substances, their salts, isomers and
31. salts of isomers, unless specifically excepted, whenever the existence
of such salts, isomers and salts of isomers is possible within the specific chemical designation:

1. Acetorphine
2. Acetylcodone
3. Acetyldihydrocodeine
4. Benzylmorphine
5. Codeine methylbromide
6. Codeine-N-Oxide
7. Cyprenorphine
8. Desomorphine
9. Dihydromorphine
10. Etorphine
11. Heroin
12. Hydromorphinol
13. Methyldesorphine
14. Methylhydromorphine
15. Morphine methylbromide
16. Morphine methylsulfonate
17. Morphine-N-Oxide
18. Myrophine
19. Nicocodeine
20. Nicomorphine
21. Normorphine
22. Phoclodine
23. Thebacon.

e. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 3,4-methylenedioxy amphetamine
(2) 5-methoxy-3,4-methylenedioxy amphetamine
(3) 3,4,5-trimethoxy amphetamine
(4) Bufotenine
(5) Diethyltryptamine
(6) Dimethyltryptamine
(7) 4-methyl-2,5-dimethoxylamphetamine
(8) Ibogaine
(9) Lysergic acid diethylamide

[(10) Marihuana]
[(11)] (10) Mescaline
[(12)] (11) Peyote
[(13)] (12) N-ethyl-3-piperidyl benzilate
[(14)] (13) N-methyl-3-piperidyl benzilate
[(15)] (14) Psilocybin
[(16)] (15) Psilocyn
[(17)] (16) Tetrahydrocannabinols.

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

As used in this act, “drug paraphernalia” means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title. It shall include, but not be limited to: a. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived; b. kits used or intended for use in manufacturing, compounding, converting, producing, processing, or
preparing controlled dangerous substances or controlled substance analogs; c. isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled dangerous substance; d. testing equipment used or intended for use identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances or controlled substance analogs; e. scales and balances used or intended for use in weighing or measuring controlled dangerous substances or controlled substance analogs; f. dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances or controlled substance analogs; [g. separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; h] g. blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances or controlled substance analogs; [i]h. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances or controlled substance analogs; [j][i]. containers and other objects used or intended for use in storing or concealing controlled dangerous substances, controlled substance analogs or toxic chemicals; [k][j]. objects used or intended for use in ingesting, inhaling, or otherwise introducing [marijuana,] cocaine, [hashish, hashish oil,] nitrous oxide or the fumes of a toxic chemical into the human body, such as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, [hashish heads,] or punctured metal bowls; [(2) water pipes; (3)2] carburetion tubes and devices; [(4)3] smoking and carburetion masks; [(5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; (6)4] miniature cocaine spoons, and cocaine vials; [(7) chamber pipes; (8) carburetor pipes; (9) electric pipes; (10) air-driven pipes; (11) chillums; (12) bongs; (13) ice pipes or chillers; (14)5] compressed gas containers, such as tanks, cartridges or
canisters, that contain food grade or pharmaceutical grade nitrous oxide as a principal ingredient; ([15]6) chargers or charging bottles, meaning metal, ceramic or plastic devices that contain an interior pin that may be used to expel compressed gas from a cartridge or canister; and ([16]7) tubes, balloons, bags, fabrics, bottles or other containers used to concentrate or hold in suspension a toxic chemical or the fumes of a toxic chemical.

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

38. N.J.S. 2C:33-13 is amended to read as follows:

2C:33-13. Smoking in public

a. Any person who smokes or carries lighted tobacco, lighted marijuana, or lighted marijuana product in or upon any bus or other public conveyance, except group charter buses, specially marked railroad
smoking cars, limousines or livery services, and, when the driver is the
only person in the vehicle, autocabs, is a petty disorderly person. For the
purposes of this section, “bus” includes school buses and other vehicles
owned or contracted for by the governing body, board or individual of a
nonpublic school, a public or private college, university, or professional
training school, or a board of education of a school district, that are used to
transport students to and from school and school-related activities; and
the prohibition on smoking or carrying lighted tobacco shall apply even if
students are not present in the vehicle.

b. Any person who smokes or carries lighted tobacco, lighted
marijuana, or lighted marijuana product in any public place, including but
not limited to places of public accommodation, where such smoking is
prohibited by municipal ordinance under authority of R.S.40:48-1 and
40:48-2 or by the owner or person responsible for the operation of the
public place, and when adequate notice of such prohibition has been
conspicuously posted, is a petty disorderly person. Notwithstanding the
provisions of 2C:43-3, the maximum fine which can be imposed for
violation of this section is $200.

c. The provisions of this section shall supersede any other statute and
any rule or regulation adopted pursuant to law.

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

seq.), or P.L., c. (C.____) (pending before the Legislature as this bill),
any person who knowingly maintains or operates any premises, place or
facility used for the manufacture of methamphetamine, lysergic acid
diethylamide, phencyclidine, gamma hydroxybutyrate, flunitrazepam,
marijuana in an amount greater than five pounds or ten plants]or any
substance listed in Schedule I or II of N.J.S. 24:21, et seq., or the analog of
any such substance, or any person who knowingly aids, promotes,
finances or otherwise participates in the maintenance or operations of such
premises, place or facility, is guilty of a crime of the first degree and shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed $750,000.00 or five times the street value of all controlled dangerous substances, controlled substance analogs, gamma hydroxybutyrate or flunitrazepam at any time manufactured or stored at such premises, place or facility, whichever is greater. (cf: P.L.1999, c.133, s.2)

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

2C:35-5. Manufacturing, Distributing or Dispensing.

a. Except as [authorized] permitted by P.L.1970, c.226 (C.24:21-1 et seq.) or P.L. , c. (C. ) (pending before the Legislature as this bill) it shall be unlawful for any person knowingly or purposely:

(1) To manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense, a controlled dangerous substance, as defined by N.J.S. 24:21, et seq or controlled substance analog; or

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

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

(1) Heroin, or its analog, or coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, or analogs, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine, or 3,4-
methylenedioxymethamphetamine or 3,4-methylenedioxyamphetamine, in
a quantity of five ounces or more including any adulterants or dilutants is
guilty of a crime of the first degree. The defendant shall, except as
provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment by
the court. The term of imprisonment shall include the imposition of a
minimum term which shall be fixed at, or between, one-third and one-half
of the sentence imposed, during which the defendant shall be ineligible for
parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3,
a fine of up to $500,000.00 may be imposed;

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

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

(4) A substance classified as a narcotic drug in Schedule I or II, as
defined by N.J.S. 24:21, et seq other than those specifically covered in this
section, or the analog of any such substance, in a quantity of one ounce or
more including any adulterants or dilutants is guilty of a crime of the
second degree;

(5) A substance classified as a narcotic drug in Schedule I or II, as
defined by N.J.S. 24:21, et seq., other than those specifically covered in
this section, or the analog of any such substance, in a quantity of less than
one ounce including any adulterants or dilutants is guilty of a crime of the
third degree except that, notwithstanding the provisions of subsection b. of
N.J.S.2C:43-3, a fine of up to $75,000.00 may be imposed;

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

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

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

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

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

(10) (a) Marijuana in a quantity of 25 pounds or more including any
adulterants or dilutants, or 50 or more marijuana plants, regardless of
weight, or hashish manufactured without the use of an explosive gas, such
as butane, in a quantity of five pounds or more including any adulterants
or dilutants, shall be subject to a civil penalty of $250 for the first
violation, $500 for the second violation, and $1,000 for the third and each subsequent violation [is guilty of a crime of the second degree. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $300,000.00 may be imposed];

(11) (b) Marijuana in a quantity of five pounds or more but less than 25 pounds including any adulterants or dilutants, or 10 or more but fewer than 50 marijuana plants, regardless of weight, or hashish manufactured without the use of an explosive gas, such as butane, in a quantity of one pound or more but less than five pounds, including any adulterants and dilutants, shall be subject to a civil penalty of $200 for the first violation, $350 for the second violation, and $750 for the third and each subsequent violation [is guilty of a crime of the third degree];

Marijuana in a quantity of [one ounce] more than 50 grams [or more] but less than five pounds including any adulterants or dilutants, or hashish manufactured without the use of explosive gas, such as butane, in a quantity of [five] more than 14 grams [or more] but less than one pound including any adulterants or dilutants, shall be subject to a civil penalty of $150 for a first violation, $200 for a second violation, and $500 for a third or subsequent violation [is guilty of a crime of the fourth degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed];

(12) Marijuana in a quantity of [less than one ounce] 50 grams or less including any adulterants or dilutants or hashish manufactured without the use of an explosive gas, such as butane, in a quantity of [less than five] 14 grams or less including any adulterants or dilutants by a person under the age of 21 years, shall be subject to a civil penalty of $100 [is guilty of a crime of the fourth degree];

(13) (a) Hashish manufactured with the use of an explosive gas, such as butane, and without a license pursuant to section 9 of Section 9 of P.L. c. (C. ) (pending before the Legislature as this bill) in a quantity of
five pounds or more including adulterants or dilutants, is guilty of a crime
in the third degree;
(b) Hashish manufactured with the use of an explosive gas, such as
butane, and without a license pursuant to section 9 of Section 9 of P.L.
c. (C.____) (pending before the Legislature as this bill) in a quantity of
one pound or more but less than five pounds, including any adulterants
and dilutants is guilty of a crime in the fourth degree;
(c) Hashish manufactured with the use of an explosive gas, such as
butane, and without a license pursuant to section 9 of Section 9 of P.L.
c. (C.____) (pending before the Legislature as this bill) in a quantity of
more than 14 grams but less than one pound including any adulterants or
dilutants is a disorderly person;
(d) Hashish manufactured with the use of an explosive gas, such as
butane and without a license pursuant to section 9 of Section 9 of P.L.  c.
(C.____) (pending before the Legislature as this bill) in a quantity of 14
grams or less including any adulterants or dilutants, shall be subject to a
civil penalty of $150 for a first violation, $200 for a second violation, and
$500 for a third or subsequent violation:
[(13)](14) Any other controlled dangerous substance classified in
Schedule I, II, III or IV, as defined by N.J.S. 24:21, et seq., or its analog, is
guilty of a crime of the third degree, except that, notwithstanding the
provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00
may be imposed; or
[(14)](15) Any Schedule V substance, or its analog, is guilty of a crime
of the fourth degree except that, notwithstanding the provisions of
subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be
imposed.
[(15)A]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. 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.2000, c.136)
d. The civil penalties in this section shall be collected pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.).

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

a. Any person who violates subsection a. of N.J.S.2C:35-5 by distributing, dispensing or possessing with intent to distribute a controlled dangerous substance, as defined by N.J.S. 24:21, et seq., or controlled substance analog while on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property or a school bus, or while on any school bus, is guilty of a crime of the third degree and shall, except as provided in N.J.S.2C:35-12, be sentenced by the court to a term of imprisonment. [Where the violation involves less than one ounce of marijuana, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or one year, whichever is greater, during which the defendant shall be ineligible for parole.] In all other cases, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or three years, whichever is greater, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection b. of
N.J.S.2C:43-3, a fine of up to $150,000 may also be imposed upon any conviction for a violation of this section.

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

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

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

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

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

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

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

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

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

Nothing in this subsection shall be construed to establish a basis for
overcoming a presumption of imprisonment authorized or required by
subsection d. of N.J.S.2C:44-1, or a basis for not imposing a term of
imprisonment or term of parole ineligibility authorized or required to be
imposed pursuant to subsection f. of N.J.S.2C:43-6 or upon conviction for
a crime other than the offense set forth in this subsection.

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

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

e. It is an affirmative defense to prosecution for a violation of this
section that the prohibited conduct took place entirely within a private
residence, that no person 17 years of age or younger was present in such
private residence at any time during the commission of the offense, and
that the prohibited conduct did not involve distributing, dispensing or
possessing with the intent to distribute or dispense any controlled
dangerous substance or controlled substance analog for profit. The
affirmative defense established in this section shall be proved by the
defendant by a preponderance of the evidence. Nothing herein shall be
construed to establish an affirmative defense with respect to a prosecution
for an offense defined in any other section of this chapter.
f. In a prosecution under this section, a map produced or reproduced by any municipal or county engineer for the purpose of depicting the location and boundaries of the area on or within 200 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or a true copy of such a map, shall, upon proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 200 feet of the school property. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Rules of Evidence.

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

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

a. Any person who violates subsection a. of N.J.S.2C:35-5 by distributing, dispensing or possessing with intent to distribute a controlled dangerous substance, as defined by N.J.S. 24:21, et seq., or controlled substance analog while in, on or within 500 feet of the real property comprising a public housing facility, a public park, or a public building is
guilty of a crime of the second degree[ except that it is a crime of the third
degree if the violation involved less than one ounce of marijuana].

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

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

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

e. In a prosecution under this section, a map produced or reproduced
by any municipal or county engineer for the purpose of depicting the
location and boundaries of the area on or within 500 feet of a public
housing facility which is owned by or leased to a housing authority
according to the "Local Redevelopment and Housing Law," P.L.1992,
c.79 (C.40A:12A-1 et seq.), the area in or within 500 feet of a public park,
or the area in or within 500 feet of a public building, or a true copy of such
a map, shall, upon proper authentication, be admissible and shall
constitute prima facie evidence of the location and boundaries of those
areas, provided that the governing body of the municipality or county has
adopted a resolution or ordinance approving the map as official finding
and record of the location and boundaries of the area or areas on or within
500 feet of a public housing facility, a public park, or a public
building. Any map approved pursuant to this section may be changed
from time to time by the governing body of the municipality or
county. The original of every map approved or revised pursuant to this
section, or a true copy thereof, shall be filed with the clerk of the
municipality or county, and shall be maintained as an official record of the
municipality or county. Nothing in this section shall be construed to
preclude the prosecution from introducing or relying upon any other
evidence or testimony to establish any element of this offense; nor shall
this section be construed to preclude the use or admissibility of any map or
diagram other than one which has been approved by the governing body of
a municipality or county, provided that the map or diagram is otherwise
admissible pursuant to the Rules of Evidence.

f. As used in this act:
“Public housing facility” means any dwelling, complex of dwellings,
accommodation, building, structure or facility and real property of any
nature appurtenant thereto and used in connection therewith, which is
owned by or leased to a local housing authority in accordance with the
et seq.) for the purpose of providing living accommodations to persons of
low income.
“Public park” means a park, recreation facility or area or playground
owned or controlled by a State, county or local government unit.
“Public building” means any publicly owned or leased library or
museum.
(cf: P.L.1997, c.327, s.1)

43. N.J.S.2C:35-10 is amended to read as follows:
2C:35-10. Possession, Use or Being Under the Influence, or Failure to Make Lawful Disposition.

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

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

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

(3) Possession of more than 50 grams of marijuana, including any adulterants or dilutants, or more than [five] grams of hashish is not a violation of this title, but shall be subject to the penalties set forth in section 47 of P.L. , c. (C. ) (pending before the Legislature as this bill)[guilty of a crime of the fourth degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed]; or

(4) Possession of 50 grams or less of marijuana, including any adulterants or dilutants, or [five] grams or less of hashish by a person under 21 years of age, is not a violation of this title, but shall be subject to the penalties set forth in section 47 of P.L. , c. (C. ) (pending before the Legislature as this bill).
Any person who commits any offense defined in this section while on any property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of any such school property or a school bus, or while on any school bus, and who is not sentenced to a term of imprisonment, shall, in addition to any other sentence which the court may impose, be required to perform not less than 100 hours of community service.

b. Any person who uses or who is under the influence of any controlled dangerous substance, or its analog, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician is a disorderly person. Notwithstanding the provisions of this subsection, it shall not be a violation of this section for a person to be under the influence of marijuana.

In a prosecution under this subsection, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug, but it shall be sufficient for a conviction under this subsection for the State to prove that the accused did use or was under the influence of some controlled dangerous substance, counterfeit controlled dangerous substance, or controlled substance analog, other than marijuana, by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any controlled dangerous substance or controlled substance analog.

c. Any person who knowingly obtains or possesses a controlled dangerous substance or controlled substance analog in violation of subsection a. of this section and who fails to voluntarily deliver the substance to the nearest law enforcement officer is guilty of a disorderly persons offense. Nothing in this subsection shall be construed to preclude a prosecution or conviction for any other offense defined in this title or any other statute. This subsection shall not apply to possession of 50 grams or less of marijuana or 14 grams or less of hashish.

(cf: P.L.1997, c.181, s.6)
44. N.J.S.2C:36-1 is amended to read as follows:

As used in this act, “drug paraphernalia” means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title. It shall include, but not be limited to: a. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived; b. kits used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled dangerous substances or controlled substance analogs; c. isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled dangerous substance; d. testing equipment used or intended for use identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances or controlled substance analogs; e. scales and balances used or intended for use in weighing or measuring controlled dangerous substances or controlled substance analogs; f. dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances or controlled substance analogs; g. [separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana; h. ]blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances or controlled substance analogs; [i]h. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of
controlled dangerous substances or controlled substance analogs; [j]i.

containers and other objects used or intended for use in storing or
concealing controlled dangerous substances, controlled substance analogs
or toxic chemicals; k. objects used or intended for use in ingesting,
inhaling, or otherwise introducing [marihuana, ]cocaine, [hashish, hashish
oil, ]nitrous oxide or the fumes of a toxic chemical into the human body,
such as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
with or without screens, permanent screens, [hashish heads, ]or punctured
metal bowls; (2) water pipes; (3) carburetion tubes and devices; (4)
smoking and carburetion masks; (5) roach clips, meaning objects used to
hold burning material, [such as a marihuana cigarette, ]that has become
too small or too short to be held in the hand; (6) miniature cocaine spoons,
and cocaine vials; (7) chamber pipes; (8) carburetor pipes; (9) electric
pipes; (10) air-driven pipes; (11) chillums; (12) bongs; (13) ice pipes or
chillers; (14) compressed gas containers, such as tanks, cartridges or
canisters, that contain food grade or pharmaceutical grade nitrous oxide as
a principal ingredient; (15) chargers or charging bottles, meaning metal,
ceramic or plastic devices that contain an interior pin that may be used to
expel compressed gas from a cartridge or canister; and (16) tubes,
balloons, bags, fabrics, bottles or other containers used to concentrate or
hold in suspension a toxic chemical or the fumes of a toxic chemical.

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

45. N.J.S.2C:36-2 is amended to read as follows:
2C:36-2. Use or possession with intent to use, disorderly persons
offense.
   It shall be unlawful for any person to use, or to possess with intent to
use, drug paraphernalia to plant, propagate, cultivate, grow, harvest,
manufacture, compound, convert, produce, process, prepare, test, analyze,
pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce
into the human body a controlled dangerous substance, controlled
substance analog or toxic chemical in violation of the provisions of
chapter 35 of this title. Any person who violates this section is guilty of a
disorderly persons offense.

Use, or possession with intent to use, marijuana paraphernalia is not a
violation of this title but shall be subject to the penalties set forth in
section 48 of P.L.____, c.____ (C.____) (pending before the Legislature as this
bill).
(cf: P.L.2007, c.31, s.3)

46. N.J.S.2B:12-17 is amended to read as follows:
2B:12-17. Jurisdiction of specified offenses. A municipal court has
jurisdiction over the following cases within the territorial jurisdiction of
the court:
a. Violations of county or municipal ordinances;
b. Violations of the motor vehicle and traffic laws;
c. Disorderly persons offenses, petty disorderly persons offenses and other non-indictable offenses except where exclusive jurisdiction is given to the Superior Court;
d. Violations of the fish and game laws;
e. Proceedings to collect a penalty where jurisdiction is granted by statute;
f. Violations of laws regulating boating; [and]
g. Violations of section 47 and 48 of P.L. (C.) (pending before the Legislature as this bill); and
h. Any other proceedings where jurisdiction is granted by statute.

(cf: P.L.1996, c.95, s.12)

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

1. No person shall operate a motor vehicle on any highway while knowingly having in his possession or in the motor vehicle any controlled dangerous substance as classified in Schedules I, II, III, IV and V of the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et seq.) or any prescription legend drug, unless the person has obtained the substance or drug from, or on a valid written prescription of, a duly licensed physician, veterinarian, dentist or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals or unless the person possesses a controlled dangerous substance pursuant to a lawful order of a practitioner or lawfully possesses a Schedule V substance.

A person who violates this section shall be fined not less than $50.00 and shall forthwith forfeit his right to operate a motor vehicle for a period of two years from the date of his conviction. This section shall not apply to possession of 50 grams or less of marijuana or 14 grams or less of
48. (New section) Penalties.

a. Any person under 21 years of age who possesses less than 50 grams of marijuana or 14 grams of hashish, except as permitted by P.L. , c. (C. ) (pending before the Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et seq.), shall be subject to a $100 civil penalty. No additional fines, penalties, or fees shall be imposed by the court, except court costs.

b. Any person 21 years of age and older who possesses more than 50 grams of marijuana or more than 14 grams of hashish, except as permitted by P.L. , c. (C. ) (pending before the Legislature as this bill) or P.L.2009, c.307 (C.24:6I-1 et al.), shall be subject to the following civil penalties:

(1) $150 for a first violation;
(2) $200 for a second violation;
(3) $500 for a third or subsequent violation.

No additional fines, penalties, or fees shall be imposed by the court, except court costs.

c. Any person under 21 years of age who possesses more than 50 grams of marijuana or more than 14 grams of hashish, except as permitted by P.L.2009, c.307 (C.24:6I-1 et al.) is a disorderly person.

d. The civil penalties established in subsection a. and b. of this section shall be collected pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.).

e. A violation of subsection a. or b. of this section shall be proved by a preponderance of the evidence. A violation of subsection c. shall be proved beyond a reasonable doubt.
49. (New section) Expungement for Crimes Repealed by this Act.

a. In all cases wherein a person has been arrested or convicted of a crime under the laws of this State and who would not have been arrested or found guilty of a crime under the New Jersey Tax, Regulate and Control Marijuana Act, P.L. c. (C. ) (pending before the Legislature as this bill), had that Act been in effect at the time of the crime, such person may present a duly verified petition to the Superior Court in the county in which the conviction was entered praying that such conviction and all records and information pertaining thereto be expunged.

(1) The application for expungement shall proceed pursuant to N.J.S.2C:52-1 et seq. except that the requirements related to the expiration of the time periods specified in N.J.S. 2C:52-3 through section 1 of P.L. 1980, c. 163 shall not apply.

(2) No fee shall be charged to the person making such application.

(3) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subsection a.

(4) Expungement shall have the same meaning as in N.J.S.2C:52-1.

b. The Superior Court shall grant an expungement pursuant to this section where the Court finds the application for expungement meets the criteria in subsection a.

c. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the applicant.

50. (New section) Resentencing for Crimes Amended by this Act.

a. In all cases wherein a person has been convicted of a crime under the laws of this State and for which the crime or penalty has been amended by the New Jersey Tax, Regulate and Control Marijuana Act, P.L. c. (C. ) (pending before the Legislature as this bill), such person may present a duly verified petition to the Superior Court in the county in
which the conviction was entered praying that such person be resentenced
and such conviction be reclassified in accordance with the Act.

(1) The application for resentencing shall proceed pursuant to
N.J.S.2C:52-1 et seq. except that the requirements related to the expiration
of the time periods specified in N.J.S. 2C:52-3 through section 1 of P.L.
1980, c. 163 shall not apply.

(2) No fee shall be charged to the person making such application.

(3) Unless requested by the applicant, no hearing is necessary to grant
or deny an application filed under subsection a.

b. The Superior Court shall grant an application pursuant to this
section where the Court finds the application for resentencing meets the
criteria in subsection a.

c. Nothing in this section is intended to diminish or abrogate any
rights or remedies otherwise available to the applicant.

d. Any person who is resentenced pursuant to this section shall be
given credit for any time in custody already served.

e. Under no circumstances may resentencing under this section result
in the imposition of a term longer than the original sentence.

51. (New section) Retroactive application.

The New Jersey Tax, Regulate and Control Marijuana Act, P.L. c.
(C. ) (pending before the Legislature as this bill), shall apply to arrests
and convictions which occurred prior to, and which occur on or
subsequent to, the effective date of this act.

52. (New section) Industrial hemp.

The possession, use, purchase, sale, production, manufacture,
packaging, labeling, transporting, storage, distribution, use and transfer of
industrial hemp shall not be subject to the provisions of P.L. c. (C.
) (pending before the Legislature as this bill) with the exception of
Sections 52, 53 and 56 of P.L. (C. ) (pending before the Legislature as this bill).

53. (New section) Industrial hemp farming.
   a. Notwithstanding any other law, or rule or regulation adopted
   pursuant thereto, to the contrary, a person may plant, grow, harvest,
   possess, process, distribute, buy, or sell industrial hemp in the State,
   provided the person complies with the rules and regulations adopted
   pursuant to subsection b.
   b. In consultation with the Attorney General, the Secretary of
   Agriculture shall adopt, pursuant to the “Administrative Procedure Act,”
   P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations providing for
   the administrative and enforcement responsibilities of the Department of
   Agriculture pursuant to this act, including, but not necessarily limited to:
   (1) Establishment of approved varieties of industrial hemp and
   methods to distinguish it from any type of marijuana;
   (2) Protocols for testing plant parts during growth for delta-9
   tetrahydrocannabinol;
   (3) Guidelines for monitoring the growth and harvest of industrial
   hemp;
   (4) Penalties necessary for the administration and enforcement of this
   act; and
   (5) Any other issues required to implement this act.
   c. The Secretary of Agriculture may defer to the Attorney General
   rulemaking on any of the issues enumerated above if they determine in the
   interest of public safety, that the issue is better addressed by the
   Department of Law and Public Safety than by the Department of
   Agriculture.
   d. Annually, at the time required under the rules and regulations
   adopted pursuant to subsection b., each person planting, growing,
   harvesting, processing, distributing, or selling industrial hemp, or
possessing industrial hemp for any such purposes, shall file with the Secretary of Agriculture documentation indicating that the industrial hemp is a type and variety of hemp approved by the secretary as having a concentration of no more than 0.3% delta-9-tetrahydrocannabinol by dry weight; and
e. Any person violating this act shall be subject to penalties established pursuant to subsection b. or pursuant to other applicable State and federal laws.

54. (New section) Industrial hemp licensing.

a. Not later than six months following the effective date of P.L. c. (pending before the Legislature as this bill), the Secretary of Agriculture shall make and prescribe rules and regulations as may be necessary to establish an industrial hemp licensing structure under P.L. c. (pending before the Legislature as this bill) and in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). Such rules and regulations shall be consistent with the purposes and intent of P.L. c. (pending before the Legislature as this bill). Such regulations shall include:

1. Procedures for the issuance, renewal, suspension, and revocation of a license to cultivate industrial hemp, with such procedures subject to all requirements of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.);
2. A schedule of application, licensing and renewal fees;
3. Qualifications for licensure that are directly and demonstrably related to the operation of an industrial hemp farm.

55. (New section) Writ of mandamus.

Any person may commence a legal action for a writ of mandamus to compel the Division to perform the acts mandated by this P.L. c. (pending before the Legislature as this bill).
56. (New section) Severability.  
If any provision in this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

57. (New section) Enactment.  
This act shall take effect on the 30th day after enactment.

STATEMENT  
This bill would legalize and regulate the cultivation, possession and personal use of small amounts of marijuana for adults age 21 and older. The bill establishes a Division of Marijuana Control within the Department of Law and Public Safety and grants the Division the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity within New Jersey. The Division shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce its respective duties as outlined by the legislation, including the issuance of rules and regulations that promote and encourage full participation in the regulated marijuana industry by people from communities disproportionately harmed by marijuana prohibition and enforcement.

The bill also provides for local jurisdiction regulations or ordinances. The local jurisdiction may enact ordinances or regulations, including but not limited to, local zoning and land use requirements, business license requirements, not in conflict with the provisions of the bill, governing the time, place and manner so long as such regulations are not unreasonably impracticable. Subject to certain restrictions, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or
marijuana products on the premises of a marijuana retailer or microbusiness.

Under the bill, the Division is granted the authority to issue licenses that it deems necessary to carry out the purpose of the legislation, including, but not limited to, licenses to marijuana cultivators, marijuana manufacturers, marijuana microbusinesses, marijuana nurseries, marijuana distributors, marijuana retailers and marijuana testing facilities.

The bill establishes the following taxes to be levied and imposes:

1. A cultivation tax upon all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana;
2. A nursery tax upon all immature plants that enter the commercial market upon all persons required to be licensed to produce immature plants;
3. A tax upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store at a rate equivalent to the rate established under the “Sales and Use Tax Act;” and
4. A marijuana excise tax upon customers of nonmedical marijuana or nonmedical marijuana products sold in this State by a retailer, microbusiness, or other person required to be licensed.

The Division of Taxation shall establish procedures for the collection of all taxes levied. The bill specifies that no tax would be levied upon marijuana intended for sale at alternative treatment centers pursuant to the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.).

The bill requires all revenue to be deposited into the Dedicated Marijuana Tax Revenue Fund and mandates how the State Treasurer shall disburse the revenue from the fund. After the State Treasurer disburses reasonable costs to the Division of Taxation and the Division, the State Treasurer shall, in the order below:
(1) Disburse the sum of $1,000,000 to Rutgers University annually to research and evaluate the implementation and effect of the bill;

(2) Deposit 25% of remaining revenues in a fund dedicated to public education;

(3) Deposit 25% of remaining revenues in the “Transportation Trust Fund;”

(4) Deposit 50% of the remaining revenues in the Drug Treatment and Public Education Fund, to support programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use; and finally,

(5) Deposit the remaining 50% of revenues in the Community Grants Reinvestment Fund that shall administer the monies to local health departments and community-based nonprofit organizations for the purpose or reinvesting in communities disproportionately affected by past federal and state drug policies.