

ASSEMBLY, No. 5342

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 29, 2021

Sponsored by:

Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Chaparro

SYNOPSIS

Revises consequences for underage possession or consumption of various forms of cannabis included in legislation passed by both Houses of Legislature; requires AG reports, reviewable by task force, on law enforcement interactions on underage violations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/29/2021)

A5342 WIMBERLY

2

1 AN ACT addressing the possession, consumption, or distribution of
2 various forms of cannabis, amending the title and body of
3 P.L.1979, c.264, and supplementing chapter 33 of Title 2C of the
4 New Jersey Statutes.

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

8
9 1. The title of P.L.1979, c.264 is amended to read as follows:
10 AN ACT concerning certain [alcoholic beverage and cannabis item]
11 offenses by persons under the legal age to purchase [alcoholic
12 beverages and cannabis] various regulated items, and
13 supplementing chapter 33 of Title 2C of the New Jersey Statutes.
14 (cf: P.L.2021, c. , s.72)

15
16 2. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to
17 read as follows:

18 1. a. (1) Any person under the legal age to purchase alcoholic
19 beverages who knowingly possesses without legal authority or who
20 knowingly consumes any alcoholic beverage in any school, public
21 conveyance, public place, or place of public assembly, or motor
22 vehicle, is guilty of a petty disorderly persons offense, and shall, in
23 the case of an adult under the legal age to purchase alcoholic
24 beverages, be fined not less than \$250.

25 (2) (a) Any person under the legal age to purchase cannabis
26 items who knowingly possesses without legal authority marijuana,
27 hashish, or any cannabis item, the amount of which may be lawfully
28 possessed by a person of the legal age to purchase cannabis items
29 pursuant to section 46 [.] of P.L. , c. (C.) (passed both
30 Houses on December 17, 2020 as Second Reprint of Assembly Bill
31 No. 21), in any school, public conveyance, public place, or place
32 of public assembly, or motor vehicle [, is guilty of a petty
33 disorderly persons offense, and] shall [, in the case of an adult
34 under the legal age to purchase cannabis items,] be [fined not less
35 than \$250] subject to a civil penalty of \$50, which shall be
36 recovered in a civil action by a summary proceeding in the name of
37 the municipality pursuant to the “Penalty Enforcement Law of
38 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), except that a person
39 under the age of 18 years who violates this subparagraph shall not
40 be subject to a civil penalty but instead shall be subject to a point-
41 of-violation warning or juvenile intervention, as defined in this
42 section, and which is conducted in the same manner as an action
43 referred to as a curbside warning or stationhouse adjustment,
44 respectively, would be conducted in accordance with Attorney

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 General Law Enforcement Directive No. 2020-12 as if the violation
2 were to constitute a petty disorderly persons offense, without the
3 filing of a complaint with the court. The municipal court that has
4 territorial jurisdiction over the violation and the Superior Court
5 shall both have jurisdiction of proceedings for the enforcement of
6 the civil penalty provided by this subparagraph.

7 The odor of marijuana, hashish, cannabis, or cannabis item, or
8 burnt marijuana, hashish, cannabis, or cannabis item, shall not
9 constitute reasonable articulable suspicion to initiate a search of a
10 person to determine a violation of this subparagraph. A person who
11 violates this subparagraph shall not be subject to arrest, detention,
12 or otherwise be taken into custody except to the extent required for
13 a juvenile intervention as permitted by this subparagraph, unless the
14 person is being arrested, detained, or otherwise taken into custody
15 for also committing another violation of law for which that action is
16 legally permitted or required.

17 (b) Any person under the legal age to purchase cannabis items
18 who knowingly possesses without legal authority marijuana,
19 hashish, or any cannabis item, the amount of which exceeds what
20 may be lawfully possessed by a person of the legal age to purchase
21 cannabis items pursuant to section 46 of P.L. , c. (C.)
22 (passed both Houses on December 17, 2020 as Second Reprint of
23 Assembly Bill No. 21), or who knowingly consumes any marijuana,
24 hashish, or cannabis item in any school, public conveyance, public
25 place, or place of public assembly, or motor vehicle **],** is guilty of a
26 disorderly persons offense, and**]** shall **],** in the case of an adult
27 under the legal age to purchase cannabis items,**]** be **[**fined not less
28 than \$500**]** subject to a civil penalty of \$100, which shall be
29 recovered in a civil action by a summary proceeding in the name of
30 the municipality pursuant to the “Penalty Enforcement Law of
31 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), except that a person
32 under the age of 18 years who violates this subparagraph shall not
33 be subject to a civil penalty but instead shall be subject to a point-
34 of-violation warning or juvenile intervention, as defined in this
35 section, and which is conducted in the same manner as an action
36 referred to as a curbside warning or stationhouse adjustment,
37 respectively, would be conducted in accordance with Attorney
38 General Law Enforcement Directive No. 2020-12 as if the violation
39 were to constitute a disorderly persons offense, without the filing of
40 a complaint with the court. The municipal court that has territorial
41 jurisdiction over the violation and the Superior Court shall both
42 have jurisdiction of proceedings for the enforcement of the civil
43 penalty provided by this subparagraph.

44 The odor of marijuana, hashish, cannabis, or cannabis item, or
45 burnt marijuana, hashish, cannabis, or cannabis item, shall not
46 constitute reasonable articulable suspicion to initiate a search of a
47 person to determine a violation of this subparagraph. A person who
48 violates this subparagraph shall not be subject to arrest, detention,

1 or otherwise be taken into custody except to the extent required for
2 a juvenile intervention as permitted by this subparagraph, unless the
3 person is being arrested, detained, or otherwise taken into custody
4 for also committing another violation of law for which that action is
5 legally permitted or required.

6 (c) (i) As used in subparagraphs (a) and (b) of this paragraph:
7 “Juvenile intervention” means a mechanism that allows law
8 enforcement agencies to resolve a violation of either subparagraph
9 by a person under the age of 18 years without formal court
10 proceedings. A juvenile intervention, which shall be memorialized
11 in a signed agreement, establishes one or more conditions that the
12 person shall meet in exchange for the law enforcement agency
13 declining to pursue a formal delinquency complaint against the
14 person.

15 “Point-of-violation warning” means a brief, informal interaction
16 between a law enforcement officer and a person under the age of 18
17 years who the officer observed engage in a violation of either
18 subparagraph. During the interaction, the officer shall counsel the
19 person to discontinue the conduct, warn the person about the
20 potential consequences of future delinquency, and then conclude the
21 interaction without taking any further action. For the purposes of
22 this definition, a point-of-violation warning does not include
23 interactions between a person under the age of 18 years and a
24 school resource officer or other law enforcement officer assigned to
25 a school, as those interactions are governed by other statutes, and
26 policies and practices established between schools and law
27 enforcement agencies. A point-of-violation warning shall also be
28 used for a first violation of subparagraph (b) of paragraph (12) of
29 subsection b. of N.J.S.2C:35-5 concerning the manufacturing,
30 distributing or dispensing, or possessing or having under control
31 with intent to manufacture, distribute or dispense, marijuana or
32 hashish for an offender of any age.

33 (ii) Point-of-violation warnings and juvenile interventions
34 conducted pursuant to subparagraph (a) or (b) of paragraph (2) of
35 subsection a. of this section shall be reported to the Attorney
36 General in the same manner as curbside adjustments and
37 stationhouse warnings, respectively, and shall be included in the
38 statistical reporting compiled and made available by the Attorney
39 General pursuant to Attorney General Law Enforcement Directive
40 No. 2020-12. The Attorney General, in accordance with section 3
41 of P.L. , c. (C.) (pending before the Legislature as this bill),
42 shall biannually issue a report detailing the statistics compiled and
43 made available pursuant to Attorney General Law Enforcement
44 Directive No. 2020-12. The initial report shall be issued by June
45 30, 2021, and every six months thereafter.

46 b. Whenever **[this offense]** a violation of subsection a. of this
47 section is committed in a motor vehicle, the court shall, in addition
48 to the sentence authorized **[for the offense]** under that subsection,

1 suspend or postpone for six months the driving privilege of the
2 defendant. Upon the conviction of finding of guilt of any person
3 under this section, the court shall forward a report to the New
4 Jersey Motor Vehicle Commission stating the first and last day of
5 the suspension or postponement period imposed by the court
6 pursuant to this section. If a person at the time of the imposition of
7 a sentence is less than 17 years of age, the period of license
8 postponement, including a suspension or postponement of the
9 privilege of operating a motorized bicycle, shall commence on the
10 day the sentence is imposed and shall run for a period of six months
11 after the person reaches the age of 17 years.

12 If a person at the time of the imposition of a sentence has a valid
13 driver's license issued by this State, the court shall immediately
14 collect the license and forward it to the commission along with the
15 report. If for any reason the license cannot be collected, the court
16 shall include in the report the complete name, address, date of birth,
17 eye color, and sex of the person as well as the first and last date of
18 the license suspension period imposed by the court.

19 The court shall inform the person orally and in writing that if the
20 person is convicted of operating a motor vehicle during the period
21 of license suspension or postponement, the person shall be subject
22 to the penalties set forth in R.S.39:3-40. A person shall be required
23 to acknowledge receipt of the written notice in writing. Failure to
24 receive a written notice or failure to acknowledge in writing the
25 receipt of a written notice shall not be a defense to a subsequent
26 charge of a violation of R.S.39:3-40.

27 If the person convicted or found guilty under this section is not a
28 New Jersey resident, the court shall suspend or postpone, as
29 appropriate, the non-resident driving privilege of the person based
30 on the age of the person and submit to the commission the required
31 report. The court shall not collect the license of a non-resident
32 convicted under this section. Upon receipt of a report by the court,
33 the commission shall notify the appropriate officials in the licensing
34 jurisdiction of the suspension or postponement.

35 c. In addition to the general **【penalty】** penalties prescribed **【for**
36 **a disorderly persons offense】** under this section, the court may
37 require any person who violates **【this act】** paragraph (1) of
38 subsection a. of this section for possession or consumption of an
39 alcoholic beverage to participate in an alcohol or drug abuse
40 education or treatment program, authorized by the Division of
41 Mental Health and Addiction Services in the Department of Human
42 Services, for a period not to exceed **【the maximum period of**
43 **confinement prescribed by law for the offense for which the**
44 **individual has been convicted】** 30 days.

45 d. Nothing in this act shall apply to possession of alcoholic
46 beverages by any such person while actually engaged in the
47 performance of employment pursuant to an employment permit

1 issued by the Director of the Division of Alcoholic Beverage
2 Control, or for a bona fide hotel or restaurant, in accordance with
3 the provisions of R.S.33:1-26, or while actively engaged in the
4 preparation of food while enrolled in a culinary arts or hotel
5 management program at a county vocational school or post-
6 secondary educational institution; and nothing in this section shall
7 apply to possession of cannabis items by any such person while
8 actually engaged in the performance of employment by a cannabis
9 establishment, distributor, or delivery service as permitted pursuant
10 to the “New Jersey Cannabis Regulatory, Enforcement Assistance,
11 and Marketplace Modernization Act,” P.L. , c. (C.) (passed
12 both Houses on December 17, 2020 as Second Reprint of Assembly
13 Bill No. 21).

14 e. The provisions of section 3 of P.L.1991, c.169 (C.33:1-
15 81.1a) shall apply to a parent, guardian or other person with legal
16 custody of a person under 18 years of age who is found to be in
17 violation of this section.

18 f. An underage person and one or two other persons shall be
19 immune from prosecution under this section if:

20 (1) one of the underage persons called 9-1-1 and reported that
21 another underage person was in need of medical assistance due to
22 alcohol consumption , or the consumption of marijuana, hashish, or
23 a cannabis item;

24 (2) the underage person who called 9-1-1 and, if applicable, one
25 or two other persons acting in concert with the underage person
26 who called 9-1-1 provided each of their names to the 9-1-1
27 operator;

28 (3) the underage person was the first person to make the 9-1-1
29 report; and

30 (4) the underage person and, if applicable, one or two other
31 persons acting in concert with the underage person who made the 9-
32 1-1 call remained on the scene with the person under the legal age
33 in need of medical assistance until assistance arrived and
34 cooperated with medical assistance and law enforcement personnel
35 on the scene.

36 The underage person who received medical assistance also shall
37 be immune from prosecution under this section.

38 g. For purposes of this section, an alcoholic beverage includes
39 powdered alcohol as defined by R.S.33:1-1, **[and]** a cannabis item
40 includes any item available for lawful consumption pursuant to the
41 “New Jersey Cannabis Regulatory, Enforcement Assistance, and
42 Marketplace Modernization Act,” P.L. , c. (C.) (passed both
43 Houses on December 17, 2020 as Second Reprint of Assembly Bill
44 No. 21), and the terms “marijuana” and “hashish” have the same
45 meaning as set forth in N.J.S.2C:35-2.

46 (cf: P.L.2021, c. , s.73)

47

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

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

4 (1) To manufacture, distribute or dispense, or to possess or have
5 under his control with intent to manufacture, distribute or dispense,
6 a controlled dangerous substance or controlled substance analog; or

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

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

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

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

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

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

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

47 (6) Lysergic acid diethylamide, or its analog, in a quantity of
48 100 milligrams or more including any adulterants or dilutants, or

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

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

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

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

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

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

36 (b) Marijuana in a quantity of five pounds or more but less than
37 25 pounds including any adulterants or dilutants, or 10 or more but
38 fewer than 50 marijuana plants, regardless of weight, or hashish in a
39 quantity of one pound or more but less than five pounds, including
40 any adulterants and dilutants, is guilty of a crime of the second
41 degree;

42 (11) (a) Prior to the effective date of P.L. , c. (C.)
43 (passed both Houses on December 17, 2020 as Second Reprint of
44 Assembly Bill No. 21), marijuana in a quantity of one ounce or
45 more but less than five pounds including any adulterants or
46 dilutants, or hashish in a quantity of five grams or more but less
47 than one pound including any adulterants or dilutants, is guilty of a
48 crime of the third degree except that, notwithstanding the provisions

1 of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be
2 imposed;

3 (b) On and after the effective date of P.L. , c. (C.)
4 (passed both Houses on December 17, 2020 as Second Reprint of
5 Assembly Bill No. 21), marijuana in a quantity of more than one
6 ounce but less than five pounds including any adulterants or
7 dilutants, or hashish in a quantity of more than five grams but less
8 than one pound including any adulterants or dilutants, is guilty of a
9 crime of the third degree except that, notwithstanding the provisions
10 of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be
11 imposed;

12 (12) (a) Prior to the effective date of P.L. , c. (C.)
13 (passed both Houses on December 17, 2020 as Second Reprint of
14 Assembly Bill No. 21), marijuana in a quantity of less than one
15 ounce including any adulterants or dilutants, or hashish in a
16 quantity of less than five grams including any adulterants or
17 dilutants, is guilty of a crime of the fourth degree;

18 (b) On and after the effective date of P.L. , c. (C.)
19 (passed both Houses on December 17, 2020 as Second Reprint of
20 Assembly Bill No. 21), marijuana in a quantity of one ounce or less
21 including any adulterants or dilutants, or hashish in a quantity of
22 five grams or less including any adulterants or dilutants, is, for a
23 first offense, subject to a **【written】** point-of-violation warning, as
24 defined in section 1 of P.L.1979, c.264 (C.2C:33-15), which also
25 **【indicates】** includes a written indication that any subsequent
26 violation is a crime punishable by a term of imprisonment, a fine, or
27 both, and for a second or subsequent offense, is guilty of a crime of
28 the fourth degree;

29 (i) The odor of marijuana or hashish, or burnt marijuana or
30 hashish, shall not constitute reasonable articulable suspicion to
31 initiate a search of a person to determine a violation of
32 subparagraph (b) of paragraph (12) of this subsection. A person
33 who violates this subparagraph shall not be subject to arrest,
34 detention, or otherwise be taken into custody, unless the person is
35 being arrested, detained, or otherwise taken into custody for also
36 committing another violation of law for which that action is legally
37 permitted or required;

38 (ii) A person shall not be deprived of any legal or civil right,
39 privilege, benefit, or opportunity provided pursuant to any law
40 solely by reason of committing a violation of subparagraph (b) of
41 paragraph (12) of this subsection, nor shall committing one or more
42 violations modify any legal or civil right, privilege, benefit, or
43 opportunity provided pursuant to any law, including, but not limited
44 to, the granting, renewal, forfeiture, or denial of a license, permit,
45 or certification, qualification for and the receipt, alteration,
46 continuation, or denial of any form of financial assistance, housing
47 assistance, or other social services, rights of or custody by a
48 biological parent, or adoptive or foster parent, or other legal

1 guardian of a child or newborn infant, or pregnant woman, in any
2 action or proceeding by the Division of Child Protection and
3 Permanency in the Department of Children and Families, or
4 qualification, approval, or disapproval to serve as a foster parent or
5 other legal guardian;

6 (iii) Point-of-violation warnings conducted pursuant
7 subparagraph (b) of paragraph (12) of subsection b. of this section
8 shall be reported to the Attorney General in the same manner as
9 actions referred to as curbside adjustments pursuant to Attorney
10 General Law Enforcement Directive No. 2020-12, and this
11 reporting may also include information for use in determining
12 whether a person who violates this subparagraph had previously
13 been subjected to a point-of-violation warning for a prior violation
14 of this subparagraph, provided that the information may be used for
15 that purpose only and shall not be included in the statistical
16 reporting compiled and made available by the Attorney General in
17 accordance with section 3 of P.L. , c. (C.) (pending before
18 the Legislature as this bill) and pursuant to Attorney General Law
19 Enforcement Directive No. 2020-12.

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

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

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

47 c. Where the degree of the offense for violation of this section
48 depends on the quantity of the substance, the quantity involved

1 shall be determined by the trier of fact, other than with respect to a
2 first violation of subparagraph (b) of paragraph (12) of subsection
3 b. of this section which is subject to a written point-of-violation
4 warning as set forth in that subparagraph. Where the indictment or
5 accusation so provides, the quantity involved in individual acts of
6 manufacturing, distribution, dispensing or possessing with intent to
7 distribute may be aggregated in determining the grade of the
8 offense, whether distribution or dispensing is to the same person or
9 several persons, provided that each individual act of manufacturing,
10 distribution, dispensing or possession with intent to distribute was
11 committed within the applicable statute of limitations.

12 (cf: P.L.2021, c. , s.55)

13

14 4. (New section) a. The Attorney General shall biannually
15 issue a comprehensive report detailing the statistics for the previous
16 six-month period on all point-of-violation warnings and juvenile
17 interventions conducted pursuant section 1 of P.L.1979, c.264
18 (C.2C:33-15) for violations of that section involving underage
19 possession or consumption of marijuana, hashish, or cannabis items,
20 which were compiled and made available in accordance with that
21 section and pursuant to Attorney General Law Enforcement
22 Directive No. 2020-12. The initial report shall be issued by June
23 30, 2021, and every six months thereafter. Each report shall also be
24 submitted to the Governor and the Legislature pursuant to section 2
25 of P.L.1991, c.164 (C.52:14-19.1).

26 b. (1) A taskforce shall be established in the Department of
27 Law and Public Safety, comprised of 26 members to review each
28 report, and make recommendations thereon to the Governor and
29 Legislature related to law enforcement activities to address the
30 enforcement of underage possession or consumption of marijuana,
31 hashish, or cannabis items in violation of section 1 of P.L.1979,
32 c.264 (C.2C:33-15), as well as the broader issue of underage
33 possession or consumption of these substances.

34 (2) The membership of the taskforce shall include the following
35 individuals:

36 (a) the Attorney General, or a designee;

37 (b) the Public Defender, or a designee;

38 (c) the Commissioner of the Department of Children and
39 Families, or a designee;

40 (d) the Commissioner of Education, or a designee;

41 (e) a representative from the Juvenile Justice Commission,
42 appointed by the Governor;

43 (f) a representative from the Division of Criminal Justice in the
44 Department of Law and Public Safety, appointed by the Governor;

45 (g) the Chair of the Governor's Juvenile Justice Delinquency and
46 Prevention Committee;

47 (h) two members appointed by the Governor upon the
48 recommendation of the President of the Senate;

- 1 (i) two members appointed by the Governor upon the
2 recommendation of the Speaker of the General Assembly;
 - 3 (j) a Judge of the Superior Court, who is currently assigned to
4 the Chancery Division, Family Part for juvenile delinquency
5 matters, to be chosen by the Administrative Director of the Courts;
 - 6 (k) a representative from the New Jersey Institute for Social
7 Justice, appointed by the Governor;
 - 8 (l) a representative from the American Civil Liberties Union of
9 New Jersey, appointed by the Governor;
 - 10 (m) a representative from the County Prosecutors Association of
11 New Jersey who is actively and presently involved in juvenile
12 matters, appointed by the Governor;
 - 13 (n) a representative from the New Jersey Juvenile Officers
14 Association, appointed by the Governor;
 - 15 (o) one representative each from the Annie E. Casey Foundation
16 and Vera Institute of Justice, both appointed by the Governor;
 - 17 (p) a representative of the NAACP New Jersey State Conference,
18 appointed by the Governor;
 - 19 (q) a representative of Salvation and Social Justice, appointed by
20 the Governor;
 - 21 (r) a representative from the County Youth Services
22 Commission Administrators, appointed by the Governor;
 - 23 (s) a representative from the faith-based ethical community in
24 New Jersey, appointed by the Governor;
 - 25 (t) a representative of an employee organization representing
26 employees who work at juvenile justice facilities, appointed by the
27 Governor; and
 - 28 (u) three representatives who have been involved with the New
29 Jersey juvenile justice system, appointed by the Governor,
30 including at least one representative of a non-profit organization
31 that deals with juvenile justice issues and at least one individual
32 who has been subject to the custody of the juvenile justice system.
- 33 (3) All members appointed by the Governor shall serve at the
34 pleasure of the Governor. Any vacancies in the membership of the
35 task force shall be filled in the same manner as the original
36 appointments were made.
- 37 (4) Members of the task force shall serve without compensation,
38 but shall be reimbursed for necessary expenditures incurred in the
39 performance of their duties as members of the task force within the
40 limits of funds appropriated or otherwise made available to the task
41 force for its purposes.
- 42 (5) The task force shall organize as soon as practicable
43 following the appointment of its members. The task force shall
44 choose a chairperson from among its members and shall appoint a
45 secretary who need not be a member of the task force.
- 46 (6) The Department of Law and Public Safety shall provide such
47 stenographic, clerical, and other administrative assistants, and such
48 professional staff as the task force requires to carry out its work.

1 5. This act shall take effect immediately, but shall not become
2 operable until P.L. , c. (C.) (passed both Houses on
3 December 17, 2020 as Second Reprint of Assembly Bill No. 21)
4 takes effect.

5
6
7 STATEMENT

8
9 This bill would revise the consequences associated with the
10 underage possession or consumption of illegal marijuana or hashish,
11 or legalized cannabis items which may only be lawfully possessed
12 by persons 21 years of age or older pursuant to Article IV, Section
13 VII, paragraph 13 of the New Jersey Constitution and the enabling
14 legislation to establish a legal, regulated cannabis marketplace, the
15 Second Reprint of Assembly Bill No. 21, which passed both Houses
16 of the Legislature on December 17, 2020. It also addresses, for
17 persons of any age, the written warning to be issued by law
18 enforcement officers for a small amount marijuana or hashish
19 distribution first offense, as created by that bill.

20 The bill would make the underage possession of marijuana,
21 hashish, or a cannabis item a civil penalty of \$50 for persons who
22 are between 18 and 20 years of age, if the amount possessed is what
23 a person of legal age could lawfully possess (determined based on
24 the lawful possession of one ounce (28.35 grams) or less of useable
25 cannabis, the equivalent amount in a cannabis product in solid,
26 liquid, or concentrate form, or 5 grams or less of cannabis resin, per
27 section 46 of the Second Reprint of Assembly Bill No. 21). For the
28 underage possession of more than what a person of legal age could
29 lawfully possess, or any consumption of marijuana, hashish, or
30 cannabis item, the civil penalty for persons who are between 18 and
31 20 years of age would be set at \$100

32 The civil penalty would be recovered in a summary proceeding
33 in the name of the municipality pursuant to the “Penalty
34 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
35 Both the municipal court with territorial jurisdiction over an
36 underage possession violation and the Superior Court would have
37 jurisdiction of proceedings for the enforcement of a civil penalty.

38 These same courts, for a violation involving alcohol, would also
39 have enforcement jurisdiction, if so ordered by the court,
40 concerning a person’s participation in an alcohol or drug abuse
41 education or treatment program as set forth in the section. Such
42 education or treatment would not exceed 30 days, which is the same
43 as the maximum period of confinement a person could face for
44 committing an alcohol-related violation, which is graded as a petty
45 disorderly persons offense.

46 For a person under the age of 18 years who committed a
47 possession or consumption violation, such person would instead be
48 subject to a law enforcement “point-of-violation warning” or

1 “juvenile intervention.” These would be conducted in the same
2 manner as a juvenile interaction referred to as a “curbside warning”
3 or “stationhouse adjustment,” respectively, would be conducted,
4 which are done in accordance with Attorney General Law
5 Enforcement Directive No. 2020-12 as if the violation were to
6 constitute a petty disorderly persons offense, when the amount
7 possessed is what a person of legal age could lawfully possess, and
8 as if the violation were to constitute a disorderly persons offense,
9 when the amount possessed is more than what a person of legal age
10 could lawfully possess or when the violation involved consumption,
11 without the filing of a complaint.

12 A “point-of-violation warning” is defined in the bill as “a brief,
13 informal interaction between a law enforcement officer and a
14 person under the age of 18 years who the officer observed engage in
15 a violation During the interaction, the officer shall counsel the
16 person to discontinue the conduct, warn the person about the
17 potential consequences of future delinquency, and then conclude the
18 interaction without taking any further action.” This type of warning
19 would also be used for a first offender of any age for violating
20 subparagraph (b) of paragraph (12) of subsection b. of N.J.S.2C:35-
21 5 for manufacturing, distributing, or dispensing, or having under
22 control with intent to manufacture, distribute, or dispense one ounce
23 or less of marijuana or five grams or less of hashish. Such warning
24 would be reported to the Attorney General in the same manner as
25 curbside adjustments pursuant to Attorney General Law
26 Enforcement Directive No. 2020-12, and this reporting could also
27 include information for use in determining whether a person had
28 previously been subjected to a point-of-violation warning to
29 determine a second or subsequent offense, which is a crime of the
30 fourth degree (punishable by a term of imprisonment of up to 18
31 months, a fine of up to \$10,000, or both).

32 The more involved option for a “juvenile intervention” with a
33 person under the age of 18 years is defined in the bill as “a
34 mechanism that allows law enforcement agencies to resolve a
35 violation . . . without formal court proceedings. A juvenile
36 intervention, which shall be memorialized in a signed agreement,
37 establishes one or more conditions that the person shall meet in
38 exchange for the law enforcement agency declining to pursue a
39 formal delinquency complaint against the person.” Should a person
40 fail to abide by an agreement, the person could be charged with the
41 commission of a delinquent act that was considered to be the
42 equivalent of a petty disorderly persons offense for possession of an
43 amount that a person of legal age could lawfully possess, or, for
44 violations involving possession of more than what a person of legal
45 age could lawfully possess or for consumption, a disorderly persons
46 offense.

47 When considering a search of an underage person in order to
48 make a determination as to whether that person committed a

1 possession or consumption violation, the odor of marijuana,
2 hashish, cannabis, or cannabis item, or burnt marijuana, hashish,
3 cannabis, or cannabis item would not constitute reasonable
4 articulable suspicion to initiate the search. Also, unless an
5 underage person's actions involved another violation of law, the
6 underage person who committed a possession or consumption
7 violation would not be subject to arrest, detention, or otherwise
8 taken into custody except to the extent required to interact with the
9 person, if under 18 years of age, for a law enforcement juvenile
10 intervention.

11 Additionally the bill establishes an immunity from prosecution
12 for: any underage person in need of medical assistance due to the
13 consumption of marijuana or hashish; the underage person who
14 called 9-1-1 to get that person assistance; and up to two other
15 persons acting in concert with the underage person who made the
16 call. This immunity is the same immunity already provided for
17 situations involving the underage consumption of alcohol, and
18 expanded to the underage consumption of cannabis items by the
19 recently passed legislation.

20 Finally, the bill requires the Attorney General to issue
21 comprehensive reports biannually detailing the statistics for the
22 previous six-month period on all point-of-violation warnings and
23 juvenile interventions described above for violations involving
24 underage possession or consumption of marijuana, hashish, or
25 cannabis items. These statistics would be compiled and made
26 available by the Attorney General in the same manner as curbside
27 adjustments and stationhouse warnings are compiled and made
28 available, both in accordance with the bill and pursuant to Attorney
29 General Law Enforcement Directive No. 2020-12. The initial
30 report would be issued by June 30, 2021, and every six months
31 thereafter. A taskforce would be established in the Department of
32 Law and Public Safety, comprising of 26 ex-official members and
33 members appointed by the Governor representing law enforcement,
34 juvenile justice interests, and community and non-profit groups to
35 review each report, and make recommendations thereon to the
36 Governor and Legislature related to law enforcement activities to
37 address the enforcement of underage possession or consumption of
38 marijuana, hashish, or cannabis items, as well as the broader issue
39 of underage possession or consumption of these substances.