

NEW JERSEY MARIJUANA LEGALIZATION ACT

Legalizes possession and personal use of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure; revises requirements for medical marijuana program; revises requirements for medical marijuana.

Combination
Medical +
Adult Use
Cannabis Bill

AN ACT concerning access to marijuana, revising and supplementing various parts of the statutory law.

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

1. (New section) Sections 1 through 45 of this act shall be known and may be cited as the “New Jersey Marijuana Legalization Act.”

2. (New section) Findings and Declarations.

The Legislature finds and declares that:

a. It is the intent of the people of New Jersey to adopt a new approach to our marijuana policies by taxing, controlling and legalizing marijuana like alcohol for adults;

b. It is the intent of the people of New Jersey that the provisions of this act will prevent the sale or distribution of marijuana to persons under 21 years of age;

c. This act is designed to eliminate the problems caused by the unregulated manufacture, distribution, and use of marijuana within New Jersey;

d. This act will divert funds from marijuana sales from going to illegal enterprises, gangs, and cartels;

e. New Jersey law enforcement officers made over 24,000 arrests for marijuana possession in 2012, more than in the previous 20 years;

f. In 2012, a person was arrested for marijuana possession in New Jersey approximately every 22 minutes;

g. Black New Jerseyans are nearly three times more likely to be arrested for marijuana possession than white New Jerseyans, despite similar usage rates;

h. Marijuana possession arrests constituted three out of every five drug arrests in New Jersey in 2012;

i. New Jersey spends approximately \$127 million per year on marijuana possession enforcement costs;

j. Taxing, controlling, and legalizing marijuana for adults like alcohol will free up precious resources to allow our criminal justice system to focus on serious crime and public safety issues;

k. Taxing, controlling, and legalizing marijuana for adults like alcohol will strike a blow at the illegal enterprises that profit from New Jersey’s current, unregulated marijuana illegal market;

l. New Jersey must strengthen our support for evidence-based, drug prevention programs that work to educate New Jerseyans, particularly young New Jerseyans, about the harms of drug abuse;

m. New Jersey must enhance State-supported programming that provides appropriate, evidence-based treatment for those who suffer from the illness of drug addiction;

n. Controlling and regulating the manufacture, distribution, and sale of marijuana will strengthen our ability to keep marijuana away from minors;

o. A controlled system of marijuana manufacturing, distribution, and sale must be designed in a way that enhances public health and minimizes harms to New Jersey communities and families;

p. The regulated marijuana system in New Jersey must be regulated so as to prevent persons younger than 21 years of age from accessing or purchasing marijuana;

q. A marijuana arrest in New Jersey can have a debilitating impact on a person’s future, including consequences for one’s job prospects, housing access, financial health, familial integrity, immigration status, and educational opportunities;

r. The tax revenue generated from a controlled marijuana manufacture, distribution, and retail sales system in New Jersey will generate hundreds of millions of dollars to bolster effective, evidence-based drug treatment and education, and to reinvest in New Jersey communities;

s. New Jersey cannot afford to sacrifice its public safety and civil rights by continuing its ineffective and wasteful marijuana enforcement policies.

3. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill), unless the context otherwise requires:

"Consumer" means a person 21 years of age or older who purchases, acquires, owns, holds or uses marijuana or marijuana products for personal use by a person 21 years of age or older, but not for resale to others.

"Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

"Director" means the Director of the Division of Marijuana Enforcement.

"Division" means the Division of Marijuana Enforcement in the Department of the Treasury.

"Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations; but does not include: homegrown marijuana that is given or received when nothing is given or received in return; or homegrown marijuana products that are given or received when nothing is given or received in return.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Household" means a housing unit and any place in or around a housing unit at which the occupants of the housing unit are producing, processing or storing homegrown marijuana or homemade marijuana products.

"Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

"Immature marijuana plant" means a marijuana plant that is not flowering.

"Impact zone" means any census tract that ranks in the top 33 percent of census tracts in the State for marijuana-related arrests and that ranks in the bottom 33 percent of census tracts in the State for median household income.

"Industrial hemp" means the plant of the Genus Cannabis L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

"Licensee" means a person who holds a license issued under this act that is designated as either a Class 1 Marijuana Grower license, a Class 2 Marijuana Processor license, a Class 3 Marijuana Wholesaler license, or a Class 4 Marijuana Retailer license.

"Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

"Local governmental entity" means a municipality.

"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, except those containing resin extracted from the plant; but shall not include the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

"Marijuana Cultivation facility" means a facility licensed to a Class 1 Marijuana Grower to grow and cultivate marijuana, and to sell marijuana to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a marijuana retailer.

"Marijuana extract" means a substance obtained by separating resins from marijuana by: a. a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; b. a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or c. any other process identified by the division by rule.

"Marijuana flowers" means the flowers of the plant Genus Cannabis L. within the plant family Cannabaceae.

"Marijuana grower" means a person who grows, cultivates or produces marijuana in this State.

"Marijuana items" means marijuana, marijuana products, and marijuana extracts.

"Marijuana leaves" means the leaves of the plant genus Genus Cannabis L. within the plant family Cannabaceae.

"Marijuana paraphernalia" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

"Marijuana processor" means a person who processes marijuana items in this State. This entity shall hold a Class 2 Marijuana Processor license.

"Marijuana product manufacturing facility" means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana items; and sell items to other marijuana product manufacturing facilities and to marijuana retailers, but not to consumers.

"Marijuana product" means a product containing marijuana or marijuana extracts and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible products, ointments, and tinctures. Marijuana products do not include: a. marijuana by itself; or b. marijuana extract by itself.

"Marijuana retailer" means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana items from marijuana product manufacturing facilities or marijuana wholesalers and to sell marijuana and marijuana products to consumers from a retail store, which shall also be known as a dispensary. This entity shall hold a Class 4 Marijuana Retailer license.

"Marijuana testing facility" means an independent, third-party entity meeting accreditation requirements established by the division that is licensed to analyze and certify the safety and potency of marijuana items.

"Marijuana wholesaler" means any licensed person or entity who sells marijuana items or marijuana paraphernalia for the purpose of resale either to a licensed marijuana wholesaler or to a licensed marijuana retailer. This entity shall hold a Class 3 Marijuana Wholesaler license.

"Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.

"Medical marijuana alternative treatment center" means an entity permitted by a State agency to sell marijuana and marijuana products pursuant to the "New Jersey Compassionate Use Medical Marijuana Act" P.L.2009, c.307 (C.24:6I-1 et seq.).

"Noncommercial" means not dependent or conditioned upon the provision or receipt of financial consideration.

"Premises" or "licensed premises" includes the following areas of a location licensed under this act: all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms; all areas outside

a building that the division has specifically licensed for the production, processing, wholesale sale, or retail sale of marijuana items; and, for a location that the division has specifically licensed for the production of marijuana outside a building, the entire lot or parcel that the licensee owns, leases or has a right to occupy.

“Processes” means the processing, compounding, or conversion of marijuana into marijuana products or marijuana extracts. “Processes” does not include packaging or labeling.

“Produces” means the manufacture, planting, cultivation, growing or harvesting of marijuana. “Produces” does not include the drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or the cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler, or marijuana retailer purchased or otherwise received the plant from a licensed marijuana grower.

“Public place” means any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, playground, swimming pool, or shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

“Radio” means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the Internet.

“Retail marijuana consumption area” means an establishment where a new or existing marijuana retail licensee has been approved for a retail marijuana consumption area endorsement to sell retail marijuana, retail marijuana concentrate, and retail marijuana product for consumption on the premises.

“Significantly involved person” means a person or entity that is: in a sole proprietorship, the proprietor; in a partnership, limited partnership, limited liability partnership, or limited liability company, a natural person or natural persons among its partnership or membership who in the aggregate individually own or owns, directly or indirectly through business entities, a 20 percent or greater interest in the company; in a nonpublic corporation, a natural person or natural persons among its shareholders who in the aggregate individually own or owns, directly or indirectly, at least 20 percent of the corporation’s total outstanding shares; in a publicly traded corporation or a majority-owned subsidiary of a publicly traded corporation, natural persons who in the aggregate comprise at least 20 percent of the board of directors or governing body if the publicly traded parent corporation; or in a nonprofit corporation, employee cooperative, or association, natural persons who in the aggregate comprise at least 20 percent of the board of directors or governing body as constituted under the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq..

“Television” means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the Internet.

“THC” means delta-9-tetrahydrocannabinol, the main psychoactive chemical contained in the cannabis plant.

“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 businessperson.

4. (New section) Personal Use of Marijuana.

Notwithstanding any other provision of law, the following acts are not unlawful and shall not be a criminal offense or a basis for seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable law for persons 21 years of age or older:

a. Possessing, using, purchasing, or transporting: marijuana paraphernalia; one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature marijuana plants subject to the provisions of subsection b. of this section;

b. Transfer of one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature plants, without marijuana cultivation facility to a person who is of or over the legal age for purchasing marijuana items, provided that such transfer is for non-promotional, non-business purposes;

c. Consumption of marijuana items, provided that nothing in this section shall permit a person to smoke or otherwise consume marijuana items openly in a public place; and

d. Assisting another person who is of or over the legal age for purchasing marijuana items in any of the acts described in subsections a. through c. of this section.

5. (New section) Lawful Operation of Marijuana Establishments.

Notwithstanding any other provision of law, the following acts are not unlawful and shall not be a criminal offense or a basis for seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable law for persons 21 years of age or older:

a. manufacture, possession, or purchase of marijuana paraphernalia or the sale of marijuana paraphernalia to a person who is 21 years of age or older;

b. possessing, displaying, or transporting marijuana items; purchase of marijuana from a marijuana cultivation facility; purchase of marijuana items from a marijuana product manufacturing facility; or sale of marijuana items to consumers, if the person conducting the activities described in this subsection has obtained a current, valid license to operate as a marijuana retailer or is acting in his capacity as an owner, employee, or agent of a licensed marijuana retailer;

c. cultivating, harvesting, processing, packaging, transporting, displaying, or possessing marijuana; delivery or transfer of marijuana to a marijuana testing facility; selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana retailer; or the purchase of marijuana from a marijuana cultivation facility, if the person conducting the activities described in this subsection has obtained a current, valid license to operate a marijuana cultivation facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana cultivation facility;

d. packaging, processing, transporting, manufacturing, displaying, or possessing marijuana items; delivery or transfer of marijuana items to a marijuana testing facility; selling marijuana items to a marijuana retailer or a marijuana product manufacturing facility; the purchase of marijuana from a marijuana cultivation facility; or the purchase of marijuana items from a marijuana product manufacturing facility, if the person conducting the activities described in this subsection has obtained a current, valid license to operate a marijuana product manufacturing facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana product manufacturing facility;

e. possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering marijuana items if the person has obtained a current, valid license to operate a marijuana testing facility or is acting in his capacity as an owner, employee, or agent of a licensed marijuana testing facility; and

f. leasing or otherwise allowing the use of property owned, occupied, or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with subsections a. through e. of this section.

6. (New section) Prohibition of Persons Under the Legal Age Purchasing Marijuana.

a. No licensee, either directly or indirectly by an agent or employee, shall sell, offer for sale, distribute for commercial purpose at no cost or minimal cost, give, or furnish, to a person under 21 years of age, any marijuana items.

b. Any licensee or employee or agent of a licensee who allows a person under the age of 21 to procure marijuana items is guilty of a disorderly persons offense and subject to a civil penalty of not less than \$250 for the first violation; \$500 for the second violation; and \$1,000 for the third and each subsequent violation; in addition, subject to a hearing, a licensee's license may be revoked.

c. The establishment of all of the following facts by a licensee, employee, or agent, allowing any such person under the age of 21 to procure marijuana items shall constitute a defense to any prosecution pursuant to the provisions of subsections a. and b. of this section:

(1) That the purchaser of the marijuana or marijuana product falsely represented, by producing either a United States passport; driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission; a similar card issued pursuant to the laws of another state; United States military identification card; or a photographic identification card issued by a county clerk, that he 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 to be 21 years of age or older, of legal age to make the purchase; and

(3) That the sale or distribution was made in good faith, relying upon the production of the identification in paragraph (1) of this subsection, the minor's appearance, and in the reasonable belief that the purchaser or recipient was actually of legal age to make the purchase.

d. It shall be unlawful for a person under the age of 21 to attempt to purchase, or acquire a marijuana item, even if such marijuana items may be legally purchased by persons at or above the legal age for purchasing marijuana items.

For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and acquiring a marijuana item includes consuming a marijuana item.

e. It shall be unlawful for a person under the age of 21 to present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent, or not actually the person's own, for the purpose of:

(1) Purchasing, attempting to purchase, or otherwise procuring or attempting to procure marijuana or marijuana products; or

(2) Gaining access to a marijuana establishment.

f. Except as permitted by the division by rule or regulation, or as necessary on an emergency basis, a person under legal age for purchasing marijuana items may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under legal age for purchasing marijuana items, unless accompanied by and supervised by a parent or legal guardian.

g. Any person under the legal age to purchase marijuana who knowingly possesses without legal authority or who knowingly consumes any marijuana in any school, public conveyance, public place, or place of public assembly, or motor vehicle, shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$500.

h. The prohibitions of this section do not apply to a person under the legal age for purchasing marijuana items who is acting under the direction of the division or under the direction of State

or local law enforcement agencies for the purpose of investigating possible violations of the laws prohibiting sale of marijuana items to persons who are under the legal age for purchasing marijuana items.

i. The prohibitions of this section do not apply to a person under the legal age for purchasing marijuana items who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under the legal age for purchasing marijuana items.

j. A person under the legal age for purchasing marijuana items is not in violation of this section, and is immune from prosecution under this section if:

(1) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(2) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having sought or obtained the medical assistance.

(3) Paragraph (1) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

7. (New section) There is hereby established in the Department of the Treasury a Division of Marijuana Enforcement.

8. (New section) Powers and Duties of the Division.

a. The Division of Marijuana Enforcement shall have all powers necessary or proper to enable it to carry out the division's duties, functions, and powers under this act. The jurisdiction, supervision, duties, functions, and powers of the division extend to any person who buys, sells, produces, processes, transports, or delivers any marijuana items within this State. The division may sue and be sued.

b. The duties, functions and powers of the division include the following:

(1) To regulate the purchase, sale, production, processing, transportation and delivery of marijuana items in accordance with the provisions of this act;

(2) To grant, refuse, suspend or cancel licenses for the sale, processing, or production of marijuana items, or other licenses in regard to marijuana items, and to permit, in the division's discretion, the transfer of a license between persons;

(3) To investigate and aid in the prosecution of every violation of the statutory laws of this State relating to marijuana items and to cooperate in the prosecution of offenders before any State court of competent jurisdiction;

(4) To adopt, amend, or repeal regulations as necessary to carry out the intent and provisions of this act;

(5) To exercise all powers incidental, convenient, or necessary to enable the division to administer or carry out the provisions of this act, or any other law of this State that charges the division with a duty, function, or power related to marijuana. Powers described in this paragraph include, but are not limited to:

(a) Issuing subpoenas;

(b) Compelling attendance of witnesses;

(c) Administering oaths;

(d) Certifying official acts;

(e) Taking depositions as provided by law;

(f) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(g) Establishing fees in addition to the application, licensing, and renewal fees, provided that any fee established by the division is reasonably calculated not to exceed the cost of the activity for which the fee is charged;

(6) To adopt rules regulating and prohibiting marijuana growers, marijuana processors, marijuana wholesalers, and marijuana retailers from advertising marijuana items in a manner that is appealing to minors; that promotes excessive use; that promotes illegal activity; or that otherwise presents a significant risk to public health and safety; and

(7) To regulate the use of marijuana items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes.

c. The powers of the division further include the power to purchase, seize, possess, and dispose of marijuana items. The division may purchase, possess, seize, or dispose of marijuana items as is necessary to ensure compliance with and enforcement of the provisions of this act, and any rule adopted pursuant thereto. Any State officer, board, commission, corporation, institution, department, or other State body, and any local officer, board, commission, institution, department, or other local government body, that is permitted by the statutory laws of this State to perform a duty, function, or power with respect to a marijuana item, may purchase, possess, seize, or dispose of the marijuana item as the State officer, board, commission, corporation, institution, department or other State body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law.

d. The division shall be under the immediate supervision of a director. The director of the division shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor appointing him and until the director's successor is appointed and has qualified.

9. (New section) Regulation of Marijuana.

a. No later than 150 days after the effective date of P.L. c. (C.) (pending before the Legislature as this bill), the division shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for implementation of P.L. c. (C.) (pending before the Legislature as this bill), which shall be consistent with the intent of this act. Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The division may create an expert task force to make recommendations to the division about the content of such regulations. Such regulations shall include:

(1) Procedures for the application, issuance, denial, renewal, suspension, and revocation of a license to operate a marijuana establishment. Such procedures shall include a period of no longer than 90 days by which the division shall provide the applicant with notice of the division's approval or denial of any fully completed application for licensure or renewal and a period not to exceed 30 days in which a license shall be issued following approval of an application;

(2) License application and renewal fees shall be established by the division;

(3) The division shall establish licensing goals for applicants for licensure who are New Jersey residents. The division shall make good faith efforts to meet these goals. Qualifications for licensure shall be directly and demonstrably related to the operation of a marijuana establishment, provided that the division shall make licenses available to as diverse a group as possible, including, but not limited to, requirements that no license of any kind shall be issued to

a person under the legal age to purchase marijuana items. An applicant shall have a significantly involved person or persons lawfully residing in the State for at least two years as of the date of application to receive a license;

(4) The division shall establish licensing goals for minority owned and female owned business as these terms are defined in section 3 of P.L. 1983, c.482 (C.52:32-19). The division shall analyze the number of licenses issued in each county and compare that analysis to the number of qualified minority owned and female owned businesses that applied in each county. The division shall make good faith efforts to meet the goals it establishes for the licensure of minority owned and female owned businesses;

(5) Security requirements for marijuana establishments;

(6) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the legal age to purchase marijuana items, including, but not limited to, requirements that:

(a) All licensees and licensee representatives, before selling or serving marijuana or marijuana products to any person about whom there is any reasonable doubt of the person's having reached the legal age to purchase marijuana items, shall require such person to produce one of the following pieces of identification:

(i) The person's passport;

(ii) The person's motor vehicle driver's license, whether issued by New Jersey or by any other state, provided the license displays a picture of the person;

(iii) A New Jersey identification card issued by the New Jersey Motor Vehicle Commission;

(iv) A United States military identification card;

(v) A photographic identification card issued by a New Jersey county clerk; or

(vi) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person;

(b) No marijuana establishment shall employ persons under the legal age to purchase marijuana items nor shall any marijuana retailer allow persons under the legal age to purchase marijuana items from entering or remaining on the premises of a marijuana retailer unless accompanied by a parent or legal guardian;

(c) Packaging and branding regulations to prevent marketing of marijuana items and marijuana paraphernalia to people under the legal age to purchase marijuana items;

(7) Labeling and packaging requirements for marijuana items sold or distributed by a marijuana establishment, including, but not limited to, requirements that:

(a) Packaging and branding rules which prevent marketing of marijuana items and marijuana paraphernalia to people under the legal age to purchase marijuana items, including, but not limited to, rules that prohibit any statement, illustration, or image that:

(i) Includes false statements;

(ii) Promotes over-consumption;

(iii) Depicts a child or other person under legal age consuming marijuana items; or

(iv) Includes objects, such as toys, characters, or cartoon characters suggesting the presence of a person under the legal age to purchase marijuana items, or any other depiction designed in any manner to be especially appealing to persons under the legal age to purchase marijuana items;

(b) Ensure marijuana items are packaged in child-resistant containers;

(c) Marijuana items warning labels adequately inform consumers about safe marijuana use and warn of the consequences of misuse or overuse;

(d) Labeling rules that mandate clear identification of health and safety information, including, but not limited to:

(i) Net weight;

- (ii) Production date and expiration date;
- (iii) An ingredient list that includes, but is not limited to, all ingredients used to manufacture the marijuana product and a list of all potential allergens contained within the product;
- (iv) Strain or type of cannabis, listed by scientific terms, if available, and generic or “slang” names;
- (v) Whether the product requires refrigeration;
- (vi) Growth method (whether dirt grown, hydroponic, or otherwise) and an indication whether or not the cannabis was grown using all-organic materials and a complete list of all nonorganic pesticides, fungicides and herbicides used during the cultivation of the cannabis;
- (vii) Serving size, the total number of servings, and a statement regarding the percentage of THC contained in the marijuana product and in each serving. For example: “The serving size of active THC in this product is X mg. This product contains X servings of marijuana, and the total amount of active THC in this product is X mg.” Serving sizes are recommended to be individually wrapped;
- (viii) Warning labels that include, but are not limited to, one or more of the following:
 - “This product contains marijuana;”
 - “This product is infused with marijuana;”
 - “This product is intended for use by adults 21 years and older. Keep out of the reach of children;”
 - “The intoxicating effects of this product may be delayed by two or more hours;”
 - “There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant;”
 - “Do not drive a motor vehicle or operate heavy machinery while using marijuana;”
- (e) Labeling rules mandate the source of the marijuana items, including, but not limited to, the license number of the marijuana cultivation facility where the marijuana used to produce the marijuana item was grown, the license number of the marijuana product manufacturing facility that produced the marijuana item; and the license number of the marijuana retailer that sold the marijuana item and the production batch and lot numbers of the marijuana items;
- (8) Health and safety regulations and standards for the manufacture and sale of marijuana products and the cultivation of marijuana, including, but not limited to, requirements that:
 - (a) Establish accreditation and licensure criteria for marijuana testing facilities;
 - (b) The division issues licenses for a sufficient number of marijuana testing facilities, if those facilities meet the requirements for licensure, in order to ensure testing of marijuana items produced and sold in the State;
 - (c) Every licensed marijuana cultivation facility and marijuana product manufacturing facility shall submit representative samples of marijuana and marijuana products to marijuana testing facilities for inspection and testing to certify compliance with health, safety, and potency standards adopted by the division on a schedule set by the division. Any sample remaining after testing shall be destroyed or returned to the licensee;
 - (d) Prescribe methods of producing, processing, and packaging marijuana items; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana items produced, processed, packaged, or sold by marijuana establishments;
 - (e) Establish accreditation and licensing criteria for responsible marijuana server and seller training and certification programs for marijuana retailer employees;
 - (f) Provide that no licensed marijuana establishment or employee of a marijuana establishment shall consume, or allow to be consumed, any marijuana items on the establishment’s premises, except as otherwise permitted by the division;

(g) Set appropriate dosage, potency, and serving size limits for marijuana and other marijuana products, provided that a standardized serving of marijuana shall be no more than 10 milligrams of active THC and no individual edible retail product unit for sale shall contain more than 100 milligrams of active THC, and that marijuana and marijuana product packaging prevent children from access;

(h) Require that each single standardized serving of marijuana in a multiple-serving edible marijuana product is physically demarked in a way that enables a reasonable person to determine how much of the product constitutes a single serving of active THC, and that each standardized serving of marijuana shall be easily separable to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product;

(i) Require that, if it is impracticable to clearly demark every standardized serving of marijuana or to make each standardized serving easily separable in an edible marijuana product, the product shall contain no more than 10 milligrams of active THC per unit of sale;

(j) Establish screening, hiring, training and supervising requirements for retail store employees and others who manufacture or handle marijuana items;

(k) Promote general sanitary requirements for the handling, storage, and disposal of marijuana items, and the maintenance of marijuana establishments;

(l) Provide for rigorous auditing, inspection, and monitoring of marijuana establishments for compliance with health and safety rules and regulations;

(m) Require the implementation of security requirements for retail outlets and premises where marijuana items are produced or processed, and safety protocols for marijuana establishments and their employees;

(n) Prescribe reasonable restrictions on the manner, methods, and means by which, licensees shall transport marijuana items within the State; and

(o) Establish procedures for identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana or marijuana products produced, processed, sold, or offered for sale within this State which do not conform in all respects to the standards prescribed by this chapter or the rules adopted to implement and enforce these chapters;

(9) Restrictions on the advertising and display of marijuana items and marijuana paraphernalia, including, but not limited to, requirements that:

(a) Restrict advertising of marijuana items and marijuana paraphernalia in ways that target or are designed to appeal to individuals under the legal age to purchase marijuana items, including, but not limited to depictions of a person under 21 years of age consuming marijuana, or, includes objects, such as toys, characters, or cartoon characters suggesting the presence of a person under 21 years of age, or any other depiction designed in any manner to be especially appealing to a person under 21 years of age;

(b) No licensed marijuana establishment shall advertise any marijuana items or marijuana paraphernalia on television, or radio between the hours of 6:00am and 10:00pm;

(c) No licensed marijuana establishment shall engage in advertising unless it has reliable evidence that at least 71.6 percent of the audience for the advertisement is reasonably expected to be 21 years of age or older which is the legal age to purchase marijuana items;

(d) No licensed marijuana establishment may engage in advertising or marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature and warnings that restrict usage of marijuana products to persons 21 years of age or over;

(e) No licensed marijuana establishment may sponsor a charitable, sports, musical, artistic, cultural, social, or other similar event or engage in advertising at or in connection with such an

event unless it has reliable evidence that no more than 20 percent of the audience at the event is reasonably expected to be under the legal age to purchase marijuana items;

(f) All advertisements shall contain warnings, including but not limited to one or more of the following:

(i) "This product contains marijuana;"

(ii) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug;"

(iii) "There may be health risks associated with the consumption of this product;"

(iv) "For use only by adults 21 years of age and older. Keep out of the reach of children;"

(v) "This product was produced without regulatory oversight for health, safety or efficacy;"

(vi) "The intoxicating effects of this product may be delayed by two or more hours;"

(vii) "There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant."

(viii) No licensed marijuana establishment shall place or maintain, or cause to be placed or maintained an advertisement of marijuana items or marijuana paraphernalia in any form or through any medium whatsoever within 200 feet of an elementary or secondary school grounds, recreation center or facility, arcade, child care center, public park, playground, public swimming pool or library; on or in a public transit vehicle or public transit shelter; on or in publicly owned or operated property.

For the purposes of this section, a noncommercial message shall not be considered an advertisement. This section also shall not apply to advertisements within the premises of a marijuana retailer.

(10) A requirement that only marijuana items and marijuana paraphernalia are available for sale at a marijuana establishment; and

(11) Procedures for the division to conduct announced and unannounced visits to marijuana establishments to make, or cause to be made, such investigations as it shall deem proper in the administration of P.L. , c. (C.) (pending before the Legislature as this bill) and any and all other laws which may hereafter be enacted concerning marijuana, or the manufacture, distribution or sale thereof, or the collection of taxes thereon, including the inspection and search of premises for which the license is sought or has been issued, of any building containing the same, of licensed buildings, examination of the books, records, accounts, documents and papers of the licensees or on the licensed premises;

(a) The division shall be authorized, after adequate notice to the owner or the agent of the owner, to make an examination of the books and may at any time make an examination of the premises of any person licensed under P.L. , c. (C.) (pending before the Legislature as this bill) for the purpose of determining compliance with this act and the rules of the division. The division shall not require the books of any licensee to be maintained on the premises of the licensee;

(b) The division may, at any time, examine the books and records of any marijuana licensee, and may appoint auditors, investigators and other employees that the division considers necessary to enforce its powers and perform its duties;

(c) During any inspection of a licensed premises, the division may require proof that a person performing work at the premises is 21 years of age or older. If the person does not provide the division with acceptable proof of age upon request, the division may require the person to immediately cease any activity and leave the premises until the division receives acceptable proof of age; and

(d) The division shall not be required to obtain a search warrant to conduct an investigation or search of licensed premises;

(12) Record keeping requirements, including but not limited to the following:

(a) The obligation of every marijuana grower to keep a complete and accurate record of all sales of marijuana flowers, marijuana leaves, and immature marijuana plants, and a complete and accurate record of the number of marijuana flowers produced, the number of ounces of marijuana leaves produced, the number of immature marijuana plants produced, and the dates of production; and the obligation of every marijuana establishment to keep a complete and accurate record of all sales of marijuana, and a complete and accurate record of the number of ounces of marijuana items sold, provided that marijuana retailers shall not retain personally identifying information about persons 21 years of age who or older who purchase marijuana or marijuana products in marijuana retailers;

(b) Such records shall be kept and maintained for two years and the records shall be in such form and contain such other information as the division may require; and

(c) The division may at any time, with adequate notice, examine the books and records of any marijuana establishment, and may appoint auditors, investigators, and other employees that the division considers necessary to enforce its powers and duties as described in P.L. , c. (C.) (pending before the Legislature as this bill);

(13) Procedures for inspecting samples of marijuana items, including:

(a) On a schedule determined by the division, every licensed marijuana grower and processor shall submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the division, for inspection and testing to certify compliance with standards adopted by the division. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee;

(b) Licensees shall submit the results of this inspection and testing to the division on a form developed by the division; and

(c) If a representative sample inspected and tested under this section does not meet the applicable standards adopted by the division, the entire lot from which the sample was taken shall be destroyed;

(14) Establishing the number of marijuana retailers:

(a) Assuming there are sufficient qualified applicants for licensure, the division shall issue a sufficient number of Class 4 Retailer licenses, not to exceed a maximum of 218 licenses, as follows:

(1) at least two licenses per legislative district;

(2) 40 at large licenses; and

(3) a maximum of 98 medical licenses;

(b) A determination of the maximum number of marijuana retailers that may be licensed in each local governmental entity, taking into consideration:

(i) population distribution, provided that the division shall consider seasonal fluctuations in the population of the county and shall ensure that there are adequate licensed premises to serve the market demands of the county during the peak seasons; and

(ii) the provision of adequate access to licensed sources of useable marijuana and marijuana products to discourage purchases from the illegal market; and

(15) Civil penalties for the failure to comply with regulations made pursuant to this section.

b. In order to ensure that individual privacy is protected, the division shall not require a consumer to provide a marijuana retailer with personal information other than government-issued identification to determine the consumer's age, and a marijuana retailer shall not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth in R.S.33:1-12.

c. Once regulations are adopted pursuant to subsection a. of this section, but prior to the commencement of the application process, the division shall conduct a series of information sessions in every county in New Jersey to educate residents of New Jersey about the responsibilities, opportunities, requirements, obligations, and processes for application for a license to operate a marijuana establishment. The division shall conduct an appropriate number of information sessions in each county considering the population of each county, but no fewer than two information sessions in each county. The division shall publicize the day, time, location, and agenda of these information sessions broadly through television, radio, Internet, print, and through local agencies.

d. The division shall:

(1) Examine available research, and may conduct or commission new research or convene an expert task force, to investigate the influence of marijuana on the ability of a person to drive a vehicle and on the concentration of delta-9 tetrahydrocannabinol in a person's blood, in each case taking into account all relevant factors; and

(2) Present the results of the research to the Legislature and make recommendations to the Legislature regarding whether any amendments to the rules and regulations adopted by the division are appropriate.

10. (New section) Tracking System. a. The division shall develop and maintain a system for tracking the transfer of marijuana items between licensed premises.

b. The purposes of the system developed and maintained under this section include, but are not limited to:

(1) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;

(2) Preventing persons from substituting or tampering with marijuana items;

(3) Ensuring an accurate accounting of the production, processing and sale of marijuana items;

(4) Ensuring that taxes are collected for the purpose of being distributed as described in section 11 of P.L. , c. (C.)(pending before the Legislature as this bill);

(5) Ensuring that laboratory testing results are accurately reported; and

(6) Ensuring compliance with the rules and regulations adopted under the provisions of P.L. , c. (C.)(pending before the Legislature as this bill), and any other law of this State that charges the division with a duty, function or power related to marijuana.

c. The system developed and maintained under this section shall be capable of tracking, at a minimum:

(1) The propagation of immature marijuana plants and the production of marijuana by a marijuana processor;

(2) The processing of marijuana by a marijuana processor;

(3) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;

(4) The sale of marijuana items by a marijuana retailer to a consumer;

(5) The purchase and sale of marijuana items between licensees;

(6) The transfer of marijuana items between licensed premises;

(7) The collection of taxes imposed upon the retail sale of marijuana items; and

(8) Any other information that the division determines is reasonably necessary to accomplish the duties, functions and powers of the division.

11. (New section) Taxation. a. There shall be a tax levied upon marijuana or marijuana products sold or otherwise transferred by a marijuana retailer to a person 21 years of age or older. That tax shall include the prevailing sales tax. To encourage early participation in and

development of marijuana establishments and to undermine the illegal marketplace, the tax shall escalate as follows: in year one following the enactment of P.L. , c. (C.)(pending before the Legislature as this bill), the excise tax shall be 10 percent; in year two, the tax shall be 15 percent; in year three, the tax rate shall be 20 percent; and in year four and beyond, the tax shall be 25 percent. These excise taxes set forth in this subsection shall include the prevailing sales tax.

b. The division shall regularly review the tax levels established under this section and make recommendations to the Legislature as appropriate regarding adjustments that would further the goals of discouraging use, particularly by those under the age of 21; undercutting illegal market prices; and maximizing taxation revenue.

c. Statements as to quantities sold. At such periods to be established by the Department of the Treasury, but no more than once per calendar month, every marijuana grower and processor shall file with the Division of Taxation in the Department of the Treasury a statement of the quantities of marijuana flowers, marijuana leaves, and immature marijuana plants sold by the marijuana grower or processor during the preceding period.

d. Estimate by Division of Taxation when statement not filed or false statement filed. If any marijuana grower and processor fails, neglects, or refuses to file a statement required by subsection c. of this section or files a false statement, the Department of the Treasury shall estimate the quantities of marijuana flowers, marijuana leaves, and immature marijuana plants sold by the marijuana grower or processor and assess the taxes thereon. The marijuana grower or processor shall be estopped from complaining of the quantities so estimated.

e. Lien created by the tax. The tax required to be paid pursuant to this section constitutes a lien upon, and has the effect of an execution duly levied against, any and all property of the marijuana retailer, attaching at the time the marijuana flowers, marijuana leaves, and immature marijuana plants subject to the tax were sold, and remaining until the tax is paid. The lien created by this section is paramount to all private liens or encumbrances.

f. The Department of the Treasury shall establish procedures for the collection of all taxes levied.

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

h. The tax revenue shall be collected by the Director of the Division of Taxation and shall be deposited by the Director of the Division of Taxation into the nonlapsing fund established pursuant to section 39 of P.L., c. (C.) (pending before the Legislature as this bill), and shall be used to fund the Division of Marijuana Enforcement, except that one percent shall be allocated annually to the local governmental entity in which the marijuana establishment is located, to be dedicated to drug prevention and treatment.

12. (New section) Local Governmental Entity Regulations or Ordinances.

a. A local governmental entity may enact ordinances or regulations, not in conflict with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill):

(1) governing the time, place, manner, and number of marijuana establishment operations; and

(2) establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local governmental entity.

b. A local governmental entity may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or marijuana retailers through the enactment of an ordinance. The failure of a local governmental entity to enact an ordinance prohibiting the operation of a marijuana establishment within 180 days following the

effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall thereby permit the operation of a marijuana retail establishment within the local governmental entity for a period of five years, at the end of which five year period, and every five year period thereafter, the local governmental entity shall again be permitted to prohibit the operation of a marijuana establishment.

c. (1) When the division receives an application for initial licensing or renewal of an existing license for any marijuana establishment, or endorsement for a retail marijuana consumption area, the division shall provide, within seven days, a copy of the application to the local governmental entity in which the establishment is to be located unless the local governmental entity has prohibited the operation of retail marijuana establishments. The local jurisdiction shall determine whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses. The local jurisdiction shall inform the division whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses.

(2) A local governmental entity may impose a separate local licensing or endorsement requirement as a part of its restrictions on time, place, manner, and the number of marijuana businesses. A local governmental entity may decline to impose any local licensing or endorsement requirements, but a local jurisdiction shall notify the division that it either approves or denies each application forwarded to it.

13. (New section) Application. a. Each application for an annual license to operate a marijuana establishment shall be submitted to the division. A separate license shall be required for each location at which a marijuana establishment seeks to operate. Renewal applications may be filed up to 90 days prior to the expiration of the establishment's license. The division shall:

(1) begin accepting and processing applications 30 days after the rules and regulations have been adopted pursuant to section 9 of P.L. c. (C.) (pending before the Legislature as this bill);

(2) immediately forward a copy of each application to the local governmental entity in which the applicant desires to operate the marijuana establishment;

(3) upon the approval of a license application and collection of the annual license fee, issue an annual license to the applicant between 45 and 90 days after receipt of an application unless the division finds the applicant is not in compliance with regulations enacted pursuant to the provisions of section 9 of P.L. , c. (C.) (pending before the Legislature as this bill) or the division is notified by the relevant local governmental entity that the applicant is not in compliance with ordinances and regulations made pursuant to the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill) and in effect at the time of application, provided, where a local governmental entity has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek licenses, the division shall solicit and consider input from the local governmental entity as to the local governmental entity's preference or preferences for licensure; and

(4) upon denial of an application, notify the applicant in writing of the specific reason for its denial.

b. No employee of the division shall have any interest, directly or indirectly, in the producing, processing, or sale of marijuana, marijuana products, or marijuana paraphernalia, or derive any profit or remuneration from the sale of marijuana, marijuana products, or marijuana paraphernalia, other than the salary or wages payable to him or her in respect of his position, or receive any gratuity from any person in connection with the application for a license or the sale of marijuana, marijuana products, or marijuana paraphernalia.

14. (New section) Class 1 Marijuana Grower license. A marijuana grower shall have a Class 1 Marijuana Grower license issued by the division for the premises at which the marijuana is grown or cultivated. The division shall determine the maximum number of licenses. Providing there exist qualified applicants, the division shall issue a sufficient number of licenses, not to exceed a total of 25, including licenses issued to medical marijuana alternative treatment centers but of these 25 licenses, 15 licenses shall be reserved for medical marijuana alternative treatment centers.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 1 Marijuana Grower license, unless such conviction occurred after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. , c. (C.) (pending before the Legislature as this bill).

a. To hold a Class 1 Marijuana Grower license under this section, a marijuana grower:

(1) Shall apply for a license in the manner described in section 13 of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) Shall provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C.) (pending before the Legislature as this bill), has been a resident of this State for two or more years, and shall provide proof that the applicant is 21 years of age or older;

(3) Shall meet the requirements of any rule or regulation adopted by the division under subsection b. of this section; and

(4) Shall undergo a criminal history record background check:

(a) Pursuant to this provision, the director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section;

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a growers license. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check;

(c) The director shall not approve an applicant for a Class 1 Marijuana Grower license if the criminal history record background information of the applicant reveals any disqualifying conviction; and

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 1 Marijuana Grower license.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant

to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the individual's continued eligibility to hold a Class 1 Marijuana Grower license.

b. The division shall adopt rules and regulations that:

(1) Require a marijuana grower to annually renew a license issued under this section;

(2) Establish application, licensure, and renewal of licensure fees for marijuana growers;

(3) Require marijuana produced by marijuana growers to be tested in accordance with P.L. , c. (C.) (pending before the Legislature as this bill);

(4) Require marijuana growers to submit, at the time of applying for or renewing a license under P.L. , c. (C.) (pending before the Legislature as this bill), a report describing the applicant's or licensee's electrical and water usage; and

(5) Require a marijuana grower to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule or regulation related to the production of marijuana or the propagation of immature marijuana plants and the seeds of the plant Genus Cannabis L. within the plant family Cannabaceae. The division may not limit the number of immature marijuana plants that may be possessed by a marijuana grower licensed under this section; the size of the grow canopy a marijuana grower licensed under this section uses to grow immature marijuana plants; or the weight or size of shipments of immature marijuana plants made by a marijuana grower licensed under this section.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more mature marijuana plants are grown; and

(2) Shall be deposited in the "Marijuana Control and Regulation Fund" established under section 39 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The director shall issue a Class 1 Marijuana Grower license if he finds that issuing such a license would be consistent with the purposes of P.L. , c. (C.) (pending before the Legislature as this bill), the requirements of this section are met, and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The director may suspend or revoke a Class 1 Marijuana Grower license to operate as a Marijuana Cultivation Facility for cause, which shall be subject to review by the Appellate Division of the Superior Court.

e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being produced.

f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

15. (New section) a. Subject to subsection b. of this section, the division shall adopt rules or regulations restricting the size of mature marijuana plant grow canopies at premises for which a license has been issued under P.L. , c. (C.) (pending before the Legislature as this bill).

b. In adopting rules under this subsection, the division shall:

(1) Limit the size of mature marijuana plant grow canopies for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers, regardless of whether the marijuana is grown outdoors or indoors;

(2) Adopt a tiered system under which the permitted size of a marijuana growers' mature marijuana plant grow canopy increases at the time of licensure renewal, except that the permitted size of a marijuana growers' mature marijuana plant grow canopy may not increase

following any year during which the division disciplined the marijuana grower for violating a provision of or a rule adopted under a provision of P.L. , c. (C.) (pending before the Legislature as this bill); and

(3) Take into consideration the market demand for marijuana items in this State, the number of persons applying for a license under P.L. , c. (C.) (pending before the Legislature as this bill), and to whom a license has been issued under P.L. , c. (C.) (pending before the Legislature as this bill), and whether the availability of marijuana items in this State is commensurate with the market demand.

c. This section shall not apply to premises for which a license has been issued under P.L. , c. (C.) (pending before the Legislature as this bill), if the premises is used only to propagate immature marijuana plants.

16. (New section) Class 2 Marijuana Processor license. A marijuana processor shall have a Class 2 Marijuana Processor license issued by the division for the premises at which the marijuana product is produced. The division shall determine the maximum number of licenses but, providing there exist qualified applicants, shall issue a sufficient number of licenses to meet the production demands that implementation of P.L. , c. (C.) (pending before the Legislature as this bill) requires.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 2 Marijuana Processor license, unless such conviction occurred after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. , c. (C.) (pending before the Legislature as this bill).

a. To hold a Class 2 Marijuana Processor license under this section, a marijuana processor:

(1) Shall apply for a license in the manner described in section 13 of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) Shall provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C.) (pending before the Legislature as this bill), has been a resident of this State for two or more years, and shall provide proof that the applicant is 21 years of age or older;

(3) Shall meet the requirements of any rule or regulation adopted by the division under subsection b. of this section; and

(4) Shall undergo a criminal history record background check:

(a) Pursuant to this provision, the Director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section;

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a processing license. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check;

(c) The director shall not approve an applicant for a Class 2 Marijuana Processor license if the criminal history record background information of the applicant reveals any disqualifying conviction; and

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 2 Marijuana Processor license.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility to hold a Class 2 Marijuana Processor license.

b. The division shall adopt rules that:

- (1) Require a marijuana processor to annually renew a license issued under this section;
- (2) Establish application, licensure, and renewal of licensure fees for marijuana processors;
- (3) Require marijuana produced by marijuana processors to be tested in accordance with P.L. , c. (C.) (pending before the Legislature as this bill);

(4) Require marijuana processors to submit, at the time of applying for or renewing a license under P.L. , c. (C.) (pending before the Legislature as this bill) a report describing the applicant's or licensee's electrical and water usage; and

(5) Require a marijuana processor to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule or regulation related to the processing of marijuana.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage; and

(2) Shall be deposited in the "Marijuana Control and Regulation Fund" established under section 39 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The director shall issue a Class 2 Marijuana Processor license if he finds that issuing such a license would be consistent with the purposes of P.L. , c. (C.) (pending before the Legislature as this bill) and the requirements of this section are met and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The director may suspend or revoke a license to operate as marijuana production facility for cause, which shall be subject to review by the Appellate Division of the Superior Court.

e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being processed.

f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

17. (New section) Class 3 Marijuana Wholesaler license. A marijuana wholesaler shall have a Class 3 Marijuana Wholesaler license issued by the division for the premises at which the marijuana is warehoused. The division shall determine the maximum number of licenses but, providing there exist qualified applicants, shall issue a sufficient number of licenses to meet the wholesaler demands that implementation of this act requires.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 3 Marijuana Wholesaler license, unless such conviction occurred after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. , c. (C.) (pending before the Legislature as this bill).

a. To hold a Class 3 Marijuana Wholesaler license under this section, a marijuana wholesaler:

(1) Shall apply for a license in the manner described in section 13 of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) Shall provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C.) (pending before the Legislature as this bill), has been a resident of this State for two or more years, and shall provide proof that the applicant is 21 years of age or older;

(3) Shall meet the requirements of any rule or regulation adopted by the division under subsection b. of this section; and

(4) Shall undergo a criminal history record background check:

(a) Pursuant to this provision, the director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section;

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a wholesalers license. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check;

(c) The director shall not approve an applicant for a Class 3 Marijuana Wholesaler license if the criminal history record background information of the applicant reveals any disqualifying conviction; and

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 3 Marijuana Wholesaler license.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the Director shall make a determination regarding the continued eligibility to hold a Marijuana Wholesaler license.

b. The division shall adopt rules that:

(1) Require a marijuana wholesaler to annually renew a license issued under this section;

(2) Establish application, licensure, and renewal of licensure fees for marijuana wholesalers;

(3) Require marijuana warehoused by marijuana wholesalers to be tested in accordance with P.L. , c. (C.) (pending before the Legislature as this bill);

(4) Require marijuana wholesalers to submit, at the time of applying for or renewing a license under section 13 of P.L. , c. (C.) (pending before the Legislature as this bill), a report describing the applicant’s or licensee’s electrical and water usage; and

(5) Require a marijuana wholesaler to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule or regulation related to the warehousing of marijuana.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage; and

(2) Shall be deposited in the “Marijuana Control and Regulation Fund” established under section 39 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The director shall issue a Class 3 Marijuana Wholesaler license if he finds that issuing such a license would be consistent with the purposes of this act and the requirements of this section are met and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The director may suspend or revoke a Class 3 Marijuana Wholesaler license for cause, which shall be subject to review by the Appellate Division of the Superior Court.

e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being warehoused.

f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

18. (New section) Class 4 Marijuana Retailer license. A marijuana retailer shall have a Class 4 Marijuana Retailer license issued by the division for the premises at which the marijuana is retailed. The division shall determine the maximum number of licenses but, providing there exist qualified applicants, shall issue a sufficient number of licenses to meet the wholesaler demands that implementation of P.L. , c. (C.) (pending before the Legislature as this bill) requires.

A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a Class 4 Marijuana Retailer license, unless such conviction occurred after the effective date of this act and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under P.L. , c. (C.) (pending before the Legislature as this bill).

a. To hold a Class 4 Marijuana Retailer license under this section, a marijuana retailer:

(1) Shall apply for a license in the manner described in section 13 of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) Shall provide proof that an applicant listed on an application submitted under section 13 of P.L. , c. (C.) (pending before the Legislature as this bill), has been a resident of this State for two or more years, and shall provide proof that the applicant is 21 years of age or older;

(3) Shall meet the requirements of any rule adopted by the Division under subsection b. of this section; and

(4) Shall undergo a criminal history record background check:

(a) Pursuant to this provision, the director is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record

background information to the director in a timely manner when requested pursuant to the provisions of this section;

(b) An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a retailers license. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check;

(c) The director shall not approve an applicant for a Class 4 Marijuana Retailer license if the criminal history record background information of the applicant reveals any disqualifying conviction; and

(d) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a Class 4 Marijuana Retailer license.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility to hold a Class 4 Marijuana Retailer license.

b. The division shall adopt rules that:

(1) Require a marijuana retailer to annually renew a license issued under this section;

(2) Establish application, licensure, and renewal of licensure fees for a marijuana retailer;

(3) Require marijuana sold by a marijuana retailer to be tested in accordance with P.L. , c. (C.) (pending before the Legislature as this bill);

(4) Require a marijuana retailer to submit, at the time of applying for or renewing a license under P.L. , c. (C.) (pending before the Legislature as this bill), a report describing the applicant's or licensee's electrical and water usage; and

(5) Require a marijuana retailer to meet any public health and safety standards, industry best practices, and all applicable regulations established by the division by rule related to the sale of marijuana.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage; and

(2) Shall be deposited in the "Marijuana Control and Regulation Fund" established under section 39 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The director shall issue a Class 4 Marijuana Retailer license if he finds that issuing such a license would be consistent with the purposes of this act and the requirements of this section are met and the information contained in the application has been verified. The director shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The director may suspend or revoke a Class 4 Marijuana Retailer license for cause, which shall be subject to review by the Appellate Division of the Superior Court.

e. A person who has been issued a license pursuant to this section shall display the license at the premises at all times when marijuana is being warehoused.

f. A licensee shall report any change in information to the director not later than 10 days after such change, or the license shall be deemed null and void.

g. (1) Subject to receiving an endorsement pursuant to section 42 of P.L. , c. (C.) (pending before the Legislature as this bill), a licensed marijuana retailer may operate a retail marijuana consumption area to sell retail marijuana, retail marijuana concentrate, and retail marijuana products for on-premises consumption, other than smoking, on the premises of the establishment.

(2) Each licensed marijuana retailer may operate only one retail marijuana consumption area.

(3) The retail marijuana consumption area shall be physically separate from the marijuana retail premises and shall be located in the same local jurisdiction as the marijuana retail establishment.

(4) A Class 4 Marijuana Retailer license that has been approved for a retail marijuana consumption area endorsement may transfer its retail marijuana, retail marijuana concentrate, and retail marijuana products to its retail marijuana consumption area. The Class 4 Marijuana Retailer licensee shall package and label individually retail marijuana, retail marijuana concentrate, and retail marijuana product in quantities not to exceed the limits established by the director.

19. (New section) Marijuana Handlers. a. An individual who performs work for or on behalf of a person who holds a license under P.L. , c. (C.) (pending before the Legislature as this bill) shall have a valid permit issued by the division under this section if the individual participates in:

(1) the possession, securing, or selling of marijuana items at the premises for which the license has been issued; or

(2) the recording of the possession, securing, or selling of marijuana items at the premises for which the license has been issued.

b. A person who holds a license under P.L. , c. (C.) (pending before the Legislature as this bill) shall verify that an individual has a valid permit issued under this section before allowing the individual to perform any work described in subsection a. of this section at the premises for which the license has been issued.

c. The division shall issue permits to qualified applicants to perform work described in this section. The division shall adopt rules and regulations establishing the qualifications for performing work described in this section, the terms of a permit issued under this section; procedures for applying for and renewing a permit issued under this section; and reasonable application, issuance and renewal fees for a permit issued under this section.

d. The division may require an individual applying for a permit under this section to successfully complete a course, made available by or through the division, in which the individual receives training on checking identification; detecting intoxication; handling marijuana items; statutory and regulatory provisions relating to marijuana; and any matter deemed necessary by the division to protect the public health and safety. The division or other provider may charge a reasonable fee for the course.

The division may not require an individual to successfully complete the course more than once, except that the division may adopt regulations directing continuing education training on a prescribed schedule.

As part of a final order suspending a permit issued under this section, the division may require a permit holder to successfully complete the course as a condition of lifting the suspension and

as part of a final order revoking a permit issued under this section, the division shall require an individual to successfully complete the course prior to applying for a new permit.

e. The division shall conduct a criminal history record background check on an individual applying for a permit under this section.

f. The division may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit: violates any provision of P.L. , c. (C.) (pending before the Legislature as this bill) or any rule or regulation adopted under P.L. , c. (C.) (pending before the Legislature as this bill); makes a false statement to the division; refuses to cooperate in any investigation by the division; or if the individual is convicted of a crime, except that the division may not consider a conviction for the manufacture or delivery of marijuana if the date of the conviction is two or more years before the date of the application or renewal, or if the date of the last criminal conviction is more than 10 years before the date of the application or renewal.

g. A permit issued under this section is a personal privilege and permits work described under this section only for the individual who holds the permit.

20. (New section) Marketplace Regulation.

a. For a period of 36 months after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) it shall be unlawful for any owner, part owner, stockholder, officer, or director of any corporation, or any other person interested in any marijuana cultivation facility, marijuana testing facility, or marijuana product manufacturing facility, or any wholesaler of marijuana, to conduct, own either in whole or in part, or be directly or indirectly interested in the retailing of any marijuana in New Jersey, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said marijuana cultivation facility, marijuana testing facility, or marijuana product manufacturing facility, or any wholesaler of marijuana.

b. For a period of 36 months after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) it shall be unlawful for any owner, part owner, stockholder, officer, or director of any corporation, or any other person interested in any retailing of marijuana to conduct, own either whole or in part, or to be a shareholder, officer or director of a corporation or association, directly or indirectly, interested in any marijuana cultivation facility, marijuana testing facility, or marijuana product manufacturing facility, or any wholesaler of marijuana.

c. No person, partnership, employee cooperative, association, nonprofit corporation, corporation, or the agents thereof, shall hold more than three marijuana establishment licenses at any time.

21. (New section) Employers, Driving, Minors and Control of Property.

a. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana items in the workplace or to affect the ability of employers to have policies prohibiting marijuana use or intoxication by employees during work hours. No employer shall refuse to hire or employ any person or shall discharge from employment or take any adverse action against any employee with respect to compensation, terms, conditions or other privileges of employment because that person does or does not smoke or use marijuana items, unless the employer has a rational basis for doing so which is reasonably related to the employment, including the responsibilities of the employee or prospective employee.

b. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) is intended to allow driving under the influence of marijuana items or driving while impaired by marijuana items

or to supersede laws related to driving under the influence of marijuana items or driving while impaired by marijuana items.

c. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) is intended to permit the transfer of marijuana items, with or without remuneration, to a person under the age of 21 or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume marijuana items.

d. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) shall prohibit a person, or any other entity that occupies, owns, or controls a property from prohibiting or otherwise regulating the consumption, use, display, transfer, distribution, sale, transportation or growing of marijuana items on or in that property, provided that local government units may not prohibit possession permitted by section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

e. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) is intended to permit any person to possess, consume, use, display, transfer, distribute, sell, transport or grow marijuana items in a school, hospital, detention facility, adult correctional facility, and youth correction facility.

f. Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) is intended to permit the smoking of marijuana in any place that any other law prohibits the smoking of tobacco. Any fines that may be assessed for the smoking of tobacco in designated places shall be applicable to the smoking of marijuana.

22. (New section) Medical Marijuana Provisions.

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, institutional caregiver, or alternative treatment center as provided in the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill);

b. to authorize an alternative treatment center to dispense marijuana to or on behalf of a person who is not a registered qualifying patient except that an alternative treatment center operating in good standing as of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) may apply for a retail license to operate immediately. A license issued pursuant to this subsection may be subject to annual renewal until regulations are adopted pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

c. to authorize an alternative treatment center to purchase or acquire marijuana or marijuana products in a manner or from a source not permitted under P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill);

d. to authorize an alternative treatment center issued a permit under section 7 of P.L.2009, c.307 (C.24:6I-7) to operate on the same premises as a marijuana retailer; or

e. 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 al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

23. (New section) Medical Marijuana – Additional Regulatory Requirements.

An alternative treatment center issued a permit under section 7 of P.L.2009, c.307 (C.24:6I-7) shall, as a condition of being issued a Class 4 Marijuana Retailer license pursuant to section 18 of P.L. , c. (C.) (pending before the Legislature as this bill):

- a. certify to the Department of Health, at intervals established by the division, sufficient quantities of approved medical marijuana to meet the reasonably anticipated treatment needs of registered qualifying patients, before personal use marijuana can be sold; and
- b. maintain separate areas for qualifying patients, primary caregivers, and institutional caregivers, and for personal use customers.

24. (New section) Expungement. Any person convicted of marijuana possession as defined in paragraph (4) of subsection a. of N.J.S.2C:35-10 prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall, following the enactment of P.L. , c. (C.) (pending before the Legislature as this bill), be eligible to present an application for expungement to the Superior Court pursuant to the provisions of chapter 52 of Title 2C of the New Jersey Statutes.

25. (New section) Limitations.

The provisions of P.L. , c. (C.) (pending before the Legislature as this bill) shall not be construed:

- a. To amend or affect in any way any State or federal law pertaining to employment matters;
- b. To amend or affect in any way any State or federal law pertaining to landlord-tenant matters;
- c. To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession, or use of marijuana to the extent necessary to satisfy federal requirements for the grant;
- d. To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession, or use of marijuana to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;
- e. To require a person to violate a federal law; or
- f. To exempt a person from a federal law or obstruct the enforcement of a federal law.

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

2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or by 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, 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]~~ \$750,000 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)

27. (New section) Personal Use of Cannabis Resin.

a. Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense or a basis for seizure or forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable law for persons 21 years of age or older:

(1) Possessing, using, displaying, purchasing, or transporting five grams or less of resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin, or "Hashish;"

(2) Transfer of five grams or less of resin extracted from any part of the Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin without remuneration to a person who is 21 years of age or older, provided that such transfer is for non-promotional, non-business purposes;

(3) Consumption of the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin, provided that nothing in this section shall permit a person to smoke or otherwise consume such resin or its derivatives openly in a public place; and

(4) Assisting another person who is 21 years of age or older in any of the acts described in subparagraphs (1) through (3) of this subsection.

b. It shall be unlawful for a person or persons to manufacture or process resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin, unless licensed to do so under the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

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

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b), and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an

approved new drug application or an exemption for investigational use within the meaning of section 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21 U.S.C. s.355).

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

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

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

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

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b), and (c) of this section; but does not include devices or their components, parts, or accessories.

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

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

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

"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, except those containing resin extracted from the plant[]; but shall not include 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 mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination].

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

(a) Opium, coca leaves, and opiates;

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

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

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

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

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

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

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

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State.

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

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

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

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

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

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

"Immediate precursor" means a substance which the Division of Consumer Affairs in the Department of Law and Public Safety has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate

chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

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

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

"State" means the State of New Jersey.

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

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

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

"Stramonium plant" means the plant *Datura Stramonium* Linne, including *Datura Tatula* Linne. (cf: P.L.2013, c.35, s.1)

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

2C:35-5. Manufacturing, Distributing or Dispensing. a. Except as authorized 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 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-methylenedioxyamphetamine 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]~~ \$500,000 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]~~ \$75,000 may be imposed;

(4) A substance classified as a narcotic drug in Schedule I or II 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 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]~~ \$75,000 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]~~ \$500,000 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]~~ \$300,000 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]~~ \$75,000 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 in a quantity of five pounds 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]~~ \$300,000 may be imposed;

(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 in a quantity of one pound or more but less than five pounds, including any adulterants and dilutants, is guilty of a crime of the second degree;

(11) Marijuana in a quantity of one ounce or more but less than five pounds including any adulterants or dilutants, or hashish in a quantity of five grams or more but less than one pound

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 ~~[\$25,000.00]~~ \$25,000 may be imposed; (12) [Marijuana in a quantity of less than one ounce including any adulterants or dilutants, or hashish in a quantity of less than five grams including any adulterants or dilutants, is guilty of a crime of the fourth degree;] (Deleted by amendment, P.L. c.) (pending before the Legislature as this bill)

(13) Any other controlled dangerous substance classified in Schedule I, II, III or IV, 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]~~ \$25,000 may be imposed; or

(14) 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]~~ \$25,000 may be imposed.

c. Where the degree of the offense for violation of this section depends on the quantity of the substance, the quantity involved shall be determined by the trier of fact. 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)

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

1. Except as authorized by P.L. , c. (C.) (pending before the Legislature as this bill):

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 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 1,000 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 1,000 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)

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

1. Except as authorized by P.L. , c. (C.) (pending before the Legislature as this bill):

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 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 "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 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)

32. 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 by P.L.1970, c.226 (C.24:21-1 et seq.), or except as authorized by 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] \$35,000 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] \$15,000 may be imposed;

(3) Possession of [more than] 50 grams or more of marijuana, including any adulterants or dilutants, or more than five grams of hashish 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] \$25,000 may be imposed; or

(4) Possession of [50 grams or less] more than one ounce (28.38 grams) but less than 50 grams, of marijuana, including any adulterants or dilutants, [or five grams or less of hashish] is a disorderly person.

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.

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, 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.

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

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

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

[As] Except as authorized by P.L. c. (C.) (pending before the Legislature as this bill), 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. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances or controlled substance analogs; j. 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)] (3) 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)] (4) miniature cocaine spoons, and cocaine vials; [(7)] (5) chamber pipes; [(8)] (6) carburetor pipes; [(9)] (7) electric pipes; [(10)] (8) air-driven pipes; [(11)] (9) chillums; [(12)] (10) bongs; [(13)] (11) ice pipes or chillers; [(14)] (12) compressed gas containers, such as tanks, cartridges or canisters, that contain food grade or pharmaceutical grade nitrous oxide as a principal ingredient; [(15)] (13) 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)] (14) 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.

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

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

[No] Except as authorized by P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and P.L. , c. (C.) (pending before the Legislature as this bill), 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] \$50** and shall forthwith forfeit his right to operate a motor vehicle for a period of two years from the date of his conviction.

(cf: P.L.1985, c. 239, s.1)

35. (New section) Consumer Protections.

a. Individuals and licensed marijuana establishments shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business, occupational, or professional licensing board or bureau, solely for conduct permitted under this act.

b. The presence of cannabinoid metabolites in the bodily fluids of a person engaged in conduct permitted under P.L. , c. (C.) (pending before the Legislature as this bill) by the following:

(1) a student, employee, or tenant, shall not form the basis for refusal to enroll or employ or lease to or otherwise penalize that person, unless failing to do so would put the school, employer, or landlord in violation of federal law or cause it to lose a federal contract or funding; and

(2) a patient shall not constitute the use of an illicit substance resulting in denial of medical care, including organ transplant, and a patient's use of marijuana may only be considered with respect to evidence-based clinical criteria;

(3) a parent or legal guardian of a child or newborn infant, or a pregnant woman shall not form the sole or primary basis for any action or proceeding by the Division of Child Protection and Permanency, or any successor agencies.

36. (New section) a. Law enforcement agencies in New Jersey shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the

Controlled Substances Act, 21 U.S.C. 801 et seq., solely for actions consistent with P.L. , c. (C.) (pending before the Legislature as this bill), except pursuant to a valid court order.

b. No agency or subdivision of an agency of the State of New Jersey may refuse to perform any duty under P.L. , c. (C.) (pending before the Legislature as this bill) on the basis that manufacturing, distributing, dispensing, possessing, or using marijuana is prohibited by federal law.

c. The division may not revoke or refuse to issue or renew a license P.L. , c. (C.) (pending before the Legislature as this bill) on the basis that manufacturing, distributing, dispensing, possessing, or using marijuana is prohibited by federal law.

37. (New section) Contract Enforceability.

No contract shall be unenforceable on the basis that manufacturing, distributing, dispensing, possessing, or using marijuana is prohibited by federal law. No contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the division, 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, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

38. (New section) Criminal Investigation.

a. None of the following shall, individually or in combination, constitute reasonable articulable suspicion of a crime:

(1) The odor of marijuana or burnt marijuana;

(2) The possession of or the suspicion of possession of marijuana without evidence of quantity in excess of one ounce; or

(3) The possession of marijuana without evidence of quantity in excess of one ounce in proximity to any amount of cash or currency.

b. Subsection a. of this section shall not apply when a law enforcement officer is investigating whether a person is driving under the influence of marijuana or driving while impaired by marijuana in violation of R.S.39:4-50.

39. (New section) Marijuana Control and Regulation Fund. All fees, penalties and tax revenues collected by the Director of the Division of Marijuana Enforcement pursuant to the provisions of P.L. c. (C.) (pending before the Legislature as this bill) shall be forwarded to the State Treasurer for deposit in a special nonlapsing fund which shall be known as the "Marijuana Control and Regulation Fund." Monies in the fund shall be used exclusively for the operation of the Division of Marijuana Enforcement and for reimbursement of all additional costs of enforcement of the provisions of P.L. c. (C.) (pending before the Legislature as this bill) incurred by the Department of the Treasury.

40. (New section) Marijuana Regulation Review Commission.

a. The Marijuana Regulation Review Commission shall consist of one member appointed by the Governor, one member appointed by the President of the Senate who shall be a member of the Senate, and one member appointed by the Speaker of the General Assembly who shall be a member of the General Assembly. The presiding officer of the commission shall be determined by the members. The members of the commission shall serve without pay in connection with all such duties as are prescribed in P.L. c. (C.) (pending before the Legislature as this bill).

b. The commission shall call upon the Department of the Treasury to assist in any staff or clerical functions of the commission.

c. All meetings of the commission shall be open to the public and all the business of the commission shall be transacted at public meetings held at such time and place as the commission shall prescribe. The commission shall meet at such times as determined by the chairperson of the commission.

The secretary shall transmit to each member of the commission a copy of the minutes of each meeting within 24 hours after the adjournment thereof. The minutes of the commission shall be open to inspection by any citizen of the State at all times during business hours.

d. The commission shall formulate and adopt rules of procedure for the commission in exercising its powers and fulfilling its duties under P.L. , c. (C.) (pending before the Legislature as this bill).

e. The concurrence of two of the members of the commission shall be necessary to validate all acts of the commission.

f. The commission shall make an annual detailed report of its actions and operations to the Legislature and render such other reports to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), as it shall from time to time require.

g. The Marijuana Regulation Review Commission shall review and approve regulations developed by the division pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) and may require regulations as deemed necessary. The commission shall have such other and further powers and perform such other and further duties as may be conferred or imposed upon it from time to time by the Legislature.

41. (New section) Possession of up to one ounce of marijuana shall constitute a civil violation not subject to arrest, and limited to a fine of up to \$100, notwithstanding the provisions of N.J.S. 2C:35-10.

42. (New section) Retail Marijuana Consumption area. a. A local governmental entity may authorize the operation of retail marijuana consumption areas within its jurisdiction through the enactment of an ordinance.

b. (1) If a local governmental entity authorizes the operation of retail marijuana consumption areas, it may adopt an approval requirement that complies with the requirements of this act. The local governmental entity may require additional or more stringent requirements than those provided in this section.

(2) Notwithstanding the provisions of this subsection, a local governmental entity shall not allow a retail marijuana consumption area endorsement to a marijuana retailer that is within one thousand feet of a boundary with an adjoining jurisdiction that does not permit retail marijuana establishments in its boundaries.

c. The division may issue a retail marijuana consumption area endorsement only to a marijuana retail licensee to sell retail marijuana, retail concentrate, or retail marijuana products for on-premises consumption.

d. Applications for an endorsement pursuant to this section shall be made to the division on forms prepared and furnished by the division and shall set forth such information as division may require. The information shall include the name and address of the applicant, the address of the licensed marijuana retail store and the endorsed premises, and any other information requested by the division. Each application shall be verified by the oath or affirmation of such person or persons as the division may prescribe. The endorsement is conditioned upon approval by a local governmental entity. An applicant is prohibited from operating a retail marijuana consumption area without State and local licensing authority. If the applicant does not receive approval from the local governmental entity within one year from the date of State licensing approval, the State endorsement expires and may not be renewed. If an application is denied by the local

governmental entity or the approval of the local governmental entity is revoked, the division shall revoke the State endorsement.

e. The division shall deny a State endorsement if the premises on which the applicant proposes to conduct its business does not meet the requirements of P.L. , c. (C.) (pending before the Legislature as this bill) or for reasons set forth in this section. The division may revoke or deny an endorsement renewal or reinstatement or an initial endorsement for good cause.

For purposes of this subsection "good cause" means:

(1) the endorsed licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this section, any rules promulgated pursuant to this section, or any supplemental local law, rules, or regulations;

(2) the endorsed licensee or applicant has failed to comply with any special terms or conditions that were placed on its endorsement pursuant to an order of the state or local licensing authority; or

(3) the premises have been operated in a manner that adversely affects the public health or the safety of the immediate neighborhood in which the establishment is located.

f. The retail marijuana consumption area endorsement is valid for one year and may be renewed annually upon the renewal of the retail marijuana store license. The division shall establish by rule the amount of the application fee and renewal fee for the endorsement.

g. The division shall maintain a list of all retail marijuana consumption area in the state and shall make the list available on its website.

h. Except as otherwise specified, all requirements of the marijuana retail store apply to the retail marijuana consumption area.

i. A retail marijuana consumption establishment shall be subject to the provisions of P.L.2005, c.383 (C.26:3D-55 et al.) the "New Jersey Smoke-Free Air Act."

j. An endorsed licensee and its employees shall not:

(1) permit a person to bring medical or retail marijuana, medical or retail marijuana concentrate, a medical marijuana-infused product, or a retail marijuana product into a retail marijuana consumption area;

(2) sell alcohol, including fermented malt beverages or malt, vinous, or spirituous liquor, sell tobacco or nicotine products, or allow the consumption of alcohol or tobacco or nicotine products on premises;

(3) operate as a retail food establishment;

(4) allow on-duty employees of the establishment to consume any medical or retail marijuana, medical or retail marijuana concentrate, medical marijuana-infused products, or retail marijuana products in the establishment; or

(5) allow distribution of free samples of medical or retail marijuana, medical or retail marijuana concentrate, medical marijuana-infused products, or retail marijuana products in the establishment.

k. A retail marijuana consumption area and its employees shall admit into the establishment only patrons who are at least 21 years of age.

l. (1) A retail marijuana consumption area shall limit a patron to one transaction of no more than the sales limit set by the division. A retail marijuana consumption area shall not engage in multiple sales transactions to the same patron during the same business day when the establishment's employee knows or reasonably should have known that the sales transaction would result in the patron possessing more than the sales limit established by the division. A patron may leave the establishment with product that he does not consume only if, prior to leaving the premises, the retail marijuana, retail marijuana concentrate, or retail marijuana product is packaged and labeled pursuant to the requirements of P.L. c. (C.) (pending before the Legislature as this bill).

(2) When a patron leaves a retail marijuana consumption area, the establishment shall destroy any remaining unconsumed retail marijuana, retail marijuana concentrate, or retail marijuana products that are not taken by a patron pursuant to this subsection.

m. A retail marijuana consumption area and its employees:

(1) shall operate the establishment in a decent, orderly, and respectable manner and shall not serve any patron who displays any visible signs of intoxication;

(2) may remove an individual from the establishment for any reason, including a patron who displays any visible signs of intoxication;

(3) shall not knowingly permit any activity or acts of disorderly conduct;

(4) shall not permit rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the licensed establishment is located; and

(5) shall not allow the use of any device using any liquid petroleum gas, a butane torch, a butane lighter, or matches in the establishment.

n. A retail marijuana consumption area and all of its employees who work at the endorsed premises shall successfully complete an annual responsible vendor training program.

o. A retail marijuana consumption area shall provide information regarding the safe consumption of retail marijuana, retail marijuana concentrate, or a retail marijuana product at the point of sale to all patrons who purchase such a product. The requirements for such information shall be established by the division, established pursuant to P.L. c. (C.) (pending before the Legislature as this bill). The content of the information on health and safety shall be based on the relevant research from the panel of health care professionals appointed pursuant to P.L. c. (C.) (pending before the Legislature as this bill).

p. A local governmental entity may require information regarding the safe consumption of retail marijuana concentrate or a retail marijuana product in addition to that required by this section.

q. The information required by this section shall be maintained on the endorsed premises for inspection by State and local licensing authorities and law enforcement.

r. The establishment shall ensure that the display and consumption of any retail marijuana, retail marijuana concentrate, or retail marijuana product is not visible from outside of the establishment.

s. If an emergency requires law enforcement, firefighters, emergency medical services providers, or other public safety personnel to enter a retail marijuana consumption area, employees of the establishment shall cease all on-site sales and prohibit on-site consumption until such personnel have completed their investigation or services and have left the premises.

43. Section 3 of P.L.2005, c. 383 (C.26:3D-57) is amended to read as follows:

3. As used in this act:

"Bar" means a business establishment or any portion of a nonprofit entity, which is devoted to the selling and serving of alcoholic beverages for consumption by the public, guests, patrons or members on the premises and in which the serving of food, if served at all, is only incidental to the sale or consumption of such beverages.

"Cigar bar" means any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

"Cigar lounge" means any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

"Electronic smoking device" means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe.

"Indoor public place" means a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

"Retail marijuana consumption area" means any area in a marijuana retail establishment, pursuant to section 42 of P.L. , c. (C.) (pending before the Legislature as this bill), designated specifically for the smoking of marijuana purchased on the premises; provided that the area shall be enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking area and smoke is not backstreamed into the nonsmoking areas.

"Person having control of an indoor public place or workplace" means the owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased.

"Smoking" means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

"Tobacco retail establishment" means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

"Workplace" means a structurally enclosed location or portion thereof at which a person performs any type of service or labor.

(cf: P.L.2009, c.182, s.2)

44. Section 5 of P.L.2005, c. 383 (C.26:3D-59) is amended to read as follows:

5. The provisions of this act shall not apply to:

a. any cigar bar or cigar lounge that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if: (1) in the preceding calendar year, the cigar bar or lounge generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (2) the cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004;

b. any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking;

c. any tobacco business when the testing of a cigar or pipe tobacco by heating, burning or smoking is a necessary and integral part of the process of making, manufacturing, importing or distributing cigars or pipe tobacco;

d. private homes, private residences and private automobiles;

e. the area within the perimeter of:

(1) any casino as defined in section 6 of P.L.1977, c.110 (C.5:12-6) approved by the Casino Control Commission that contains at least 150 stand-alone slot machines, 10 table games, or some combination thereof approved by the commission, which machines and games are available to the public for wagering; and

(2) any casino simulcasting facility approved by the Casino Control Commission pursuant to section 4 of P.L.1992, c.19 (C.5:12-194) that contains a simulcast counter and dedicated seating for at least 50 simulcast patrons or a simulcast operation and at least 10 table games, which simulcast facilities and games are available to the public for wagering; [and]

f. research laboratories and other facilities that have been approved by the Department of Health to permit smoking for the purpose of medical research related to the health effects of smoking, in an indoor facility that is separately ventilated for the purpose of medical or scientific research that is conducted under physician supervision and has been approved by an Investigational Review Board (IRB), if the facility is used solely and exclusively for clinical research activities; and

g. any marijuana retail establishment, or any area the marijuana retail establishment provides for the purposes of retail marijuana consumption pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

(cf:P.L.2017, c.271)

45. (New section) Impact Zones. a. The impact zones identified in subsection c. of this section identify the characteristics of geographical areas where a combination of social and economic factors reduce the likelihood that persons from that area would, without support, benefit from a marijuana business, employment and other related opportunities.

b. New Jersey shall establish a prioritization system for issuing marijuana licenses to applicants who (1) meet all licensing requirements of P.L. c. (C.) (pending before the Legislature as this bill) and (2) meet the requirements of subsection c. of this section.

c. Census tracts in New Jersey that rank in the top 33% for marijuana related arrests and the bottom 33% for median household income shall be designated an impact zone. To the extent possible, at least 25% of the total licenses awarded for Class 4 Marijuana Retailer license shall be awarded to applicant who can demonstrate one of the following criteria, with higher tiers given priority within this license category:

(1) Tier 1 – at least 51% of the equity associated with the ownership of the dispensary belongs to individuals who live in an impact zone;

(2) Tier 2 – At least 20% of the equity associated with the ownership of the dispensary belongs to individuals who live in an impact zone;

(3) Tier 3 – This tier shall incubate a Tier 1 or Tier 2 business by providing free lease space financial support or other support identified by the division.

d. To the extent possible, of the 25% of the licenses awarded pursuant to subsection c., the division shall seek to ensure that at least 75% of those licenses shall be awarded to applications that seek to establish a dispensary in an Impact Zone.

e. An individual shall be deemed a resident of an impact zone who can establish residency in an impact zone for five of the last ten years.

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

2. The Legislature finds and declares that:

a. Modern medical research has discovered a beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain [debilitating] medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999 [;] .

b. According to the U.S. Sentencing Commission and the Federal Bureau of Investigation, 99 out of every 100 marijuana arrests in the country are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marijuana [;] .

c. Although federal law currently prohibits the use of marijuana, the laws of Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, [and] Washington, West Virginia, and the District of Columbia permit the use of marijuana for medical purposes, and in Arizona doctors are permitted to prescribe marijuana. New Jersey joins this effort for the health and welfare of its citizens [;] .

d. States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law; therefore, compliance with this act does not put the State of New Jersey in violation of federal law [; and] .

e. Compassion dictates that a distinction be made between medical and non-medical uses of marijuana. Hence, the purpose of this act is to protect from arrest, prosecution, property forfeiture, and criminal and other penalties, those patients who use marijuana to alleviate suffering from [debilitating] qualifying medical conditions, as well as their [physicians] health care practitioners, [primary] designated caregivers, institutional caregivers, and those who are authorized to produce marijuana for medical purposes.

(cf: P.L.2009, c.307, s.2)

47. Section 3 of P.L.2009, c.307 (C.24:6I-3) is amended to read as follows:

3. As used in [this act] P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill):

“ATC identification card” means a document issued by the department that identifies a person as an owner, director, board member, principal officer, or employee of an ATC.

“Bona fide [physician-patient] practitioner-patient relationship” means a relationship in which the [physician] health care practitioner has ongoing responsibility for the assessment, care, and treatment of a patient's [debilitating] qualifying medical condition.

“Central region” means the counties of Hunterdon, Middlesex, Mercer, Monmouth, Ocean, Somerset, and Union.

["Certification" means a statement signed by a physician with whom a qualifying patient has a bona fide physician-patient relationship, which attests to the physician's authorization for the patient to apply for registration for the medical use of marijuana.]

"Commissioner" means the Commissioner of Health.

"Common ownership or control" means:

(1) between two for-profit entities, the same individuals or entities own and control more than 50 percent of both entities;

(2) between a nonprofit entity and a for-profit entity, a majority of the directors, trustees, or members of the governing body of the nonprofit entity directly or indirectly own and control more than 50 percent of the for-profit entity; and

(3) between two nonprofit entities, the same directors, trustees, or governing body members comprise a majority of the voting directors, trustees, or governing body members of both nonprofits.

"Cultivate" means possessing, planting, propagating, cultivating, growing, harvesting, labeling, and storing medical marijuana consistent with P.L.2009, c.307 (C.24:6I-1 et al.).

["Debilitating medical condition" means:

(1) one of the following conditions, if resistant to conventional medical therapy: seizure disorder, including epilepsy; intractable skeletal muscular spasticity; post-traumatic stress disorder; or glaucoma;

(2) one of the following conditions, if severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome results from the condition or treatment thereof: positive status for human immunodeficiency virus; acquired immune deficiency syndrome; or cancer;

(3) amyotrophic lateral sclerosis, multiple sclerosis, terminal cancer, muscular dystrophy, or inflammatory bowel disease, including Crohn's disease;

(4) terminal illness, if the physician has determined a prognosis of less than 12 months of life; or

(5) any other medical condition or its treatment that is approved by the department by regulation.]

"Department" means the Department of Health.

"Designated caregiver" means a resident of the State who:

(1) is at least 18 years old;

(2) has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as designated caregiver for more than one other qualifying patient, and is not the qualifying patient's health care practitioner;

(3) has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law related to possession or sale of marijuana that is authorized under P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill):

(4) has registered with the department pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4), and, except in the case of a designated caregiver who is an immediate family member of the patient, has satisfied the criminal history record background check requirement of section 4 of P.L.2009, c.307 (C.24:6I-4); and

(5) has been designated as designated caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the department.

"Health care facility" means a general acute care hospital, nursing home, long term care facility, hospice care facility, or rehabilitation center.

"Health care practitioner" means a physician, advanced practice nurse, physician assistant, or other person licensed or certified pursuant to Title 45 of the Revised Statutes who:

(1) possesses active registrations to prescribe controlled dangerous substances issued by the United States Drug Enforcement Administration and the Division of Consumer Affairs in the Department of Law and Public Safety;

(2) has a bona fide practitioner-patient relationship with the patient; and

(3) is the health care practitioner responsible for the ongoing treatment of a patient's qualifying medical condition, provided, however, that the ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose.

"Immediate family" means the spouse, civil union partner, child, sibling, or parent of an individual, and shall include the siblings and parents of the individual's spouse or civil union partner, and the spouses or civil union partners of the individual's siblings and children.

"Impact zone" means any census tract that ranks in the top 33 percent of census tracts in the State for marijuana-related arrests and that ranks in the bottom 33 percent of census tracts in the State for median household income.

"Institutional caregiver" means a resident of the State who:

(1) is at least 18 years old;

(2) is an employee of a health care facility;

(3) is authorized, within the scope of the individual's professional duties, to possess and administer controlled dangerous substances in connection with the care and treatment of qualifying patients and residents pursuant to applicable State and federal laws;

(4) is authorized by the health care facility employing the person to assist registered qualifying patients who are patients or residents of the facility with the medical use of marijuana, including, but not limited to, obtaining medical marijuana for registered qualifying patients at the facility and assisting registered qualifying patients with the administration of medical marijuana;

(5) has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law related to possession or sale of marijuana that is authorized under P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill); and

(6) has registered with the department pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4).

"Interest holder" means a direct or indirect owner, part owner, investor, lender, stockholder, officer, director, partner, or member of any corporation, partnership, limited liability company, limited liability partnership, employee cooperative, association, nonprofit corporation, business entity, or any other person with a direct ownership interest or indirect interest through intermediary business entities or other structures in an alternative treatment center.

"Marijuana" has the meaning given in section 2 of the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-2).

"Medical marijuana alternative treatment center" or "alternative treatment center" or "ATC" means an organization [approved] issued a permit by the department to [perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of this act] operate as a medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary. This term shall include the organization's officers, directors, board members, and employees.

"Medical use of marijuana" means the acquisition, possession, transport, or use of marijuana or paraphernalia by a registered qualifying patient as authorized by [this act] P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Medical marijuana cultivator" means an organization holding a permit issued by the department that authorizes the organization to: possess and cultivate marijuana; purchase or

obtain medical marijuana and related supplies from other medical marijuana cultivators; and deliver, transfer, transport, distribute, supply, and sell medical marijuana and related supplies to other medical marijuana cultivators and to medical marijuana processors and medical marijuana dispensaries. A medical marijuana cultivator permit shall not authorize the permit holder to produce, manufacture, or otherwise create marijuana-infused products and marijuana-derived products or to deliver, transfer, transport, distribute, supply, sell, or dispense medical marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, or related supplies to qualifying patients or their designated or institutional caregivers.

“Medical marijuana dispensary” means an organization issued a permit by the department that authorizes the organization to: obtain medical marijuana, marijuana-infused products, and marijuana derived products from medical marijuana cultivators and medical marijuana processors; deliver, transfer, transport, distribute, supply, and sell medical marijuana, marijuana-infused products, marijuana-derived products, and related supplies to other medical marijuana dispensaries; and to possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, and related supplies to qualifying patients and their designated and institutional caregivers. A medical marijuana dispensary permit shall not authorize the permit holder to cultivate marijuana or to produce, manufacture, or otherwise create marijuana-infused products or marijuana-derived products.

“Medical marijuana processor” means an organization issued a permit by the department that authorizes the organization to: obtain medical marijuana from a medical marijuana cultivator; purchase or obtain medical marijuana, marijuana-infused products, marijuana-derived products, and related supplies from another medical marijuana processor; produce, manufacture, or otherwise create marijuana-infused products and marijuana-derived products; and possess, deliver, transfer, transport, distribute, supply, and sell medical marijuana, marijuana-infused products, marijuana-derived products, and related supplies to other medical marijuana processors and to medical marijuana dispensaries. A medical marijuana dispensary permit shall not authorize the permit holder to cultivate marijuana or to deliver, transfer, transport, distribute, supply, sell, or dispense medical marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, or related supplies to qualifying patients or their designated or institutional caregivers.

"Minor" means a person who is under 18 years of age and who has not been married or previously declared by a court or an administrative agency to be emancipated.

“Northern region” means the counties of Bergen, Essex, Hudson, Morris, Passaic, Sussex, and Warren.

"Paraphernalia" has the meaning given in N.J.S.2C:36-1.

["Physician" means a person licensed to practice medicine and surgery pursuant to Title 45 of the Revised Statutes with whom the patient has a bona fide physician-patient relationship and who is the primary care physician, hospice physician, or physician responsible for the ongoing treatment of a patient's debilitating medical condition, provided, however, that the ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose.]

["Primary caregiver" or "caregiver" means a resident of the State who:

- a. is at least 18 years old;
- b. has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as primary caregiver for another qualifying patient, and is not the qualifying patient's physician;

c. has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of this act and was for a violation of federal law related to possession or sale of marijuana that is authorized under this act;

d. has registered with the department pursuant to section 4 of this act, and has satisfied the criminal history record background check requirement of section 4 of this act; and

e. has been designated as primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the department.]

"Qualifying medical condition" means seizure disorder, including epilepsy; intractable skeletal muscular spasticity; post-traumatic stress disorder; glaucoma; positive status for human immunodeficiency virus; acquired immune deficiency syndrome; cancer; amyotrophic lateral sclerosis; multiple sclerosis; muscular dystrophy; inflammatory bowel disease, including Crohn's disease; terminal illness, if the patient has a prognosis of less than 12 months of life; anxiety; migraine; Tourette's syndrome; chronic pain; or any other medical condition or its treatment that is approved by the department.

"Qualifying patient" or "patient" means a resident of the State who has been [provided with a certification] authorized for the medical use of marijuana by a [physician] health care practitioner pursuant to a bona fide [physician-patient] practitioner-patient relationship.

"Region" means the northern region, the central region, or the southern region, as defined in this section.

"Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient [or primary] , designated caregiver, or institutional caregiver.

"Southern region" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem.

"Terminally ill" means having an illness or condition with a prognosis of less than 12 months of life.

"Usable marijuana" means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stems, stalks, or roots of the plant.

(cf: P.L.2016, c.53, s.1)

48. Section 4 of P.L.2009, c.307 (C.24:6I-4) is amended to read as follows:

4. a. The department shall establish a registry of qualifying patients and their [primary] designated caregivers, and shall issue a registry identification card, which shall be valid for two years, to a qualifying patient and [primary] each designated caregiver for the patient, if applicable, who submits the following, in accordance with regulations adopted by the department:

(1) [a certification that meets the requirements of section 5 of this act] documentation of a health care practitioner's authorization for the medical use of marijuana;

(2) an application or renewal fee, which may be based on a sliding scale as determined by the commissioner;

(3) the name, address, and date of birth of the patient and each designated caregiver, as applicable; and

(4) the name, address, and telephone number of the patient's [physician] health care practitioner.

Each qualifying patient may concurrently have up to two designated caregivers. A qualifying patient may petition the department for approval to concurrently have more than two caregivers, which petition shall be approved if the department finds that allowing the patient additional designated caregivers is necessary to meet the patient's treatment needs and is consistent with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

The department shall establish a registry of institutional caregivers and shall issue a registry identification card, which shall be valid for one year, to an institutional caregiver who submits: an application or renewal fee as determined by the commissioner; the name, address, and telephone number of the institutional caregiver and of the health care facility at which the individual will be serving as institutional caregiver; and a certification that meets the requirements of subsection h. of this section.

b. Before issuing a registry identification card, the department shall verify the information contained in the application or renewal form submitted pursuant to this section. In the case of a [primary] designated or institutional caregiver, the department shall provisionally approve an application pending the results of a criminal history record background check, if the caregiver otherwise meets the requirements of [this act] P.L.2009, c.307 (C.24:6I-1 et al.). The department shall approve or deny an application or renewal within 30 days of receipt of the completed application or renewal, and shall issue a registry identification card within five days of approving the application or renewal. The department may deny an application or renewal only if the applicant fails to provide the information required pursuant to this section, or if the department determines that the information was incorrect or falsified or does not meet the requirements of [this act] P.L.2009, c.307 (C.24:6I-1 et al.). Denial of an application shall be a final agency decision, subject to review by the Superior Court, Appellate Division.

c. (1) The commissioner shall require each applicant seeking to serve as a [primary] designated or institutional caregiver to undergo a criminal history record background check; except that no criminal history record background check shall be required for an applicant seeking to serve as a designated caregiver if the applicant is an immediate family member of the patient, and no criminal history record background check shall be required for an applicant seeking to serve as an institutional caregiver if the applicant completed a criminal history record background check as a condition of employment in the applicant's current position. The commissioner is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commissioner in a timely manner when requested pursuant to the provisions of this section.

An applicant seeking to serve as a [primary] designated or institutional caregiver who is required to complete a criminal history record background check pursuant to this section shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished [his] the applicant's written consent to that check. An applicant who is required to complete a criminal history record background check pursuant to this section who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for inclusion in the registry as a [primary] designated or institutional caregiver or issuance of an identification card. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commissioner shall not approve an applicant seeking to serve as a [primary] designated or institutional caregiver who is required to complete a criminal history record background check pursuant to this section if the criminal history record background information of the applicant reveals a disqualifying conviction. For the purposes of this section, a disqualifying conviction shall mean a conviction of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or of any other state.

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of [his] the applicant's qualification or disqualification for serving as a [primary] designated or institutional caregiver.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(4) The Division of State Police shall promptly notify the commissioner in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commissioner shall make a determination regarding the continued eligibility of the applicant to serve as a [primary] designated or institutional caregiver.

(5) Notwithstanding the provisions of subsection b. of this section to the contrary, no applicant shall be disqualified from serving as a registered [primary] designated or institutional caregiver on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commissioner clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(a) the nature and responsibility of the position which the convicted individual would hold, has held, or currently holds;

(b) the nature and seriousness of the crime or offense;

(c) the circumstances under which the crime or offense occurred;

(d) the date of the crime or offense;

(e) the age of the individual when the crime or offense was committed;

(f) whether the crime or offense was an isolated or repeated incident;

(g) any social conditions which may have contributed to the commission of the crime or offense; and

(h) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

d. A registry identification card shall contain the following information:

(1) (a) in the case of a registry identification card for a patient or designated caregiver, the name, address, and date of birth of the patient and [primary] each designated caregiver, if applicable; and

(b) in the case of an institutional caregiver, the caregiver's name and date of birth and the name and address of the health care facility at which the caregiver is serving as an institutional caregiver;

(2) the expiration date of the registry identification card;

(3) photo identification of the cardholder; and

(4) such other information that the department may specify by regulation.

e. (1) A patient who has been issued a registry identification card shall notify the department of any change in the patient's name, address, or [physician] health care practitioner or change in status of the patient's [debilitating] qualifying medical condition, within 10 days of such change, or the registry identification card shall be deemed null and void.

(2) A [primary] designated caregiver who has been issued a registry identification card shall notify the department of any change in the caregiver's name or address within 10 days of such change, or the registry identification card shall be deemed null and void.

(3) An institutional caregiver who has been issued a registry identification card shall notify the department of any change in the caregiver's name, address, employment by a health care facility at which the caregiver is registered to serve as institutional caregiver, or authorization from the health care facility to assist patients or residents with the medical use of marijuana, within 10 days of such change, or the registry identification card shall be deemed null and void and the individual shall be deemed ineligible to serve as an institutional caregiver for a period of not less than one year.

f. The department shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual names and other identifying information on the list, and information contained in any application form, or accompanying or supporting document shall be confidential, and shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed except to:

(1) authorized employees of the department and the Division of Consumer Affairs in the Department of Law and Public Safety as necessary to perform official duties of the department and the division, as applicable; and

(2) authorized employees of State or local law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medical use of marijuana is lawfully in possession of a registry identification card.

g. Applying for or receiving a registry card does not constitute a waiver of the qualifying patient's [patient-physician] patient-practitioner privilege.

h. An applicant seeking to serve as an institutional caregiver shall submit with the application a certification executed by the director or administrator of the health care facility employing the applicant attesting that:

(1) the facility has authorized the applicant to assist registered qualifying patients at the facility with the medical use of marijuana, including obtaining medical marijuana from an alternative treatment center and assisting qualifying patients with the administration of medical marijuana;

(2) the facility has established protocols and procedures and implemented security measures to ensure that any medical marijuana present at the facility is stored in a safe and secure manner that prevents theft, diversion, adulteration, and access by unauthorized individuals;

(3) the facility has established protocols and procedures to review the medications and treatment plans of qualifying patients at the facility to ensure that the patient's medical use of marijuana will not result in adverse drug interactions, side effects, or other complications that could significantly jeopardize the health or safety of the patient;

(4) the facility will not charge a qualifying patient for medical marijuana obtained on the qualifying patient's behalf in an amount that exceeds the actual cost of the medical marijuana, plus any reasonable costs incurred in acquiring the medical marijuana;

(5) the facility has established protocols and procedures concerning whether, and to what extent, designated caregivers are permitted to assist qualifying patients with the medical use of marijuana while at the facility; and

(6) the facility will promptly notify the commissioner in the event that:

(a) an institutional caregiver registered with the department pursuant to this section ceases to be employed by the facility or ceases to be authorized by the facility to assist qualifying patients with the medical use of marijuana, in which case, upon receipt of the notification, the commissioner shall immediately revoke the institutional caregiver's registration; or

(b) an institutional caregiver registered with the department pursuant to this section, who completed a criminal history record background check as a condition of employment, is convicted of a crime or offense in this State after the date the criminal history background check was performed, in which case, upon receipt of that notification, the commissioner shall make a determination regarding the continued eligibility of the applicant to serve as an institutional caregiver.

Nothing in this section shall be deemed to require any facility to authorize any employee of the facility to serve as an institutional caregiver or to issue a certification that meets the requirements of this subsection.

(cf: P.L.2009, c.307, s.4)

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

6. a. The provisions of N.J.S.2C:35-18 shall apply to any qualifying patient, [primary] designated caregiver, institutional caregiver, health care facility, alternative treatment center, [physician] health care practitioner, or any other person acting in accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.) [or] P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. A qualifying patient, [primary] designated caregiver, institutional caregiver, health care facility, alternative treatment center, [physician] health care practitioner, or any other person acting in accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.) [or] P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill) shall not be subject to any civil or administrative penalty, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a professional licensing board, related to the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) [or] P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or the property of the person possessing or applying for the registry identification card, or otherwise subject the person or [his] the person's property to inspection by any governmental agency.

d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82), relating to destruction of marijuana determined to exist by the department, shall not apply if a qualifying patient [or primary] , designated caregiver, or institutional caregiver has in his possession a registry identification card and no more than the maximum amount of usable marijuana that may be obtained in accordance with section 10 of P.L.2009, c.307 (C.24:6I-10).

e. No person shall be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for simply being in the presence or vicinity of the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) [or] P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

f. No custodial parent, guardian, or person who has legal custody of a qualifying patient who is a minor shall be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for assisting the minor in the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) [or] P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

g. For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of medical marijuana in accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill), shall be considered equivalent to the

authorized use of any other medication used at the direction of a health care practitioner, and shall not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.

h. No public or private school or institution of higher education may refuse to enroll a person solely based on the person's status as a registry identification cardholder, unless failing to do so would result in the school or institution losing a monetary or licensing-related benefit granted pursuant to federal law. No public or private school or institution of higher education shall be penalized or denied any benefit under State law solely on the basis of enrolling a person who is a registry identification cardholder.

i. No person shall refuse to rent, lease, or sublease any real property or part or portion thereof, or discriminate in the terms, conditions, or privileges of the rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith, solely based on the status of the prospective tenant as a registry identification cardholder, unless failing to do so would result in the person losing a monetary or licensing-related benefit granted pursuant to federal law. No such person shall be penalized or denied any benefit under State law solely on the basis of renting or leasing real property to a person who is a registry identification cardholder.

(cf: P.L.2015, c.158, s.4)

50. Section 7 of P.L.2009, c.307 (C.24:61-7) is amended to read as follows:

7. a. (1) The department shall accept applications from entities for permits to operate as alternative treatment centers [, and may charge a reasonable fee for the issuance of a permit under this section]. [The department shall seek to ensure the availability of a sufficient number of]

(2) To ensure access to alternative treatment centers throughout the State, [pursuant to need, including at least two each in] the department shall grant permits authorizing up to a total of 15 medical marijuana cultivators and up to a total of 15 medical marijuana processors, to be evenly distributed among the northern, central, and southern regions of the State, and up to a total of 98 medical marijuana dispensaries, which shall be issued in a manner that ensures that qualifying patients have reasonably sufficient access to medical marijuana dispensaries throughout each region of the State. This total number of permits shall include:

(a) the six alternative treatment center permits issued prior to the effective date of P.L. , c. (pending before the Legislature as this bill), which shall constitute six of the medical marijuana cultivator permits, six of the medical marijuana processor permits, and a total of 18 medical marijuana dispensary permits, with three medical marijuana dispensary permits issued to each alternative treatment center, as follows:

(i) one dispensary permit shall be issued for the location where the alternative treatment center is located on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill); and

(ii) the remaining two dispensary permits shall be issued pursuant to a process that the department shall establish for this purpose;

(b) the six medical marijuana cultivator permits, six medical marijuana processor permits, and 40 medical marijuana dispensary permits issued pursuant to section 61 of P.L. , c. (C.) (pending before the Legislature as this bill);

(c) up to three additional medical marijuana cultivator permits, up to three additional medical marijuana processor permits, and up to 10 additional medical marijuana dispensary permits, which shall be issued based on patient need at such time as at least 100,000 qualifying patients are currently registered with the department;

(d) up to 10 additional medical marijuana dispensary permits, which shall be issued based on patient need at such time as at least 150,000 qualifying patients are currently registered with the department;

(e) up to 10 additional medical marijuana dispensary permits, which shall be issued based on patient need at such time as at least 200,000 qualifying patients are currently registered with the department; and

(f) up to 10 additional medical marijuana dispensary permits, which shall be issued based on patient need at such time as at least 250,000 qualifying patients are currently registered with the department.

(3) (a) The request for applications for 40 additional medical marijuana dispensary permits to be accepted and processed by the department pursuant to section 61 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be solicited based on legislative district, as the districts are constituted on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill). The department shall seek to issue a permit to at least one medical marijuana dispensary in each legislative district, provided that each district has at least one qualified applicant for a permit to operate a medical marijuana dispensary in the district.

(b) Subsequent requests for applications for medical marijuana dispensary permits issued pursuant to subparagraphs (c), (d), (e), and (f) of paragraph (2) of this subsection shall be solicited according to geographic regions to be determined by the department at the time of issuance, which shall ensure that qualifying patients have reasonably sufficient access to medical marijuana dispensaries throughout each region of the State.

(4) Any initial application for a medical marijuana cultivator permit, medical marijuana processor permit, or medical marijuana dispensary permit shall meet the application requirements set forth in section 62 of P.L. , c. (C.) (pending before the Legislature as this bill).

(5) (a) As provided in subparagraph (a) of paragraph (2) of this subsection, an alternative treatment center holding a permit that was issued prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be deemed to hold a medical marijuana cultivator permit, a medical marijuana processor permit, and up to three medical marijuana dispensary permits, and shall be authorized to concurrently hold all three types of permit. [The first two centers issued a permit in each region shall be nonprofit entities, and centers subsequently issued permits may be nonprofit or for-profit entities]

(b) For a period of 36 months after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), no interest holder, or natural person with a direct or indirect interest through intermediary business entities or other structures, in any medical marijuana cultivator, shall own, either in whole or in part, or be directly or indirectly interested in, a medical marijuana processor or a medical marijuana dispensary. The foregoing shall not apply to interest holders of a medical marijuana alternative treatment center issued a permit by the department prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

(c) For a period of 36 months after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), no interest holder, or natural person with a direct or indirect interest through intermediary business entities or other structures, in any medical marijuana processor, shall own, either in whole or in part, or be directly or indirectly interested in, a medical marijuana cultivator or a medical marijuana dispensary. The foregoing shall not apply to interest holders of a medical marijuana alternative treatment center issued a permit by the department prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

(d) For a period of 36 months after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), no interest holder, or natural person with a direct or indirect interest through intermediary business entities or other structures, in any medical marijuana dispensary,

shall own, either in whole or in part, or be directly or indirectly interested in, a medical marijuana cultivator or a medical marijuana processor. The foregoing shall not apply to interest holders of a medical marijuana alternative treatment center issued a permit by the department prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

(e) No applicant shall be awarded more than one medical marijuana cultivator permit, more than one medical marijuana processor permit, or more than three medical marijuana dispensary permits pursuant to the request for applications issued pursuant to section 61 of P.L. , c. (C.) (pending before the Legislature as this bill).

(f) None of the ownership restrictions set forth in this paragraph shall be construed to be implicated solely by any person's ownership of less than 10 percent of the total capitalization of an alternative treatment center.

[An alternative treatment center]

(6) (a) A medical marijuana cultivator shall be authorized to: acquire a reasonable initial and ongoing inventory, as determined by the department, of marijuana seeds or seedlings and paraphernalia, possess, cultivate, plant, grow, harvest, and process [, display, manufacture,] medical marijuana; purchase or obtain medical marijuana from any other medical marijuana cultivator in the State; and deliver, transfer, transport, distribute, supply, or sell [, or dispense] medical marijuana [, or] and related supplies to any medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary in the State. If approved by the department, a medical marijuana cultivator may operate, within the scope of its permit, from more than one physical location.

(b) A medical marijuana processor shall be authorized to: purchase or acquire medical marijuana from any medical marijuana cultivator in the State; purchase or acquire medical marijuana, marijuana-infused products, marijuana-derived products, and related supplies from any other medical marijuana processor in the State; process and manufacture medical marijuana and marijuana-infused and marijuana-derived products; and deliver, transfer, transport, supply, sell, or transfer medical marijuana, marijuana-infused products, marijuana-derived products, and related supplies to any other medical marijuana processor in the State and to any medical marijuana dispensary in the State. If approved by the department, a medical marijuana processor may operate, within the scope of its permit, from more than one physical location.

(c) A medical marijuana dispensary shall be authorized to: purchase or acquire medical marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, and related supplies from any other medical marijuana dispensary in the State and from any medical marijuana cultivator or medical marijuana processor in the State; deliver, transfer, transport, distribute, supply, or sell marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, and related supplies to any other medical marijuana dispensary in the State; and distribute, supply, sell, or dispense marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, and related supplies to qualifying patients or their [primary] designated caregivers or institutional caregivers who are registered with the department pursuant to section 4 of [this act] P.L.2009, c.307 (C.24:61-4). [An alternative treatment center]

(7) A medical marijuana cultivator shall not be limited in the number of strains of medical marijuana cultivated, and a medical marijuana processor shall not be limited in the number of medical marijuana products manufactured. A medical marijuana processor may package, and a medical marijuana dispensary may directly dispense [marijuana] to qualifying patients and their designated and institutional caregivers, medical marijuana in dried form, oral lozenges, topical formulations, transdermal form, sublingual form, tincture form, or edible form, or any other form as authorized by the commissioner. Edible form shall include tablets, capsules, oils, drops or syrups, and any other form as authorized by the commissioner. [Edible forms shall be available only to qualifying patients who are minors.]

(8) Applicants that choose to apply for authorization as [nonprofit] alternative treatment centers with nonprofit status shall be subject to all applicable State laws governing nonprofit entities, but need not be recognized as a 501(c)(3) organization by the federal Internal Revenue Service.

b. The department shall require that an applicant provide such information as the department determines to be necessary pursuant to regulations adopted pursuant to [this act] P.L.2009, c.307 (C.24:6I-1 et al.) and may, in its discretion, require any applicant to submit a personal history disclosure and conduct financial due diligence on any person or entity providing \$100,000 or more in financial backing to an applicant.

c. A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a permit to operate as an alternative treatment center or be [a director, officer, or employee of an alternative treatment center] issued an ATC identification card, unless such conviction occurred after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under [this act] P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. (1) The commissioner shall require each applicant seeking a permit to operate as an alternative treatment center to undergo a criminal history record background check. For purposes of this section, the term "applicant" shall include any applicant for an ATC identification card authorizing the individual to be an owner, director, board member, principal officer, or employee of an alternative treatment center. The commissioner is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commissioner in a timely manner when requested pursuant to the provisions of this section.

An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished [his] the applicant's written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for [a permit to operate, or authorization to be employed at, an alternative treatment center] issuance of an ATC identification card. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commissioner shall not approve an applicant for [a permit to operate, or authorization to be employed at, an alternative treatment center] issuance of an ATC identification card if the criminal history record background information of the applicant reveals a disqualifying conviction as set forth in subsection c. of this section.

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of [his] the applicant's qualification for or disqualification for [a permit to operate or] issuance of an ATC identification card authorizing the individual to be [a] an owner, director, board member, principal officer, or employee of an alternative treatment center, as applicable.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(4) The Division of State Police shall promptly notify the commissioner in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commissioner shall make a determination regarding the continued eligibility to operate or be [a] an owner, director, board member, principal officer, or employee of an alternative treatment center.

(5) Notwithstanding the provisions of subsection b. of this section to the contrary, the commissioner may offer [provisional authority for] an applicant to be an employee of an alternative treatment center a provisional ATC identification card, which shall be valid for a period not to exceed three months if the applicant submits to the commissioner a sworn statement attesting that the [person] applicant has not been convicted of any disqualifying conviction pursuant to this section.

(6) Notwithstanding the provisions of subsection b. of this section to the contrary, no employee of an alternative treatment center shall be disqualified from issuance of an ATC identification card on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commissioner clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(a) the nature and responsibility of the position which the convicted individual would hold, has held, or currently holds;

(b) the nature and seriousness of the crime or offense;

(c) the circumstances under which the crime or offense occurred;

(d) the date of the crime or offense;

(e) the age of the individual when the crime or offense was committed;

(f) whether the crime or offense was an isolated or repeated incident;

(g) any social conditions which may have contributed to the commission of the crime or offense; and

(h) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

e. The department shall issue [a permit to a person to operate as] an alternative treatment center permit to an applicant if the department finds that issuing such a permit would be consistent with the purposes of [this act] P.L.2009, c.307 (C.24:61-1 et al.) and the requirements of this section are met and the department has verified the information contained in the application. The department shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The department may suspend or revoke a permit to operate as an alternative treatment center for cause, which shall be subject to review by the Appellate Division of the Superior Court. An initial permit to operate an alternative treatment center issued on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be valid for three years. Alternative treatment center permits shall be renewable biennially.

f. A person [who has been] or entity issued [a] an alternative treatment center permit pursuant to this section shall display the permit at the premises of the alternative treatment

center at all times when the alternative treatment center is engaged in conduct authorized pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) involving medical marijuana, including, but not limited to, the cultivating, manufacturing, or dispensing of medical marijuana [is being produced, or dispensed to a registered qualifying patient or the patient's primary caregiver].

g. An alternative treatment center shall report any change in information to the department not later than 10 days after such change, or the permit shall be deemed null and void.

h. [An alternative treatment center may charge a registered qualifying patient or primary caregiver for the reasonable costs associated with the production and distribution of marijuana for the cardholder] A medical marijuana cultivator may charge a medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary for the reasonable costs associated with the cultivation of medical marijuana. A medical marijuana processor may charge a medical marijuana processor or medical marijuana dispensary the reasonable costs associated with the processing and manufacture of medical marijuana, marijuana-infused products, marijuana-derived products, and related supplies. A medical marijuana dispensary may charge a medical marijuana dispensary, a registered qualifying patient, or a designated or institutional caregiver, for the reasonable costs associated with furnishing medical marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, and related supplies to the medical marijuana dispensary or the cardholder.

i. The commissioner shall adopt regulations to:

(1) require such written documentation of each delivery of marijuana to, and pickup of marijuana for, a registered qualifying patient, including the date and amount dispensed, to be maintained in the records of the [alternative treatment center] medical marijuana dispensary, as the commissioner determines necessary to ensure effective documentation of the operations of each [alternative treatment center] medical marijuana dispensary;

(2) monitor, oversee, and investigate all activities performed by an alternative treatment center; [and]

(3) ensure adequate security of all facilities 24 hours per day, including production and retail locations, and security of all delivery methods to registered qualifying patients; and

(4) establish thresholds for administrative action to be taken against an alternative treatment center and its employees, officers, investors, directors, or governing board.

j. A medical marijuana cultivator or medical marijuana processor may apply to the department for approval to relocate to another location within the same region, and a medical marijuana dispensary may apply to the department for approval to relocate to another location within the same legislative district, as that district is constituted as of the date of the application. The department may approve an application for relocation if the department finds the relocation would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.). The denial of an application to relocate a medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court.

k. (1) A medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary may apply to the department for approval to sell or transfer its permit to another entity. The department shall not approve the sale or transfer of a permit until each applicant at the entity applying to purchase or receive the transfer of the permit undergoes a criminal history record background check pursuant to subsection d. of this section, the department finds that the sale or transfer of the permit would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.), the requirements of this section are met, and the department has verified the information contained in the application. The department shall approve or deny an application within 90 days after receipt of a completed application. The denial of an application to sell or transfer an alternative treatment center permit shall be considered a final agency decision,

subject to review by the Appellate Division of the Superior Court. The sale or transfer of a permit pursuant to this subsection shall not constitute authorization to relocate the permitted facility unless the entity purchasing or receiving transfer of the permit additionally receives approval for the relocation from the department pursuant to subsection j. of this section.

(2) If a nonprofit medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary proposes to sell or transfer its permit to a for-profit entity, its board of directors may proceed with the sale or transfer upon receiving approval for the sale or transfer from the department pursuant to paragraph (1) of this subsection, and, except as provided in paragraph (3) of this subsection, after obtaining an independent appraisal for the fair market value of the permit. The sale or transfer of the permit shall be consistent with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq. The proceeds of the sale or transfer, following satisfaction of the obligations of the medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary, shall be retained or expended in a manner consistent with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq., or until the organization is lawfully wound down or dissolved. If a nonprofit medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary seeks to sell or transfer its permit to a for-profit entity with which it shares common ownership or control, the sale or transfer shall not proceed unless at least one disinterested director or trustee approves the sale or transfer in accordance with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq.

(3) In the case of a nonprofit alternative treatment center that was issued a permit prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), in lieu of obtaining an independent appraisal of the fair market value of the alternative treatment center’s medical marijuana cultivator permit, medical marijuana processor permit, and each medical marijuana dispensary permit as required under paragraph (2) of this subsection, upon receiving approval for the sale from the department pursuant to paragraph (1) of this subsection, a nonprofit alternative treatment center that was issued a permit prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) may, on a single occasion and no later than one year after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill);

(a) elect to pay the department a fee of \$300,000 and sell or transfer all of its permits for a sum that satisfies its outstanding obligations; or

(b) elect to pay the department a fee of \$100,000 per permit and sell or transfer one or more of its permits for a sum that satisfies its outstanding obligations in connection with that permit. If the alternative treatment center’s outstanding obligations for each permit cannot be determined, each permit held by the alternative treatment center shall be assigned a pro rata share of the total outstanding obligations of the alternative treatment center, which amount shall be deemed the outstanding obligation in connection with that permit for the purposes of this subparagraph.

l. No employee of the department shall have any direct or indirect financial interest in the cultivating, manufacturing, or dispensing of medical marijuana or related paraphernalia, or otherwise receive anything of value from an applicant for an alternative treatment center permit in exchange for reviewing, processing, or making any recommendations with respect to a permit application.

m. In the event that an alternative treatment center fails to comply with any requirements set forth in P.L.2009, c.307 (C.24:61-1 et al.) or any related law or regulation, the department may invoke penalties or take administrative action against the alternative treatment center and its employees, officers, investors, directors, or governing board, including, but not limited to,

assessing fines, referring matters to another State agency, or suspending or terminating any permit held by the alternative treatment center.

n. The maximum fees that may be charged in connection with an alternative treatment center permit shall be as follows:

(1) for an initial three-year permit or biennial renewal of an existing permit:

(a) for a medical marijuana cultivator, \$50,000;

(b) for a medical marijuana processor, \$25,000; and

(c) for a medical marijuana dispensary, \$10,000;

(2) for authorization to relocate a medical marijuana cultivator or medical marijuana processor to a new location within the same region, or for authorization to relocate a medical marijuana dispensary to another location within the same legislative district, \$20,000; and

(3) except as otherwise provided in paragraph (3) of subsection k. of this section, to sell or transfer an alternative treatment center permit, \$150,000.

(cf: P.L.2013, c.160, s.2)

51. Section 10 of P.L.2009, c.307 (C.24:6I-10) is amended to read as follows:

10. a. A [physician] health care practitioner shall provide written instructions for a registered qualifying patient or [his] the patient's designated caregiver, or an institutional caregiver acting on behalf of the patient, to present to an alternative treatment center concerning the total amount of usable marijuana that a patient may be dispensed, in weight, in a 30-day period, which amount shall not exceed [two ounces. If no amount is noted, the maximum amount that may be dispensed at one time is two ounces] the maximum amount that may be authorized for the patient pursuant to subsection f. of this section.

b. A [physician] health care practitioner may issue multiple written instructions at one time authorizing the patient to receive a total of up to a [90-day] 180-day supply, provided that the following conditions are met:

(1) Each separate set of instructions shall be issued for a legitimate medical purpose by the [physician] health care practitioner, as provided in [this act] P.L.2009, c.307 (C.24:6I-1 et al.);

(2) Each separate set of instructions shall indicate the earliest date on which a center may dispense the marijuana, except for the first dispensation if it is to be filled immediately; and

(3) The [physician] health care practitioner has determined that providing the patient with multiple instructions in this manner does not create an undue risk of diversion or abuse.

c. A registered qualifying patient or [his primary] the patient's designated caregiver, or an institutional caregiver acting on behalf of a qualifying patient, shall present the patient's or caregiver's registry identification card, as applicable, and these written instructions to [the] any alternative treatment center that is authorized to dispense medical marijuana, which shall verify and log the documentation presented. An institutional caregiver shall additionally present an authorization executed by the patient certifying that the institutional caregiver is authorized to obtain medical marijuana on behalf of the patient. A [physician] health care practitioner may provide a copy of a written instruction by electronic or other means, as determined by the commissioner, directly to an alternative treatment center on behalf of a registered qualifying patient. The dispensation of marijuana pursuant to any written instructions shall occur within one month of the date that the instructions were written or the instructions are void.

d. [A patient may be registered at only one alternative treatment center at any time.] (deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

e. Prior to dispensing medical marijuana to a qualifying patient, the patient's designated caregiver, or an institutional caregiver, the alternative treatment center shall access the system established pursuant to section 62 of P.L.2009, c.307 (C.45:1-45.1) to ascertain whether medical marijuana was dispensed for the patient by any alternative treatment center within the

preceding 30 days. Upon dispensing medical marijuana to a qualifying patient, the patient's designated caregiver, or an institutional caregiver, the alternative treatment center shall transmit to the patient's health care practitioner information concerning the amount, strain, and form of medical marijuana that was dispensed.

f. (1) Except as provided paragraph (2) of this subsection, the maximum amount of usable marijuana that a patient may be dispensed, in weight, in a 30-day period, shall be:

(a) until January 1, 2019, two ounces in dried form or the equivalent amount in any other form;

(b) commencing January 1, 2019 and continuing until July 1, 2019, two and one-half ounces in dried form or the equivalent amount in any other form; and

(c) on or after July 1, 2019, three ounces in dried form or the equivalent amount in any other form.

(2) The monthly limits set forth in paragraph (1) of this subsection shall not apply to patients who are terminally ill or who are currently receiving hospice care through a licensed hospice, which patients may be dispensed an unlimited amount of medical marijuana. Qualifying patients who are not receiving hospice care or who are not terminally ill may petition the department, on a form and in a manner as the department shall require by regulation, for an exemption from the monthly limits set forth in paragraph (1) of this paragraph, which petition the department shall approve if the department finds that granting the exemption is necessary to meet the patient's treatment needs and is consistent with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

g. The commissioner shall establish, by regulation, curricula for health care practitioners and alternative treatment center staff. With regard to health care practitioners, the curriculum shall be designed to assist practitioners in counseling patients with regard to the quantity, dosing, and administration of medical marijuana appropriate to treat the patient's qualifying medical condition. With regard to alternative treatment center employees, the curriculum shall be designed to assist the employees in counseling patients with regard to determining the strain and form of medical marijuana appropriate to treat the patient's qualifying medical condition.

(cf: P.L.2009, c.307, s.10)

52. Section 14 of P.L.2009, c.307 (C.24:6I-12) is amended to read as follows:

14. a. The commissioner shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1):

(1) no later than one year after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.), on the actions taken to implement the provisions of [this act] P.L.2009, c.307 (C.24:6I-1 et al.); and

(2) annually thereafter on the number of applications for registry identification cards, the number of qualifying patients registered, the number of [primary] designated and institutional caregivers registered, the nature of the [debilitating] qualifying medical conditions of the patients, the number of registry identification cards revoked, the number of alternative treatment center permits and the number and types of endorsements issued and revoked, any incidents of diversion of medical marijuana, and the number of [physicians providing certifications for] health care practitioners authorizing patients for the medical use of marijuana, including the types of license or certification held by those practitioners.

b. The reports shall not contain any identifying information of patients, caregivers, or [physicians] health care practitioners.

c. Within two years after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.) and every two years thereafter, the commissioner shall: evaluate whether there are sufficient numbers of alternative treatment centers to meet the needs of registered qualifying patients throughout the State; evaluate whether the maximum amount of medical marijuana allowed

pursuant to [this act] P.L.2009, c.307 (C.24:6I-1 et al.) is sufficient to meet the medical needs of qualifying patients; and determine whether any alternative treatment center has charged excessive prices for marijuana that the center dispensed.

The commissioner shall report his findings no later than two years after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.), and every two years thereafter, to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

(cf: P.L.2009, c.307, s.14)

53. Section 15 of P.L.2009, c.307 (C.24:6I-13) is amended to read as follows:

15. a. The Department of Health is authorized to exchange fingerprint data with, and receive information from, the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation for use in reviewing applications for individuals seeking to serve as [primary] designated caregivers or institutional caregivers who, pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4), are required to undergo a criminal history record background check, and for permits to operate as, or to be a director, officer, or employee of, alternative treatment centers pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7).

b. The Division of State Police shall promptly notify the Department of Health in the event an applicant seeking to serve as a [primary] designated or institutional caregiver or an applicant for a permit to operate as, or to be a director, officer, or employee of, an alternative treatment center, who was the subject of a criminal history record background check conducted pursuant to subsection a. of this section, is convicted of a crime involving possession or sale of a controlled dangerous substance.

(cf: P.L.2012, c.17, s.91)

54. 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 an employer to accommodate the medical use of marijuana in any workplace].

(cf: P.L.2009, c.307, s.16)

55. Section 18 of P.L.2009, c.307 (C.24:6I-16) is amended to read as follows:

18. a. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall promulgate rules and regulations to effectuate the purposes of [this act] P.L.2009, c.307 (C.24:6I-1 et al.), in consultation with the Department of Law and Public Safety.

b. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.), such regulations as the commissioner deems necessary to implement the provisions of [this act] P.L.2009, c.307 (C.24:6I-1 et al.). Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and regulations pursuant to subsection a. of this section and may be amended, adopted, or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

c. No later than 90 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the commissioner shall establish, by regulation, recommended dosage guidelines for medical marijuana in each form available to qualifying patients that are equivalent to one ounce of medical marijuana in dried form. The commissioner shall periodically review and update the dosage amounts as appropriate, including to establish equivalent dosage amounts for new forms of medical marijuana that become available.

(cf: P.L.2009, c.307, s.18)

56. Section 11 of P.L.2009, c.307 (C.45:1-45.1) is amended to read as follows:

11. a. A [physician] health care practitioner who [provides a certification] authorizes a patient for the medical use of marijuana or who provides a written instruction for the medical use of marijuana to a qualifying patient pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) and any alternative treatment center shall furnish to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety such information, on a daily basis and in such a format [and at such intervals,] as the director shall prescribe by regulation, for inclusion in a system established to monitor the dispensation of marijuana in this State for medical use as authorized by the provisions of P.L.2009, c.307 (C.24:6I-1 et al.), which system shall serve the same purpose as, and be cross-referenced with, the electronic system for monitoring controlled dangerous substances established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45).

b. The Director of the Division of Consumer Affairs, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Commissioner of Health [and Senior Services], shall adopt rules and regulations to effectuate the purposes of subsection a. of this section.

c. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Consumer Affairs shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.), such regulations as the director deems necessary to implement the provisions of subsection a. of this section. Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and regulations pursuant to subsection b. of this section and may be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.2009, c.307, s.11)

57. (New section) a. A health care practitioner shall not be required to be listed publicly in any medical marijuana practitioner registry as a condition of authorizing patients for the medical use of marijuana.

b. When authorizing a qualifying patient who is a minor for the medical use of marijuana, if the treating health care practitioner is not trained in the care of pediatric patients, the treating health care practitioner shall, prior to authorizing the patient for the medical use of marijuana, obtain written confirmation from a health care practitioner trained in the care of pediatric patients establishing, in that health care practitioner's professional opinion, and following an examination of the minor patient or review of the minor patient's medical record, that the minor patient is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate symptoms associated with the patient's qualifying medical condition. If the treating health care practitioner is trained in the care of pediatric patients, no additional written confirmation from any other health care practitioner shall be required as a condition of authorizing the patient for the medical use of marijuana.

58. (New section) a. Except as provided in subsection b. of this section, no health care practitioner who has authorized a patient for the medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) within the past 90 days, and no member of such health care practitioner's immediate family, shall be an interest holder in, or receive any form of direct or indirect compensation from, any alternative treatment center.

b. Nothing in subsection a. of this section shall be construed to prevent a health care practitioner from serving on the governing board of an alternative treatment center, or on the medical advisory board of an alternative treatment center established pursuant to section 64 of

P.L. , c. (C.) (pending before the Legislature as this bill), or from receiving a reasonable stipend for such service, provided that:

(1) the stipend does not exceed the stipend paid to any other member of the medical advisory board for serving on the board; and

(2) the amount of the stipend is not based on patient volumes at any medical marijuana dispensary or on the number of authorizations for the medical use of marijuana the health care practitioner issues pursuant to P.L.2009, c.307 (C.24:6I-1 et al.).

c. A health care practitioner, or an immediate family member of a health care practitioner, who applies to be an owner, director, officer, or employee of an alternative treatment center, or who otherwise seeks to be an interest holder in, or receive any form of direct or indirect compensation from, an alternative treatment center, shall certify that the health care practitioner has not authorized a patient for the medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) within the 90 days immediately preceding the date of the application.

d. A person who violates subsection a. of this section shall be guilty of a crime of the fourth degree.

59. (New section) a. An individual who is registered as a qualifying patient in another state or jurisdiction within the United States that authorizes the medical use of marijuana shall be considered a qualifying patient for the purposes of P.L.2009, c.307 (C.24:6I-1 et al.), provided that the individual possesses both a valid patient registry card and a valid photo identification card issued by the other state or jurisdiction. The individual shall be authorized to possess, use, and engage in such other conduct in connection with medical marijuana as is consistent with the requirements of P.L.2009, c.307 (C.24:6I-1 et al.) and the laws of the state or jurisdiction that issued the patient's registry card, except that in no case shall any individual be dispensed medical marijuana by an alternative treatment center in New Jersey pursuant to a patient registration issued by another state or jurisdiction.

b. An individual who is registered as a designated caregiver in another state or jurisdiction within the United States that authorizes the medical use of marijuana shall be considered a designated caregiver for the purposes of P.L.2009, c.307 (C.24:6I-1 et al.), provided that the individual is in possession of both a valid registry card and a valid photo identification card issued by the other state or jurisdiction. The individual shall be authorized to assist a registered qualifying patient with the medical use of marijuana and engage in such other conduct in connection with medical marijuana as is consistent with the requirements of P.L.2009, c.307 (C.24:6I-1 et al.) and the laws of the state or jurisdiction that issued the caregiver's registry card, except that in no case shall any individual be dispensed medical marijuana by an alternative treatment center in New Jersey pursuant to a caregiver registration issued by another state or jurisdiction.

c. The department shall seek to enter into reciprocity agreements with other states and jurisdictions within the United States that authorize the medical use of marijuana.

60. (New section) a. Unless an employer establishes by a preponderance of the evidence that the lawful use of medical 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 who is a registered qualifying patient solely based on either: (1) the employee's status as a registry identification cardholder; 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. (1) If an employer has a drug testing policy and an employee or job applicant tests positive for marijuana, the employer shall offer the employee or job applicant an opportunity to present a legitimate medical explanation for the positive test result, and shall provide written notice of the right to explain to the employee or job applicant.

(2) Within three working days after receiving notice pursuant to paragraph (1) of this subsection, the employee or job applicant may submit information to the employer to explain the positive test result, or may request a confirmatory retest of the original sample at the employee's or job applicant's own expense. As part of an employee's or job applicant's explanation for the positive test result, the employee or job applicant may present an authorization for medical marijuana issued by a health care practitioner, a registry identification card, or both.

c. Nothing in this section shall be deemed to:

(1) restrict an employer's ability to prohibit, or take adverse employment action for, the possession or use of intoxicating substances during work hours; or

(2) require an employer to commit any act that would cause the employer to be in violation of federal law, that would result in a loss of a licensing-related benefit pursuant to federal law, or that would result in the loss of a federal contract or federal funding.

d. No employer shall be penalized or denied any benefit under State law solely on the basis of employing a person who is a registry identification cardholder.

e. As used in this section, "adverse employment action" means refusing to hire or employ a registered qualifying patient, barring or discharging a registered qualifying patient from employment, requiring a registered qualifying patient to retire from employment, or discriminating against a registered qualifying patient in compensation or in any terms, conditions, or privileges of employment.

61. (New section) The department shall begin accepting and processing applications for six additional medical marijuana cultivators, six additional medical marijuana processors, and 40 additional medical marijuana dispensaries no later than 90 days after the effective date of P.L. , c. (pending before the Legislature as this bill). Thereafter, the department shall subsequently accept and process applications for up to three additional medical marijuana cultivators, up to three additional medical marijuana processors, and up to 40 additional medical marijuana dispensaries, consistent with the requirements of subparagraphs (c), (d), (e), and (f) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7). The department may establish nonrefundable application fees, which shall be consistent with the fees established pursuant to paragraph (1) of subsection l. of section 7 of P.L.2009, c.307 (C.24:6I-7).

The department shall make a determination as to a permit application within 90 days after receiving the application, and shall issue an initial permit to an approved applicant immediately upon collection of the permit fee, unless the department finds the applicant is not implementing the plans, procedures, protocols, actions, or other measures set forth in the applicant's permit application submitted pursuant to section 62 of P.L. , c. (C.) (pending before the Legislature as this bill), or is otherwise not in compliance with the requirements of P.L.2009, c.307 (C.24:6I-1 et al.), in which case the department shall issue the permit to the next highest scoring applicant in the same region or legislative district that is in compliance with the applicant's permit application and the requirements of P.L.2009, c.307 (C.24:6I-1 et al.).

62. (New section) a. Each application for an initial three year permit to operate a medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary, and for

biennial renewal of such permit, shall be submitted to the department. A separate application shall be required for each location at which an applicant seeks to operate. Renewal applications shall be submitted to the department no later than 90 days before the date the current permit will expire.

b. An initial medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary permit application shall be evaluated and scored on a 100 point scale, consistent with the requirements of subsections c. and d. of this section, plus any bonus points awarded pursuant to subsection e. of this section.

c. In addition to any points awarded for an initial application for a medical marijuana cultivator permit, medical marijuana processor permit, or a medical marijuana dispensary permit pursuant to subsection d. of this section and any bonus points awarded pursuant to subsection e. of this section, up to 21 points may be awarded for the summary of the applicant's operating plan, excluding safety and security criteria:

(1) In the case of an applicant for a medical marijuana cultivator permit, the operating plan summary shall include a written description, of up to 1,000 words per topic, concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

- (a) State-licensed cultivation of medical marijuana;
- (b) conventional horticulture or agriculture, familiarity with good agricultural practices, and any relevant certifications or degrees;
- (c) quality control and quality assurance;
- (d) recall plans;
- (e) packaging and labeling;
- (f) inventory control and tracking software or systems for the cultivation of medical marijuana;
- (g) analytical chemistry and testing of marijuana;
- (h) water management practices;
- (i) odor mitigation practices;
- (j) onsite and offsite recordkeeping;
- (k) strain variety and plant genetics;
- (l) pest control and disease management practices, including plans for the use of pesticides, nutrients, and additives;
- (m) waste disposal plans; and
- (n) compliance with applicable laws and regulations.

(2) In the case of an applicant for a medical marijuana processor permit, the operating plan summary shall include a written description, of up to 1,000 words per topic, concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

(a) State-licensed manufacture or production of marijuana products using appropriate extraction methods, including intended use and sourcing of extraction equipment and associated solvents or intended methods and equipment for non-solvent extraction;

(b) pharmaceutical manufacturing, good manufacturing practices, and good laboratory practices;

- (c) quality control and quality assurance;
- (d) recall plans;
- (e) packaging and labeling;
- (f) inventory control and tracking software or systems for the processing of medical marijuana and the manufacturing and production of medical marijuana products;
- (g) analytical chemistry and testing of marijuana and marijuana-infused or marijuana-derived products and formulations;
- (h) water management practices;

- (i) odor mitigation practices;
- (j) onsite and offsite recordkeeping;
- (k) a list of product formulations or products proposed to be manufactured or produced, with estimated cannabinoid profiles, if known, including varieties with a high cannabidiol content;
- (l) intended use and sourcing of all non-marijuana ingredients used in the manufacture or production of marijuana products, including methods to verify or ensure the safety and integrity of those ingredients and their potential to be or contain allergens;
- (m) waste disposal plans; and
- (n) compliance with applicable laws and regulations.

(3) In the case of an applicant for a medical marijuana dispensary permit, the operating plan summary shall include a written description, of up 1,000 words per topic, concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

- (a) State-licensed dispensation of medical marijuana to qualifying patients;
- (b) healthcare, medicine, and treatment of patients with debilitating medical conditions;
- (c) marijuana product evaluation procedures;
- (d) recall plans;
- (e) packaging and labeling;
- (f) inventory control and point-of-sale software or systems for the sale of medical marijuana;
- (g) patient counseling procedures;
- (h) the routes of administration, strains, varieties, and cannabinoid profiles of medical marijuana products;
 - (i) odor mitigation practices;
 - (j) onsite and offsite recordkeeping;
 - (k) the composition of the applicant's medical advisory board, if any;
 - (l) compliance with State and federal patient privacy rules;
 - (m) waste disposal plans; and
 - (n) compliance with applicable laws and regulations.

d. In addition to any points awarded for an operating plan summary submitted pursuant to subsection c. of this section and any bonus points awarded pursuant to subsection e. of this section, up 79 points may be awarded for an initial application for a medical marijuana cultivator permit, medical marijuana processor permit, or medical marijuana dispensary permit, as follows:

(1) Up to four points may be awarded for the applicant's environmental impact plan, which shall not exceed five pages.

(2) Up to 7.5 points may be awarded for the summary of the applicant's safety and security plans and procedures, which shall include descriptions of the following:

- (a) plans for the use of security personnel;
- (b) the experience or qualifications of existing security personnel;
- (c) security and surveillance features, including descriptions of any alarm systems, video surveillance systems, and access and visitor management systems, along with drawings identifying the proposed locations for surveillance cameras and other security features;
- (d) plans for the storage of medical marijuana and medical marijuana products, including any safes, vaults, and climate control systems that will be utilized for this purpose;
- (e) a diversion prevention plan;
- (f) an emergency management plan;
- (g) procedures for screening, monitoring, and performing criminal history record background checks of employees and other ATC identification card holders;
- (h) cybersecurity procedures, including, in the case of an applicant for a medical marijuana dispensary permit, procedures for collecting, processing, and storing patient data;
- (i) the applicant's familiarity with State and federal privacy laws;

- (j) workplace safety plans and the applicant's familiarity with federal Occupational Safety and Health Administration regulations;
- (k) the applicant's history of workers' compensation claims and safety assessments;
- (l) procedures for reporting adverse events; and
- (m) a sanitation practices plan.

(3) Up to 15 total points may be awarded for the summary of the applicant's business experience, which shall be awarded as follows:

(a) up to six points may be awarded for the description of the applicant's experience operating businesses in highly-regulated industries;

(b) up to six points may be awarded for a description of the applicant's experience in operating alternative treatment centers and related medical marijuana cultivation, processing, and dispensing entities under the laws of New Jersey or any other state; and

(c) up to three points may be awarded for the applicant's plan, which shall not exceed three pages, to comply with and mitigate the effects of 26 U.S.C. s.280E on marijuana businesses, and for evidence that the applicant is not in arrears with respect to any tax obligation to the State.

In evaluating the experience described under subparagraphs (a) and (b) of this paragraph, the department shall afford the greatest weight to the experience of the applicant itself, controlling owners, and entities with common ownership or control with the applicant; followed by the experience of those with a 15 percent or greater ownership interest in the applicant's organization; followed by interest holders in the applicant's organization; followed by other officers, directors, and bona fide full-time employees of the applicant as of the submission date of the application.

(4) Up to 15 points may be awarded based on a description of the proposed location for the applicant's alternative treatment center site, which shall be awarded as follows:

(a) up to seven points may be awarded for a description of the proposed location, the surrounding area, and the suitability or advantages of the proposed location, along with a floor plan and optional renderings or architectural or engineering plans;

(b) four points may be awarded for submitting zoning approvals for the proposed location, which shall consist of a letter or affidavit from appropriate municipal officials that the location will conform to municipal zoning requirements allowing for the cultivation, processing, or dispensing of medical marijuana, medical marijuana products, and related supplies, as appropriate; and

(c) four points may be awarded for submitting proof of local support for the suitability of the location, which may be demonstrated by a letter from the municipality's highest-ranking official or by a resolution adopted by the municipality's governing body indicating that the intended location is appropriately located or otherwise suitable for the cultivation, processing, or dispensing of medical marijuana, medical marijuana products, and related supplies, as appropriate.

Notwithstanding any other provision of this subsection, an application shall be disqualified from consideration unless it includes documentation demonstrating that the applicant will have final control of the premises upon approval of the application, including, but not limited to, a lease agreement, contract for sale, title, deed, or similar documentation. In addition, if the applicant will lease the premises, the application will be disqualified from consideration unless it includes certification from the landlord that the landlord is aware that the tenant's use of the premises will involve cultivation, processing, or dispensing of medical marijuana and medical marijuana products, as appropriate. An application shall not be disqualified from consideration if the application does not include the materials described in subparagraphs (b) or (c) of this paragraph.

(5) Up to 15 total points may be awarded based on a description of the applicant's experience and plans with regard to community impact and social responsibility, which shall be awarded as follows:

(a) up to four points may be awarded for a community impact plan, not to exceed five pages, summarizing how the applicant intends to have a positive impact on the community in which the proposed medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary is to be located, which shall include an economic impact plan, a description of outreach activities, and, in the case of a medical marijuana dispensary, any financial assistance or discount plans the applicant will provide to qualifying patients;

(b) up to three points may be awarded for a written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community, which shall not exceed five pages;

(c) up to four points may be awarded for a written description of any research the applicant has conducted on the medical efficacy or adverse effects of marijuana use and the applicant's participation in or support of marijuana-related research and educational activities, which shall not exceed three pages; and

(d) up to four points may be awarded for a written plan, which shall not exceed three pages, describing any research and development regarding the medical efficacy or adverse effects of marijuana, and any marijuana-related educational and outreach activities, the applicant intends to conduct if issued a permit by the department.

In evaluating the information submitted pursuant to subparagraphs (b) and (c) of this paragraph, the department shall afford the greatest weight to the experience of the applicant itself, controlling owners, and entities with common ownership or control with the applicant; followed by the experience of those with a 15 percent or greater ownership interest in the applicant's organization; followed by interest holders in the applicant's organization; followed by other officers, directors, and bona fide full-time employees of the applicant as of the submission date of the application.

(6) Up to 7.5 total points may be awarded for the applicant's workforce development and job creation plan, which shall be awarded as follows:

(a) up to four points may be awarded for a description of the applicant's workforce development and job creation plan, which may include information on the applicant or its owners' history of job creation and planned job creation at its proposed facility; education, training, and resources to be made available for employees; any relevant certifications; and an optional diversity plan; and

(b) 3.5 points shall be awarded to any applicant that has executed a labor peace agreement or card check and neutrality agreement with a collective bargaining unit for the proposed facility. An applicant that does not submit the information described in this subparagraph shall not be disqualified from consideration.

(7) Up to 15 total points may be awarded for the description of applicant's business and financial plan, which shall be awarded as follows:

(a) up to five points may be awarded for an executive summary of the applicant's business plan, which shall not exceed 1,500 words;

(b) up to five points may be awarded for a demonstration of the applicant's financial ability to implement its business plan, which shall not exceed 10 pages including attachments, and which may include, but shall not be limited to, bank statements, business and individual financial statements, net worth statements, and debt and equity financing statements. An applicant who demonstrates the availability of at least \$500,000 in a bank account in the applicant's name at the time the application is submitted shall be awarded full points under this subparagraph;

(c) up to five points may be awarded for a description of the applicant's experience complying with guidance pertaining to marijuana issued by the Financial Crimes Enforcement Network under 31 U.S.C. s.5311 et seq., the federal Bank Secrecy Act, which may be demonstrated by submitting letters regarding its banking history from banks or credit unions that certify they are aware of the business activities of the applicant, or entities with common ownership or control of the applicant's organization, in any state where the applicant has operated a business related to medical marijuana. For the purposes of this subparagraph, the department shall consider only bank references involving accounts in the name of the applicant or of an entity with common ownership or control of the applicant's organization. An applicant who does not submit the information described in this subparagraph shall not be disqualified from consideration.

e. Up to a total of 40 bonus points may be added to the applicant's total score based on the following:

(1) If any of the applicant's majority or controlling owners were previously approved by the department to serve as an officer, director, principal, or key employee of an alternative treatment center, and the individual served in such capacity at the alternative treatment center for at least six months, the department shall award 10 bonus points, which shall be added to the applicant's total score. No points shall be deducted from the applicant's total score if none of the majority or controlling owners meet the requirements of this paragraph.

(2) If an applicant can demonstrate that its governance structure includes the involvement of a licensed and accredited school of medicine or osteopathic medicine in the United States or a general acute care hospital, an ambulatory care facility licensed in New Jersey, an adult day care services program licensed in New Jersey, or a pharmacy licensed in New Jersey, the department shall award 15 bonus points, which shall be added to the applicant's total score, provided the following conditions are met:

(a) the school, hospital, facility, or pharmacy has conducted or participated in institutional review board-approved research related to marijuana involving the use of human subjects, except in the case of an accredited school of medicine or osteopathic medicine that is located and licensed in New Jersey;

(b) the school, hospital, facility, or pharmacy holds a profit share or ownership interest in the applicant's organization of 10 percent or more, except in the case of an accredited school of medicine or osteopathic medicine that is located and licensed in New Jersey; and

(c) the school, hospital, facility, or pharmacy participates in major decision-making activities within the applicant's organization, which may be demonstrated by representation on the board of directors of the applicant's organization.

No points shall be deducted from the applicant's total score if the applicant's governance structure does not include a school, hospital, facility, or pharmacy that meets the requirements of this paragraph.

(3) If the applicant submits evidence that the applicant, or an entity with common ownership or control with the applicant, has executed a collective bargaining agreement in the cannabis industry that has been in effect for at least six months as of the submission date of the application, the department shall award 15 bonus points, which shall be added to the applicant's total score. No points shall be deducted from the applicant's total score if the applicant has not executed a collective bargaining agreement in the cannabis industry that meets the requirements of this paragraph.

f. In reviewing a medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary initial permit application, unless the information is otherwise solicited by the department in a specific application question, the department's evaluation of the application shall be limited to the experience and qualifications of the applicant's organization, including any

entities with common ownership or control of the applicant's organization, controlling owners or interest holders in the applicant's organization, and the officers, directors, and actual full-time existing employees of the applicant's organization. Responses pertaining to consultants, independent contractors, and prospective or part-time employees of the entity shall not be considered or scored. Each applicant shall certify as to the status of the individuals and entities included in the application.

g. (1) To the extent possible, the department shall take all necessary affirmative steps and best efforts to afford business enterprises owned by women, minorities, and veterans the opportunity to apply for permits, and shall seek to ensure that at least 15 percent of the total number of new medical marijuana dispensary permits issued on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) are issued to a qualified applicant that:

(a) has been certified as a minority business or as a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.);

(b) has been certified as a veteran-owned business pursuant to P.L.2011, c.147 (C.52:32-49 et seq.); or

(c) is a disabled-veterans' business, as defined in section 2 of P.L.2015, c.116 (C.52:32-31.2).

(2) In selecting among applicants who meet the criteria set forth in paragraph (1) of this subsection, the department shall grant a higher preference to applicants with up to two of the certifications described in this subsection.

h. (1) To the extent possible, the department shall seek to ensure that at least 25 percent of new medical marijuana dispensary permit applications are awarded to applicants who are a Tier 1, Tier 2, or Tier 3 dispensary, with greater preference being given to an applicant for a Tier 1 dispensary over an applicant for a Tier 2 or Tier 3 dispensary, and higher preference being given to an applicant for a Tier 2 dispensary over an applicant for a Tier 3 dispensary.

(2) Of the permits awarded to Tier 1, Tier 2, and Tier 3 dispensaries pursuant to paragraph (1) of this subsection, the department shall seek to ensure that at least 75 percent of the permits are awarded to dispensaries located in an impact zone.

(3) For the purposes of this subsection:

(a) "Tier 1 dispensary" means a medical marijuana dispensary for which at least 51 percent of the equity associated with the ownership of the dispensary belongs to individuals who lived in an impact zone for at least five of the past 10 years;

(b) "Tier 2 dispensary" means a medical marijuana dispensary for which at least 20 percent of the equity associated with the ownership of the dispensary belongs to individuals who lived in an impact zone for at least five of the past 10 years; and

(c) "Tier 3 dispensary" means a medical marijuana dispensary for which less than 20 percent of the equity associated with the ownership of the dispensary belongs to individuals who lived in an impact zone for at least five of the past 10 years, but the dispensary provides support to a Tier 1 or Tier 2 medical marijuana dispensary in the form of free leased space, financial support, or other forms of material support.

i. No employee of the department shall have any direct or indirect financial interest in the cultivation, processing, or dispensing of medical marijuana or related paraphernalia, or otherwise receive anything of value from a medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary permit applicant in exchange for reviewing, processing, or making any recommendations with respect to a permit application.

j. Application materials submitted to the department pursuant to this section not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to public records.

k. If the department notifies an applicant that it has scored sufficiently high on multiple applications to be awarded more than one medical marijuana cultivator permit, more than one

medical marijuana processor permit, or more than three medical marijuana dispensary permits by the department, the applicant shall notify the department, within seven business days after receiving such notice, as to which permit it will accept, or, in the case of an applicant for more than one medical marijuana dispensary permit, which permits it will accept. For any permit award declined by an applicant pursuant to this subsection, the department shall, upon receiving notice from the applicant of the declination, award the permit to the applicant with the next highest score on an application for that permit in the same region or legislative district, as applicable. If an applicant fails to notify the department as to which permit it will accept, the department shall have the discretion to determine which permit it will award to the applicant, based on the department's determination of Statewide need and the scores awarded to other applications in the affected region or legislative district, as applicable.

63. (New section) The commissioner may establish, by regulation, such additional permit types in connection with medical marijuana as the commissioner deems necessary and appropriate to maximize the effectiveness and efficiency of the State medical marijuana program and meet the needs of qualifying patients, health care practitioners, alternative treatment centers, and related entities. Such permits may include, but shall not be limited to, permits for providing laboratory services and conducting research in connection with the medical use of marijuana.

64. (New section) a. An alternative treatment center may appoint a medical advisory board to provide advice to the alternative treatment center on all aspects of its business.

b. A medical advisory board appointed pursuant to this section shall comprise five members: three health care practitioners licensed to practice in New Jersey; one qualifying patient who resides in the same area in which the alternative treatment center is located; and one individual who owns a business in the same area in which the alternative treatment center is located. No owner, director, officer, or employee of an alternative treatment center may serve on a medical advisory board.

c. A medical advisory board appointed pursuant to this section shall meet at least two times per calendar year.

65. (New section) If any provision of P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill) or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill) which can be given effect without the invalid provision or application, and to this end the provisions of P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and sections 57 through 66 of P.L. , c. (C.) (pending before the Legislature as this bill) are severable.

66. Section 5 of P.L.2009, c.307 (C.24:6I-5) is repealed.

67. This act shall take effect as follows:

a. sections 1 through 40, and sections 42 through 45 shall take effect 180 days after enactment, except the Director of the Division of Marijuana Enforcement may take such anticipatory action as may be necessary to effectuate the provisions of this act;

b. section 41 shall take effect immediately, but shall expire 180 days after enactment; and

c. sections 46 through 66 shall take immediately.

STATEMENT

This bill addresses multiple programs for access to marijuana in New Jersey. Access to medical marijuana has been an option since the passage of P.L.2009, c.307 which added New Jersey to the list of states nationwide that enacted laws to permit the use of marijuana for medical purposes. Additionally, this bill would establish a new program to legalize, tax and regulate the possession and personal use of marijuana for persons 21 years of age and older. Further, the programs ensure access to safe, high quality marijuana products for New Jersey residents to guard against risks associated with criminal activity and the black market.

The first 45 sections of this bill would legalize the possession and personal use of marijuana, in regulated quantity, for persons 21 years of age and over. The bill creates a Division of Marijuana Enforcement and establishes a licensing structure. The bill also provides for a tax levied upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store.

Sections 46 through 66 of this bill make various revisions to the State medical marijuana program, including revising the requirements to authorize a patient for medical marijuana, expanding the types of health care practitioners who can authorize medical marijuana for qualifying patients; increasing the quantity of medical marijuana that can be dispensed to certain patients; establishing institutional caregivers who can assist patients and residents in health care facilities with the medical use of marijuana; revising the permit requirements for alternative treatment centers (ATCs); and establishing additional protections for registry cardholders.

“NEW JERSEY MARIJUANA LEGALIZATION ACT.”

This bill provides for the following categories of licenses: Class 1 Marijuana Grower, a Class 2 Marijuana Processor, a Class 3 Marijuana Wholesaler, or a Class 4 Marijuana Retailer.

Section 4 of bill provides for personal use of marijuana for persons 21 years of age or older. This section provides that a person may possess, use, purchase, or transport: marijuana paraphernalia; one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature marijuana plants. This section provides that a person may transfer of one ounce or less of marijuana; 16 ounces or less of marijuana infused product in solid form; 72 ounces or less in liquid form; 7 grams or less of marijuana concentrate; and up to 6 immature plants, without marijuana cultivation facility to a person who is of or over the legal age for purchasing marijuana items, provided that such transfer is for non-promotional, non-business purposes.

The section also provides that a person cannot consume or smoke marijuana items openly in a public place, except as may be permitted in consumption areas.

Section 5 concerns the lawful operation of marijuana establishments.

Section 6 establishes penalties for any licensee or employee or agent of any licensee who sells, offers for sale, distributes for commercial purpose to a person under the age of 21. The prohibited act, in each instance, constitutes a disorderly persons offense. Additionally, a fine or a civil penalty may be imposed. A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both. It shall be unlawful for a person under the age of 21 to attempt to purchase, or acquire a marijuana item, even if such marijuana items may be legally purchased by persons at or above the legal age for purchasing marijuana items.

Section 7 establishes the new Division of Marijuana Enforcement in the Department of Treasury.

Sections 8 concerns the powers and duties of the newly created Division of Marijuana Enforcement.

Section 9 provides for the division to adopt rules and regulations necessary for implementation of the bill. The bill would require regulations to include the following: procedures for the application, issuance, denial, renewal, suspension, and revocation of a license to operate a marijuana establishment; license application fees; licensing goals; security requirements for marijuana establishments; requirements to prevent the sale or diversion of marijuana and marijuana products to underage persons; labeling and packaging requirements; health and safety regulations and standards for the manufacture and sale of marijuana products; advertisement restrictions; record keeping requirements; and civil penalties for the failure to comply with the regulations.

Section 10 mandates that the division develop a system for tracking the transfer of marijuana items between licensed premises.

Section 11 establishes a tax levied upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store. That tax shall include the prevailing sales tax. To encourage early participation in and development of marijuana establishments and to undermine the illegal market, the bill proposes an escalating tax rate as follows: in one year following enactment of the bill, the excise tax shall be 10 percent; 15 percent in year two; 20% in year three; and 25% in year four and beyond. These excise taxes set forth in this subsection shall include the prevailing sales tax. The Department of the Treasury would establish procedures for the collection of all taxes levied. The tax revenue into the new fund but one percent shall be allocated annually to the local governmental entity where the marijuana establishment is located to be dedicated to drug prevention and treatment.

The bill specifies that no tax would be levied upon marijuana intended for sale at medical marijuana centers pursuant to the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.).

Section 12 provides for local governmental entity regulations or ordinances. The bill provides that each local governmental entity may enact an ordinance or regulation governing the time, place or manner and number of marijuana establishment operations and provides for civil penalties violating those ordinances. The local governmental entity may enact ordinances or regulations, not in conflict with the provisions of the bill.

The bill provides that a local governmental entity may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance. Under the bill, the failure of a local governmental entity to enact an ordinance prohibiting the operation of a marijuana establishment within 180 days following the effective date of the bill shall thereby permit the operation of a marijuana retail establishment within the local governmental entity for a period of five years, at the end of which five year period, and every five year period thereafter, the local governmental entity shall again be permitted to prohibit the operation of a marijuana establishment.

Section 13 establishes the license application process. Under the bill, each application for an annual license to operate a marijuana establishment would be submitted to the division. A separate license shall be required for each location at which a marijuana establishment seeks to operate. Renewal applications may be filed up to 90 days prior to the expiration of the establishment’s license. The division is to begin accepting applications 30 days after the regulations are implemented.

Sections 14 through 18 establish the different classes of licenses, requirements to obtain licenses, and plant grow size regulations.

The licenses are enumerated as follows:

Class 1 Marijuana Grower license for the premises at which the marijuana is grown or cultivated. (Section 14)

Class 2 Marijuana Processor license for the premises at which the marijuana is processed. (Section 16)

Class 3 Marijuana Wholesaler license for the premises at which the marijuana is warehoused. (Section 17)

Class 4 Marijuana Retailer license for the premises at which the marijuana is retailed. (Section 18)

All prospective licensees shall complete application requirements, meet residency requirements, and undergo a criminal history record background check.

Section 15 regulates plant grow size.

Section 19 concerns the regulation of marijuana handlers who perform work for a licensee.

Section 20 addresses marketplace regulation and essentially bars an owner, officer or other person interested in a marijuana cultivation facility, marijuana testing facility, product manufacturing facility, or a wholesaler of marijuana to be involved in retailing marijuana. The section further bars a retailer of marijuana from being a shareholder, officer or director of a company or association concerned with marijuana cultivation, testing product manufacturing or marijuana wholesale.

Section 21 provides nothing in the bill is intended to: require an employer to permit or accommodate marijuana in the workplace; allow driving under the influence of marijuana; permit marijuana in a school, hospital or correctional facility.

Section 22 provides that a currently operating medical marijuana facility licensed under the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.), operating in good standing can immediately apply for a license to operate to distribute marijuana to a person who is not a medical marijuana patient.

Section 23 provides that an entity licensed under the “New Jersey Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et seq.) shall certify to the Department of Health, at intervals established by the division, sufficient quantities of approved medical marijuana to service medical clients, before personal use marijuana can be sold. Such facilities shall further maintain separate areas for medical and personal use customers.

Section 24 permits a person convicted of marijuana possession as defined in paragraph (4) of subsection a. of N.J.S.2C:35-10 (*possession of 50 grams or less of marijuana, or five grams or less of hashish*) to present an application for expungement to the Superior Court.

Section 25 concerns limitations as may be related to federal law.

Section 27 provides for the personal use of cannabis resin.

Section 35 establishes consumer protections barring marijuana related arrest, prosecution, or penalty for conduct permitted under the bill.

Section 36 addresses law enforcement agencies obligation under federal law.

Section 37 concerns contract enforcement and bars unenforceability on the grounds that the conduct is prohibited by federal law.

Section 38 concerns criminal investigations and establishes that certain conduct shall not constitute “articulable suspicion,” including the odor of marijuana or burnt marijuana, the possession of or the suspicion of possession of marijuana without evidence of quantity in excess of one ounce, and the possession of marijuana without evidence of quantity in excess of one ounce in proximity to any amount of cash or currency.

Section 39 creates the “Marijuana Control and Regulation Fund.” All fees, penalties and tax revenues collected by the director shall be forwarded to the fund. Monies in the fund will be used exclusively for the operation of the Division of Marijuana Enforcement and for reimbursement of all additional costs of enforcement.

Section 40 establishes a Marijuana Regulation Review Commission which shall be responsible to review and approve regulations developed by the division. The commission shall consist of three members as follows: one member appointed by the Governor, who shall be the presiding officer, one member appointed by the President of the Senate, who shall be a member of the Senate, and one member appointed by the Speaker of the General Assembly, who shall be a member of the General Assembly. The concurrence of two of the members of the commission shall be necessary to validate all acts of the commission.

Section 41 permits possession of up to an ounce of marijuana punishable by a civil violation during the period of enactment until legalization becomes effective.

Section 42 permits the establishment of retail marijuana consumption area. The division may issue a retail marijuana consumption area endorsement only to a marijuana retail licensee to sell retail marijuana, retail concentrate, or retail marijuana products for on-premises consumption. Applications for an endorsement would be made to the division. The endorsement is conditioned upon approval by a local governmental entity. An applicant is prohibited from operating a retail marijuana consumption area without State and local licensing authority. A retail marijuana consumption area would be subject to the provisions of P.L.2005, c.383 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act.”

The bill would also amend sections 3 and 5 of P.L.2005, c.383 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act” to include a definition of retail marijuana consumption area that is specific about the ventilation and separation of this area from the retail store. As so defined, this area would be exempt from the provisions of the “New Jersey Smoke-Free Air Act.”

Section 45 establishes the socioeconomic factors for a priority system for awarding retail marijuana licenses (impact zones).

The bill also amends several sections of Title 2C of New Jersey Statutes, the criminal code, to reflect the decriminalization of marijuana under the bill.

AUTHORIZING PATIENTS FOR MEDICAL MARIJUANA

Current law sets for an enumerated list of debilitating medical conditions that can qualify a patient for the medical use of marijuana. The bill changes the term “debilitating medical condition” to “qualifying medical condition,” and updates and revises the list of conditions in certain ways, including adding additional conditions and providing that medical marijuana may be used as a treatment of first resort for any condition included in the list, which are: seizure disorder, including epilepsy; intractable skeletal muscular spasticity; post-traumatic stress disorder; glaucoma; positive status for human immunodeficiency virus; acquired immune deficiency syndrome; cancer; amyotrophic lateral sclerosis; multiple sclerosis; muscular dystrophy; inflammatory bowel disease, including Crohn's disease; terminal illness, if the patient has a prognosis of less than 12 months of life; anxiety; migraine; Tourette’s syndrome; chronic pain; or any other medical condition or its treatment that is approved by the Department of Health (DOH).

The bill expands the list of professionals who can authorize patients for the medical use of marijuana. Current law only allows physicians to authorize patients; the bill would provide that any health care practitioner who is authorized under State and federal law to prescribe controlled dangerous substances may authorize patients for medical marijuana, including physicians, physician assistants, and advanced practice nurses.

The bill provides that health care practitioners will not be required to register with the DOH, or be publicly listed in any DOH registry, as a condition of authorizing patients for medical marijuana.

The bill provides that, in order to authorize a qualifying patient who is a minor for medical marijuana, the health care practitioner will be required to either: (1) be trained in the care of pediatric patients; or (2) obtain written confirmation from a health care practitioner trained in

the care of pediatric patients establishing that, following examination of the patient or a review of the patient's record, the minor patient is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate symptoms associated with the patient's debilitating medical condition.

The bill provides that qualifying patients and designated caregivers who are registered with a medical marijuana program in another state will be deemed to be qualifying patients and designated caregivers for the purposes of New Jersey law, provided the individual possesses a valid registry card and a photo identification card issued by the other state; the patient or caregiver will be authorized to possess and administer medical marijuana while in New Jersey and will be subject to the other protections of New Jersey law, but will not be authorized to obtain medical marijuana from an ATC in the State. The DOH is to seek to establish medical marijuana reciprocity agreements with other states.

DISPENSING REQUIREMENTS FOR MEDICAL MARIJUANA

The bill increases the maximum amount of medical marijuana that may be dispensed to a patient for a 30-day period from two ounces to two and one-half ounces commencing January 1, 2019 and continuing until July 1, 2019, whereupon the maximum amount will increase to three ounces, or the equivalent amount of medical marijuana in any other form according to guidelines for recommended equivalent dosage amounts, to be established by the Commissioner of Health by regulation. These quantity limits will not apply to a qualifying patient who is receiving hospice care or who is terminally ill with a prognosis of less than 12 months to live. Additionally, qualifying patients who are not on hospice care or who are not terminally ill may petition the DOH for a waiver from the quantity limits, which may be granted if it is deemed necessary to meet the patient's treatment needs and is consistent with the purposes of the medical marijuana program.

Current law authorizes a patient to be issued multiple written instructions for medical marijuana authorizing up to a 90-day supply; the bill revises this to authorize up to 180-day supply.

The bill removes a provision that limited distribution of edible forms of medical marijuana to qualifying patients who are minors, and specifies that medical marijuana may be distributed in transdermal, sublingual, and tincture forms, as well as in the forms authorized under current law.

The bill provides that medical marijuana may be dispensed to a patient by any ATC in the State that is authorized to dispense medical marijuana; under current law, patients are to be registered with, and may only be dispensed medical marijuana from, a single ATC where the patient is registered. The bill requires that, prior to dispensing medical marijuana, an ATC will be required to access a system currently maintained by the Division of Consumer Affairs in the Department of Law and Public Safety that tracks medical marijuana dispensations in the State, in order to ascertain whether any medical marijuana was dispensed for the patient within the preceding 30 days. Upon dispensing medical marijuana, the ATC will be required to transmit to the authorizing health care practitioner information concerning the amount, form, and strain of medical marijuana that was dispensed. Health care practitioners will be required to update the system on a daily basis with authorizations and written instructions issued by the practitioner for medical marijuana.

The commissioner will be required to develop curricula for health care practitioners to assist them in counseling patients regarding the quantity, dosing, and administration of medical marijuana appropriate for the patient, and for alternative treatment center employees to assist them in counseling patients regarding the form and strain of medical marijuana appropriate for the patient.

DESIGNATED AND INSTITUTIONAL CAREGIVERS

The bill changes the term “primary caregiver” to “designated caregiver and allows patients to concurrently have up to two designated caregivers, or more with DOH approval. Additionally, each caregiver will be permitted to concurrently care for up to two qualifying patients. The bill further provides that a designated caregiver who is an immediate family member of the patient will not be required to complete a criminal history record background check. “Immediate family” is defined to mean a spouse, child, sibling, or parent; the parents or siblings of a spouse; and the spouses of the individual’s siblings and children.

The bill also establishes the position of “institutional caregiver,” which is an employee of a health care facility who is authorized to obtain and administer medical marijuana to qualifying patients who are patients or residents at the health care facility. An institutional caregiver will be required to be a New Jersey resident, at least 18 years of age, and authorized, within the employee’s scope of practice, to possess and administer controlled dangerous substances to patients and residents. An institutional caregiver will be required to undergo a criminal history background check unless the individual has already done so as a condition of employment in the individual’s current position. An institutional caregiver registration will be valid for one year. Medical marijuana may be dispensed to an institutional caregiver, provided the caregiver furnishes an authorization from the patient indicating the caregiver is authorized to obtain medical marijuana on the patient’s behalf.

The bill requires an institutional caregiver application to include a certification from the applicant’s employer attesting that: the health care facility has authorized the applicant to serve as an institutional caregiver assisting patients or residents with medical marijuana; the facility has established appropriate security measures to guard against theft, diversion, adulteration, and unauthorized access of medical marijuana; the facility has established protocols to guard against adverse drug interactions between medical marijuana and other medications; the facility will not charge a patient for medical marijuana in excess of the actual cost of acquiring the medical marijuana plus the reasonable costs incurred in acquiring the medical marijuana; and the facility will promptly notify the DOH in the event that an institutional caregiver ceases to be employed by the facility or is convicted of a crime or offense.

The bill expressly provides that nothing in its provisions is to be construed to require any facility to authorize employees to serve as institutional caregivers.

ALTERNATIVE TREATMENT CENTERS

The bill establishes three different types of ATC permit: medical marijuana cultivator, medical marijuana processor, and medical marijuana dispensary. Medical marijuana cultivators are facilities that will be authorized to cultivate medical marijuana, which may then be supplied to other medical marijuana cultivators and to medical marijuana processors and medical marijuana dispensaries. Medical marijuana processors will be authorized to process marijuana into marijuana-infused and marijuana-derived products, which it may supply to other medical marijuana processors and to medical marijuana dispensaries. Medical marijuana dispensaries will be authorized to furnish medical marijuana, marijuana-infused products, marijuana-derived products, paraphernalia, and related supplies to other medical marijuana dispensaries and to qualifying patients. An ATC holding a permit as of the effective date of the bill will be deemed to hold all three permit types: one medical marijuana cultivator permit; one medical marijuana processor permit; and three medical marijuana dispensary permits, with one dispensary permit for the ATC’s current site and two new permits for additional locations, which will be issued pursuant to a process to be established by the DOH.

The bill restricts new ATC permit holders from holding a direct or indirect interest in any other ATC for 36 months following the effective date of the bill, except that a single person or entity may hold up to three medical marijuana dispensary permits at one time, and the ownership restrictions will not apply in the case of a person or entity holding an ownership interest of less

than 10 percent of the total capitalization of an ATC. ATCs may, but are not required to be, nonprofit entities.

To ensure adequate access to ATCs throughout the State, the bill establishes requirements for the DOH to issue up to a total of 15 medical marijuana cultivator permits, up to a total of 15 medical marijuana processor permits, and up to a total of 98 medical marijuana dispensary permits. The total number of permits will include:

- the six alternative treatment center permits issued prior to the effective date of the bill, which will constitute six of the medical marijuana cultivator permits, six of the medical marijuana processor permits, and 18 of the medical marijuana dispensary permits;
- six additional medical marijuana cultivator permits, six additional medical marijuana processor permits, and 40 additional medical marijuana dispensary permits, to be issued no later than 180 days after the effective date of the bill;
- up to three additional medical marijuana cultivator permits, three additional medical marijuana processor permits, and 10 additional medical marijuana dispensary permits, which may be issued by the DOH based on patient need at such time as the DOH patient registry reaches 100,000 active qualifying patients; and
- up to 30 additional medical marijuana permits, to be issued in groups of up to 10 at such times as the DOH patient registry reaches 150,000 active qualifying patients, 200,000 active qualifying patients, and 250,000 active qualifying patients, respectively.

Of the 40 new dispensary permits to be issued within 180 days after the effective date of the bill, the DOH will be required to solicit applications by legislative district, as the districts are constituted at the time of application. The DOH will be required to endeavor to issue a permit to at least one medical marijuana dispensary per legislative district, provided that a sufficiently qualified applicant applies for a permit in each district. Of the 40 additional medical marijuana dispensary permits that may be issued based on increases in the number of registered patients, the DOH will solicit applications according to geographic regions which will be determined by the DOH at the time of issuance; these regions are to be established in a way that ensures qualifying patients have reasonably sufficient access to medical marijuana dispensaries throughout the State.

Applicants are to submit a separate application for each proposed medical marijuana cultivator, medical marijuana processor, or medical marijuana dispensary location. If an applicant scores sufficiently high on multiple applications to be awarded more permits than it is permitted to hold under the bill, the applicant is to notify the DOH within seven business days as to which permit or permits it will accept; for any permit declined by an applicant, the DOH will award the permit to the next highest-scoring applicant in that region or legislative district. If an applicant fails to provide notice as to which permit or permits it will accept within seven business days, the DOH will have the discretion to determine which permit or permits to award the applicant, based on its determination of Statewide need and the scores awarded to other applicants in the relevant locations.

The bill sets forth specific requirements for DOH to review and score initial permit applications for new medical marijuana cultivators, medical marijuana processors, and medical marijuana dispensaries based on a 100-point scale, which includes evaluations of the applicant's operational plan, environmental impact plan, safety and security plan, business experience, proposed location, record of social responsibility, philanthropy, involvement in research concerning the medical efficacy and adverse effects of medical marijuana, workforce development and job creation plan, and business and financial plan. In evaluating an application, DOH is to limit its review to the applicant's controlling owners, officers, directors, and employees, and is not to consider responses pertaining to consultants, independent contractors, or prospective or part-time employees.

To the extent possible, DOH is to seek to ensure that at least 15 percent of the new medical marijuana dispensary permits issued under the bill are awarded to entities certified as a minority business, a women’s business, a veteran-owned business, or a disabled-veteran business, with higher preference going to entities that are certified in up to two such categories. Additionally, the DOH is to seek to ensure that at least 25 percent of new medical marijuana dispensary permits are awarded Tier 1, Tier 2, and Tier 3 dispensaries. A Tier 1 dispensary means a dispensary for which at least 51 percent of the equity associated with the ownership of the dispensary belongs to individuals who lived in an impact zone for at least five of the past 10 years; a Tier 2 dispensary means a medical marijuana dispensary for which at least 20 percent of the equity associated with the ownership of the dispensary belongs to individuals who lived in an impact zone for at least five of the past 10 years; and a Tier 3 dispensary means a medical marijuana dispensary for which less than 20 percent of the equity associated with the ownership of the dispensary belongs to individuals who lived in an impact zone for at least five of the past 10 years, but the dispensary provides support to a Tier 1 or Tier 2 medical marijuana dispensary in the form of free leased space, financial support, or other forms of material support. “Impact zone” is defined to mean any census tract that ranks in the top 33 percent of census tracts in the State for marijuana-related arrests and that ranks in the bottom 33 percent of census tracts in the State for median household income. The DOH is additionally required to seek to ensure that at least 75 percent of the permits awarded to Tier 1, 2, and 3 dispensaries are awarded to dispensaries located in an impact zone.

Application materials submitted to the DOH will not constitute a public record subject to the statutory or common laws concerning access to public records.

The bill provides that the DOH may require ATC permit applicants to submit a personal history disclosure and may conduct financial due diligence on any person or entity providing \$100,000 or more in financial backing to an applicant.

The bill clarifies that the officers, directors, board members, owners, and employees of an ATC will be issued “ATC identification cards” upon approval of the ATC’s permit application.

The bill sets forth certain requirements for the sale or transfer of an ATC permit, which include completing a criminal history record background check of the entity purchasing or receiving the permit, as well as certain requirements specific to nonprofit ATCs, which will be required to comply with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq. In the case of an ATC that holds a permit on the effective date of the bill, the ATC will be permitted, one time only and within one year of the effective date of the bill, to pay the DOH a fee and sell one or more of its permits for a sum that satisfies its outstanding obligations. If the ATC seeks to sell all of its permits, the fee will be \$300,000; if the ATC seeks to sell some, but not all, of its permits, the fee is \$100,000 per permit. DOH approval is required for any such sale.

The bill provides that, with DOH approval, medical marijuana cultivators and medical marijuana processors may relocate within the same region, and medical marijuana dispensaries may relocate within the same legislative district.

The bill provides that the maximum fee for initial issuance or renewal of an ATC permit will be \$50,000 for a medical marijuana cultivator, \$25,000 for a medical marijuana processor, and \$10,000 for a medical marijuana dispensary. Additionally, the maximum fee for relocation of an ATC will be \$20,000 and the maximum fee to sell or transfer an ATC permit will be \$150,000.

The bill prohibits DOH employees from holding any financial interest in an ATC or receiving anything of value from an ATC in connection with reviewing, processing, or making recommendations with respect to an ATC permit application.

The bill provides that an initial ATC permit will be valid for three years and will thereafter be renewable on a biennial basis.

The bill provides that qualifying patients and designated caregivers may not be discriminated against when enrolling in schools and institutions of higher education, or when renting or leasing real property, solely on the basis of the medical use of marijuana or their status as a registry cardholder. However, the bill provides that nothing is to require a school, institution of higher education, or landlord to take any action that would jeopardize a monetary grant or privilege of licensure based on federal law. Schools, institutions, and landlords may not be penalized or denied benefits under State law solely on the basis of enrolling or renting or leasing real property to a registered patient.

Further, the bill provides that medical marijuana is to be treated the same as any other medication for the purposes of furnishing medical care, including determining the individual's eligibility for an organ transplant.

The bill establishes protections from adverse employment actions for qualifying patients. Specifically, employers will be prohibited from taking any adverse employment action against an employee based on the employee's status as a registry identification cardholder or based on a positive test for marijuana, unless the employer establishes, by a preponderance of the evidence, that the lawful use of medical marijuana impaired the employee's ability to perform the employee's job responsibilities. 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. If an employer has a drug testing policy and an employee or job applicant tests positive for marijuana, the employee or job applicant is to be offered an opportunity to present a legitimate medical explanation for the positive test result, such as a practitioner's recommendation for medical marijuana, a registry identification card, or both, or request a retest of the original sample at the employee's or job applicant's own expense. Nothing in the bill will restrict an employer's ability to prohibit or take adverse employment action for the possession or use of intoxicating substances during work hours, require an employer to commit any act that would cause the employer to be in violation of federal law, or require the employer to take any action that would result in the loss of a federal contract or federal funding. Employers will not be penalized or denied any benefit under State law for employing a person who is a registry cardholder.

The bill updates the current annual reporting requirements concerning the medical marijuana program to reflect the changes made to the program under the bill, and additionally requires that DOH include in the report any incidents of diversion of medical marijuana that occur.

EFFECTIVE DATE

Section 67 of the bill provides an effective date as follows: a. sections 1 through 40, and sections 42 through 45 shall take effect 180 days after enactment, except the Director of the Division of Marijuana Enforcement may take such anticipatory action as may be necessary to effectuate the provisions of this act; b. section 41 shall take effect immediately, but shall expire 180 days after enactment; and c. sections 46 through 55 shall take immediately.

Legalizes possession and personal use of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure; revises requirements for medical marijuana program; revises requirements for medical marijuana.