
Committee Meeting

of

SENATE JUDICIARY COMMITTEE

Senate Bill 3195

“Legalizes possession and personal use of small amounts of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure”

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: June 19, 2017
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Nicholas P. Scutari, Chair
Senator Nia H. Gill, Vice Chair
Senator Raymond J. Lesniak
Senator Nellie Pou
Senator Paul A. Sarlo
Senator Bob Smith
Senator Brian P. Stack
Senator Christopher “Kip” Bateman
Senator Gerald Cardinale
Senator Michael J. Doherty
Senator Joseph M. Kyrillos Jr.
Senator Kevin J. O’Toole



ALSO PRESENT:

David J. Lorette
*Office of Legislative Services
Committee Aide*

Fruqan Mouzon
*Senate Majority
Committee Aide*

Michael R. Molimock
*Senate Republican
Committee Aide*

***Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

SENATE, No. 3195

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MAY 18, 2017

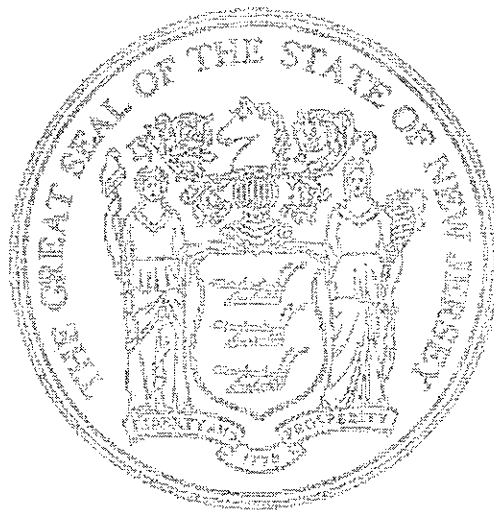
Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Legalizes possession and personal use of small amounts of marijuana for persons age 21 and over; creates Division of Marijuana Enforcement and licensing structure.

CURRENT VERSION OF TEXT

As introduced.



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

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

6
7 1. (New section) Findings.

8 The Legislature finds and declares that:

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

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

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

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

20 e. New Jersey law enforcement officers made over 24,000
21 arrests for marijuana possession in 2012, more than in the previous
22 20 years;

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

S3195 SCUTARI

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

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

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

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

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

20

21 2. (New section) Definitions.

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

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

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

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

32 "Division" means the Division of Marijuana Enforcement in the
33 Department of Law and Public Safety.

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

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

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

47 "Housing unit" means a house, an apartment, a mobile home, a
48 group of rooms, or a single room that is occupied as separate living

S3195 SCUTARI

1 quarters, in which the occupants live and eat separately from any
2 other persons in the building and which have direct access from the
3 outside of the building or through a common hall.

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

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

10 "Licensee" means a person who holds a license issued under this
11 act that is designated as either a Class 1 Marijuana Cultivation
12 Facility license, herein also referred to as a Marijuana Producer
13 license, or a Class 1 Marijuana Product Manufacturing Facility
14 license; herein also referred to as a Marijuana Processor license, a
15 Class 2 Marijuana Wholesaler license; a Class 3 Marijuana Retailer
16 license; or a Class 4 Marijuana Transportation license.

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

20 "Local governmental entity" means a municipality.

21 "Marijuana" means all parts of the plant Genus Cannabis L.,
22 whether growing or not; the seeds thereof, and every compound,
23 manufacture, salt, derivative, mixture, or preparation of the plant or
24 its seeds, except those containing resin extracted from the plant; but
25 shall not include the weight of any other ingredient combined with
26 marijuana to prepare topical or oral administrations, food, drink, or
27 other product.

28 "Marijuana Cultivation Facility" means an entity licensed to
29 cultivate marijuana and sell marijuana to marijuana producers, to
30 marijuana product manufacturing facilities, and to other marijuana
31 cultivation facilities, but not to consumers. This entity shall hold a
32 Class 1 Marijuana Cultivation Facility license.

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

36 "Marijuana extract" means a substance obtained by separating
37 resins from marijuana by: (i) a chemical extraction process using a
38 hydrocarbon-based solvent, such as butane, hexane or propane; (ii)
39 a chemical extraction process using the hydrocarbon-based solvent
40 carbon dioxide, if the process uses high heat or pressure; or (ii) Any
41 other process identified by the division by rule.

42 "Marijuana flowers" means the flowers of the plant genus
43 Cannabis within the plant family Cannabaceae.

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

46 "Marijuana leaves" means the leaves of the plant genus Cannabis
47 within the plant family Cannabaceae.

S3195 SCUTARI

5

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

8 "Marijuana processor" means a person who processes marijuana
9 items in this State.

10 "Marijuana producer" means a person who produces marijuana
11 in this State.

12 "Marijuana product manufacturing facility" means an entity
13 licensed to purchase marijuana; manufacture, prepare, and package
14 marijuana items; and sell items to other marijuana product
15 manufacturing facilities and to marijuana retailers, but not to
16 consumers. This entity shall hold a Class 1 Marijuana Product
17 Manufacturing Facility license.

18 "Marijuana products" means a product containing marijuana or
19 marijuana extracts and other ingredients intended for human
20 consumption or use, including a product intended to be applied to
21 the skin or hair, edible products, ointments, and tinctures.
22 Marijuana products do not include: (i) marijuana by itself; or (ii)
23 marijuana extract by itself.

24 "Marijuana retailer" means an entity licensed to purchase
25 marijuana from marijuana cultivation facilities and marijuana items
26 from marijuana product manufacturing facilities or marijuana
27 wholesalers and to sell marijuana and marijuana products to
28 consumers. This entity shall hold a Class 3 Marijuana Retailer
29 license.

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

34 "Marijuana transporter" means an entity licensed to transport
35 marijuana through and within the State of New Jersey and to
36 maintain a warehouse. This entity shall hold a Class 4 Marijuana
37 Transportation license.

38 "Marijuana wholesaler" means any licensed person or entity who
39 sells marijuana items or marijuana paraphernalia for the purpose of
40 resale either to a licensed marijuana wholesaler or to a licensed
41 marijuana retailer. This entity shall hold a Class 2 Marijuana
42 Wholesaler license.

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

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

S3195 SCUTARI

6

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

3 "Premises" or "licensed premises" includes the following areas
4 of a location licensed under this act: all public and private enclosed
5 areas at the location that are used in the business operated at the
6 location, including offices, kitchens, rest rooms and storerooms; all
7 areas outside a building that the division has specifically licensed
8 for the production, processing, wholesale sale, or retail sale of
9 marijuana items; and, for a location that the division has
10 specifically licensed for the production of marijuana outside a
11 building, the entire lot or parcel that the licensee owns, leases or has
12 a right to occupy.

13 "Processes" means the processing, compounding, or conversion
14 of marijuana into marijuana products or marijuana extracts;
15 "Processes" does not include packaging or labeling.

16 "Produces" means the manufacture, planting, cultivation,
17 growing or harvesting of marijuana. "Produces" does not include
18 the drying of marijuana by a marijuana processor, if the marijuana
19 processor is not otherwise producing marijuana; or the cultivation
20 and growing of an immature marijuana plant by a marijuana
21 processor, marijuana wholesaler or marijuana retailer if the
22 marijuana processor, marijuana wholesaler, or marijuana retailer
23 purchased or otherwise received the plant from a licensed marijuana
24 producer.

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

33 "Radio" means a system for transmitting sound without visual
34 images, and includes broadcast, cable, on-demand, satellite, or
35 internet programming. Radio includes any audio programming
36 downloaded or streamed via the internet.

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

41 "THC" means Delta-9-tetrahydrocannabinol, the main
42 psychoactive chemical contained in the cannabis plant.

43 "Unreasonably impracticable" means that the measures necessary
44 to comply with the regulations require such a high investment of
45 risk, money, time, or any other resource or asset that the operation
46 of a marijuana establishment is not worthy of being carried out in
47 practice by a reasonably prudent businessperson.

S3195 SCUTARI

1 3. (New section) Personal use of marijuana.

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

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

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

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

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

25

26 4. (New section) Lawful operation of marijuana
27 establishments.

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

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

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

43 c. cultivating, harvesting, processing, packaging, transporting,
44 displaying, or possessing marijuana; delivery or transfer of
45 marijuana to a marijuana testing facility; selling marijuana to a
46 marijuana cultivation facility, a marijuana product manufacturing
47 facility, or a marijuana retailer; or the purchase of marijuana from a
48 marijuana cultivation facility, if the person conducting the activities

1 described in this subsection has obtained a current, valid license to
2 operate a marijuana cultivation facility or is acting in his capacity as
3 an owner, employee, or agent of a licensed marijuana cultivation
4 facility.

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

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

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

25

26 5. (New section) Prohibition of Persons Under the Legal Age
27 Purchasing Marijuana.

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

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

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

43 (1) That the purchaser of the marijuana or marijuana product
44 falsely represented, by producing either a United States passport;
45 driver's license or non-driver identification card issued by the New
46 Jersey Motor Vehicle Commission; a similar card issued pursuant to
47 the laws of another state; United States military identification card;

1 or a photographic identification card issued by a county clerk, that
2 he was of legal age to make the purchase;

3 (2) That the appearance of the purchaser was such that an
4 ordinary prudent person would believe him to be 21 years of age or
5 older, of legal age to make the purchase; and

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

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

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

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

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

25 (2) Gaining access to a marijuana establishment.

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

33 g. Any person who shall violate any of the provisions of
34 subsections d., e., or f. of this section shall be deemed and adjudged
35 to be a disorderly person, and upon conviction thereof, shall be
36 punished by a fine of not less than \$500.

37 h. The prohibitions of this section do not apply to a person
38 under the legal age for purchasing marijuana items who is acting
39 under the direction of the division or under the direction of State or
40 local law enforcement agencies for the purpose of investigating
41 possible violations of the laws prohibiting sale of marijuana items
42 to persons who are under the legal age for purchasing marijuana
43 items.

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

1 sales of marijuana items to persons who are under the legal age for
2 purchasing marijuana items.

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

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

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

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

21

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

24 There is hereby established in the Department of Law and Public
25 Safety a Division of Law, a Division of State Police, a Division of
26 Alcoholic Beverage Control, ~~]~~ a Division of Motor Vehicles,] a
27 Division of Weights and Measures, a Division of Marijuana
28 Enforcement and a Division of Professional Boards.

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

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

35

36 7. (New section) Powers and duties of the division.

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

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

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

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

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

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

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

16 (a) Issuing subpoenas;

17 (b) Compelling attendance of witnesses;

18 (c) Administering oaths;

19 (d) Certifying official acts;

20 (e) Taking depositions as provided by law;

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

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

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

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

36 c. The powers of the division further include the power to
37 purchase, seize, possess, and dispose of marijuana items.

38 (1) The division may purchase, possess, seize, or dispose of
39 marijuana items as is necessary to ensure compliance with and
40 enforcement of the provisions of this act, and any rule adopted
41 pursuant thereto.

42 (2) Any State officer, board, commission, corporation,
43 institution, department, or other State body, and any local officer,
44 board, commission, institution, department, or other local
45 government body, that is permitted by the statutory laws of this
46 State to perform a duty, function, or power with respect to a
47 marijuana item, may purchase, possess, seize, or dispose of the
48 marijuana item as the State officer, board, commission, corporation,

1 institution, department or other State body, or the local officer,
2 board, commission, institution, department or other local
3 government body, considers necessary to ensure compliance with
4 and enforce the applicable statutory law or any rule adopted under
5 the applicable statutory law.

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

11

12 8. (New section) Regulation of marijuana.

13 a. Not later than one year following the effective date of
14 P.L. , c. (C.) (pending before the Legislature as this bill),
15 the division shall adopt, pursuant to the "Administrative Procedure
16 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
17 necessary for implementation of P.L. c. (C.) (pending before the
18 Legislature as this bill), which shall be consistent with the intent of
19 this act. Such regulations shall not prohibit the operation of
20 marijuana establishments, either expressly or through regulations
21 that make their operation unreasonably impracticable. The division
22 may create an expert task force to make recommendations to the
23 Division about the content of such regulations. Such regulations
24 shall include:

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

33 (2) License application and renewal fees shall be established by
34 the division. The division shall establish licensing goals for New
35 Jersey residents. The division shall make good faith efforts to meet
36 these goals.

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

44 (a) A person under the legal age to purchase marijuana items;

45 (b) A person doing business as a sole proprietor who has not
46 lawfully resided in the State for at least two years prior to applying
47 to receive a license;

1 (c) A partnership, employee cooperative, association, nonprofit
2 corporation, or corporation unless formed under the laws of this
3 State, and unless all of the members thereof are qualified to obtain a
4 license;

5 (d) A person whose place of business is conducted by a manager
6 or agent, unless the manager or agent possesses the same
7 qualifications required of the licensee;

8 (e) Should the division choose to establish criteria for licensure
9 related to an applicant's criminal history, it shall not consider
10 convictions under paragraphs (3) and (4) of subsection a. of N.J.S.
11 2C:35-10, paragraphs (11) and (12) of subsection b. of N.J.S.
12 2C:35-5, subparagraph (b) of paragraph (10) of subsection b. of
13 N.J.S.2C:35-5, or similar offenses.

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

22 (5) Security requirements for marijuana establishments;

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

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

31 (i) The person's passport.

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

35 (iii) A New Jersey identification card issued by the New Jersey
36 Motor Vehicle Commission.

37 (iv) A United States military identification card.

38 (v) A photographic identification card issued by a New Jersey
39 county clerk.

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

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

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

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

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

11 (i) Includes false statements;

12 (ii) Promotes over-consumption;

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

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

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

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

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

27 (i) Net weight;

28 (ii) Production date and expiration date;

29 (iii) An ingredient list that includes, but is not limited to, all
30 ingredients used to manufacture the marijuana product and a list of
31 all potential allergens contained within the product;

32 (iv) Strain or type of cannabis, listed by scientific terms, if
33 available, and generic or "slang" names;

34 (v) Whether the product requires refrigeration;

35 (vi) Growth method (whether dirt grown, hydroponic, or
36 otherwise) and an indication whether or not the cannabis was grown
37 using all-organic materials and a complete list of all nonorganic
38 pesticides, fungicides and herbicides used during the cultivation of
39 the cannabis;

40 (vii) Serving size, the total number of servings, and a statement
41 regarding the percentage of THC contained in the marijuana
42 product and in each serving. For example: "The serving size of
43 active THC in this product is X mg. This product contains X
44 servings of marijuana, and the total amount of active THC in this
45 product is X mg." Serving sizes are recommended to be
46 individually wrapped.

47 (viii) Warning labels that include, but are not limited to, one or
48 more of the following:

S3195 SCUTARI

15

- 1 -- "This product contains marijuana."
2 -- "This product is infused with marijuana"
3 -- "This product is intended for use by adults 21 years and older.
4 Keep out of the reach of children."
5 -- "The intoxicating effects of this product may be delayed by
6 two or more hours."
7 -- "There may be health risks associated with the consumption of
8 this product, including for women who are pregnant, breastfeeding,
9 or planning on becoming pregnant."
10 -- "Do not drive a motor vehicle or operate heavy machinery
11 while using marijuana."
12 (e) Labeling rules mandate the source of the marijuana items,
13 including, but not limited to, the license number of the marijuana
14 cultivation facility where the marijuana used to produce the
15 marijuana item was grown, the license number of the marijuana
16 product manufacturing facility that produced the marijuana item;
17 and the license number of the marijuana retailer that sold the
18 marijuana item and the production batch and lot numbers of the
19 marijuana items.
20 (8) Health and safety regulations and standards for the
21 manufacture and sale of marijuana products and the cultivation of
22 marijuana, including, but not limited to, requirements that:
23 (a) Establish accreditation and licensure criteria for marijuana
24 testing facilities;
25 (b) The division issues licenses for a sufficient number of
26 marijuana testing facilities, if those facilities meet the requirements
27 for licensure, in order to ensure testing of marijuana items produced
28 and sold in the State;
29 (c) Every licensed marijuana cultivation facility and marijuana
30 product manufacturing facility must submit representative samples
31 of marijuana and marijuana products to marijuana testing facilities
32 for inspection and testing to certify compliance with health, safety,
33 and potency standards adopted by the division on a schedule set by
34 the division. Any sample remaining after testing shall be destroyed
35 or returned to the licensee;
36 (d) Prescribe methods of producing, processing, and packaging
37 marijuana items; conditions of sanitation; safe handling
38 requirements; approved pesticides and pesticide testing
39 requirements; and standards of ingredients, quality, and identity of
40 marijuana items produced, processed, packaged, or sold by
41 marijuana establishments;
42 (e) Establish accreditation and licensing criteria for responsible
43 marijuana server and seller training and certification programs for
44 marijuana retailer employees;
45 (f) Provide that no licensed marijuana establishment or
46 employee of a marijuana establishment shall consume, or allow to
47 be consumed, any marijuana items on the establishment's premises,
48 except as otherwise permitted by the division;

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

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

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

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

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

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

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

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

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

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

46 (a) Restrict advertising of marijuana items and marijuana
47 paraphernalia in ways that target or are designed to appeal to
48 individuals under the legal age to purchase marijuana items,

1 including, but not limited to depictions of a person under 21 years
2 of age consuming marijuana, or, includes objects, such as toys,
3 characters, or cartoon characters suggesting the presence of a
4 person under 21 years of age, or any other depiction designed in any
5 manner to be especially appealing to a person under 21 years of
6 age;

7 (b) Marijuana retailers shall not display any signage in a
8 window, on a door, or on the outside of the premises of a marijuana
9 retailer that is visible to the general public from a public right-of-
10 way, other than a single sign no larger than one thousand six
11 hundred square inches identifying the retail outlet by the licensee's
12 business trade name;

13 (c) No licensed marijuana establishment shall advertise any
14 marijuana items or marijuana paraphernalia on television, radio or
15 internet between the hours of 6:00am and 10:00pm.

16 (d) No licensed marijuana establishment shall engage in
17 advertising unless it has reliable evidence that no more than 20
18 percent of the audience for the advertisement is reasonably expected
19 to be under the legal age to purchase marijuana items.

20 (e) No licensed marijuana establishment may engage in
21 advertising or marketing directed towards location-based devices,
22 including but not limited to cellular phones, unless the marketing is
23 a mobile device application installed on the device by the owner of
24 the device who is 21 years of age or older and includes a permanent
25 and easy opt-out feature;

26 (f) No licensed marijuana establishment may sponsor a
27 charitable, sports, musical, artistic, cultural, social, or other similar
28 event or engage in advertising at or in connection with such an
29 event unless it has reliable evidence that no more than 20 percent of
30 the audience at the event is reasonably expected to be under the
31 legal age to purchase marijuana items;

32 (g) All advertisements must contain warnings, including but not
33 limited to one or more of the following:

34 (i) "This product contains marijuana;"

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

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

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

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

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

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

1 (viii) No licensed marijuana establishment shall place or
2 maintain, or cause to be placed or maintained an advertisement of
3 marijuana items or marijuana paraphernalia in any form or through
4 any medium whatsoever within 200 feet of an elementary or
5 secondary school grounds, recreation center or facility, arcade,
6 child care center, public park, playground, public swimming pool or
7 library; on or in a public transit vehicle or public transit shelter; on
8 or in publicly owned or operated property. For the purposes of this
9 section, a noncommercial message shall not be considered an
10 advertisement. This section also shall not apply to advertisements
11 within the premises of a marijuana retailer.

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

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

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

35 (b) The division may, at any time, examine the books and
36 records of any marijuana producer, and may appoint auditors,
37 investigators and other employees that the division considers
38 necessary to enforce its powers and perform its duties.

39 (c) During any inspection of a licensed premises, the division
40 may require proof that a person performing work at the premises is
41 21 years of age or older. If the person does not provide the division
42 with acceptable proof of age upon request, the division may require
43 the person to immediately cease any activity and leave the premises
44 until the division receives acceptable proof of age.

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

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

1 (a) (i) the obligation of every marijuana producer to keep a
2 complete and accurate record of all sales of marijuana flowers,
3 marijuana leaves, and immature marijuana plants, and a complete
4 and accurate record of the number of marijuana flowers produced,
5 the number of ounces of marijuana leaves produced, the number of
6 immature marijuana plants produced, and the dates of production;
7 and

8 (ii) the obligation of every marijuana establishment to keep a
9 complete and accurate record of all sales of marijuana, and a
10 complete and accurate record of the number of ounces of marijuana
11 items sold, provided that marijuana retailers shall not retain
12 personally identifying information about persons 21 years of age
13 who or older who purchase marijuana or marijuana products in
14 marijuana retailers. Such records shall be kept and maintained for
15 two years. The records shall be in such form and contain such other
16 information as the division may require.

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

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

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

34 (b) Licensees must submit the results of this inspection and
35 testing to the division on a form developed by the division.

36 (c) If a representative sample inspected and tested under this
37 section does not meet the applicable standards adopted by the
38 division, the entire lot from which the sample was taken must be
39 destroyed.

40 (14) Establishing the number of marijuana retailers:

41 (a) Assuming there are sufficient qualified applicants for
42 licensure, there shall be at least one marijuana retail store per
43 county.

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

47 (i) population distribution, provided that the division shall
48 consider seasonal fluctuations in the population of the county and

1 shall ensure that there are adequate licensed premises to serve the
2 market demands of the county during the peak seasons;

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

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

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

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

29 d. The division shall:

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

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

40

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

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

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

S3195 SCUTARI

21

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

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

5 (4) Ensuring that taxes are collected for the purpose of being
6 distributed as described in section 10 of P.L. ,
7 c. (C.)(pending before the Legislature as this bill);

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

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

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

16 (1) The propagation of immature marijuana plants and the
17 production of marijuana by a marijuana producer;

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

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

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

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

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

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

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

30

31 10. (New section) Taxation.

32 a. There shall be a tax levied upon marijuana or marijuana
33 products sold or otherwise transferred by a marijuana retailer to a
34 person 21 years of age or older at a rate of seven percent. To
35 encourage early participation in and development of marijuana
36 establishments and to undermine the illegal marketplace, the tax
37 shall escalate annually over a three year period: such that in year
38 one following the enactment of P.L. , c. (C.)(pending
39 before the Legislature as this bill), the excise tax shall be seven
40 percent; and in year two, the tax shall be 10 percent; and in year
41 three, the tax rate shall be 15 percent; and in year four the tax rate
42 shall be 20 percent and in year five and beyond, the tax shall be 25
43 percent.

44 b. The division shall regularly review the tax levels established
45 under this section and make recommendations to the Legislature as
46 appropriate regarding adjustments that would further the goals of
47 discouraging use, particularly by those under the age of 21;

1 undercutting illegal market prices; and maximizing taxation
2 revenue.

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

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

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

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

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

31 g. The tax revenue shall be collected by the Director of the
32 Division of Taxation and shall be deposited by the Director of the
33 Division of Taxation into the nonlapsing fund established pursuant
34 to section 38 of P.L., c. (C.) (pending before the Legislature as
35 this bill), and shall be used to fund the Division of Marijuana
36 Enforcement, except that during the first year the tax is collected
37 one percent shall be allocated to the local governmental entity in
38 which the marijuana establishment is located; during year two, two
39 percent shall be allocated to the local governmental entity in which
40 the marijuana establishment is located; and in year three and each
41 subsequent year thereafter, three percent shall be allocated to the
42 local governmental entity in which the marijuana establishment is
43 located.

44

45 11. (New section) Local governmental entity regulation or
46 ordinance.

47 a. Not later than one year following the effective date of
48 P.L. , c. (C.) (pending before the Legislature as this bill),

1 each local governmental entity shall enact an ordinance or
2 regulation specifying the entity within the local governmental entity
3 that is responsible for processing applications submitted for a
4 license to operate a marijuana establishment within the boundaries
5 of the local governmental entity and for the issuance of such
6 licenses should the issuance by the local governmental entity
7 become necessary because of a failure by the Division to adopt
8 regulations or because of a failure by the Division to process and
9 issue licenses.

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

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

15 (2) establishing procedures for the issuance, suspension, and
16 revocation of a license issued by the local governmental entity;

17 (3) establishing a schedule of annual operating, licensing, and
18 application fees for marijuana establishments, provided, the
19 application fee shall only be due if an application is submitted to a
20 local governmental entity in accordance with the provisions section
21 12 of P.L. , c. (C.) (pending before the Legislature as this bill) and
22 a licensing fee shall only be due if a license is issued by a local
23 governmental entity; and

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

27 c. A local governmental entity may prohibit the operation of
28 marijuana cultivation facilities, marijuana product manufacturing
29 facilities, marijuana testing facilities, or marijuana retailers through
30 the enactment of an ordinance. The failure of a local governmental
31 entity to enact an ordinance prohibiting the operation of a marijuana
32 establishment within one year following the effective date of
33 P.L. , c. (C.) (pending before the Legislature as this bill)
34 shall thereby permit the operation of a marijuana retail
35 establishment within the local governmental entity for a period of
36 five years, at the end of which five year period, and every five year
37 period thereafter, the local governmental entity shall again be
38 permitted to prohibit the operation of a marijuana establishment.

39

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

46 (1) begin accepting and processing applications one year
47 following the effective date of P.L. , c. (C.) (pending before
48 the Legislature as this bill);

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

4 (3) upon the approval of a license application and collection of
5 the annual license fee, issue an annual license to the applicant
6 between 45 and 90 days after receipt of an application unless the
7 division finds the applicant is not in compliance with regulations
8 enacted pursuant to the provisions of section 8 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) or the
10 division is notified by the relevant local governmental entity that
11 the applicant is not in compliance with ordinances and regulations
12 made pursuant to the provisions of section 11 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill) and in
14 effect at the time of application, provided, where a local
15 governmental entity has enacted a numerical limit on the number of
16 marijuana establishments and a greater number of applicants seek
17 licenses, the division shall solicit and consider input from the local
18 governmental entity as to the local governmental entity's preference
19 or preferences for licensure; and

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

22 b. If the division does not issue a license to an applicant within
23 90 days of receipt of the completed application filed pursuant to
24 subsection a. of this section, and does not notify the applicant of the
25 specific reason for its denial, in writing and within such time
26 period; or, if the division has adopted regulations pursuant to
27 subsection a. of section 8 of P.L. , c. , (C.) (pending before
28 the Legislature as this bill) and has accepted applications pursuant
29 to subsection a. of this section but has not issued any licenses 90
30 days after one year following the effective date of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), the
32 applicant may resubmit its application directly to the local
33 governmental entity, and the local governmental entity may issue an
34 annual license to the applicant unless the local governmental entity
35 has enacted an ordinance prohibiting the operation of a marijuana
36 establishment. A local governmental entity issuing a license to an
37 applicant shall do so within 90 days of receipt of the resubmitted
38 application unless the local governmental entity finds and notifies
39 the applicant that the applicant is not in compliance with ordinances
40 and regulations in effect at the time the application is resubmitted.
41 The local governmental entity shall notify the division if an annual
42 license has been issued to the applicant. If an application is
43 submitted to a local governmental entity under this subsection, the
44 division shall forward to the local governmental entity the
45 application fee paid by the applicant to the division upon request by
46 the local governmental entity. A license issued by a local
47 governmental entity in accordance with this subsection shall have
48 the same force and effect as a license issued by the division and the

S3195 SCUTARI

25

1 holder of such license shall not be subject to regulation or
2 enforcement by the division during the term of that license. A
3 subsequent or renewed license may be issued under this subsection
4 on an annual basis only upon resubmission to the local
5 governmental entity of a new application submitted to the division.

6 c. If the division does not adopt regulations required by
7 subsection a. of section 8 of P.L. ,c. , (C.) (pending before
8 the Legislature as this bill), an applicant may submit an application
9 directly to a local governmental entity one year following the
10 effective date of P.L. , c. , (C.) (pending before the
11 Legislature as this bill), and the local governmental entity may issue
12 an annual license to the applicant. A local governmental entity
13 issuing a license to an applicant shall do so within 90 days of
14 receipt of the application unless it finds and notifies the applicant
15 that the applicant is not in compliance with ordinances and
16 regulations in effect at the time of application and shall notify the
17 division if an annual license has been issued to the applicant. A
18 license issued by a local governmental entity in accordance with
19 this subsection shall have the same force and effect as a license
20 issued by the division and the holder of such license shall not be
21 subject to regulation or enforcement by the division during the term
22 of that license. A subsequent or renewed license may be issued
23 under this subsection on an annual basis if the division has not
24 adopted regulations required by section 8 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill) at least
26 90 days prior to the date upon which such subsequent or renewed
27 license would be effective.

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

37

38 13. (New section) A marijuana producer must have a Class 1
39 Marijuana Cultivation Facility license (Marijuana Producers
40 license) issued by the division for the premises at which the
41 marijuana is produced. The division shall determine the maximum
42 number of licenses but, providing there exist qualified applicants,
43 shall issue a sufficient number of licenses to meet the production
44 demands that implementation of P.L. , c. (C.) (pending
45 before the Legislature as this bill) requires.

46 A person who has been convicted of a crime involving any
47 controlled dangerous substance or controlled substance analog as
48 set forth in chapter 35 of Title 2C of the New Jersey Statutes except

1 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
2 of the United States or any other state shall not be issued a Class 1
3 Marijuana Cultivation Facility license, unless such conviction
4 occurred after the effective date of P.L. ,
5 c. (C.) (pending before the Legislature as this bill) and
6 was for a violation of federal law relating to possession or sale of
7 marijuana for conduct that is authorized under P.L. ,
8 c. (C.) (pending before the Legislature as this bill).

9 a. To hold a production license under this section, a marijuana
10 producer:

11 (1) Must apply for a license in the manner described in section
12 12 of P.L. , c. (C.) (pending before the Legislature as
13 this bill);

14 (2) Must provide proof that an applicant listed on an application
15 submitted under section 12 of P.L. , c. (C.) (pending
16 before the Legislature as this bill), has been a resident of this State
17 for two or more years, and must provide proof that the applicant is
18 21 years of age or older;

19 (3) Must meet the requirements of any rule or regulation
20 adopted by the Division under subsection b. of this section; and

21 (4) Must undergo a criminal history record background check.

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

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

40 (c) The director shall not approve an applicant for a Class 1
41 Marijuana Cultivation facility license (Marijuana Producers license)
42 if the criminal history record background information of the
43 applicant reveals any disqualifying conviction.

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

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

5 (e) The Division of State Police shall promptly notify the
6 director in the event that an individual who was the subject of a
7 criminal history record background check conducted pursuant to
8 this section is convicted of a crime or offense in this State after the
9 date the background check was performed. Upon receipt of that
10 notification, the director shall make a determination regarding the
11 continued eligibility to hold a Class 1 Marijuana Cultivation
12 Facility license (Marijuana Producers license).

13 b. The division shall adopt rules that:

14 (1) Require a marijuana producer to annually renew a license
15 issued under this section;

16 (2) Establish application, licensure, and renewal of licensure
17 fees for marijuana producers;

18 (3) Require marijuana produced by marijuana producers to be
19 tested in accordance with section 8 of P.L. ,

20 c. (C.) (pending before the Legislature as this bill);

21 (4) Require marijuana producers to submit, at the time of
22 applying for or renewing a license under section 12 of P.L. ,

23 c. (C.) (pending before the Legislature as this bill), a report
24 describing the applicant's or licensee's electrical and water usage;
25 and

26 (5) Require a marijuana producer to meet any public health and
27 safety standards, industry best practices, and all applicable
28 regulations established by the division by rule or regulation related
29 to the production of marijuana; or the propagation of immature
30 marijuana plants and the seeds of the plant Cannabis family
31 Cannabaceae. The division may not limit the number of immature
32 marijuana plants that may be possessed by a marijuana producer
33 licensed under this section; the size of the grow canopy a marijuana
34 producer licensed under this section uses to grow immature
35 marijuana plants; or the weight or size of shipments of immature
36 marijuana plants made by a marijuana producer licensed under this
37 section.

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

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

42 (2) Shall be deposited in the Marijuana Control and Regulation
43 Fund established under section 38 of P.L. ,

44 c. (C.) (pending before the Legislature as this bill).

45 d. The director shall issue a Class 1 Marijuana Cultivation
46 Facility license if it finds that issuing such a license would be
47 consistent with the purposes of P.L. , c. (C.) (pending
48 before the Legislature as this bill) and the requirements of this

1 section are met and the information contained in the application has
2 been verified. The director shall approve or deny an application
3 within 60 days after receipt of a completed application. The denial
4 of an application shall be considered a final agency decision,
5 subject to review by the Appellate Division of the Superior Court.
6 The director may suspend or revoke a license to operate as a Class 1
7 Marijuana Cultivation Facility for cause, which shall be subject to
8 review by the Appellate Division of the Superior Court.

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

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

15
16 14. (New section) a. Subject to subsection b. of this section, the
17 division shall adopt rules or regulations restricting the size of
18 mature marijuana plant grow canopies at premises for which a
19 license has been issued under section 13 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill).

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

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

28 (2) Adopt a tiered system under which the permitted size of a
29 marijuana producer's mature marijuana plant grow canopy increases
30 at the time of licensure renewal, except that the permitted size of a
31 marijuana producer's mature marijuana plant grow canopy may not
32 increase following any year during which the division disciplined
33 the marijuana producer for violating a provision of or a rule adopted
34 under a provision of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 (3) Take into consideration the market demand for marijuana
37 items in this state, the number of persons applying for a license
38 under section 12 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), and to whom a license has been issued
40 under section 13 of P.L. , c. (C.) (pending before the
41 Legislature as this bill), and whether the availability of marijuana
42 items in this State is commensurate with the market demand.

43 c. This section shall not apply to a premises for which a license
44 has been issued under section 13 of P.L. ,

45 c. (C.) (pending before the Legislature as this bill), if the
46 premises is used only to propagate immature marijuana plants.

1 15. (New section) A marijuana processor must have a Class I
2 Marijuana Product Manufacturing Facility license (Marijuana
3 Processor license) issued by the division for the premises at which
4 the marijuana is produced. The division shall determine the
5 maximum number of licenses but, providing there exist qualified
6 applicants, shall issue a sufficient number of licenses to meet the
7 production demands that implementation of P.L. ,
8 c. (C.) (pending before the Legislature as this bill)
9 requires.

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

21 a. To hold a processing license under this section, a marijuana
22 processor:

23 (1) Must apply for a license in the manner described in section
24 12 of P.L. , c. (C.) (pending before the Legislature as
25 this bill);

26 (2) Must provide proof that an applicant listed on an application
27 submitted under section 12 of P.L. , c. (C.) (pending
28 before the Legislature as this bill), has been a resident of this State
29 for two or more years, and must provide proof that the applicant is
30 21 years of age or older;

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

33 (4) Must undergo a criminal history record background check.

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

42 (b) An applicant shall submit to being fingerprinted in
43 accordance with applicable State and federal laws, rules, and
44 regulations. No check of criminal history record background
45 information shall be performed pursuant to this section unless the
46 applicant has furnished his written consent to that check. An
47 applicant who refuses to consent to, or cooperate in, the securing of
48 a check of criminal history record background information shall not

1 be considered for a processing license. An applicant shall bear the
2 cost for the criminal history record background check, including all
3 costs of administering and processing the check.

4 (c) The director shall not approve an applicant for a Class 1
5 Marijuana Product Manufacturing Facility license if the criminal
6 history record background information of the applicant reveals any
7 disqualifying conviction.

8 (d) Upon receipt of the criminal history record background
9 information from the Division of State Police and the Federal
10 Bureau of Investigation, the director shall provide written
11 notification to the applicant of his qualification for or
12 disqualification for a Class 1 Marijuana Product Manufacturing
13 Facility license.

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

18 (e) The Division of State Police shall promptly notify the
19 director in the event that an individual who was the subject of a
20 criminal history record background check conducted pursuant to
21 this section is convicted of a crime or offense in this State after the
22 date the background check was performed. Upon receipt of that
23 notification, the director shall make a determination regarding the
24 continued eligibility to hold a Class 1 Marijuana Product
25 Manufacturing Facility license (Marijuana Processers license).

26 b. The division shall adopt rules that:

27 (1) Require a marijuana processor to annually renew a license
28 issued under this section;

29 (2) Establish application, licensure, and renewal of licensure
30 fees for marijuana processers;

31 (3) Require marijuana produced by marijuana processers to be
32 tested in accordance with section 8 of P.L. ,

33 c. (C.) (pending before the Legislature as this bill);

34 (4) Require marijuana processers to submit, at the time of
35 applying for or renewing a license under section 12 of P.L. ,

36 c. (C.) (pending before the Legislature as this bill) a report
37 describing the applicant's or licensee's electrical and water usage;
38 and

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

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

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

46 (2) Shall be deposited in the Marijuana Control and Regulation
47 Fund established under section 38 of P.L. ,

48 c. (C.) (pending before the Legislature as this bill).

1 d. The Director shall issue a Class 1 Marijuana Product
2 Manufacturing Facility license if it finds that issuing such a license
3 would be consistent with the purposes of P.L. ,

4 c. (C.) (pending before the Legislature as this bill) and the
5 requirements of this section are met and the information contained
6 in the application has been verified. The director shall approve or
7 deny an application within 60 days after receipt of a completed
8 application. The denial of an application shall be considered a final
9 agency decision, subject to review by the Appellate Division of the
10 Superior Court. The director may suspend or revoke a license to
11 operate as marijuana production facility for cause, which shall be
12 subject to review by the Appellate Division of the Superior Court.

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

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

19

20 16. (New section) A marijuana wholesaler must have a Class 2
21 Marijuana Wholesaler license issued by the division for the
22 premises at which the marijuana is warehoused. The division shall
23 determine the maximum number of licenses but, providing there
24 exist qualified applicants, shall issue a sufficient number of licenses
25 to meet the wholesaler demands that implementation of this act
26 requires.

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

38 a. To hold a Marijuana Wholesaler license under this section, a
39 marijuana wholesaler:

40 (1) Must apply for a license in the manner described in section
41 12 of P.L. , c. (C.) (pending before the Legislature as
42 this bill);

43 (2) Must provide proof that an applicant listed on an application
44 submitted under section 12 of P.L. , c. (C.) (pending
45 before the Legislature as this bill), has been a resident of this State
46 for two or more years, and must provide proof that the applicant is
47 21 years of age or older;

1 (3) Must meet the requirements of any rule or regulation
2 adopted by the Division under subsection b. of this section; and

3 (4) Must undergo a criminal history record background check.

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

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

22 (c) The director shall not approve an applicant for a Class 2
23 Marijuana Wholesaler license if the criminal history record
24 background information of the applicant reveals any disqualifying
25 conviction.

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

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

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

42 b. The division shall adopt rules that:

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

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

1 (3) Require marijuana warehoused by marijuana wholesalers to
2 be tested in accordance with section 8 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill);

4 (4) Require marijuana wholesalers to submit, at the time of
5 applying for or renewing a license under section 12 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill), a report
7 describing the applicant's or licensee's electrical and water usage;
8 and

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

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

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

16 (2) Shall be deposited in the Marijuana Control and Regulation
17 Fund established under section 38 of P.L. ,

18 c. (C.) (pending before the Legislature as this bill).

19 d. The director shall issue a Class 2 Marijuana Wholesaler
20 license if it finds that issuing such a license would be consistent
21 with the purposes of this act and the requirements of this section are
22 met and the information contained in the application has been
23 verified. The director shall approve or deny an application within
24 60 days after receipt of a completed application. The denial of an
25 application shall be considered a final agency decision, subject to
26 review by the Appellate Division of the Superior Court. The
27 Director may suspend or revoke a Marijuana Wholesaler license for
28 cause, which shall be subject to review by the Appellate Division of
29 the Superior Court.

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

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

36
37 17. (New section) A marijuana retailer must have a Class 3
38 Marijuana Retailer license issued by the division for the premises at
39 which the marijuana is retailed. The division shall determine the
40 maximum number of licenses but, providing there exist qualified
41 applicants, shall issue a sufficient number of licenses to meet the
42 wholesaler demands that implementation of P.L. ,
43 c. (C.) (pending before the Legislature as this bill)
44 requires.

45 A person who has been convicted of a crime involving any
46 controlled dangerous substance or controlled substance analog as
47 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
48 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law

1 of the United States or any other state shall not be issued a Class 3
2 Marijuana Retailer license, unless such conviction occurred after
3 the effective date of this act and was for a violation of federal law
4 relating to possession or sale of marijuana for conduct that is
5 authorized under P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 a. To hold a retailers license under this section, a marijuana
8 retailer:

9 (1) Must apply for a license in the manner described in section
10 12 of P.L. , c. (C.) (pending before the Legislature as
11 this bill);

12 (2) Must provide proof that an applicant listed on an application
13 submitted under section 12 of P.L. , c. (C.) (pending
14 before the Legislature as this bill), has been a resident of this State
15 for two or more years, and must provide proof that the applicant is
16 21 years of age or older;

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

19 (4) Must undergo a criminal history record background check.

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

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

38 (c) The director shall not approve an applicant for a Class 3
39 Marijuana Retailer license if the criminal history record background
40 information of the applicant reveals any disqualifying conviction.

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

46 If the applicant is disqualified because of a disqualifying
47 conviction pursuant to the provisions of this section, the conviction

1 that constitutes the basis for the disqualification shall be identified
2 in the written notice.

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

10 b. The division shall adopt rules that:

11 (1) Require a marijuana retailers to annually renew a license
12 issued under this section;

13 (2) Establish application, licensure, and renewal of licensure
14 fees for marijuana retailers;

15 (3) Require marijuana sold by marijuana retailer to be tested in
16 accordance with section 8 of P.L. , c. (C.) (pending
17 before the Legislature as this bill);

18 (4) Require marijuana retailers to submit, at the time of applying
19 for or renewing a license under section 12 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill), a report
21 describing the applicant's or licensee's electrical and water usage;
22 and

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

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

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

30 (2) Shall be deposited in the Marijuana Control and Regulation
31 Fund established under section 38 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill).

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

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

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

4
5 18. (New section) A marijuana transporter must have a Class 4
6 Marijuana Transportation license issued by the division. The
7 division shall determine the maximum number of licenses but,
8 providing there exist qualified applicants, shall issue a sufficient
9 number of licenses to meet the transportation demands that
10 implementation of P.L. , c. (C.) (pending before the
11 Legislature as this bill) requires.

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

22 a. To hold a transportation license under this section, a
23 marijuana transporter:

24 (1) Must apply for a license in the manner described in section
25 12 of P.L. , c. (C.) (pending before the Legislature as
26 this bill);

27 (2) Must provide proof that an applicant listed on an application
28 submitted under section 12 of P.L. , c. (C.) (pending
29 before the Legislature as this bill), has been a resident of this State
30 for two or more years, and must provide proof that the applicant is
31 21 years of age or older;

32 (3) Must meet the requirements of any rule adopted by the
33 division under subsection b. of this section; and

34 (4) Must undergo a criminal history record background check.

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

43 (b) An applicant shall submit to being fingerprinted in
44 accordance with applicable State and federal laws, rules, and
45 regulations. No check of criminal history record background
46 information shall be performed pursuant to this section unless the
47 applicant has furnished his written consent to that check. An
48 applicant who refuses to consent to, or cooperate in, the securing of

1 a check of criminal history record background information shall not
2 be considered for a transportation license. An applicant shall bear
3 the cost for the criminal history record background check, including
4 all costs of administering and processing the check.

5 (c) The director shall not approve an applicant for a Class 4
6 Marijuana Transportation license if the criminal history record
7 background information of the applicant reveals any disqualifying
8 conviction.

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

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

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

25 b. The division shall adopt rules that:

26 (1) Require a marijuana transporter to annually renew a license
27 issued under this section;

28 (2) Establish application, licensure, and renewal of licensure
29 fees for marijuana transporters;

30 (3) Require marijuana that is transported by a Marijuana
31 Transportation licensee to be tested in accordance with section 8 of
32 P.L. , c. (C.) (pending before the Legislature as this
33 bill);

34 (4) Require marijuana transporter to submit, at the time of
35 applying for or renewing a license under section 12 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), a report
37 describing the applicant's or licensee's electrical and water usage;
38 and

39 (5) Require a marijuana transporter to meet any public health
40 and safety standards, industry best practices, and all applicable
41 regulations established by the division by rule related to the
42 transporting of marijuana.

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

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

46 (2) Shall be deposited in the Marijuana Control and Regulation
47 Fund established under section 38 of P.L. ,

48 c. (C.) (pending before the Legislature as this bill).

1 d. The director shall issue a Class 4 Marijuana Transportation
2 license if it finds that issuing such a license would be consistent
3 with the purposes of this act and the requirements of this section are
4 met and the information contained in the application has been
5 verified. The director shall approve or deny an application within
6 60 days after receipt of a completed application. The denial of an
7 application shall be considered a final agency decision, subject to
8 review by the Appellate Division of the Superior Court. The
9 director may suspend or revoke a Marijuana Transportation license
10 for cause, which shall be subject to review by the Appellate
11 Division of the Superior Court.

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

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

18

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

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

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

29 b. A person who holds a license under P.L. ,

30 c. (C.) (pending before the Legislature as this bill) shall
31 verify that an individual has a valid permit issued under this section
32 before allowing the individual to perform any work described in
33 subsection a. of this section at the premises for which the license
34 has been issued.

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

42 d. The division may require an individual applying for a permit
43 under this section to successfully complete a course, made available
44 by or through the division, in which the individual receives training
45 on checking identification; detecting intoxication; handling
46 marijuana items; statutory and regulatory provisions relating to
47 marijuana; and any matter deemed necessary by the division to

1 protect the public health and safety. The division or other provider
2 may charge a reasonable fee for the course.

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

7 As part of a final order suspending a permit issued under this
8 section, the division may require a permit holder to successfully
9 complete the course as a condition of lifting the suspension and as
10 part of a final order revoking a permit issued under this section, the
11 division shall require an individual to successfully complete the
12 course prior to applying for a new permit.

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

16 f. The division may suspend, revoke or refuse to issue or
17 renew a permit if the individual who is applying for or who holds
18 the permit violates any provision of P.L. ,

19 c. (C.) (pending before the Legislature as this bill), or any
20 rule or regulation adopted under P.L. , c. (C.) (pending
21 before the Legislature as this bill); or makes a false statement to the
22 division; or refuses to cooperate in any investigation by the
23 division, or, if the individual is convicted of a crime, except that the
24 division may not consider a conviction for the manufacture or
25 delivery of marijuana if the date of the conviction is two or more
26 years before the date of the application or renewal; or if the date of
27 the last criminal conviction is more than ten years before the date of
28 the application or renewal.

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

32

33 20. (New section) Marketplace Regulation.

34 a. It shall be unlawful for any owner, part owner, stockholder,
35 officer, or director of any corporation, or any other person
36 interested in any marijuana cultivation facility, marijuana testing
37 facility, or marijuana product manufacturing facility, or any
38 wholesaler of marijuana, to conduct, own either in whole or in part,
39 or be directly or indirectly interested in the retailing of any
40 marijuana in New Jersey, and such interest shall include any
41 payments or delivery of money or property by way of loan or
42 otherwise accompanied by an agreement to sell the product of said
43 marijuana cultivation facility, marijuana testing facility, or
44 marijuana product manufacturing facility, or any wholesaler of
45 marijuana.

46 b. It shall be unlawful for any owner, part owner, stockholder,
47 officer, or director of any corporation, or any other person
48 interested in any retailing of marijuana to conduct, own either

1 whole or in part, or to be a shareholder, officer or director of a
2 corporation or association, directly or indirectly, interested in any
3 marijuana cultivation facility, marijuana testing facility, or
4 marijuana product manufacturing facility, or any wholesaler of
5 marijuana.

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

9

10 21. (New section) Employers, driving, minors and control of
11 property.

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

26 b. Nothing in P.L. , c. (C.) (pending before the
27 Legislature as this bill) is intended to allow driving under the
28 influence of marijuana items or driving while impaired by
29 marijuana items or to supersede laws related to driving under the
30 influence of marijuana items or driving while impaired by
31 marijuana items.

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

37 d. Nothing in P.L. , c. (C.) (pending before the
38 Legislature as this bill) shall prohibit a person, or any other entity
39 that occupies, owns, or controls a property from prohibiting or
40 otherwise regulating the consumption, use, display, transfer,
41 distribution, sale, transportation or growing of marijuana items on
42 or in that property, provided that local government units may not
43 prohibit possession permitted by section 3 of P.L. ,

44 c. (C.) (pending before the Legislature as this bill) on or
45 within a public place.

46 e. Nothing in P.L. , c. (C.) (pending before the
47 Legislature as this bill) is intended to permit any person to possess,
48 consume, use, display, transfer, distribute, sell, transport or grow

1 marijuana items in a school, hospital, detention facility, adult
2 correctional facility, and youth correction facility.

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

9

10 22. (New section) Medical marijuana provisions.

11 Nothing in P.L. , c. (C.) (pending before the
12 Legislature as this bill) shall be construed:

13 a. to limit any privileges or rights of a medical marijuana
14 patient, primary caregiver, or licensed entity as provided in the
15 "New Jersey Compassionate Use Medical Marijuana Act,"
16 P.L.2009, c.307 (C.24:6I-1 et seq.);

17 b. to permit a medical marijuana center to distribute marijuana
18 to a person who is not a medical marijuana patient except that a
19 medical marijuana center operating in good standing as of the
20 effective date of P.L. , c. (C.) (pending before the
21 Legislature as this bill) may apply for a retail license to operate
22 immediately. A license issued pursuant to this subsection may be
23 subject to annual renewal until regulations are adopted pursuant to
24 section 8 of P.L. , c. (C.) (pending before the Legislature
25 as this bill);

26 c. to permit a medical marijuana center to purchase marijuana
27 or marijuana products in a manner or from a source not permitted
28 under P.L.2009, c.307 (C.24:6I-1 et seq.);

29 d. to permit any medical marijuana center licensed pursuant to
30 P.L.2009, c.307 (C.24:6I-1 et seq.) to operate on the same premises
31 as a marijuana retailer; or

32 e. to discharge the Department of Health from its duties to
33 regulate medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
34 et seq.

35

36 23. (New section) Expungement. Any person convicted of
37 marijuana possession as defined in paragraph (4) of subsection a. of
38 N.J.S.2C:35-10 prior to the effective date of P.L. ,

39 c. (C.) (pending before the Legislature as this bill) shall,
40 following the enactment of P.L. , c. (C.) (pending before
41 the Legislature as this bill), be eligible to present an application for
42 expungement to the Superior Court pursuant to the provisions of
43 chapter 52 of Title 2C of the New Jersey Statutes.

44

45 24. (New section) Limitations.

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

- 1 a. To amend or affect in any way any state or federal law
2 pertaining to employment matters;
- 3 b. To amend or affect in any way any state or federal law
4 pertaining to landlord-tenant matters;
- 5 c. To prohibit a recipient of a federal grant or an applicant for a
6 federal grant from prohibiting the manufacture, delivery,
7 possession, or use of marijuana to the extent necessary to satisfy
8 federal requirements for the grant;
- 9 d. To prohibit a party to a federal contract or a person applying
10 to be a party to a federal contract from prohibiting the manufacture,
11 delivery, possession, or use of marijuana to the extent necessary to
12 comply with the terms and conditions of the contract or to satisfy
13 federal requirements for the contract;
- 14 e. To require a person to violate a federal law;
- 15 f. To exempt a person from a federal law or obstruct the
16 enforcement of a federal law.

17

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

19 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1
20 et seq.), or by P.L. . c. (C.) (pending before the Legislature as this
21 bill), any person who knowingly maintains or operates any
22 premises, place or facility used for the manufacture of
23 methamphetamine, lysergic acid diethylamide, phencyclidine,
24 gamma hydroxybutyrate, flunitrazepam, marijuana in an amount
25 greater than five pounds or ten plants or any substance listed in
26 Schedule I or II, or the analog of any such substance, or any person
27 who knowingly aids, promotes, finances or otherwise participates in
28 the maintenance or operations of such premises, place or facility, is
29 guilty of a crime of the first degree and shall, except as provided in
30 N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall
31 include the imposition of a minimum term which shall be fixed at,
32 or between, one-third and one-half of the sentence imposed, during
33 which the defendant shall be ineligible for parole. Notwithstanding
34 the provisions of subsection a. of N.J.S.2C:43-3, the court may also
35 impose a fine not to exceed \$750,000.00 or five times the street
36 value of all controlled dangerous substances, controlled substance
37 analogs, gamma hydroxybutyrate or flunitrazepam at any time
38 manufactured or stored at such premises, place or facility,
39 whichever is greater.

40 (cf: P.L.1999, c.133, s.2)

41

42 26. (New section) Personal Use of Cannabis Resin.

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

47 (1) Possessing, using, displaying, purchasing, or transporting
48 five grams or less of resin extracted from any part of the plant

1 Genus Cannabis L. and any compound, manufacture, salt,
2 derivative, mixture, or preparation of such resin, or "Hashish."

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

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

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

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

22
23 27. N.J.S.2C:35-2 is amended to read as follows:

24 2C:35-2. As used in this chapter:

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

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

36 "Controlled dangerous substance" means a drug, substance, or
37 immediate precursor in Schedules I through V, any substance the
38 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
39 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
40 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011,
41 c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-
42 5.3b), and any drug or substance which, when ingested, is
43 metabolized or otherwise becomes a controlled dangerous substance
44 in the human body. When any statute refers to controlled dangerous
45 substances, or to a specific controlled dangerous substance, it shall
46 also be deemed to refer to any drug or substance which, when
47 ingested, is metabolized or otherwise becomes a controlled
48 dangerous substance or the specific controlled dangerous substance,

1 and to any substance that is an immediate precursor of a controlled
2 dangerous substance or the specific controlled dangerous substance.
3 The term shall not include distilled spirits, wine, malt beverages, as
4 those terms are defined or used in R.S.33:1-1 et seq., or tobacco and
5 tobacco products. The term, wherever it appears in any law or
6 administrative regulation of this State, shall include controlled
7 substance analogs.

8 "Controlled substance analog" means a substance that has a
9 chemical structure substantially similar to that of a controlled
10 dangerous substance and that was specifically designed to produce
11 an effect substantially similar to that of a controlled dangerous
12 substance. The term shall not include a substance manufactured or
13 distributed in conformance with the provisions of an approved new
14 drug application or an exemption for investigational use within the
15 meaning of section 505 of the "Federal Food, Drug and Cosmetic
16 Act," 52 Stat. 1052 (21 U.S.C. s.355).

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

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

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

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

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

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

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

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

30 "Marijuana" means all parts of the plant Genus Cannabis L.,
31 whether growing or not; the seeds thereof, and every compound,
32 manufacture, salt, derivative, mixture, or preparation of the plant or
33 its seeds, except those containing resin extracted from the plant[];
34 but shall not include the mature stalks of the plant, fiber produced
35 from the stalks, oil, or cake made from the seeds of the plant, any
36 other compound, manufacture, salt, derivative, mixture, or
37 preparation of mature stalks, fiber, oil, or cake, or the sterilized
38 seed of the plant which is incapable of germination].

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

- 43 (a) Opium, coca leaves, and opiates;
- 44 (b) A compound, manufacture, salt, derivative, or preparation of
45 opium, coca leaves, or opiates;
- 46 (c) A substance (and any compound, manufacture, salt,
47 derivative, or preparation thereof) which is chemically identical
48 with any of the substances referred to in subsections (a) and (b),

1 except that the words "narcotic drug" as used in this act shall not
2 include decocainized coca leaves or extracts of coca leaves, which
3 extracts do not contain cocaine or ecogine.

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

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

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

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

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

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

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

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

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

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

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

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

1 "Immediate precursor" means a substance which the Division of
2 Consumer Affairs in the Department of Law and Public Safety has
3 found to be and by regulation designates as being the principal
4 compound commonly used or produced primarily for use, and
5 which is an immediate chemical intermediary used or likely to be
6 used in the manufacture of a controlled dangerous substance or
7 controlled substance analog, the control of which is necessary to
8 prevent, curtail, or limit such manufacture.

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

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

20 "State" means the State of New Jersey.

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

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

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

36 "Stramonium plant" means the plant *Datura Stramonium* Linne,
37 including *Datura Tatula* Linne.

38 (cf: P.L.2013, c.35, s.1)

39

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

41 2C:35-5. Manufacturing, Distributing or Dispensing. a. Except
42 as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), or
43 P.L. , c. (C.) (pending before the Legislature as this bill), it
44 shall be unlawful for any person knowingly or purposely:

45 (1) To manufacture, distribute or dispense, or to possess or have
46 under his control with intent to manufacture, distribute or dispense,
47 a controlled dangerous substance or controlled substance analog; or

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

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

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

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

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

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

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

41 (6) Lysergic acid diethylamide, or its analog, in a quantity of
42 100 milligrams or more including any adulterants or dilutants, or
43 phencyclidine, or its analog, in a quantity of 10 grams or more
44 including any adulterants or dilutants, is guilty of a crime of the
45 first degree. Except as provided in N.J.S.2C:35-12, the court shall
46 impose a term of imprisonment which shall include the imposition
47 of a minimum term, fixed at, or between, one-third and one-half of
48 the sentence imposed by the court, during which the defendant shall

1 be ineligible for parole. Notwithstanding the provisions of
2 subsection a. of N.J.S.2C:43-3, a fine of up to \$500,000.00 may be
3 imposed;

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

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

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

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

24 (10) (a) Marijuana in a quantity of 25 pounds or more including
25 any adulterants or dilutants, or 50 or more marijuana plants,
26 regardless of weight, or hashish in a quantity of five pounds or
27 more including any adulterants or dilutants, is guilty of a crime of
28 the first degree. Notwithstanding the provisions of subsection a. of
29 N.J.S.2C:43-3, a fine of up to \$300,000.00 may be imposed;

30 (b) Marijuana in a quantity of five pounds or more but less than
31 25 pounds including any adulterants or dilutants, or 10 or more but
32 fewer than 50 marijuana plants, regardless of weight, or hashish in a
33 quantity of one pound or more but less than five pounds, including
34 any adulterants and dilutants, is guilty of a crime of the second
35 degree;

36 (11) Marijuana in a quantity of one ounce or more but less than
37 five pounds including any adulterants or dilutants, or hashish in a
38 quantity of five grams or more but less than one pound including
39 any adulterants or dilutants, is guilty of a crime of the third degree
40 except that, notwithstanding the provisions of subsection b. of
41 N.J.S.2C:43-3, a fine of up to \$25,000.00 may be imposed;

42 (12) [Marijuana in a quantity of less than one ounce including
43 any adulterants or dilutants, or hashish in a quantity of less than five
44 grams including any adulterants or dilutants, is guilty of a crime of
45 the fourth degree;] (Deleted by amendment, P.L. c.) (pending
46 before the Legislature as this bill)

47 (13) Any other controlled dangerous substance classified in
48 Schedule I, II, III or IV, or its analog, is guilty of a crime of the

1 third degree, except that, notwithstanding the provisions of
2 subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000.00 may be
3 imposed; or

4 (14) Any Schedule V substance, or its analog, is guilty of a
5 crime of the fourth degree except that, notwithstanding the
6 provisions of subsection b. of N.J.S.2C:43-3, a fine of up to
7 \$25,000.00 may be imposed.

8 c. Where the degree of the offense for violation of this section
9 depends on the quantity of the substance, the quantity involved
10 shall be determined by the trier of fact. Where the indictment or
11 accusation so provides, the quantity involved in individual acts of
12 manufacturing, distribution, dispensing or possessing with intent to
13 distribute may be aggregated in determining the grade of the
14 offense, whether distribution or dispensing is to the same person or
15 several persons, provided that each individual act of manufacturing,
16 distribution, dispensing or possession with intent to distribute was
17 committed within the applicable statute of limitations.
18 (cf: P.L.2000, c.136)

19
20 29. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read
21 as follows:

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

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

45 b. (1) Notwithstanding the provisions of N.J.S.2C:35-12 or
46 subsection a. of this section, the court may waive or reduce the
47 minimum term of parole ineligibility required under subsection a. of
48 this section or place the defendant on probation pursuant to

1 paragraph (2) of subsection b. of N.J.S.2C:43-2. In making this
2 determination, the court shall consider:

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

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

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

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

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

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

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

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

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

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

44 d. It shall be no defense to a prosecution for a violation of this
45 section that the actor was unaware that the prohibited conduct took
46 place while on or within 1,000 feet of any school property. Nor
47 shall it be a defense to a prosecution under this section, or under
48 any other provision of this title, that no juveniles were present on

1 the school property at the time of the offense or that the school was
2 not in session.

3 e. It is an affirmative defense to prosecution for a violation of
4 this section that the prohibited conduct took place entirely within a
5 private residence, that no person 17 years of age or younger was
6 present in such private residence at any time during the commission
7 of the offense, and that the prohibited conduct did not involve
8 distributing, dispensing or possessing with the intent to distribute or
9 dispense any controlled dangerous substance or controlled
10 substance analog for profit. The affirmative defense established in
11 this section shall be proved by the defendant by a preponderance of
12 the evidence. Nothing herein shall be construed to establish an
13 affirmative defense with respect to a prosecution for an offense
14 defined in any other section of this chapter.

15 f. In a prosecution under this section, a map produced or
16 reproduced by any municipal or county engineer for the purpose of
17 depicting the location and boundaries of the area on or within 1,000
18 feet of any property used for school purposes which is owned by or
19 leased to any elementary or secondary school or school board, or a
20 true copy of such a map, shall, upon proper authentication, be
21 admissible and shall constitute prima facie evidence of the location
22 and boundaries of those areas, provided that the governing body of
23 the municipality or county has adopted a resolution or ordinance
24 approving the map as official finding and record of the location and
25 boundaries of the area or areas on or within 1,000 feet of the school
26 property. Any map approved pursuant to this section may be
27 changed from time to time by the governing body of the
28 municipality or county. The original of every map approved or
29 revised pursuant to this section, or a true copy thereof, shall be filed
30 with the clerk of the municipality or county, and shall be
31 maintained as an official record of the municipality or county.
32 Nothing in this section shall be construed to preclude the
33 prosecution from introducing or relying upon any other evidence or
34 testimony to establish any element of this offense; nor shall this
35 section be construed to preclude the use or admissibility of any map
36 or diagram other than one which has been approved by the
37 governing body of a municipality or county, provided that the map
38 or diagram is otherwise admissible pursuant to the Rules of
39 Evidence.

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

41

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

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

46 a. Any person who violates subsection a. of N.J.S.2C:35-5 by
47 distributing, dispensing or possessing with intent to distribute a
48 controlled dangerous substance or controlled substance analog

1 while in, on or within 500 feet of the real property comprising a
2 public housing facility, a public park, or a public building is guilty
3 of a crime of the second degree, except that it is a crime of the third
4 degree if the violation involved less than one ounce of marijuana.

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

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

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

28 e. In a prosecution under this section, a map produced or
29 reproduced by any municipal or county engineer for the purpose of
30 depicting the location and boundaries of the area on or within 500
31 feet of a public housing facility which is owned by or leased to a
32 housing authority according to the "Local Redevelopment and
33 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the area in or
34 within 500 feet of a public park, or the area in or within 500 feet of
35 a public building, or a true copy of such a map, shall, upon proper
36 authentication, be admissible and shall constitute prima facie
37 evidence of the location and boundaries of those areas, provided
38 that the governing body of the municipality or county has adopted a
39 resolution or ordinance approving the map as official finding and
40 record of the location and boundaries of the area or areas on or
41 within 500 feet of a public housing facility, a public park, or a
42 public building. Any map approved pursuant to this section may be
43 changed from time to time by the governing body of the
44 municipality or county. The original of every map approved or
45 revised pursuant to this section, or a true copy thereof, shall be filed
46 with the clerk of the municipality or county, and shall be
47 maintained as an official record of the municipality or county.
48 Nothing in this section shall be construed to preclude the

1 prosecution from introducing or relying upon any other evidence or
2 testimony to establish any element of this offense; nor shall this
3 section be construed to preclude the use or admissibility of any map
4 or diagram other than one which has been approved by the
5 governing body of a municipality or county, provided that the map
6 or diagram is otherwise admissible pursuant to the Rules of
7 Evidence.

8 f. As used in this act:

9 "Public housing facility" means any dwelling, complex of
10 dwellings, accommodation, building, structure or facility and real
11 property of any nature appurtenant thereto and used in connection
12 therewith, which is owned by or leased to a local housing authority
13 in accordance with the "Local Redevelopment and Housing Law,"
14 P.L.1992, c.79 (C.40A:12A-1 et seq.) for the purpose of providing
15 living accommodations to persons of low income.

16 "Public park" means a park, recreation facility or area or
17 playground owned or controlled by a State, county or local
18 government unit.

19 "Public building" means any publicly owned or leased library or
20 museum.

21 (cf: P.L.1997, c.327, s.1)

22

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

24 2C:35-10. Possession, Use or Being Under the Influence, or
25 Failure to Make Lawful Disposition.

26 a. It is unlawful for any person, knowingly or purposely, to
27 obtain, or to possess, actually or constructively, a controlled
28 dangerous substance or controlled substance analog, unless the
29 substance was obtained directly, or pursuant to a valid prescription
30 or order form from a practitioner, while acting in the course of his
31 professional practice, or except as otherwise authorized by
32 P.L.1970, c.226 (C.24:21-1 et seq.), or except as authorized by
33 P.L. , c. (C.) (pending before the Legislature as this bill).

34 Any person who violates this section with respect to:

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

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

44 (3) Possession of **[more than]** 50 grams or more of marijuana,
45 including any adulterants or dilutants, or more than five grams of
46 hashish is guilty of a crime of the fourth degree, except that,
47 notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
48 fine of up to \$25,000.00 may be imposed; or

1 (4) Possession of [50 grams or less] more than one ounce
2 (28.38 grams) but less than 50 grams, of marijuana, including any
3 adulterants or dilutants, [or five grams or less of hashish] is a
4 disorderly person.

5 b. Any person who uses or who is under the influence of any
6 controlled dangerous substance, or its analog, for a purpose other
7 than the treatment of sickness or injury as lawfully prescribed or
8 administered by a physician is a disorderly person.

9 In a prosecution under this subsection, it shall not be necessary
10 for the State to prove that the accused did use or was under the
11 influence of any specific drug, but it shall be sufficient for a
12 conviction under this subsection for the State to prove that the
13 accused did use or was under the influence of some controlled
14 dangerous substance, counterfeit controlled dangerous substance, or
15 controlled substance analog, by proving that the accused did
16 manifest physical and physiological symptoms or reactions caused
17 by the use of any controlled dangerous substance or controlled
18 substance analog.

19 c. Any person who knowingly obtains or possesses a controlled
20 dangerous substance or controlled substance analog in violation of
21 subsection a. of this section and who fails to voluntarily deliver the
22 substance to the nearest law enforcement officer is guilty of a
23 disorderly persons offense. Nothing in this subsection shall be
24 construed to preclude a prosecution or conviction for any other
25 offense defined in this title or any other statute.

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

27

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

29 2C:36-1. Drug paraphernalia, defined; determination.

30 [As] Except as authorized by P.L. c. (C.) (pending before
31 the Legislature as this bill), as used in this act, "drug paraphernalia"
32 means all equipment, products and materials of any kind which are
33 used or intended for use in planting, propagating, cultivating,
34 growing, harvesting, manufacturing, compounding, converting,
35 producing, processing, preparing, testing, analyzing, packaging,
36 repackaging, storing, containing, concealing, ingesting, inhaling, or
37 otherwise introducing into the human body a controlled dangerous
38 substance, controlled substance analog or toxic chemical in
39 violation of the provisions of chapter 35 of this title. It shall
40 include, but not be limited to: a. kits used or intended for use in
41 planting, propagating, cultivating, growing or harvesting of any
42 species of plant which is a controlled dangerous substance or from
43 which a controlled dangerous substance can be derived; b. kits used
44 or intended for use in manufacturing, compounding, converting,
45 producing, processing, or preparing controlled dangerous
46 substances or controlled substance analogs; c. isomerization devices
47 used or intended for use in increasing the potency of any species of
48 plant which is a controlled dangerous substance; d. testing

1 equipment used or intended for use identifying, or in analyzing the
2 strength, effectiveness or purity of controlled dangerous substances
3 or controlled substance analogs; e. scales and balances used or
4 intended for use in weighing or measuring controlled dangerous
5 substances or controlled substance analogs; f. dilutants and
6 adulterants, such as quinine hydrochloride, mannitol, mannite,
7 dextrose and lactose, used or intended for use in cutting controlled
8 dangerous substances or controlled substance analogs; g.
9 [separation gins and sifters used or intended for use in removing
10 twigs and seeds from, or in otherwise cleaning or refining,
11 marihuana;] h. blenders, bowls, containers, spoons and mixing
12 devices used or intended for use in compounding controlled
13 dangerous substances or controlled substance analogs; i. capsules,
14 balloons, envelopes and other containers used or intended for use in
15 packaging small quantities of controlled dangerous substances or
16 controlled substance analogs; j. containers and other objects used or
17 intended for use in storing or concealing controlled dangerous
18 substances, controlled substance analogs or toxic chemicals; k.
19 objects used or intended for use in ingesting, inhaling, or otherwise
20 introducing [marihuana,] cocaine, [hashish, hashish oil,] nitrous
21 oxide or the fumes of a toxic chemical into the human body, such
22 as (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
23 with or without screens, permanent screens, [hashish heads,] or
24 punctured metal bowls; (2) [water pipes; (3)] carburetion tubes and
25 devices; [(4)] (3) smoking and carburetion masks; [(5)] roach clips,
26 meaning objects used to hold burning material, such as a marihuana
27 cigarette, that has become too small or too short to be held in the
28 hand; (6)] (4) miniature cocaine spoons, and cocaine vials; [(7)]
29 (5) chamber pipes; [(8)] (6) carburetor pipes; [(9)] (7) electric
30 pipes; [(10)] (8) air-driven pipes; [(11)] (9) chillums; [(12)] (10)
31 bongos; [(13)] (11) ice pipes or chillers; [(14)] (12) compressed gas
32 containers, such as tanks, cartridges or canisters, that contain food
33 grade or pharmaceutical grade nitrous oxide as a principal
34 ingredient; [(15)] (13) chargers or charging bottles, meaning metal,
35 ceramic or plastic devices that contain an interior pin that may be
36 used to expel compressed gas from a cartridge or canister; and
37 [(16)] (14) tubes, balloons, bags, fabrics, bottles or other containers
38 used to concentrate or hold in suspension a toxic chemical or the
39 fumes of a toxic chemical.

40 In determining whether or not an object is drug paraphernalia,
41 the trier of fact, in addition to or as part of the proofs, may consider
42 the following factors: a. statements by an owner or by anyone in
43 control of the object concerning its use; b. the proximity of the
44 object of illegally possessed controlled dangerous substances,
45 controlled substance analogs or toxic chemicals; c. the existence of
46 any residue of illegally possessed controlled dangerous substances,
47 controlled substance analogs or toxic chemicals on the object; d.

1 direct or circumstantial evidence of the intent of an owner, or of
2 anyone in control of the object, to deliver it to persons whom he
3 knows intend to use the object to facilitate a violation of this act;
4 the innocence of an owner, or of anyone in control of the object, as
5 to a direct violation of this act shall not prevent a finding that the
6 object is intended for use as drug paraphernalia; e. instructions, oral
7 or written, provided with the object concerning its use; f.
8 descriptive materials accompanying the object which explain or
9 depict its use; g. national or local advertising whose purpose the
10 person knows or should know is to promote the sale of objects
11 intended for use as drug paraphernalia; h. the manner in which the
12 object is displayed for sale; i. the existence and scope of legitimate
13 uses for the object in the community; and j. expert testimony
14 concerning its use.
15 (cf: P.L. 2007, c.31, s.2)

16
17 33. Section 1 of P.L. 1964, c.289, (C.39:4-49.1) is amended to
18 read as follows:

19 [No] Except as authorized by P.L. , c. (C.) (pending before
20 the Legislature as this bill), no person shall operate a motor vehicle
21 on any highway while knowingly having in his possession or in the
22 motor vehicle any controlled dangerous substance as classified in
23 Schedules I, II, III, IV and V of the "New Jersey Controlled
24 Dangerous Substances Act," P.L. 1970, c. 226 (C. 24:21-1 et seq.)
25 or any prescription legend drug, unless the person has obtained the
26 substance or drug from, or on a valid written prescription of, a duly
27 licensed physician, veterinarian, dentist or other medical
28 practitioner licensed to write prescriptions intended for the
29 treatment or prevention of disease in man or animals or unless the
30 person possesses a controlled dangerous substance pursuant to a
31 lawful order of a practitioner or lawfully possesses a Schedule V
32 substance.

33 A person who violates this section shall be fined not less than
34 [\$50.00] \$50 and shall forthwith forfeit his right to operate a motor
35 vehicle for a period of two years from the date of his conviction.
36 (cf: P.L. 1985, c. 239, s. 1)

37
38 34. (New section) Consumer Protections.

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

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

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

6 (2) a patient, shall not constitute the use of an illicit substance
7 resulting in denial of medical care, including organ transplant, and a
8 patient's use of marijuana may only be considered with respect to
9 evidence-based clinical criteria; iii. a parent or legal guardian of a
10 child or newborn infant, or a pregnant woman, shall not form the
11 sole or primary basis for any action or proceeding by the Division
12 of Child Protection and Permanency, or any successor agencies.

13
14 35. (New section) a. Law enforcement agencies in New Jersey
15 shall not cooperate with or provide assistance to the government of
16 the United States or any agency thereof in enforcing the Controlled
17 Substance Act, 21 U.S.C. 801 et seq., solely for actions consistent
18 with P.L. , c. (C.) (pending before the Legislature as this bill),
19 except as pursuant to a valid court order.

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

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

29
30 36. (New section) Contract Enforceability.

31 No contract shall be unenforceable on the basis that
32 manufacturing, distributing, dispensing, possessing, or using
33 marijuana is prohibited by federal law. No contract entered into by
34 a licensee, its employees, or its agents as permitted pursuant to a
35 valid license issued by the division, or by those who allow property
36 to be used by a licensee, its employees, or its agents as permitted
37 pursuant to a valid license issued by the division, shall be deemed
38 unenforceable on the basis that the actions or conduct permitted
39 pursuant to the license are prohibited by federal law.

40
41 37. (New section) Criminal Investigation.

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

- 44 (1) The odor of marijuana or burnt marijuana;
45 (2) The possession of or the suspicion of possession of
46 marijuana without evidence of quantity in excess of one ounce;

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

4 b. Subsection a. of this section shall not apply when a law
5 enforcement officer is investigating whether a person is driving
6 under the influence of marijuana or driving while impaired by
7 marijuana in violation of R.S.39:4-50.
8

9 38. (New section) All fees and penalties collected by the
10 Director of the Division of Marijuana Enforcement pursuant to the
11 provisions of P.L. c. (C.) (pending before the Legislature as
12 this bill) shall be forwarded to the State Treasurer for deposit in a
13 special nonlapsing fund which shall be known as the Marijuana
14 Control and Regulation Fund. Monies in the fund shall be used
15 exclusively for the operation of the Division of Marijuana
16 Enforcement and for reimbursement of all additional costs of
17 enforcement of the provisions of P.L. c. (C.) (pending before
18 the Legislature as this bill) incurred by the Department of Law and
19 Public Safety.
20

21 39. (New section) Marijuana Regulation Review Commission.

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

31 b. The commission shall call upon the Department of Law and
32 Public Safety to assist in any staff or clerical functions of the
33 commission.

34 c. Meetings of commission, copies of minutes.

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

40 The secretary shall transmit to each member of the commission a
41 copy of the minutes of each meeting within twenty-four hours after
42 the adjournment thereof. The minutes of the commission shall be
43 open to inspection by any citizen of the State at all times during
44 business hours.

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

1 e. Number of members necessary to act. The concurrence of
2 two of the members of the commission shall be necessary to
3 validate all acts of the commission.

4 f. Annual report to Legislature. The commission shall make an
5 annual detailed report of its actions and operations to the
6 Legislature and render such other reports to the Legislature as it
7 shall from time to time require.

8 g. Powers and duties of commission.

9 The Marijuana Regulation Review Commission shall review and
10 approve regulations developed by the division pursuant to section 8
11 of P.L. , c. (C.) (pending before the Legislature as this bill) and
12 may require regulations as deemed necessary. The commission shall
13 have such other and further powers and perform such other and
14 further duties as may be conferred or imposed upon it from time to
15 time by the Legislature.

16

17 40. (New section) Following the enactment of, but prior to the
18 effective date of, P.L. c. (C.) (pending before the Legislature
19 as this bill), possession of up to 50 grams of marijuana shall
20 constitute a civil violation not subject to arrest, and limited to a fine
21 of up to \$100, notwithstanding the provisions of N.J.S. 2C:35-10.

22

23 41. This act shall take effect on the 360th day following
24 enactment, but the director may take such anticipatory action as
25 may be necessary to effectuate the provisions of this act.

26

27

28

STATEMENT

29

30 This bill would legalize the possession and personal use of small
31 amounts of marijuana for persons age 21 and over.

32 Section 3 of the bill specifies that the following acts are not
33 unlawful and would not be an offense or a basis for seizure or
34 forfeiture of assets under N.J.S.2C:64-1 et seq. or other applicable
35 law for persons 21 years of age or older:

- 36 • possessing, using, displaying, purchasing, or transporting
37 marijuana accessories or one ounce or less of marijuana
38 and certain other related products;
39 • transfer of one ounce or less of marijuana or other related
40 products to a person who is 21 years of age or older;
41 • consumption of marijuana, provided that nothing in the
42 bill would permit consumption that is conducted openly
43 and publicly; or
44 • assisting another person who is 21 years of age or older in
45 any of the acts described above.

46 Section 4 of the bill provides that the following acts would also
47 not be unlawful or a basis for seizure or forfeiture of assets for
48 persons 21 years of age or older:

S3195 SCUTARI

61

- 1 • manufacture, possession, or purchase of marijuana
2 accessories or the sale of marijuana accessories to a
3 person who is 21 years of age or older;
- 4 • possessing, displaying, or transporting marijuana or
5 marijuana products; purchase of marijuana from a
6 marijuana cultivation facility; purchase of marijuana or
7 marijuana products from a marijuana product
8 manufacturing facility; or sale of marijuana or marijuana
9 products to consumers, if the person conducting the
10 activities has obtained a current, valid license to operate a
11 retail marijuana store or is acting in his capacity as an
12 owner, employee or agent of a licensed retail marijuana
13 store;
- 14 • cultivating, harvesting, processing, packaging,
15 transporting, displaying, or possessing marijuana;
16 delivery or transfer of marijuana to a marijuana testing
17 facility; selling marijuana to a marijuana cultivation
18 facility, a marijuana product manufacturing facility, or a
19 retail marijuana store; or the purchase of marijuana from
20 a marijuana cultivation facility, if the person conducting
21 the activities has obtained a current, valid license to
22 operate a marijuana cultivation facility or is acting in his
23 capacity as an owner, employee, or agent of a licensed
24 marijuana cultivation facility;
- 25 • packaging, processing, transporting, manufacturing,
26 displaying, or possessing marijuana or marijuana
27 products; delivery or transfer of marijuana or marijuana
28 products to a marijuana testing facility; selling marijuana
29 or marijuana products to a retail marijuana store or a
30 marijuana product manufacturing facility; the purchase of
31 marijuana from a marijuana cultivation facility; or the
32 purchase of marijuana or marijuana products from a
33 marijuana product manufacturing facility, if the person
34 conducting the activities has obtained a current, valid
35 license to operate a marijuana product manufacturing
36 facility or is acting in his capacity as an owner, employee,
37 or agent of a licensed marijuana product manufacturing
38 facility;
- 39 • possessing, cultivating, processing, repackaging, storing,
40 transporting, displaying, transferring or delivering
41 marijuana or marijuana products if the person has
42 obtained a current, valid license to operate a marijuana
43 testing facility or is acting in his capacity as an owner,
44 employee, or agent of a licensed marijuana testing
45 facility;
- 46 • leasing or otherwise allowing the use of property owned,
47 occupied or controlled by any person, corporation or
48 other entity for any of the activities conducted lawfully.

1 Sections 7 and 8 describe the powers and duties of the newly
2 created Division of Marijuana Enforcement and the regulation of
3 marijuana generally. The bill provides for the division to adopt
4 rules and regulations necessary for implementation of the bill. The
5 regulations could not prohibit the operation of marijuana
6 establishments, either expressly or through regulations that make
7 their operation unreasonably impracticable. The bill would require
8 regulations to include the following: procedures for the application,
9 issuance, denial, renewal, suspension, and revocation of a license to
10 operate a marijuana establishment; the establishment by the division
11 of license application fees. Additional required regulations must
12 include licensing goals for minority owned and female owned
13 businesses under the act; security requirements for marijuana
14 establishments; requirements to prevent the sale or diversion of
15 marijuana and marijuana products to underage persons; labeling and
16 packaging requirements; health and safety regulations and standards
17 for the manufacture and sale of marijuana products; advertisement
18 restrictions; procedures for the division to conduct unannounced
19 visits to marijuana establishments; a requirement that only
20 marijuana, marijuana based products and paraphernalia be available
21 for sale at a marijuana establishment; and civil penalties for the
22 failure to comply with established regulations.

23 Section 9 mandates that the division develop a system for
24 tracking the transfer of marijuana items between licensed premises
25 capable, at a minimum, of tracking among other categories, the
26 propagation of immature marijuana plants, the processing of
27 marijuana by a processor, the receiving, storing and delivering of
28 marijuana items by a wholesaler, the sale of marijuana items by a
29 marijuana retailer to a consumer; the purchase and sale of marijuana
30 items between licensees, the transfer of marijuana items between
31 licensed premises; and the collection of taxes imposed upon the
32 retail sale of marijuana items.

33 Section 10 of the bill establishes a tax levied upon marijuana
34 sold or otherwise transferred by a marijuana cultivation facility to a
35 marijuana product manufacturing facility or to a retail marijuana
36 store. To encourage early participation in and development of
37 marijuana establishments and to undermine the illegal market, the
38 bill proposes an escalating tax rate of seven percent in the first year;
39 10 percent in year two; 15% in year three; 20% in year four; and
40 25% in year five and beyond. The Department of the Treasury
41 would establish procedures for the collection of all taxes levied.

42 The bill specifies that no tax would be levied upon marijuana
43 intended for sale at medical marijuana centers pursuant to the "New
44 Jersey Compassionate Use Medical Marijuana Act," P.L.2009,
45 c.307 (C.24:6I-1 et seq.).

46 Section 11 provides for local governmental entity regulations or
47 ordinances. The bill provides that each local governmental entity
48 shall enact an ordinance or regulation specifying the entity within

1 the local governmental entity that is responsible for processing
2 applications submitted for a license to operate a marijuana
3 establishment within the boundaries of the local governmental
4 entity and for the issuance of such licenses, should the issuance by
5 the local governmental entity become necessary because of a failure
6 by the division to adopt regulations or to process and issue licenses.

7 The local governmental entity may enact ordinances or
8 regulations, not in conflict with the provisions of the bill, that
9 address the following:

10 -- governing the time, place, manner and number of marijuana
11 establishment operations;

12 -- establishing procedures for the issuance, suspension, and
13 revocation of a license issued by the local governmental entity;

14 -- establishing a schedule of annual operating, licensing, and
15 application fees for marijuana establishments, provided, the
16 application fee shall only be due if an application is submitted to a
17 local governmental entity in accordance with the provisions of the
18 bill and a licensing fee shall only be due if a license is issued by a
19 local governmental entity; and

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

23 The bill provides that a local governmental entity may prohibit
24 the operation of marijuana cultivation facilities, marijuana product
25 manufacturing facilities, marijuana testing facilities, or retail
26 marijuana stores through the enactment of an ordinance. Under the
27 bill, the failure of a local governmental entity to enact an ordinance
28 prohibiting the operation of a marijuana establishment shall thereby
29 permit the operation of a marijuana retail establishment within the
30 local governmental entity for a period of five years, at the end of
31 which five year period, and every five year period thereafter, the
32 local governmental entity shall again be permitted to prohibit the
33 operation of a marijuana establishment.

34 Section 12 establishes the application process. Under the bill,
35 each application for an annual license to operate a marijuana
36 establishment would be submitted to the division. A separate
37 license shall be required for each location at which a marijuana
38 establishment seeks to operate. Renewal applications may be filed
39 up to 90 days prior to the expiration of the establishment's license.

40 Sections 13 through 18 establish the different classes of licenses
41 and the requirements to obtain licensure.

42 A marijuana producer must have a Class 1 Marijuana Cultivation
43 Facility license issued by the division for the premises at which the
44 marijuana is produced.

45 A marijuana processor must have a Class 1 Marijuana Product
46 Manufacturing Facility license issued by the division for the
47 premises at which the marijuana is processed.

S3195 SCUTARI

64

1 A marijuana wholesaler must have a Class 2 Marijuana
2 Wholesaler license issued by the division for the premises at which
3 the marijuana is warehoused.

4 A marijuana retailer must have a Class 3 Marijuana Retailer
5 license issued by the division for the premises at which the
6 marijuana is retailed.

7 A marijuana transporter must have a Class 4 Marijuana
8 Transportation license issued by the division.

9 All prospective licensees must complete application
10 requirements, meet residency requirements, and undergo a criminal
11 history record background check.

12 Section 22 provides that a currently operating medical marijuana
13 facility operating in good standing can immediately apply for a
14 license to operate to distribute marijuana to a person who is not a
15 medical marijuana patient.

16 Section 23 permits a person convicted of marijuana possession to
17 present an application for expungement to the Superior Court.

18 Sections 25 through 33 update existing sections of law to reflect
19 the decriminalization of marijuana under the bill.

20 Section 38 establishes that all fees and penalties collected by the
21 Director of the Division of Marijuana Enforcement shall be
22 forwarded to the State Treasurer for deposit in a special nonlapsing
23 fund which shall be known as the Marijuana Control and Regulation
24 Fund. Monies in the fund shall be used exclusively for the
25 operation of the Division of Marijuana Enforcement and for
26 reimbursement of all additional costs of enforcement

27 Section 39 establishes a Marijuana Regulation Review
28 Commission which shall be responsible to review and approve
29 regulations developed by the division. The commission shall
30 consist of three members as follows: one member appointed by the
31 Governor, who shall be the presiding officer, one member
32 appointed by the President of the Senate, who shall be a member of
33 the Senate, and one member appointed by the Speaker of the
34 General Assembly, who shall be a member of the General
35 Assembly. The concurrence of two of the members of the
36 commission shall be necessary to validate all acts of the
37 commission.

38 Section 40 provides that following enactment of the legislation
39 but prior to the effective date, established as one year following
40 enactment, the possession of up to 50 grams of marijuana shall
41 constitute a civil violation not subject to arrest, and limited to a fine
42 of up to \$100.

43 The bill shall take effect on the 360th day following enactment,
44 but the director may take such anticipatory action as may be
45 necessary to effectuate the provisions.

NICHOLAS P. SCUTARI
Chair

NIA H. GILL
Vice-Chair

RAYMOND J. LESNIAK
NELLE POU
PAUL A. SARLO
BOB SMITH
BRIAN P. STACK
LORETTA WEINBERG
CHRISTOPHER "KIP" BATEMAN
GERALD CARDINALE
MICHAEL J. DOHERTY
JOSEPH M. KYRILLOS, JR.
KEVIN J. O'TOOLE



DAVID J. LORETTE
*Office of Legislative Services
Committee Aide*
(609) 847-3865
(609) 292-6510 fax

New Jersey State Legislature

SENATE JUDICIARY COMMITTEE

STATE HOUSE ANNEX

PO BOX 068

TRENTON NJ 08625-0068

REVISED

COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE

FROM: SENATOR NICHOLAS P. SCUTARI, CHAIRMAN

SUBJECT: COMMITTEE MEETING - JUNE 19, 2017

The public may address comments and questions to David J. Lorette, Committee Aide, or make bill status and scheduling inquiries to Nina Riccardi, Secretary, at (609)847-3865, fax (609)292-6510, or e-mail: OLSAideSJU@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request. This does not apply to information or remarks concerning the character or qualifications of any person nominated by the Governor which are brought to the attention of the committee considering the nomination. However, oral remarks delivered in a public meeting concerning a nominee are available to the public if recorded or transcribed.

The Senate Judiciary Committee will meet on Monday, June 19, 2017 at *10:00 AM in Committee Room 4, 1st Floor, State House Annex, Trenton, New Jersey.

FOR DISCUSSION ONLY:

S-3195 Legalizes possession and personal use of small amounts of marijuana
Scutari for persons age 21 and over; creates Division of Marijuana
 Enforcement and licensing structure.

Persons who bring written testimony to the meeting are asked to provide 20 copies.

Issued 6/13/17

Revised 6/14/17 *Please note time change to 10:00 a.m.

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, see website <http://www.njleg.state.nj.us> or call 800-792-8630 (toll-free in NJ) or 609-847-3905.

TABLE OF CONTENTS

	<u>Page</u>
Senator Stephen M. Sweeney District 3	5
David L. Nathan, M.D. Founder and Board President Doctors for Cannabis Regulation (DFCR)	13
Andrew Medvedovsky, M.D. Director New Jersey Alternative Medicine	18
Robert Cressen Private Citizen	19
Kenneth Wolski Executive Director Coalition for Medical Marijuana New Jersey (CMMNJ)	23
Dianna Houenou, Esq. Policy Counsel American Civil Liberties Union of New Jersey (ACLU-NJ)	32
Richard Todd Edwards Chair Political Action New Jersey State Conference National Association for the Advancement of Colored People (NAACP)	36
Ana “Cuqui” Rivera Executive Secretary, and Chair Criminal Justice Reform Committee Latino Action Network New Jersey	42
Christopher Beals, Esq. President and General Counsel Weedmaps, and Vice President New Jersey Cannabis Industry Association	59

TABLE OF CONTENTS (continued)

	<u>Page</u>
Michael James Chief Financial Officer Terra Tech Corporation, Inc.	67
Brandon McKoy Policy Analyst New Jersey Policy Perspective	68
George Schidlovsky Executive Director Compassionate Sciences Alternative Treatment Center	70
Jon-Henry “J.H.” Barr, Esq. Secretary New Jersey State Municipal Prosecutors Association	79
Hector Corchado Former Deputy Police Director City of Newark, and Representing New Jersey CannaBusiness Association, Newark	83
Dominick F. Bucci Retired New Jersey State Police, and Member Law Enforcement Action Partnership, and Member New Jersey United for Marijuana Reform (NJUMR)	90
Ricardo Rivera Representing Garden State Cannabis Consumers	110
Chris Goldstein Representing Garden State Cannabis Consumers	112
Roseanne Scotti New Jersey State Director Drug Policy Alliance	118
Justin Escher Alpert, Esq. Private Citizen	130

TABLE OF CONTENTS (continued)

	<u>Page</u>
Moira Nelson Director Drug Policy Reform Action Together New Jersey	135
Juan Cartagena, Esq. President and General Counsel LatinoJustice Puerto Rican Legal Defense and Education Fund (PRLDEF)	136
Reverend Charles F. Boyer Pastor Bethel AME Church City of Woodbury, New Jersey, and Founder Salvation and Social Justice	137
Tom Moran Board Member Unitarian Universalist Legislative Ministry of New Jersey	140
Leo Bridgewater President New Jersey Chapter Minorities for Medical Marijuana, and Chair Minorities Subcommittee New Jersey Cannabis Association	143
Sanjay R. Chaudhari Private Citizen	146
Claire Marsden Private Citizen	155
Cathleen Lewis Chair Coordinating Council AAA Clubs of New Jersey	157
Sheri Rosen, O.D. Private Citizen	160

TABLE OF CONTENTS (continued)

	<u>Page</u>
Philip Kirschner, Esq. Private Citizen	163
APPENDIX:	
Testimony submitted by David L. Nathan, M.D.	1x
Testimony submitted by Kenneth Wolski	5x
Testimony submitted by Dianna Houenou, Esq.	7x
Testimony submitted by Richard Todd Edwards	12x
Testimony submitted by Ana "Cuqui" Rivera	18x
Testimony, plus attachments submitted by Christopher Beals, Esq.	20x
Testimony submitted by Brandon McKoy	51x
Testimony, plus attachments submitted by Ricardo Rivera	53x
Testimony submitted by Chris Goldstein	57x

TABLE OF CONTENTS (continued)

APPENDIX (continued)

	<u>Page</u>
Testimony submitted by Roseanne Scotti	60x
Testimony submitted by Justin Escher Alpert, Esq.	63x
Testimony submitted by Moirra Nelson	64x
Testimony submitted by Juan Cartagena, Esq.	66x
Testimony submitted by Reverend Charles F. Boyer	68x
Testimony submitted by Tom Moran	70x
Testimony submitted by Sanjay R. Chaudhari	72x
Testimony submitted by Cathleen Lewis	75x
Testimony submitted by Philip Kirschner, Esq.	79x
Testimony submitted by Peter Rosenfeld Board Member Coalition for Medical Marijuana, New Jersey (CMMNJ)	80x

TABLE OF CONTENTS (continued)

APPENDIX (continued)

	<u>Page</u>
Testimony submitted by Louis Santiago Executive Director CannaSense Total Wellness	81x
Testimony submitted by Satenik Margaryan, Ph.D. Private Citizen	84x
Testimony submitted by Reverend Robin Tanner Minister Worship and Outreach Beacon Unitarian Universalist Congregation in Summit, New Jersey	86x
Testimony submitted by Christina Carrell Private Citizen	87x
Testimony submitted by Renee Koubiadis Executive Director Anti-Poverty Network of New Jersey	88x
Testimony submitted by Gale Muhammad Founder and President Women Who Never Give Up, Inc.	90x

TABLE OF CONTENTS (continued)

APPENDIX (continued)

	<u>Page</u>
Testimony submitted by Kathy Wright Executive Director New Jersey Parents' Caucus (NJPC)	92x
Testimony submitted by Bonnie Kerness Program Director Prison Watch Program, and Alexandra Goncalves-Pena, Esq. Supervising Attorney Immigrant Rights Program American Friends Service Committee	94x
Testimony submitted by Angel M. Perez Executive Director New Jersey Association on Correction	96x
Testimony submitted by Daniel L. Lombardo President and CEO Volunteers of America Delaware Valley	98x
Testimony submitted by Rabbi Marc Aaron Kline, Esq. Human Relations Advisory Committee Township of Red Bank	100x
Testimony submitted by Jo Anne Zito Private Citizen	104x

TABLE OF CONTENTS (continued)

APPENDIX (continued)

	<u>Page</u>
Testimony submitted by Marilou Halvorsen President New Jersey Restaurant and Hospitality Association	108x
News Articles <i>Casual Marijuana Use Linked to Brain Abnormalities, and Cannabis Use is Quantitatively Associated with Nucleus Accumbens and Amygdala Abnormalities in Young Adult Recreational Users</i> submitted by Senator Gerald Cardinale	109x
E-mail, addressed to Senator Judiciary Committee from Jean Public	122x
Statement submitted by George H. White Executive Director New Jersey Press Association	123x
pnf: 1-167	

SENATOR NICHOLAS P. SCUTARI (Chair): Good morning, and welcome to the Senate Judiciary Committee.

Today is Monday, June 19, 2017.

May I have a roll call?

MR. LORETTE (Committee Aide): Committee roll call.

Senator Kyrillos.

SENATOR KYRILLOS: Yes.

MR. LORETTE: Senator Bateman.

SENATOR BATEMAN: Here.

MR. LORETTE: Senator Stack.

SENATOR STACK: Here.

MR. LORETTE: Senator Smith is present, and (indiscernible) the room.

Senator Pou is marked in as present.

Senator Lesniak.

SENATOR LESNIAK: Here.

MR. LORETTE: Senator Gill.

SENATOR NIA H. GILL (Vice Chair): Here.

MR. LORETTE: Chairman Scutari.

SENATOR SCUTARI: Here.

MR. LORETTE: Chairman, you have a quorum.

SENATOR SCUTARI: Thank you.

Would you read the singular topic for today?

MR. LORETTE: For discussion only, we have Bill S-3195, sponsored by Senator Scutari. It legalizes possession and personal use of

small amounts of marijuana for persons age 21 and over; it creates a Division of Marijuana Enforcement and licensing structure.

SENATOR SCUTARI: Thank you.

And good morning to everyone.

As many of know, three years ago I started a conversation in New Jersey about legalizing marijuana. Since that time, six states around the country have moved to legalize cannabis for all uses. Legalization is working in states that have approved it.

We saw that firsthand, when I led a bipartisan delegation of legislators travelling out to Colorado last year to examine the state's marijuana industry. We spent a lot of time, two full days, classroom work, and in-depth personal interviews and touring of facilities out there. And I want to thank, again, the bipartisan group of legislators that came with me; and I want to thank the staff as well, because a lot of work went into that.

The majority of Americans in New Jersey support getting rid of the failed marijuana laws that have ruined countless lives. Eight states have now legalized recreational marijuana; I believe New Jersey should do the same, and we should do it while we're at the forefront of the effort in this region. That will give us the greatest benefits and make us a leader in this industry. It will give us the greatest opportunity for business opportunities; it will also start down the correct path first. And finally, it will create the most amount of jobs if we do it first.

The legislation we are hearing today, and the testimony today, would legalize the possession and personal use of small amounts of marijuana for those ages 21 and over. The program would be regulated by a newly established Division of Marijuana Enforcement, under a detailed

system of oversight and monitoring laid out within the 63-page, single-spaced Bill.

To encourage early participation in and development of marijuana establishments, and to undermine the illegal market, the Bill establishes an escalating tax rate, starting lower at the first year, and going up during the proceeding five years. Bringing marijuana out of the underground market and creating a strictly regulated program is the right thing to do. Saving our street corners and bringing in a regulated market, creating jobs, and safeguarding our neighborhoods is what this Bill's intention is. It will help generate hundreds of millions of dollars in tax revenue, and create thousands of jobs.

Colorado has seen a tremendous amount of job creation and direct tax revenue. We hope to do more than the same. Given our population centers and given where we're located between New York and Philadelphia, we should see more than twice the successes that Colorado has seen.

The states that have legalized it have not seen the doom and gloom of the naysayers. There have been no detrimental effects. But we are more than willing to listen to both sides of the issue and make improvements on the Bill that we put forward before the members today.

It will allow law enforcement to focus their efforts where they are most needed and eliminate the detrimental effort and effect that marijuana arrests have had on our residents' lives for almost 100 years.

Finally, it will take it out of the hands of criminal enterprises and take drug dealers off the street corners, which I think is the most important issue in this Bill.

Laws that prohibit marijuana have not worked; they simply have failed. It's time to end those failed laws and create a well-regulated system in New Jersey.

Next year we will have a new Governor; and we should begin the process of shaping our marijuana laws now so that we are prepared to move forward with the best program for our state in the early part of 2018 -- one that ends the prohibition on marijuana and treats our residents fairly and humanely.

This hearing is the first step in that process. As much as we have studied this issue, we look, and look, and look for things that have gone wrong in other states so we can improve on them; but there has just been so little that they have recognized. And the things that have not gone as well, we will make those improvements. And I think that this Bill is a fair attempt in doing that.

I look forward to the input of my members and of the members of the public, so we can create the very best regulated system in America, starting in the early part of 2018.

But let me tell you this. I make no bones about it -- it's a process. I want to make sure that people get the amount of educational information that they can; they ask the tough questions of the speakers and of myself; and we can address those as part of the legislative process.

With that, I want to turn it over for some opening remarks to the Senate President, and I appreciate his presence here. And then we'll have a long day of testimony, and I look forward to it.

Mr. President, thank you for being here.

SENATOR LESNIAK: Can we also say something, as members?

SENATOR SCUTARI: Yes; but I'm going to let the Senate President go first, and then of course--

Thank you, Senator Lesniak.

S E N A T O R S T E P H E N M. S W E E N E Y: Thank you, Chairman.

And I really want to thank you for your leadership on this issue. You know, this is not an easy issue to have a conversation about; when you start talking about real issues, people kind of run and hide.

You did something that I haven't seen many legislators do; you took this issue on, and you've done all the due diligence that needed to be done.

The trip to Colorado was fascinating to me -- to learn how much we learned going into the centers, the stores that looked like Apple stores -- they were spotless, you know? And learning about packaging -- how they're packaging product to steer it away from children. Recognizing that underage use is not up, it's down; you know, deaths from opioid addiction down; employment up. Every category we looked at, you saw the positives. But not being the first-- Because we learned; we learned a lot from Colorado. And what they told us was, "Don't put it in the Constitution. If you can do it legislatively, that's the best way to do it."

And I think the basis point where Senator Scutari is at right now is a very good starting point -- I mean, when you go through a process and things are changed from time to time. But he's got this Bill in a very, very strong position.

And I agree that we should be having these conversations now; because with a new Administration, this should be implemented early in the first quarter of next year. And you know, you can cite all kinds of statistics, but numbers are numbers. Colorado went from 40th in job growth to 4th. It's getting younger; young people are moving to Colorado to exercise this-- This failed prosecution of marijuana laws over the years -- I honestly believe alcohol is worse than marijuana.

So you have done a phenomenal job with this, Chairman; making us listen. You know, I wasn't really crazy about flying to Colorado, but it was a trip that I was thrilled that I took afterwards. Because if any one of us-- And I would like to bring some of those people, if we could, here; because once you get an education, once you-- You know, been there, done that gives you a lot of foresight as you're planning to move forward in this area. And I saw-- Look, there's always a downside to everything; but there was a hell of a lot more up than down in this one.

And I was impressed with my Republican colleagues who went also; because we all went with an open mind. And, you know, I wasn't sure where I was going to be. I always said I was in favor of the idea; but after visiting, after listening to government officials-- And it's not just about taxes; everybody says, "Oh, you're just looking for a way to raise taxes." It's about jobs; it's about creating jobs. This is an industry that is in its infant stage, and we have the benefit of learning all the mistakes that everyone else has done up to this point. We should be able to do a hell of a lot larger when it comes to the job numbers than was done in Colorado; same with taxes.

So Chairman, I am excited about this. I am not 100 percent with you on this; I'm 1,000 percent. And I look forward to getting this done early, early next year.

Thank you for the good work that you've done on this.
(applause)

SENATOR SCUTARI: Thank you so much, Senate President.

And I appreciate your time and your effort. You particularly -- as well as Senator Bateman, and all the members who came with us -- I tell you, I've been here for a lot of years now, and I have never seen a topic studied so intensely. And that, to me, is a credit to the members -- how much time they spent in educating themselves on the issues; the passion of the advocates; and knowing our history lessons -- that we had prohibition of alcohol, and all it did was create crime and destroy lives. And we've done the same here with some of our archaic drug laws, and I think we're about to turn the corner here and change things dramatically.

Senate President, you have--

SENATOR SWEENEY: Just one last thing.

By legalizing it, you are shrinking that black market down to where you're not finding this on the corners anymore. And that's why the kids aren't getting the drugs because-- You and I went into a store; you forgot your license, I did not. They wouldn't let him in. He looks more than 21; I can tell you, he's a young guy, but he looks a hell of a lot older than 21. He couldn't get in the store. It was just so impressive how they've handled this marketing and everything else. But you know, the arrests are way down because they're not finding it on the corner.

So again, thank you for your leadership.

SENATOR SCUTARI: Thank you, Senator.

And you know, I had just been in that store momentarily before that, and they still wouldn't let me back in there. And I know that the drug dealers aren't checking IDs; they're selling to anybody.

Senator Lesniak has a comment before we start taking testimony.

SENATOR LESNIAK: Yes; well, first of all, I hate to burst your balloon, but you look older than 21. (laughter)

SENATOR SCUTARI: I'm working on it; but, yes.

SENATOR LESNIAK: And I, too, want to commend you for your passion and the hard work that you've done to get this legislation in, and to win me over.

I'm not 1,000 percent, though, there; nor 100 percent. But I am 85 percent there. I've sent-- And by the way, I would change one thing that you said, Senator, and that -- and the Senate President -- and that is alcohol *is* worse than marijuana, for sure, in terms of what it's done to our society.

And not rushing was a very good thing as well; I commend you for that.

I remember when Mao Tse Tung was talking to Henry Kissinger during the opening to China. And they are both historians. And Henry Kissinger -- Secretary of State Kissinger asked Mao Tse Tung what he thought the long-term effects of the French Revolution were. And Mao Tse Tung said, "Too soon to tell." (laughter)

So, you know, we do have to be extremely -- we have to error on the caution side here. Because it has been early on in the entire process,

and I have sent every member, and the Senator President, a Canadian model that I would highly recommend that you look at, that has-- And I commend you for saying you are open-minded in terms of amendments to the Bill. The Canadian model has broader protections with regard to advertising and child enticements, as well as treatment use of the revenues.

So one last thing -- and I know when you said you hoped to get this done in the first quarter of next year-- And I won't have a vote, by the way; neither will you, Senator. (laughter) But we're leaving; but--

But when you say, "Get it done in the first quarter," I presume you're talking about passing the law. Because it will take time for the regulations and to get the infrastructure in place.

But Senator, I commend you; your passion, your intensity, and the issue itself has won me over.

SENATOR SCUTARI: Thanks, Senator Lesniak; thank you for your open-mindedness on the topic.

I agree that you were not always as in favor; and maybe you're 85 percent. But you were probably 45 percent last year--

SENATOR LESNIAK: Right.

SENATOR SCUTARI: --and so by the end of the year, I hope you'll be at 100 percent.

Senator Bateman had some comments as well.

SENATOR BATEMAN: Thank you, Mr. Chairman.

SENATOR LESNIAK: Senator, there are amendments, though, that you will consider?

SENATOR BATEMAN: Yes.

SENATOR SCUTARI: Yes.

SENATOR LESNIAK: If you get me to (indiscernible).

SENATOR BATEMAN: Thank you, Mr. Chairman.

I just-- From one who went on that trip, it was a real eye-opener for me. And I want to commend you for your leadership and your passion on this issue. And basically, to reiterate what the Senate President said, I was very impressed -- I was impressed with the regulations on how they have it controlled, and how clean it was, and how they really did their homework, setting up the whole framework of regulations. So, you know, I'm open-minded on this issue; obviously, I'm anxious to hear some testimony this morning.

But again, I thank you for including me on that trip because it really, you know-- When you see it in person, it really is educational.

Thank you.

SENATOR SCUTARI: Thank you, Senator Bateman.

Senator Gill.

SENATOR GILL: Yes.

I know you've done a lot of work on this issue; and at the outset, I am for the legalization of marijuana. In fact, the medical marijuana facility in Montclair was three doors down from my Senate office.

However, I think we have to have a full understanding of the social justice issues. And it has some evidence-based issues in Colorado; the number of white teen-- In 2014, the number of white teenagers arrested on marijuana in the state decreased by 8 percent between 2012 and 2014. However, for black teens the arrests were increased by 58 percent, and Hispanics by 29 percent. So there is this issue of -- in the regulations, with

respect to the investors and the developers. I'm looking at what are the unintended consequences; because in fact, it does not reduce the arrest rate. What it does -- as we will find out -- is it moves it from the 21, to kids from 10 to 18. So those are the factors I will be looking for to discuss and to question.

The second area of concern is that we know we cannot, in any licensure process, insist on any affirmative action -- that is, minority and women should participate, or have particular kinds of licenses. We know that's unconstitutional. So that -- and we will go into that in some detail -- so that the idea that minorities will be able to participate because we put something in the legislation that we know may ultimately be constitutionally incurred--

And then the third area that I will be looking for when we have the further discussion will be where will the processing -- and we may not be able to do that now -- where will the processing facilities be, with the associated health issues of what happens in the process?

And then the last one is, since the Federal government -- and we know that Sessions has said -- he's actually overturned the former Attorney General's memo; how does that affect young people? So if an 18-year-old is charged, will that 18-year-old be ineligible for student loans? Will that 18-year-old not be able to get a Federal job because they will have a conviction?

So I am looking at it from the social justice issue, and its intended and unintended consequences.

So I look forward to a very robust discussion.

SENATOR SCUTARI: Thank you, Senator Gill.

Senator Kyrillos.

SENATOR KYRILLOS: Thank you, Chairman Scutari.

And congratulations to you for soberly looking at this issue and spending so much time on it; having hearings, going out to Colorado. I'm not sure that we agree, but I commend for your very focused analysis of this.

Senator Lesniak is right; he and I -- neither of us will have a vote next time. My inclination would have been to vote "no" had I been here next winter or spring. But I would have kept an open mind. I do think we have to hear from everybody on this issue; I'm sure the Senate President agrees that we should hear from everybody.

I noted last hearing, Mr. Chairman, that we didn't have anybody in opposition. Is that the case today, or do we have people who are opposed? Because I think it's important to hear from those people; people who feel that marijuana is a gateway drug to other drugs. I'm quite certain that the same dealers who are on the street today, preying upon our young people, will be there for those under 21. You know, we're not the Rocky Mountain State; this is Jersey. There are going to be people out there -- and I am sure they have people out there, as well, who have their businesses -- their illegal businesses. They have profit margins, and they're going to be out there; and this is a big problem. And our legalization will bring about legitimacy for many people under 21. I think your initial draft has this for people 21 and older.

I'm intrigued by what Senator Lesniak offered with the Canadian model, which I don't know anything about. But if it is more cautious, careful, more modest, recognizes the inherent challenges,

difficulties that this brings upon our society and to individual people, certainly Canada is, you know, a country not unlike our own. That's a good model to look at, and we ought to seriously look at that model.

So with that, I'll look forward to hearing some testimony.

Thank you, Mr. Chairman.

SENATOR SCUTARI: Wonderful; thank you, Senator Kyrillos.

Okay; let's call up our first panel.

Our first panel will be related to medical, science, and patients. First, Dr. David Nathan, M.D., Princeton Psychiatry and Counseling; Dr. Andrew Medvedovsky, M.D., New Jersey Alternative Medicine Director; and patient advocate Robert Cresson; and Ken Wolski, R.N., MPA, from the Coalition for Medical Marijuana in New Jersey and the Chief Executive Officer.

So those four individuals -- could you please come forward and sit up there in the front row?

Sarge, can you bring another chair up to the front row for Mr. Wolski? Wonderful; okay.

First, Dr. Nathan; could you please address our Committee? And thank you for being here.

DAVID L. NATHAN, M.D.: Thank you.

Good morning, Chair Scutari, members of the--

SENATOR SCUTARI: Let's make sure you have that on. (referring to PA microphone) Hold on a second. Red means go; perfect.

DR. NATHAN: Good morning, Chair Scutari and members of the Senate Judiciary Committee. My name is David Nathan, originally

from the Philadelphia area. I graduated *Magnum Cum Laude* in Biology from Princeton University; I received my M.D. from the University of Pennsylvania School of Medicine; and completed my residency at the McLean Hospital of Harvard Medical School.

I'm a Board-certified psychiatrist and, for the past 19 years, I've maintained a private practice in Princeton, New Jersey, where I live with my wife and our two teenage children. I am the Director of Continuing Medical Education for the Princeton HealthCare System; and I am the Director of Professional Education for Princeton House Behavioral Health.

I am a Clinical Associate Professor at the Rutgers Robert Wood Johnson Medical School; I'm a Distinguished Fellow of the American Psychiatric Association; I volunteer as the Physician Advisor for the New Jersey State Chapter of the Depression and Bipolar Support Alliance; I lecture to patient groups, physicians, and the lay public in various settings. I've published numerous articles in the national psychiatric and lay press about a variety of topics, one of which is the legal status of marijuana.

My involvement with New Jersey United for Marijuana Reform led me to create a new organization for physicians, Doctors for Cannabis Regulation, or DFCR. We launched last year as the first and only national medical association dedicated to the legalization, taxation, and, above all, the effective regulation of marijuana in the United States.

DFCR now has members in 42 states and 3 U.S. territories. I'm proud to say that this new movement began here, in New Jersey, inspired by the efforts of NJUMR's well-respected coalition members and the encouragement of members of the New Jersey Legislature.

Esteemed members of the Senate Judiciary Committee, the time has come to end the prohibition of marijuana in the State of New Jersey.

Marijuana prohibition began in the 1930s, over the objections of the American Medical Association, based on scare tactics and fabricated evidence that suggested that the drug was highly addictive, made users violent, and was fatal in overdose. We now know that none of those assertions are true. Cannabis is less addictive than alcohol and tobacco, it doesn't make users violent, and there are no cases of fatal cannabis overdoses documented.

In short, from the medical standpoint, marijuana should never have been illegal for consenting adults.

Alcohol prohibition was repealed after just 13 years because of unintended consequence: organized crime, increased use of hard alcohol, and government waste. So what have we gotten from our 80-year experiment with marijuana prohibition? Organized crime, increased use of stronger marijuana, and government waste.

Opponents of legalization like to say, "This isn't your parents' marijuana;" and they're right. Cannabis cultivation has led to the development of more potent strains, to the extent that illegal marijuana today is typically about three to five times stronger than it was 30 years ago. In states where marijuana is legal, the government requires potency labeling; adult users can make informed decisions about their intake based on potency; much as people do with alcohol -- say, drinking a small amount of vodka compared with two beers.

But in New Jersey where it's illegal and uncontrolled, marijuana products aren't labeled and users consume an unknown product of

unknown potency. Thus the opposition's claim is a medically sound argument to legalize and regulate marijuana so that its products are properly labeled for potency, ingredients, and serving sizes.

Today, more informed opponents of cannabis legalization will concede that, more potent or not, marijuana is less dangerous for adults than other legal drugs. Most adults who use cannabis occasionally are not harmed by it, and alcohol and tobacco pose a far greater risk to public health.

While Doctors for Cannabis Regulation firmly believes in the legalization and regulation of marijuana for adult use, it emphatically opposes underage recreational use of marijuana. Evidence suggests that both marijuana and alcohol can adversely affect brain development in minors. Studies of underage users show that health effects are worse when kids start younger and consume more frequently.

But cannabis prohibition for adults has not prevented underage use. For decades, preventative education reduced the rates of alcohol and tobacco use in minors; while underage marijuana use rose steadily despite its prohibition for adults. The government's own statistics show that 80 to 90 percent of 18-year-olds have consistently reported easy access to marijuana since the 1970s.

Opponents of legalization say -- again, without evidence -- that marijuana legalization sends the wrong message to kids; in other words, they argue that if a drug or activity is legal for adults, then kids will think it's safe for them.

If there is an association, it is the opposite of what opponents claim. When cannabis is against the law for everyone, the government is

saying that marijuana is dangerous for everyone; and kids know that that's not true. If we adults can't be trusted to tell the truth about responsible adult use of marijuana, why should kids listen to us when we say it's harmful for them? By making a legal distinction between marijuana use by adults and minors we demonstrate a respect for the scientific evidence and the sanctity of the law that we would want our children to emulate.

Whether in sex education or drug education, when kids know that we're being honest with them and trust the information we're providing, they're more likely to take that advice seriously. And we know that preventive education works; again, the rates of underage tobacco and alcohol use have been falling for many years, even though they remain legal for adults. During that time, underage marijuana use -- which, until recently, was illegal in all 50 states -- has risen.

Today, teen use has remained level across the nation, including in legalized state. While we cannot predict the future, there are good reasons to believe why legalization may actually decrease underage use. Government-regulated retailers check IDs and only sell cannabis products to adults. Under a regulated system, anyone who gives marijuana to kids would be penalized, thus minors will have fewer points of access to the drug.

The regulation of the cannabis trade, coupled with smart youth education, may actually help decrease underage use of marijuana.

Now I would like to address what may be the biggest misconception about marijuana -- namely, that it is a gateway to the use of harder drugs.

We hear this repeated over and over again, and always without proper supporting evidence. A study by the Institutes of Medicine, the Health branch of the National Academy of Sciences, concluded that marijuana “does not appear to be a gateway drug to the extent that it is the cause or even that it is the most significant predictor of serious drug abuse.”

While it’s true that the users of hard drugs often tried marijuana first, they are even more likely to have tried alcohol and tobacco. And the vast majority of those who try marijuana, alcohol, and tobacco, don’t go on to use harder drugs. Simply put, the fact that some people who use hard drugs also use marijuana in no way implies that marijuana causes people to use hard drugs. The marijuana gateway hypothesis is an archaic, misleading, and oversimplified explanation of substance misuse, and it trivializes the serious discussion of how to address one of the greatest public health crisis in history -- namely, our nation’s deadly opioid epidemic.

I hope I have addressed some of the major public health issues around marijuana legalization; but I -- and we -- would be happy to answer any questions you may have.

Thank you for your time.

SENATOR SCUTARI: Thank you, Doctor.

And we will do the panel’s opening remarks, and then we’ll take questions from any of the Senators.

Dr. Medvedovsky.

The red one--

A N D R E W M E D V E D O V S K Y, M.D.: Hi; good morning.

Thank you for--

SENATOR SCUTARI: As long as we have a red light on; perfect.

DR. MEDVEDOVSKY: Hi; thank you for having me here this morning.

My name is Andrew Medvedovsky; I'm a physician. I am a Board-certified neurologist and a pain medicine specialist, a resident of the State of New Jersey.

About two years ago I began a unique program offering my chronic pain and neurological patients cannabis as a treatment option; and I have found profound benefit and safety. Over the last three years I have treated close to 3,000 patients, many of whom have been able to reduce the use of opioids, [benzodiazepines](#), and other harmful prescription drugs. I have seen a tremendous increase in function, quality of life, and minimal side effects and no lethal side effects whatsoever.

Unfortunately, in the last several years, I have seen numerous patients overdose and die from opioids, which are prescribed by physicians; and, unfortunately, patients who become addicted to opioids lead (*sic*) to heroin, and that is a major national epidemic, as Dr. Nathan has alluded to.

I personally am an advocate for cannabis to be accessible to patients to treat various conditions; and I believe that the safety profile exceeds anything that can be prescribed or offered through conventional practices.

SENATOR SCUTARI: Thank you so much, Doctor.

And then to your immediate right is Robert Cresson.

That mike should work right in front of you; yes, perfect.

ROBERT CRESSON: Good morning.

Thank you, Mr. Chairman and the members of the Committee, for giving me the opportunity to speak with you today.

My name is Rob Cresson, and I'm from Long Branch, New Jersey. I'm a former Executive Director of the New Jersey State Republican Party, so many of you are familiar faces, and it's nice to see you this morning.

I'm also a former triathlete and marathon runner, competing at the Ironman level, as well as in such races as the prestigious Boston Marathon.

But today I come to you as a medical cannabis user. New Jersey's cannabis laws are beyond broken; in fact, they actually hurt people. Today we're poised to right those wrongs, which is why even though I really feel miserable this morning, I feel the need to be here today.

In 2011, I developed a debilitating and little-known disease called *Complex Regional Pain Syndrome*, or CRPS for short. It's a nervous system disorder much like muscular dystrophy. I won't bore you with my sob story, but I will tell you this much. This disease has taken more from me than I care to describe to you. My very best days are very, very hard. Every moment of every day is painful, and that's on a good day. I struggle with the basics; my speech, as you can tell, my mobility, bathing, cooking, even getting out of bed to dress is a difficult time. You should have seen how long it took me to tie this tie this morning, so I hope you are all impressed. (laughter)

As someone who suffers from chronic pain, I have all of the opioids in the world at my disposal; frankly, you could kill a bull elephant with all of those pills. But all of those narcotics are unleashed on people

like me. They caused my liver to fail four times in a five-year period. So don't tell me these drugs are harmless when taken as directed.

Opiate therapy is now our default pathway for anyone in any kind of pain. Once reserved for the most severe cases, prescription narcotics now flow easily for things like minor hernia operations and even root canals. How did we get here?

My life is compromised enough without taking these dangerous and addictive pain meds, and I refuse to spend the rest of my life in some opiate-induced haze. They made me miserable.

I was hardly able to put a sentence together, hold food down, and, worst of all, they affected my personality. I was depressed, moody, and just horrible to be around. So tell me, who wants to live like that?

Listen, I have 99 problems; but thanks to cannabis therapy, addiction to opioids is not one of them. (laughter and applause)

Medical cannabis is saving me; and it is saving me from the ravages of my disease and an even greater menace, which is addiction to pain medication. Everyone in this room knows about New Jersey's heroin epidemic; no alarm bells necessary there. So where do you think heroin addicts get their start? Eighty percent of all heroin users get their start from the opioids found in your average medicine cabinet. Maybe, just maybe, if we regulated opiates half as zealously as we did medical cannabis we wouldn't be in this position right now.

On one hand, you have heroin addicts dying in record numbers; yet, on the other, sick people like me just jump through hoops to get one thing that actually works, which is medical cannabis. Pharmaceutical companies and their lobbyists work very hard to retain their market share;

they regard cannabis as a threat to their bottom line. Just follow the money.

But to most of us it isn't about money all; simply put, it's about liberty. The liberty for adults to make our own choices on how we medicate and how we choose to recreate. (applause)

Cannabis has saved me; cannabis therapy is safe. And by passing the Bill before you today you help medical cannabis users all over the state. Again, our State's medical cannabis program is broken. Today's Bill would do more for medical cannabis users in this state than any effort to fix our broken system.

For voters and taxpayers, cannabis reform is no longer a partisan issue. Even now, many Republican elected officials are switching their views as the science has become clearer -- as my doctor colleagues have pointed out -- and it allows people like me to come forward.

With today's vote you have an opportunity to defend an indefensible status quo. Alternatively, today's an opportunity to chart a new path forward that doesn't make criminals out of folks like me.

The people who benefit most from today's legislation are anyone on the margins -- indigent people, minorities, and very sick people like me. The biggest losers are the pharmaceutical drug makers and their lobbyist friends.

Thank you, Mr. Chairman and members of the Committee, for the opportunity to speak with you this morning. Please remember your vote matters; and I urge you to advance this legislation in a bipartisan manner.

Thank you. (applause)

SENATOR SCUTARI: Thank you very much, Mr. Cresson. Well put.

Ken Wolski, the Coalition for Medical Marijuana.

K E N N E T H W O L S K I: Thank you, Senator Scutari, and members of the Senate Judiciary Committee.

My name is Ken Wolski; I'm a registered nurse. I've been an RN in New Jersey for 41 years, and I've been Executive Director of the Coalition for Medical Marijuana in New Jersey since 2003.

Our organization endorses the legalization of marijuana. We believe it is the best way to get the right medicine to the most people.

We also believe that legalization will undo the harms that are associated with the current policy of prohibition of marijuana. We'd like to see some type of encouragement to the inner city minorities who have been so devastated by the harms of this current policy.

We are very concerned about the prohibition in S-3195 of the public use of marijuana. We think that this is a very -- it just penalizes people for being poor. Homeless people, for example, have no private place to use legal marijuana. People who are in subsidized housing can be expelled from this housing for the use of marijuana. People who have, perhaps, health problems, or live with people who have health problems, or on oxygen can't use marijuana in those apartments. So it's really a cruel joke to them to say that, "Marijuana is legal, but you can't use it in your apartment, and you can't use it outside your apartment."

In addition to endorsing 3195, we would like to suggest some amendments to the Compassionate Use Medical Marijuana Act. We would like to actually restore that to S-119, Senator, that you introduced and that

passed in the entire Senate in 2009 -- and that would restore home cultivation to qualified patients who have ID cards in the medicinal marijuana program; that would recognize out-of-state ID cards that would expand the qualifying conditions. And we think that any physician in New Jersey should be able to recommend marijuana for their patients; and any advance nurse practitioner, who has prescriptive privileges, should also be able to recommend marijuana for their patients.

And finally, we'd like to suggest that the Bill be amended to reschedule marijuana. The courts have said that this is up to the Legislature to do; and marijuana should be rescheduled to reflect its medical uses in the State of New Jersey, its safety profile, and its low addiction potential.

So thank you so much for the opportunity to address this Committee.

SENATOR SCUTARI: Thank you very much, Mr. Wolski.

I'm going to entertain any questions for any of the panel.

But I have a question for you -- just on the last topic you brought up, in terms of the scheduling.

MR. WOLSKI: Yes, sir.

SENATOR SCUTARI: Are you talking about a State schedule of medicinal uses--

MR. WOLSKI: Yes.

SENATOR SCUTARI: --versus the federally scheduled?

MR. WOLSKI: Yes, absolutely. You know, you have the power to reschedule marijuana here in New Jersey; but right now, the Office of the Attorney General considers marijuana a Schedule I drug with no accepted medical uses; unsafe for use -- even under medical supervision --

and with a high abuse potential. And it makes absolutely no sense when you have the Department of Health recognizing medical uses for marijuana, and even expanding this program. We addressed this with the Director of the Division of Consumer Affairs in 2011; and there have been several court cases, too, to reschedule marijuana in New Jersey. But so far, marijuana remains a Schedule I in New Jersey.

SENATOR SCUTARI: Okay; we'll talk more about that--

MR. WOLSKI: Thank you, sir.

SENATOR SCUTARI: --at a later time.

Senator Lesniak.

SENATOR LESNIAK: Mr. Chairman, I would just suggest, just from a political standpoint and also from my public policy standpoint, that amending your Bill to allow public use of marijuana would be a big mistake; jeopardizing its passage and, I think, a big mistake from a public policy standpoint for our state.

SENATOR SCUTARI: Thank you for your input on that.

Senator Gill.

SENATOR GILL: You indicated that public use would at least eliminate the disparity between both cultural and economic -- for those people who cannot smoke in their apartment because of those reasons. Under this Bill, they can't smoke on the porch. And for those people who are homeless, they can't smoke in the homeless shelters. So if they go out, and they're 21 or over -- I will deal with juveniles later, which I find the most -- even more sensitive. If they smoke in the car or even outside they would be subject to the penalties of possession. And depending on how

much possession with the intent -- and they would be subject to all the criminal penalties.

So I assume your position is, by allowing public use, you then are able to eliminate the socio, economic, and racial disparities in arrests, and use of the law against those groups of people.

MR. WOLSKI: Yes, exactly. We believe that marijuana smoking should be allowed anywhere that cigarette smoking is allowed, for example. And that it would cease to penalize people simply for being poor and for having no private area that they could use -- exactly in your example of subsidized housing or -- what was it--

SENATOR GILL: Homeless shelters.

MR. WOLSKI: Homeless shelters; exactly. Thank you.

SENATOR GILL: So if I am rich and I have a nice big backyard that's secluded by trees, I could go smoke; my friends, 21 and over, can smoke, because we don't have to smoke in the street.

MR. WOLSKI: Right.

SENATOR GILL: Thank you.

SENATOR SCUTARI: And let me just address that -- because when we were in Colorado and we spoke to any number of regulators and state lawmakers who drafted the legislation and the constitutional amendment in Colorado, one of the most vexing points was public use. In fact, they were moving to address that at a later time. They also, in Colorado, did not allow for public use; but there are a lot of different issues with that, as Senator Gill pointed out. But also political issues, as Senator Lesniak brought out. There are some--

SENATOR LESNIAK: Senator I might add -- public policy issues as well.

SENATOR SCUTARI: And public policy.

So that's an area that we've wrestled with; and perhaps there's a middle ground to allow it, in terms of ingestion publicly, but not smoking publicly; perhaps smoking in a licensed facility when people do not have homes that qualify as private residences. It's an area that we're open-minded to listen to, and come up with some kind of an idea that might meet in a middle ground that would also be acceptable to the members of the Legislature.

So I'm glad you pointed that out as well.

Senator Cardinale.

SENATOR CARDINALE: Thank you, Mr. Chairman.

I have some questions for Dr. Nathan.

Does marijuana alter behavior?

DR. NATHAN: Does marijuana alter behavior?

SENATOR CARDINALE: Yes.

DR. NATHAN: Yes, it can.

SENATOR CARDINALE: Does it alter judgement?

DR. NATHAN: I'm sorry, I couldn't hear that.

SENATOR CARDINALE: Does it alter judgement?

DR. NATHAN: Slightly; not nearly as much as alcohol would, but it does slightly alter judgement. Any psychoactive substance can.

SENATOR CARDINALE: Are you familiar with any studies that have been done by recognized medical authorities that show the impact of regular marijuana use on the human brain?

DR. NATHAN: Are you talking about for adults, or minors?
Because--

SENATOR CARDINALE: I am talking about any human brain studies.

DR. NATHAN: Sure. Yes, most of the research has been done on minors. And like I said, it shows that there is an effect of recreational cannabis use on the developing brain -- a negative effect.

SENATOR CARDINALE: It's a negative effect.

Have you seen any studies with respect to adults?

DR. NATHAN: Not a lot has--

SENATOR CARDINALE: PET scan studies are particularly what I'm referring to.

DR. NATHAN: PET scan studies? No; though I don't believe that PET scan studies would be revealing in this area.

SENATOR CARDINALE: Would PET scan studies--

DR. NATHAN: I don't think that an imaging study would really reflect any real meaningful changes in that way.

SENATOR CARDINALE: Would PET scan studies indicate portions of a brain which may have died after medical marijuana use?

DR. NATHAN: That-- Well, if there's an inactive part of the brain, then PET scan studies will show that. If you're asking me if there are studies out there -- credible studies that show that there are parts of the brain that die as a result of medical marijuana use, my answer is "no."

SENATOR CARDINALE: So you are taking the position that there are no such studies. And has that influenced your judgement?

DR. NATHAN: I am taking the position that I've seen no such credible study. I can't really speak to the *what-if*; but I would say that it has not affected my judgement because I have not heard of such a thing from a credible source.

SENATOR CARDINALE: So that if there were credible studies showing that medical -- not medical, but regular marijuana use caused multiple sites in the human brain to be punched out, in a PET scan study, would that change your judgement? Would that change the testimony that you've offered here?

DR. NATHAN: Again, it's kind of a hypothetical. But anything that would cause brain damage, that's obviously a bad thing.

I do not believe that studies show that cannabis causes brain damage in adult humans.

SENATOR CARDINALE: I don't have the study with me today; but by the time that we have a real hearing where we are going to act on the Bill, I will produce a study that was done at Harvard University, almost 20 years ago, showing exactly that.

Do you know of any of your colleagues in the medical profession who are regular marijuana users?

SENATOR GILL: Not by name. (laughter)

DR. NATHAN: Yes, I do.

SENATOR CARDINALE: Thank you.

SENATOR SCUTARI: Careful.

SENATOR LESNIAK: I bought cigarettes (indiscernible).

SENATOR CARDINALE: Does that alter their judgement in your view? Have you noticed that that alters their judgement when they are dealing with professional matters?

DR. NATHAN: If they were acutely intoxicated, it could affect their ability to do their jobs. But not as much as alcohol would, just for perspective.

SENATOR CARDINALE: Well, I don't know why you are continually referring to *alcohol*. We're talking here about marijuana.

DR. NATHAN: Understood. I think it's important, though, for us to have references when we're talking about an illegal drug versus a legal one. And when the legal drug is actually doing more of what you're implying than the illegal drug, then I think it defies logic to use the argument against the illegal drug to say that that is somehow a reason to keep it illegal.

SENATOR CARDINALE: Okay, then let me rephrase my point.

If you needed complex surgery -- you, personally -- I would presume from your answer that you would not want your surgeon to be either drunk or under the influence of marijuana.

DR. NATHAN: Correct.

SENATOR CARDINALE: Thank you.

I don't have any other questions.

SENATOR SCUTARI: Would you like your surgeon to be under the influence of an opioid while he was doing the surgery?

DR. NATHAN: Not at all. (laughter)

SENATOR SCUTARI: Let me ask you a couple of questions that-- Does alcohol alter behavior?

DR. NATHAN: Yes.

SENATOR SCUTARI: Does it alter judgement?

DR. NATHAN: Severely so, yes.

SENATOR SCUTARI: How about opioid usage -- does that alter behavior?

DR. NATHAN: Yes; though not as drastically as alcohol.

SENATOR SCUTARI: Okay; thank you.

Senator Lesniak.

SENATOR LESNIAK: The studies with regard to the brain -- the effect on the brain for youth, at what age do those studies go to? Anybody know?

DR. NATHAN: So there's no obvious hard cutoff in how that would go. But what we do know is that the younger you start-- Now, we're not talking about, you know, 18 versus 20; we're talking about 12 versus 14 versus 16. The younger you are--

SENATOR LESNIAK: But you're not talking about a 21 versus 24.

DR. NATHAN: Not at all. Yes; the younger you are, the worse it is. The more frequently you do it at those young ages, the worse it is.

SENATOR SCUTARI: Thank you, Senator.

Okay; any other questions for this panel? (no response)

Seeing none, I thank all of you for being here and your willingness to testify and answer questions regarding the Bill.

Thank you for your support, and I appreciate that.

Thank you. (applause)

The next panel I'm going to call up is Richard T. Smith, President of the NAACP -- is he here? -- and Dianna Houenou with the ACLU Policy Council; and Lazaro Cardenas, the Latino Action Network; and is Bill Caruso here also? Oh, "no need to testify;" you submitted some written testimony. Thank you, Mr. Caruso.

Okay; if those three individuals could come forward, if they are in the audience.

Could you guys come up to the front row and take a seat?

Okay; why don't we start from the right, to my left.

Counselor, why don't you state your name for the record and begin.

D I A N N A H O U E N O U, Esq: Good morning, Chairman; Vice Chair Gill; and members of the Committee.

My name is Dianna Houenou; I am the Policy Counsel of the American Civil Liberties Union of New Jersey.

The ACLU is a proud member of the Steering Committee of New Jersey United for Marijuana Reform, a coalition driven by leaders in law enforcement, Civil Rights advocacy, and medicine, to support the legalization, taxation, and regulation of marijuana.

Last week, the ACLU of New Jersey issued a report analyzing the arrests New Jersey made for marijuana possession between 2000 and 2013. The report found that while a majority of people in this country -- and in New Jersey -- believe that marijuana should be legal, New Jersey is now making more arrests for marijuana possession than ever before. In

2013, there were 24,000 arrests made; in 2015, we made close to 25,000 arrests, and that's a 27 percent increase from the year 2000.

And what this actually means is that by the end of today, 68 people will have been arrested for marijuana possession.

Now, despite government data that shows that blacks and whites use marijuana at similar rates, these arrests are disproportionately comprised of black people. Across New Jersey, blacks are arrested for marijuana possession at a rate that's three times higher than whites. In fact, most of the members on this Committee represent districts with a racial disparity that's higher than the State average.

Senators O'Toole, Cardinale, Doherty, Sarlo, and Stack -- each of you represent one of the top 10 districts with the highest racial disparity for marijuana arrests. And these arrests don't target kingpin dealers. Almost 90 percent are everyday people for small possession. People like Scott, who was arrested after being stabbed by his ex, even though he is a registered medical marijuana patient; like Lee, whose door was torn from its hinges and walls significantly damaged by police, even though he wasn't suspected of doing anything wrong.

Now, as the Chairman noted earlier, history has made it clear that criminalizing drug use hasn't eliminated drugs. It's left thousands of people facing often devastating collateral consequences. It tears people away from their family members and puts them in jail; it slams people with more than \$1,000 in fines; it bans people from public housing; it takes away student aid financial eligibility; it creates a criminal record that makes it much, much harder to get a job; and it wastes more than \$147 million in the process.

Now, because of New Jersey's racial disparities, these consequences have a disproportionate impact on communities of color. While the ACLU report focuses on the black and white disparity, we know that there's disparate enforcement of low level offenses against Latinos as well. For instances, in 2013, Latinos in Jersey City were arrested for low level offenses at a rate that was nearly three times higher than the rate of white arrests.

Simply put, New Jersey has got to stop using the criminal justice system to prop up racial injustice.

Each and every one of you represents constituents who have been impacted by marijuana enforcement. By legalizing, taxing, and regulating marijuana, New Jersey can focus resources on serious crime; generate more than \$300 million per year to fund much needed community services and programs, like drug abuse prevention and drug treatment; and it can create new jobs that will boost local economies.

I'd like to echo the Senate President's comment earlier that this Bill is a promising starting point for the conversation on how New Jersey can do all of that. Opponents claim that we need to protect health and safety, especially for kids. And they're right; we do. And this Bill has explicit requirements for strict rules on labeling, packaging, and inspections so that products aren't enticing kids and the people know what's in them. The Bill would only allow sales to adults; anyone who gives marijuana to kids would be penalized. And driving under the influence of marijuana would still be illegal.

The Bill incorporates lessons learned from other states so that we can avoid the pitfalls and loopholes that jeopardize safety. However,

there are several policies that the ACLU strongly believes are critical for legislation aimed at marijuana reform.

And before I get to our key priorities, I want to address Senator Gill's concern about arrests of juveniles. We would like to see a bill that does not criminalize possession of marijuana for young people so that we can avoid arrests and avoid those disparate impacts that arrests can have for young people in this state.

The first key priority is automatic expungement. If New Jersey legalizes marijuana possession for adults, we simply cannot leave behind the thousands of people who will continue to have an arrest on their record. Going through the hoops, hassles, and expenses of filing a petition for expungement is simply out of reach for many people in this state. Providing automatic expungement demonstrates lawmakers' understating of the limitation faced by many people in New Jersey, and it demonstrates their commitment to justice.

Second, is home cultivation for personal use. People shouldn't have to rely on companies to get marijuana. Limiting home cultivation will allow people with limited mobility to access marijuana, and also prevent big marijuana monopolies over the State supply.

And the third key priority is equitable access to participation in the legal market. This Bill contains minimum requirements for licensure, but some of those requirements are severely limiting. For the legal market to thrive and for us to eliminate illegal dealing, we need to provide incentives for people to join the legal system. The licensure application process shouldn't be overly expensive, burdensome; for privileged, wealthy, out-of-state companies.

New Jersey really should follow California's model -- that unless someone has a history of fraud, corruption, or other inappropriate business practices, she shouldn't be barred from participating and becoming part of our new economy.

And our final key priority is a demonstrated commitment -- a true demonstrated commitment to investing the revenue and savings into New Jersey communities -- including communities of color who, for so long, have borne the brunt of our marijuana enforcement. (applause)

I strongly, strongly urge the Committee to incorporate these critical pieces into the Bill to ensure that New Jersey's legal marijuana system is one that's strong, fair, and equitable, and exemplifies our value of justice.

The ACLU looks forward to working with each and every one of you and advocates, to develop legislation that makes us a leader in marijuana reform.

And I'd be happy to take any of your questions.

Thank you.

SENATOR SCUTARI: Thank you.

Before we get to that, we're just going to listen to the entire panel; then we will entertain questions.

Next; Mr. Edwards, I believe.

R I C H A R D T O D D E D W A R D S: Yes, sir; thank you Chairman.

SENATOR SCUTARI: Okay; Todd Edwards from the NAACP.

MR. EDWARDS: Absolutely; thank you, Chairman Scutari, and members of the Senate Judiciary Committee, for giving me the opportunity to testify before you today.

My name is Richard Todd Edwards; I'm the Political Action Chairman of the State Conference. And I'm here in replacement of our President, Richard T. Smith.

I bring you greetings on behalf of our State Conference, the Officers, the Executive Committee, and members of our 41 Branches throughout the 21 counties in this great State of New Jersey.

I say without hesitation or fear of equivocation that there is no branding -- none -- more recognizable in this country when it comes to Civil Rights, social justice, and equal opportunity other than the NAACP. For 108 years, we have been at the forefront in the fight for justice.

Legalizing marijuana in New Jersey is a Civil Rights issue. In the words of my colleagues all the way across the country in California, NAACP California State Conference President Alice Huffman, and a national leader on this issue, "African Americans are disproportionately affected by the criminalization of marijuana, which makes passing the law a Civil Rights issue. We have empirical proof that the application of the marijuana laws has been unfairly applied to our young people of color. Justice is the quality of being just and fair, and these laws have been neither just nor fair."

This is a national problem; but here in New Jersey, the problem is clear. African Americans are nearly three times more likely to be arrested for marijuana possession in New Jersey than a white person, despite the fact that the usage rate is practically the same.

Hilary O. Shelton, Vice President of Advocacy for the NAACP Washington Bureau, said, “These numbers make legalization a Civil Rights issue. We are usually conservative in terms of the issues that we support, but disproportionate prosecution of African Americans for drug-related offenses for marijuana has called us to fight for legalization in our community. If the laws on drug possession were being enforced correctly, then the number of arrests, prosecutions, and prison sentences would be proportionate to our society across the board. And sadly, that is not the picture.”

The NAACP stands in support of legalization of marijuana; it supports one of our founding principles. What the NAACP New Jersey State Conference is trying to do is simply what is rooted in our mission, and that is to eliminate racial prejudice wherever it may be. If members of our own community and our elected officials are able to see this as not just a drug issue, but a Civil Rights issue, I believe even more individuals across this great state will agree that it’s time to legalize, tax, and regulate marijuana in New Jersey.

The NAACP is not encouraging marijuana use; let’s not get it confused. Marijuana is not healthy for all people, and particularly young people. But our current system gives too much access to marijuana to young people. We need to move marijuana and marijuana dealers off of the corners and put it behind the counter where it can be regulated.

So I am proud to be here today with this diverse group of individuals and organizations. From the very beginning we have stood with New Jersey United for Marijuana Reform. This group defies expectations; we are law enforcement, Civil Rights, medical, religious, and criminal justice

reform organizations, and individuals. We are New Jerseyans and we all stand united in support of reforming our state's marijuana laws.

And make no mistake, we are growing. Drug Policy Alliance, as well, has launched their campaign, working hard to right the wrongs of this failed war on drugs.

Let me give you a little history. The get-tough approach to crime that began in the Nixon Administration and intensified with Ronald Reagan's declaration of the war on drugs has devastated black America. New Jersey's own war on marijuana has also been a failure. In its path, we find the long-term exclusion many offenders face. The potential consequences of a marijuana arrest in New Jersey include up to six months in jail, loss of job and driving privileges, a criminal record, exorbitant fees and fines, and an arrest warrant if those fees and fines aren't paid, job discrimination, and threatened loss of public housing and student loans.

Across the country, 2.6 million people are behind bars; 4.8 million others are on probation or parole; to say nothing of the millions more whose criminal records stigmatize them for life.

Marijuana prohibition is an important piece of that picture. The war on marijuana has failed, and this failure has had a devastating impact on black families. This extraordinary phenomenon has opened the eyes of many across this state and our country, and has made the majority agree that legalizing, taxing, and regulating marijuana is an important piece of fixing our state and country's addiction to using the criminal justice system to deal with our problems.

In 2010, right here in New Jersey, our government wasted more than \$127 million on criminal justice costs enforcing marijuana possession laws. Just imagine what could have been done with those resources.

Legalization, taxation, and regulation of marijuana for adults is the right choice this state.

In addition to the cost savings of ending prohibition, so too would the State bring in tax revenue in a taxed and regulated system. The NAACP supports this approach, but will keep a watchful eye on those resources to ensure that when New Jersey moves forward to legalize and tax marijuana -- and I am confident that it will -- that there will be a reinvestment in those communities that have been devastated by this failed system. Senate Bill 3195 must include components to address these harms. Marijuana legalization must be fair and equitable. There must be an investment in the creation of jobs and job training programs, funding a broken education system, and a commitment to public safety, drug prevention, and drug treatment programs. We know that well-resourced, evidence-based educational programs are the solution to the drug problems we experience today. It must include policies that provide automatic and retroactive expungement, access to the industry for individuals with prior convictions and those from different socioeconomic backgrounds, the creation of civil penalties for those who operate outside the legal market so as not to perpetuate racial disparities within the criminal justice system, and reinvestment of the revenue generated into those communities most harmed by marijuana prohibition.

Without these elements, Senate Bill 3195 would further perpetuate our state's racial disparities, and would do nothing to help

communities of color that have suffered under the racist policy of marijuana prohibition.

We are confident, Senator, that with your leadership we will have a Bill that addresses and repairs the decades of harm inflicted on communities of color.

To be clear, our community will not be the poster child as to why this legalization must take place in New Jersey, but when the savings and revenue materialize, we are ignored or moved to the side. We must move towards a safe, legal, regulated marijuana system; but we must do it the right way. This change has the potential to create thousands of sustainable, well-paying jobs in agriculture, manufacturing, health and safety, retail, regulators, and other sectors. These opportunities must not only become available to those who have significant capital or major investors to bring to the table. We must make sure that the employment and small business opportunities become available to all communities, especially those disproportionately impacted by the enforcement of our marijuana laws.

So for the few years today and moving forward, the NAACP has worked and will work diligently as part of the effort to educate New Jerseyans about how the status quo has failed our communities, especially black communities. New Jersey must legalize, tax, and regulate marijuana to end the harms caused by our current laws, create jobs, increase public safety, and generate revenue that will help all New Jerseyans. It's time to end prohibition.

Again, thank you, sir. (applause)

SENATOR SCUTARI: Thank you, Mr. Edwards.

Next, from the Latino Action Network, Lazaro Cardenas.

ANA “CUQUI” RIVERA: My name is Cuqui Rivera.

SENATOR SCUTARI: Oh, excuse me.

MS. RIVERA: I represent the Latino Action Network here, today, before you.

I am the Executive Secretary, as well as the Criminal Justice Reform Committee Chair.

Thank you very much, Chair Scutari and the members of the Committee, for holding this important and historical hearing on the subject of marijuana legalization. The Latino Action Network -- LAN -- is a grassroots Civil Rights organization composed of individuals and organizations that are committed to engaging in collective action at the local, state, and national levels in order to advance the equitable inclusion of the diverse Latino communities in all aspects of the United States' society.

LAN supports the legalization, regulation, and taxation of marijuana for adults in New Jersey. It is a well-documented fact that people of color are arrested for marijuana possession at significantly higher rates than whites in some places around this state. We cannot remain idle in the face of criminalization of our children and adults. This takes place despite the fact that evidence suggests that whites use marijuana at the same rate. Within a certain age group, in fact, 18 to 25, whites actually use marijuana at a higher rate.

LAN is a Civil Rights organization; and legalizing, taxing, and regulating marijuana for adults is a Civil Rights and social justice priority. Through this hearing we can continue to take a close look at racial

disparities across our criminal justice system, the over-criminalization of some communities over others, and to reflect on the wisdom and effectiveness of our drug laws.

A marijuana arrest has significant consequences for individuals, including potential deportation or immigration inadmissibility. A 2015 report by Humans Rights Watch found that, between 2007 and 2012, 34,337 people were deported from the United States whose most serious criminal conviction was marijuana possession. These are not kingpins or even small-time dealers. We are talking about mothers and fathers who, like nearly half of all Americans, have tried marijuana. We are breaking apart families because of our broken marijuana laws. It is a penalty simply too harsh to fit the offense.

This is taking place despite the fact that nearly 60 percent of all New Jerseyans think marijuana should be legal.

Likewise, for any person with a conviction the consequences of incarceration go beyond their time in jail. Reduced to second class status as a result of a black mark on their record, those with convictions -- even minor ones such as this -- are left alone to navigate a world in which finding a job, housing, financial aid, or higher education, and other benefits become significantly more difficult, if not, in fact, impossible.

These are effects that go beyond the individual and affect the person's family members' lives as well and, if he or she has children, potentially enforcing this cycle of interaction with the criminal justice system for a new generation again.

Like others, LAN is not here because we encourage marijuana use. We do not support the use of marijuana, especially by young people;

but we should not be using our criminal justice system to target recreational use among adults. If a person has a problem with marijuana, we should treat it as a public health problem. But data shows that most people who use marijuana do not abuse it. Arresting and incarcerating these individual amounts to a terrible misuse of our criminal justice resources.

Our communities still struggle with crime; but arresting marijuana users is not how resources should be spent. Yet marijuana possession arrests make up nearly half of all the drug arrests statewide. This is, in fact, a scandal.

Individuals, particularly young people, in our community also have easy access to marijuana under our current system. We support taking marijuana off the streets and moving it behind the counter in a legal, controlled, regulated system to make it harder for young people to get access to marijuana. Just like we don't see any moonshine stills around New Jersey, or many places to buy tobacco on an illegal market, so too should the uncontrolled marijuana market be a thing of the past.

While the numbers are relatively low, our communities remain concerned about those who abuse marijuana through overuse. That is why it is so critical that we legalize, tax, and regulate it. We need the resources that such taxation would generate to fund responsible drug prevention and educational programs, and to fund much-needed and underfunded drug treatment programs. This is why the revenue generated by legalizing, taxing, and regulating marijuana needs to be proportionately invested in communities that have long been negatively impacted.

Drug abuse remains a serious public health problem in New Jersey, but marijuana enforcement is not where we should be focusing our

energy. Let's please use this opportunity to generate revenue for treatment beds, inpatient and outpatient services, and to pay for the public health boost that we need.

Thank you so much. (applause)

SENATOR SCUTARI: Okay; we'll entertain questions for the panel, starting with Senator Gill.

SENATOR GILL: I'd like to drill down here; and let's talk about not simply concepts. Exactly what is, for the NAACP, the Civil Rights issue?

MR. EDWARDS: I think there are numerous issues regarding this Civil Rights issue.

SENATOR GILL: No, I'm focusing on the Civil Rights issue. NAACP says this is a *Civil Rights issue*.

MR. EDWARDS: Absolutely.

SENATOR GILL: What is the issue?

MR. EDWARDS: We are -- we, as black people and minorities, have been incarcerated three times -- really, almost four times the amount as our white counterparts who are -- and the usage is almost 50-50. That alone is one Civil Rights issue.

SENATOR GILL: Now, has the NAACP looked at arrests and conviction rates in other areas, other than marijuana use?

MR. EDWARDS: Have we looked-- I just want to make sure I understand the question, Senator.

SENATOR GILL: Have you looked at arrests and conviction rates in other areas of offenses other than marijuana use?

MR. EDWARDS: I personally don't know the answer to that. The ACLU may be able to refer to--

SENATOR GILL: Okay.

MR. EDWARDS: I don't know whether we looked into cocaine arrests--

SENATOR GILL: Okay.

MR. EDWARDS: --or marijuana arrests--

SENATOR GILL: And the reason I asked you that is this. And I'm not--

MR. EDWARDS: No, I understand. I'm not taking it personally.

SENATOR GILL: --is because simply by saying the arrest rate for marijuana is a Civil Rights issue -- that is not totally true. Because it's how you do policing and other things that may more fundamentally be the Civil Rights issue; and let me tell you how.

If you look at Colorado -- NPR did a show -- the Colorado Department found that there wasn't a huge racial difference in who smoked; but the arrest -- this is after they passed legalization -- but the marijuana arrests for whites 10- to 17-year-olds fell by nearly 10 percent from 2012 to 2014; while arrests for Latinos and black youth, respectively, rose more than 20 percent for Latino youth and 50 percent for African American youth. So -- and if the ACLU wants to join in here -- so the policing didn't change; it simply moved to the black and Latino youth because legalization was for 21 and over.

MR. EDWARDS: Okay.

MS. HOUENOU: So Senator Gill, thank you for those questions.

So I would like to respond to your first question about enforcement of other offenses besides marijuana against blacks.

The ACLU issued a report, in 2015, that looked at arrests for low-level offenses for several municipalities across the state and found that there were racial disparities. So in Jersey City, Millville, and other cities across the state, blacks were arrested at a rate that was between 3.2 to 5.7 times higher than whites for low-level offenses. So it's not just marijuana offenses that are being disproportionately made against blacks. It is, across the board, an issue with how law enforcement views black communities and communities of color, and the way that they approach those communities and engage in selective policing.

So yes, there is a much broader Civil Rights issue as it relates to policing. But legalizing marijuana can take some of that away from the table -- take some of that off the table.

SENATOR GILL: And move it to black and Latino youth from--

MS. HOUENOU: So--

SENATOR GILL: --because we do have these statistics; and the statistics came from Colorado Health Department.

So okay -- minority users, 21 and up--

MS. HOUENOU: Right.

SENATOR GILL: --but the disparity, then, moves from the adult to the children.

MS. HOUENOU: And the way to address that, and the way to eliminate that as even an option, is to make sure that the Bill does not criminalize marijuana possession for young people -- for people under 21. We think that is inappropriate, and it's an inappropriate use of our resources. And it results in an arrest record for young people in this state, which can, again, lump them into the ever-growing group of people across the state who are facing collateral consequences.

And so we believe that to address that concern that you raise, the Bill should incorporate a provision that does not criminalize youth possession of marijuana; that takes criminal penalties away from that so you do not have arrests of juveniles; so you do not even get into a situation where there is disparate enforcement against young people.

SENATOR GILL: So as long as that remains in the Bill, we know what the consequences will be.

MS. HOUENOU: We can speculate what the consequences will be. And we can -- we should advocate to make sure that that is not an issue; that that is appropriately addressed, so that young people are not arrested for marijuana possession.

SENATOR GILL: Is that the same position the NAACP takes?

MR. EDWARDS: As of right now, yes; that is the position that we take. This is the first time that I personally have heard about the portion of taking the arrests away from the youth; but I am personally all in favor of not-- Obviously, I don't speak for the whole organization--

SENATOR GILL: Okay.

MR. EDWARDS: --but I will present it back to our President and our body, and get the position for you.

SENATOR GILL: Okay; thank you very much.

MR. EDWARDS: Not a question.

SENATOR GILL: Latino Alliance (*sic*), is that your position too?

MS. RIVERA: The Latino Action Network-- I thank you so--

SENATOR GILL: Oh, I'm awfully sorry.

MS. RIVERA: It's all right.

I thank you very much for the question.

This has, kind of, some implications that we have to remember -- or consider, with drug-free school zones. In urban areas, there are populations -- very concentrated populations, and kids are on the street. And that has a lot to do with the difference between Jersey City and East Brunswick -- or Milltown, if you will, New Jersey, where you don't see anybody on the street. You're in your homes, and there are private areas for you to do whatever you want to do.

But in urban areas, everybody's on the street. But they are in the public housing and in the public schools; and all these school zones, and the way those things go here in New Jersey, need to be considered as we move forward with addressing these issues here in New Jersey.

SENATOR GILL: And I have one more issue, because I think this issue-- I have received calls from people -- since the NAACP is directing it towards everybody; but in particular, African American communities and Latino communities. And the mothers are frightened because if this remains, then their children, at a young age, will have a record. It will increase the interfacing with the police. And if their child comes home from college, and he's 18 -- or he or she is 18 -- and smokes on the front porch,

then that person will have a record that may well deny them the ability to continue their education with respect to school loans.

So they have lots of consequences. And until and only if we can address that, I could not, in good conscience-- And I do believe in the legalization, but not at the expense of criminalizing young black and Latino youth.

My second Civil Rights question has to deal with the concept or ideas -- because lots of concepts are being thrown around the community but ultimately, you know, it is the legislators who will have to vote on this, notwithstanding the general concepts. So I just want to drill down a little bit on this.

The NAACP -- and if you would prefer to -- all, you know, whoever you want to answer this; I don't want to-- Okay? Whomever you want to answer this.

MR. EDWARDS: All right.

SENATOR GILL: We understand that you-- It is unconstitutional simply to put in the licensure that minority-owned -- we should have minority-owned participation at any rate. You understand that, correct?

MR. EDWARDS: Yes, ma'am .

SENATOR GILL: Okay. And so notwithstanding whatever language this Bill has about minority participation, the State of New Jersey cannot, at this point, put in any requirements in any licensure with respect to set-asides or affirmative action. Do we agree? I know the ACLU, do you--

MS. HOUENOU: So my understanding is that the Bill does not establish any quotas for minority-owned or female-owned businesses. But it does encourage the regulatory agency to invite participation from minorities and women to engage in -- to participate in this legal market. I believe we do -- that's the same thing in a number of different settings. And as to the constitutionality of having -- encouraging participation from minorities and women, I can't affirmatively say whether or not that's constitutional.

But my understanding of the Bill is that it does set quotas based on race or sex.

SENATOR GILL: And the Const-- So it can say something, but in order to make that part of the licensure, it's unconstitutional.

MR. EDWARDS: To make it specifically, you're saying -- to have the bias--

SENATOR GILL: Yes.

MR. EDWARDS: --to have *X* amount of black-owned dispensaries.

SENATOR GILL: Yes.

MR. EDWARDS: I understood completely, yes; absolutely. But as long as we, the NAACP, is at the table, we do not want it to be like Colorado, where it took three years for a minority owner of a dispensary, a female owner.

SENATOR GILL: And the reason I go to that is because I don't want a false hope--

MR. EDWARDS: Oh.

SENATOR GILL: --that there is some way the State of New Jersey, from the outset, can impose those kinds of requirements; and then use that information to say to the African American community--

MR. EDWARDS: To sell to our own community; I understand.

SENATOR GILL: --vote for this Bill, because you will be able to be an owner and participate.

So I just want-- All I'm saying is, these are issues; I want to make them clear, because I think our community deserves the right to have the specifics of what can happen in this. And I know that, after some years, you can have a disparity study, and then move on and forward so we have a reasonable expectation of what the State can do going forward.

So on those -- those are the two things that I had. But unless we can address the issue of African American and Latino youth, and the youth with respect to this-- And I know we, you know, will have further discussions; but this goes directly to our community and the future of our community, no matter how much money is made by others.

MR. EDWARDS: Absolutely. And we would hope that you would hold Senator Scutari and all your other colleagues to the fire with this issue.

SENATOR GILL: Thank you.

MR EDWARDS: And I appreciate you bringing it to our attention as well -- about the minority ownership. Don't go to the community basically saying that you can have black ownership or minority ownership in writing. Because if it's not in writing then it doesn't exist. That is our take on that, and I appreciate that.

Thank you, Senator Gill.

SENATOR GILL: Thank you; and thank you for your work -- all of you. (applause)

SENATOR LESNIAK: I think you're in charge, Madam Chair.

SENATOR GILL: Oh, well, I guess I'm like Haig? I'm in charge? (laughter)

SENATOR SCUTARI: Senator Lesniak.

SENATOR LESNIAK: First of all, I want to commend Senator Gill for raising that *unintended consequences* issue with regard to minors being adversely affected by the Bill. And I am certain that Senator Scutari -- well, you folks will work that out before anything like that could be passed.

Lizette--

MS. RIVERA: Cuqui; I mean, Ana Cuqui Rivera.

SENATOR LESNIAK: Cuqui; that's right. I'm sorry. Because you did mention drug-free school zones. As you know, my legislation, signed by Governor Corzine, eliminated mandatory minimum sentences for drug-free school zones, which really impacted the minority community. Because that's what it was directed at, and it has reduced the prison population by 15 percent for drug offenses as a result.

But they do still exist for sales to minors; and they do still exist for an act of violence -- somebody in a drug-free school zone. So they do exist in that minor way, but we have made major progress in reducing the criminal population. And I would suspect that over 90 percent were minorities in the past -- in jail as a result of these mandatory minimum sentences. And I just want to add that just to be a little bit -- not political, but I'm talking about the danger of our Federal government going back to

mandatory minimum sentences. And we have to stand firm, both Democrats and Republicans, against going back to that totally Jim Crow-type of approach that we eliminated in New Jersey. (applause)

SENATOR SCUTARI: Senator, can I move onto the next panel, or do you have questions for this panel?

SENATOR CARDINALE: No, I have a question for them.

SENATOR SCUTARI: Okay; Senator Cardinale.

SENATOR CARDINALE: For the ACLU representative, you said that -- specifically, you mentioned the 39th District has a racial disparity in terms of arrests with respect to marijuana. Did I hear you correctly?

MS. HOUENOU: That's correct. And the 39th District, actually, has one of the top -- is one of the top 10 districts with the highest racial disparity.

SENATOR CARDINALE: Let me say at the outset that I do not and never have supported any racial component to the enforcement of our laws. Our laws should be the same, whether one is a minority or one is not a minority.

So are you suggesting that law enforcement in the 39th District is racially motivated when they are doing their job?

MS. HOUENOU: I'm not suggesting that. Our report does--

SENATOR CARDINALE: Then what are you suggesting?

MS. HOUENOU: Well, I'm simply suggesting that there is disparate enforcement. But I am not suggesting any reasons why those racial disparities exist. We encourage the State Attorney General's Office to investigate why those racial disparities exist -- not just in marijuana

enforcement, but in the enforcement of low-level offenses that also disproportionately impact Latinos as well.

And to be clear, every county in New Jersey has racially disparate arrests rates for blacks.

SENATOR SCUTARI: I mean, that's--

MS. HOUENOU: In every county--

SENATOR SCUTARI: If I could just interrupt. I mean, that's just the facts -- that marijuana usage across different persuasions of people is essentially unchanged. But black people are arrested 3.5 times as often as white people for marijuana possession. And that's just it; that's a fact.

Now, why that is, I can't explain. But I can tell you that is one of the driving reasons, I assume, the NAACP believes this is a Civil Rights issue, because there is just such an incredible amount of more arrests of minorities than there are of whites. And there could be a million different reasons for that. Perhaps it's the concentration of individuals in urban settings where arrests are more prevalent, versus individuals who are in settings that are wide open spaces where there are different places that people are just not observing. There are a lot of different reasons for that, but that is a factual statement. Am I correct?

MR. EDWARDS: Absolutely.

SENATOR CARDINALE: Senator, the 39th District, and the 40th District, and whatever other districts she mentioned are not urban settings. This fact is being used to advance the recreational use of marijuana.

SENATOR SCUTARI: That's one fact.

SENATOR CARDINALE: I am concerned with respect to false narratives being used to create a major change in our laws. And that's why I am asking this question.

Thereof, I agree with you that there are any number of possibilities why that fact -- if it is a fact -- why that fact is before us; why that fact is so. There may be reasons related to economic condition; there may be reasons related to the fact that those who are better off economically are better able to evade being arrested for the same kinds of behavior. But I think that it needs to be set straight that this is not because marijuana is illegal that they are being arrested more -- certain minorities being arrested more -- it is due to something else. Because I cannot believe that-- And I know a lot of the law enforcement people in the 39th District. I cannot believe that they are racially motivated when they are doing their job.

Now, I want to go on to one other point with you.

You wanted -- both you and the NAACP, I believe -- have taken the position that it would be better if young people were granted equal access to marijuana, as this Bill does to older people. Did I understand that correctly?

MS. HOUENOU: No.

MR. EDWARDS: Absolutely not.

MS. HOUENOU: No.

SENATOR SCUTARI: No.

SENATOR CARDINALE: No.

MS. HOUENOU: We are not advocating for access to children; not at all. And this Bill would prohibit access to children.

SENATOR SCUTARI: Exactly. And in fact, the counterargument is true. If we legalize it and regulate it, our hope is that there will be less access. When you get rid of street corner dealers who aren't checking IDs to see how old you are, and they have less product to ship out, we can make the logical conclusion that people under the age of 21 will actually have a harder time getting marijuana products, much like they do with alcohol now. Alcohol, under 21, is harder to get. It's illegal for a minor to possess it under 21 years of age. That's because when you go into a liquor store, they check your ID; but if they were selling it on the street corner, I'm pretty sure they're not going to check your ID.

MS. HOUENOU: And Senator, to your point about the reasons why there are these disparate impacts -- you're right. There are a number of reasons why there is a racial disparity. But what is not a reason is that -- is the idea that blacks simply use marijuana more than whites; that we know to be false, because of government data. And we know that there are these racial disparities; these disparities are a fact -- also government data. This is pulling from data that police departments are giving to the FBI. So these aren't made-up numbers; these disparities exist, they exist all over New Jersey and in every county in this state.

SENATOR CARDINALE: I'm not going to argue with the numbers; I am going to argue with respect to the numbers relating to any kind of racial discrimination with respect to how law enforcement in my District, in the 39th District, performs its work.

MS. HOUENOU: And we-- And we do not assert that.

SENATOR CARDINALE: But I want to make one other point to you.

Because I took your suggestion that the law be changed to treat younger people the same way that it treats over-18 -- and that is, I sent our aide into a little search for the study that I mentioned earlier. And while he didn't find that, he did find another one -- which is much more recent, which indicates the same sort of findings that I related to Dr. Nathan. And I'm going to have that put into the record, with the Chairman's permission.

In fact, that study indicates that younger or older people -- there may be a greater impact on younger, which is true of many things -- there are dead areas in the brain from casual use of marijuana on a regular basis. You don't have to be a--

SENATOR SCUTARI: Let me just cut you off, at this point, Senator, because this is not that area of their specialty. You can read that in, or talk about it, in closing remarks. But I want to move on to our next panel, unless you have any other questions for this panel.

Any other questions for this panel regarding the topics they brought up? And then I'll let you bring it back up at a later time, for sure.

SENATOR CARDINALE: It's very harmful to their children, and all children. And I think that they should be aware of that because--

SENATOR SCUTARI: I'm probably the foremost--

SENATOR CARDINALE: Probably more aware--

SENATOR SCUTARI: --proponent of marijuana legalization.

SENATOR CARDINALE: --more harmful to children in lower economic circumstances.

SENATOR SCUTARI: No one is suggesting that people under the age of 21 utilize marijuana; and I'm not advocating for that.

Okay; any other questions for this panel? (no response)

Seeing none, I want to thank you all for being here. Thank you; thank you. (applause)

Next-- We have to move this along.

The next panel -- I want to invite up Chris Beals, the President and General Counsel at Weedmaps; Michael James, Terra Tech Corporation CFO -- the CFO of Terra Tech Corporation. Please come forward.

Also, from New Jersey Policy Perspective, Brandon McKoy; and the Executive Director of Compassionate Sciences, George Schidlovsky.

You can all come forward and take a seat in the front row; I'd appreciate that.

Okay, great; thank you.

Mr. Beals will start, on the right; we'll start with you.

Welcome, and thank you for being here.

Red is on. (referring to PA microphone)

C H R I S T O P H E R B E A L S, Esq.: Thank you.

Chair Scutari, Vice Chair Gill, and members of the Senate Judiciary Committee, thank you for providing me with the opportunity to speak with you today about the cannabis industry in the United States, the potential for this industry in New Jersey, and the insights gained from the eight states and the District of Columbia that currently regulate adult use of cannabis.

My Name is Chris Beals, and I serve as the President and General Counsel--

SENATOR SCUTARI: Mr. Beals, could you just get a little closer to the microphone?

MR. BEALS: Oh, sure.

SENATOR SCUTARI: And pull it up to you a little bit more? Great.

MR. BEALS: My name is Chris Beals, and I serve as the President and General Counsel of Weedmaps, the oldest and largest technology company serving the regulated cannabis market in the United States, Canada, and Europe.

Our company was founded in 2008, and provides a range of technological solutions to this nascent industry.

While Weedmaps is best known for having the largest and most accurate online directory of dispensaries, deliveries, and doctors, we also offer industry-tailored point-of-sale systems, HIPAA-compliant software solutions for doctors, and online content management platforms.

Our company currently employs over 300 staff, is headquartered in Irvine, California, and has offices in Denver, New York City, Toronto, Barcelona, Phoenix, and Berlin. Because Weedmaps has a global footprint, works with participants at all layers of the supply chain, and does not engage in any business which touches the plant, we believe we have a uniquely broad and agnostic perspective of what marijuana regulations and laws have worked and which have failed.

We are also able to draw upon the largest set of proprietary industry data to help us better understand the health of legalized systems.

We are committed to working with lawmakers, regulators, industry participants, NGOs, and trade groups to help organize

comprehensive marijuana policy solutions that accommodate existing marijuana businesses, enable industry growth, and address the public safety, health, tax, and community reinvestment goals of legislators and regulators.

The central tenant of our policy is to encourage the legalization of marijuana in reasonably regulated legal markets that minimize the illegal market for marijuana, while protecting the concerns of citizens.

Weedmaps is committed towards advancing sound, responsible policies in New Jersey. Towards that end, I am both a Board member and Vice President of the New Jersey Cannabis Industry Association, a nonprofit trade group dedicated to establishing a responsible, well-regulated cannabis industry in the state.

The regulated cannabis industry in the United States is large and growing rapidly. Following the November 2016 election, eight states and the District of Columbia now have adult use cannabis laws. Additionally, with the recent passage of legislation in West Virginia, 30 states and the District of Columbia have medical cannabis laws. Taken together, these regulated medical and adult use cannabis markets comprised an estimated \$6.6 billion industry in 2016.

I should note that we believe this number -- although widely cited -- is significantly lower than reality, as we believe, based on our data, that the market in Los Angeles County alone approached \$4 billion last year.

Nevertheless, it provides a useful framing for conservative estimates of industry impact. If employment levels nationally are comparable to those identified in an October 2016 economic impact analysis, conducted for the state of Colorado, then this industry directly

employed an estimated 83,434 full-time equivalent workers, including direct, indirect, and induced employment. The regulated industry supported an estimated 120,000 FTE jobs nationwide in 2016.

As a point of comparison, the coal mining industry directly employed 50,400 workers as of March 2017.

As existing markets mature and additional states adopt medical and adult-use cannabis laws, this industry is projected to expand considerably. The National Conference of State Legislators notes that 19 states have bills pending that would legalize adult-use marijuana; and states like California, Massachusetts, Nevada, and Maine are on track towards implementing their own adult-use systems in 2018.

Accordingly, analysts are bullish about the future growth for the industry in the United States. The investment firm Ackrell Capital projects the legal sales of medical- and adult-use cannabis will reach \$23 billion by 2020, and \$37.3 billion by 2024. Such rapid growth will necessarily involve the creation of tens of thousands of jobs. Assuming employment levels are comparable to those in Colorado, a \$23 billion industry would employ upwards of 290,756 fulltime-equivalent workers.

The bottom line is that expansion will have a positive impact on the national, state, and local economies since legal cannabis, when properly regulated, drives up economic growth and adds tens of thousands of jobs to the American economy -- with limited public health impact.

Another positive impact of implementing medical- and adult-use cannabis laws is tax revenue generation. Despite the fact that the regulated the cannabis sector is still in its infancy, this industry has proven to generate hundreds of millions of dollars for state, county, and local

governments. One need only look at the states of Colorado, Washington, and Oregon to highlight the substantial tax revenue potential of this industry.

In 2016, Colorado, Washington, and Oregon generated \$198.5 million, \$185 million, and 60.2 million, respectively.

Opponents of medical- and adult-use cannabis laws make bold claims about how legalization results in burdensome regulatory and enforcement costs that outweigh gains in tax revenue. However, these claims couldn't be farther from the truth. The cannabis industry eagerly awaits a comprehensive, state-commissioned cost-benefit analysis of adult-use legalization by the Washington State Institute for Public Policy, which will be released in September 2017. In the meantime, it's worth noting that tax revenue has far exceeded state regulatory costs, and reductions in marijuana-related arrests have saved adult-use states millions of dollars in enforcement, judicial, and incarceration costs.

In Colorado, the cannabis industry has generated so much tax revenue that, in Fiscal Year 2016-2017, the state's Marijuana Tax Cash Fund distributed \$40 million to school capital construction; \$5.7 million to the public school fund; \$4.4 million to the Early Literacy Competitive grant (sic) program; \$2.3 million to the School Health Professional Grant program; \$900,000 to the School Bullying Prevention and Education Grant Program; and \$900,000 to Dropout Prevention program.

Local governments also stand to benefit. As an example, in 2016, Adams County, Colorado, dedicated \$516,000 in cannabis taxes to college scholarships targeting low-income students.

Given the entrenched nature of the illegal market, transitioning cannabis consumption into the regulated taxed market takes years, and is marked by a broad range of challenges -- important issues that I will address in greater detail. Nonetheless, the cannabis industry is a proven driver of tax revenue generation, and can play an important role in addressing the fiscal challenges facing state, county, and local governments across the country; and, with proper regulation, this can be achieved while generating minimal social and economic costs.

I think one excerpt from a recent Cato Institute report, looking at the effect of state marijuana legalization, is especially telling. “Our conclusion is that state-level marijuana legalizations to date have been associated with, at most, modest changes in marijuana use and related outcomes.” The paper continues to note that “The absence of significant adverse consequences is especially striking, given the sometimes dire predictions made by legalization opponents.”

As policymakers in New Jersey consider building a legal framework for the adult-use cannabis market, there are a few statistics that serve as a useful starting point. Whereas the Department of Health’s Medical Marijuana Program had 10,799 active registered patients as of February 2017, according to the Federal government’s National Survey on Drug Use and Health, an estimated 894,000 New Jersey residents used marijuana in 2015 -- roughly 1 out of every 10 individuals. I highlight these figures at the outset because in order to craft sensible policy for this industry, it is critical to first acknowledge the fact that a robust market for recreational marijuana already exists in New Jersey, and has existed for

some time. This market simply exists in an unregulated, unorganized, and untaxed form, serviced by illegal market operators.

As such, the passage of adult-use cannabis legislation is ultimately about transitioning the production, sale, and consumption of marijuana from the illegal to the legal market; and structuring this industry in a manner that meets public health and safety concerns, drives economic growth, adds thousands of jobs to the New Jersey economy, and generates hundreds of millions of dollars in tax revenue. To do this effectively, the laws must be structured in a way to encourage both businesses and consumers to enter the legal market, where they can be effectively regulated.

The economic impact of adult-use legislation in New Jersey would be substantial. As the May 2016 report by New Jersey Policy Perspective and the ACLU of New Jersey highlights, a properly regulated cannabis industry will generate an estimated \$1.2 billion in annual sales, and \$305.4 million in annual tax revenue. Assuming an industry employment-to-revenue ratio comparable with that of Colorado, New Jersey's cannabis industry would directly employ an estimated 15,000 FTE workers. Including direct, indirect, and induced employment, this industry would support a total of 22,000 FTE jobs statewide. This says nothing about the possibility that even further job creation is possible if New Jersey positions itself at the forefront of science and research in equipment and technology for use in the industry; or the positive externalities that are generated in real estate or professional services.

Should New Jersey pass sensible adult-use cannabis legislation in the future, such legislation also has the potential to position New Jersey as an industry leader, both on the East Coast and nationally.

While the passage of adult-use cannabis legislation bears great promise for the State of New Jersey, a poorly crafted and overly burdensome regulatory framework will severely undermine a smooth transition from the illegal to the legal market. States like Colorado, Washington, and Oregon have all encountered challenges in establishing functioning legal cannabis markets, and each face lingering illegal markets of varying degrees. New Jersey stands to benefit from the insights gained from their experiences.

In order to facilitate a smooth transition to the regulated market, the cannabis industry requires a policy framework that will enable it to compete with the illegal market on access, price, and quality; and conversely encourages as many of the illegal operators as possible to enter the regulated system. Absent such a framework, the legal market will struggle to take root, and the illegal market will persist.

The city of Seattle is a case in point. Despite the passage of an adult-use ballot initiative in 2012, the illegal market captures an estimated 50 to 60 percent of total cannabis sales. This has been driven by a number of factors, including an overly high state excise tax rate; out-of-state ownership restrictions which constricted access to equity and debt capital, and forced out-of-state operators to open illegal shops; dispensary density in Washington that is less than 1 dispensary per 13,000 people; and onerous ad and signage restrictions that force legal operators to run shops that look

more like speakeasies, as opposed to the more built-out, luxurious spaces seen in Colorado and others states.

As the New Jersey Legislature moves forward with drafting legislation to legalize and regulate adult-use of cannabis, we at Weedmaps and the New Jersey Cannabis Industry Association look forward to working with you to develop a policy framework that addresses these challenges and makes New Jersey a national leader in this emerging industry.

We believe the current Bill takes great strides in that direction, and we are happy to serve as a partner.

Thank you, again, for the opportunity to speak today; and I look forward to continuing this conversation in the coming months.

SENATOR SCUTARI: Thank you; thank you, Mr. Beals.

Next.

State your name for the record.

MICHAEL JAMES: Sure.

Mike James; I'm Chief Financial Officer of Terra Tech Corp. and its subsidiaries. I've been a resident of New Jersey for 57 years.

I am also the Chief Financial Officer of Edible Garden Corp. We have a farm in Belvedere, New Jersey, where we have 5 acres under glass. We sell to ShopRite, Kroger, Walmart, Corrado's -- all throughout the Northeast here. We go up to Maine, down to Virginia. And on the West Coast, we have subsidiaries that are involved in the medical cannabis industry.

We have two permitted facilities, one in Oakland, California; one in San Leandro. We employ, roughly, 75 people there. We won the most permits in the state of Nevada, at which we have approximately 100

employees there -- 25 in the four dispensaries. We have four more permits: two more for grows -- which is cultivation -- and two more for processing laboratories, of which we'll be opening up those in the next year.

In the city of Oakland -- to just give you an idea -- one dispensary does \$13 million -- medical cannabis; we pay, roughly, \$2,250,000 to the state and the city of Oakland -- so a lot of money has gone back into -- back to the authorities, based upon what's regulated.

We would like the opportunity -- as the State rolls out the new Bill -- to participate in filing for a permit. And being that we are organic, we are GFSI certified, we're kosher, we know how to scale our business, we have this very big operation in New Jersey where we employ 37 people -- we'd like to continue to build out our business on the East Coast here.

And being a long-time resident of New Jersey, we look forward to that opportunity.

Thank you.

SENATOR SCUTARI: Thank you very much.

Next? Could you state your name -- just state your name for the record?

BRANDON M c K O Y: Absolutely.

My name is Brandon McKoy; I am a Policy Analyst at New Jersey Policy Perspective.

Good afternoon, Chairman Scutari, Vice Chair Gill, and members of the Committee. Thank you for the opportunity to speak here today.

In May of 2016, New Jersey Policy Perspective was the first organization to put a number to the tax revenue concept of legalized

marijuana in the State of New Jersey. And we produced a report, in conjunction with the ACLU of New Jersey and New Jersey United for Marijuana Reform, detailing the social and economic benefits of marijuana legalization throughout our state. We found that legalization, taxation, and regulation of marijuana for use by adults, aged 21 and older, would ultimately add an estimated \$300 million in sales tax to State coffers.

On top of that direct revenue, the State would see other economic benefits, such as job creation, growth in business, research and development; and corresponding boosts in property, business, and income taxes.

The way that we got to that revenue estimate is, first, that \$300 million figure is a fully implemented system, at a tax rate of 25 percent. We firmly believe that the tax rate must be phased in over time in order for the legal market to have the best opportunity to snuff out the illegal market. We've called for a three-year phase-in, going from 5, to 15, to 25 percent. Our projections were derived from the model that is based on the experiences of other states, current information on marijuana users in New Jersey and the surrounding area, current pricing, and the tax structure of other states as they relate to New Jersey's interests. In the end, we do believe that our estimate is quite conservative.

It must be stated clearly that while expanding economic opportunities and addressing our persistent budget deficit are extremely persuasive reasons to legalize and regulate marijuana, they aren't the only ones. And you addressed many of those in the previous panel that was up here already.

Considering the significant impact that legalizing can have on the State's economy and our criminal justice landscape, we urge the Committee to craft and pass legislation that includes expungement opportunities -- which this Bill already does -- for residents previously convicted of marijuana offenses, appropriations to aid communities that have been historically harmed by the war on drugs, and pathways to ensure that previous participation in marijuana activity does not prevent residents from engaging in the production or sale of legal, recreational marijuana.

The legalization of marijuana will mark an important step for New Jersey, but we must ensure that we do not squander the many opportunities available to us. We can make significant strides in criminal justice policy; make more efficient use of law enforcement resources; and provide an important boost to State and local economies. None of these things are mutually exclusive, and they should all continue to be pursued authentically and honestly.

Thank you.

SENATOR SCUTARI: Thank you very much.

Next; state your name and your affiliation for the record.

G E O R G E S C H I D L O V S K Y: Good afternoon.

My name is George Schidlovsky; I'm the Executive Director of Compassionate Sciences Alternative Treatment Center, located in Belmar, New Jersey.

I represent one of the five operating licenses under the Department of Health to cultivate, process, and dispense medical cannabis.

Many of you know that there is an operating medical cannabis industry in New Jersey. There are approximately 12,000 patients in the program; there are 13 qualifying conditions.

I am serving approximately 4,000 patients at our dispensary. We service the patients of approximately 200 doctors. There are about 350 doctors registered in the system.

What I wanted to -- just make a couple points clear. There's been a lot spoken and raised here during the previous panels.

The current DOH CUMMA regulations are a fantastic foundation to consider for the future development and reform of the cannabis industry in New Jersey. We as dispensaries are highly regulated. We are very compliant to some very strict rules and regulations. We service, and work, and recommend cannabis to patients with Lou Gehrig's disease, gastrointestinal diseases, and the such.

Our point at Compassionate Sciences is that we are for reform; but we are for establishing a sustainable industry that will be perpetuated going into the future, which is based on some very calculated models that can extract the benefits and the positives from many of the examples that have been -- the seeds that have been sown around the country,

We want to ensure sustainability in the market. There's a lot of science involved with growing cannabis. There's been a lot of discussion about tax revenues, jobs. We have over 50 people working at the dispensary; all of our salaries are paid officially. We've brought people onto the payrolls; we're working with physicians, and we do education.

What-- I am making myself available to, and the science behind our business to, the Legislature. I invite you to come and see how

cannabis is grown, processed, and dispensed in your state. We are regulated by Commissioner Bennett and her staff. I do want to thank them for their diligence, and I know that they are very concerned about how this legislation will move forward. And I do know that they are making themselves available to speak with the Committee here, Mr. Scutari, and the Attorney General's Office.

So in conclusion, we are supporting the growth of the industry, but we want to be cautious and we want to make sure that there's a sustainable way to good jobs growth, good solid tax collection. But in order to do that, there's a lot of science that has to be learned and actually legislated for.

So thank you for your time; thank you.

SENATOR SCUTARI: Thank you very much.

Any questions for this panel?

SENATOR GILL: I have one question.

SENATOR SCUTARI: Senator Gill.

SENATOR GILL: I have a question about processing, since we are talking about Colorado.

And it's indicated -- and you can let me know if this is correct or not -- in an article -- a May 19 article in *Politico Magazine* by a Jon Murray; and it says that -- it starts out with, "Medical marijuana -- has pumped millions of dollars into government coffers. It's swathed the city in a trendy glow that likely attracts as many outsiders as it repels. But," and here's my concern, and I would like to have a discussion, "in lower-income neighborhoods of Denver, the explosion of smelly commercial cultivation operations, which crank out tons of high-priced weed for sometimes-chic,

sometimes-earthly dispensaries in more fashionable parts of town, has rekindled long-standing grievances about being ignored by City Hall. And residents are beginning to demand big changes.”

And they talk about, in this article and others, the health effects on the children, in the areas where this is being processed. And you know, then there are articles that go into more detail.

So I'd like to-- And I know we're kind of dense in New Jersey; we may be dense in the Senate (laughter) -- but we're kind of densely populated in New Jersey. So the idea of legalizing, and where -- or do you have any idea where the processing would be done? Would it be done in communities where there may be abandoned factories now? Just -- do you have any concept?

MR. SCHIDLOVSKY: Maybe I'll take the first whack at this question.

Currently, all the dispensaries are vertically integrated, and they grow, process, and dispense all at one location.

SENATOR GILL: Okay.

MR. SCHIDLOVSKY: The locations are approved by the town planning boards. And we comply with all local municipal regulations.

It's in the best practices of strong operators to make sure that there is no byproduct from growing, processing, and dispensing cannabis.

SENATOR GILL: Okay.

MR. SCHIDLOVSKY: The only real byproduct of our industry could be the packaging that's used to package either (*sic*) the product that is dispensed to the patients. You know, we're all businesspeople, and we make sure that we're not producing waste. As far as I know, none of the

dispensaries in New Jersey actually have problems with the odor. The odor is actually not smoke; no one's smoking in the facilities, no one is burning the cannabis. So if there are any smells, they are probably from the terpenes that are grown on the plant, which are found in all plants in the universe.

SENATOR GILL: Well, you know, as I said, my legislative office was two doors down from medical marijuana, on Bloomfield Avenue in Montclair.

MR. SCHIDLOVSKY: Yes.

SENATOR GILL: So it's run very well; there aren't any issues.

So we're talking about the future; like, if this is open to legalized marijuana, does the processing produce--

MR. SCHIDLOVSKY: Right.

SENATOR GILL: --in large quantities, the issues that have been noted in the communities in Denver?

MR. SCHIDLOVSKY: Right.

SENATOR GILL: That was-- I have no issue with how medical marijuana is going in New Jersey at this point.

MR. SCHIDLOVSKY: Yes.

SENATOR GILL: It probably should be more liberal, if you ask me. And I have been able to see it firsthand; well, I haven't been in the store, but at least I've walked by to go to lunch. And it's very well run.

MR. SCHIDLOVSKY: Yes, I've reviewed the draft legislation put forward by Senator Scutari and the Committee. You have five categories of licenses, and the applicants are separated -- as opposed to the way they are now -- where you have growers, you're going to have

processors, and then you're going to have dispensaries. And the dispensaries will be approved by the town zoning committees in the towns.

As far as the processing goes, I can assure you that there really is not a need for a large amount of processors in the state.

SENATOR GILL: But where they process-- And I won't belabor--

MR. SCHIDLOVSKY: Well, you can--

SENATOR GILL: And I won't belabor this, but in Denver they said that they had the processing in low-income communities, and there were health and other issues associated. Is that-- And I'm not sure; I'm asking you.

MR. SCHIDLOVSKY: Sure, there's a lot of experience that can be taken, and a lot of mistakes done in other states. But I do believe New Jersey has the opportunity to specify locations where processing licenses can be located.

SENATOR GILL: I understand that.

MR. SCHIDLOVSKY: I mean, they have to have parking; they have to have--

MR. BEALS: To your point, we worked--

SENATOR GILL: I just want to find out if processing does, in fact, have these other associated issues. And if not, then that's fine.

MR. BEALS: To your point, we have advocated and worked on this issue a lot in the cities of Los Angeles, and Toronto, and other locations. I think the issue -- the specific concern around processing is maybe a bit of a misplaced one.

SENATOR GILL: Okay.

MR. BEALS: Especially if it's volatile solvent processing. It should be done in a Class I, Div I container for fire prevention reasons. And best practices and what's mandated by most local codes is that you use carbon scrubbers so that the air that is emitted doesn't smell bad.

But in terms of processing, creating more odor than something else, I don't think it's materially different than cultivation or, for that matter, large-scale packaging and transport.

To your point about the placement of businesses in lower-income areas -- this is something that's concerned us for some time; and a lot of our efforts on that front have been towards local cities. And one of the largest causes of that is cities putting large zoning radiuses around amenities like schools, parks, libraries -- but then continuing the list on from there. And the net effect has been -- and this has been shown through cases studies, looking at Seattle and some other locations -- is that when you move businesses using zoning radiuses far away from everything that's sort of built up in the nicer parts of town, you naturally force the businesses to lower income parts of town.

And so we've been advocating for a judicious use of zoning radiuses just to avoid this exact issue.

SENATOR GILL: And a judicious use of zoning radiuses-- So if we have zoning with respect to how close you can be to a school, maybe we should adjust that so we don't have a--

MR. BEALS: Yes, I think the issue is -- the issue, generally, has been drawing extremely large radiuses, and also drawing radiuses off of, for instance, other marijuana businesses, or drawing radiuses off of-- At one point, there were towns that had radiuses off of adult dance establishments

or off of liquor stores. And once you start to draw radiuses off of these, yes, you ended up forcing businesses -- one, there weren't enough locations to actually provide sufficient density to tamp down the illegal market; and two, you forced businesses towards lower income and minority neighborhoods.

SENATOR GILL: And here, because in New Jersey we have a school-free zone radius, and every place in an urban area, you're in a free zone full radius. So-- And I know we can't resolve it now; but as we go forward and talk about how does that, then, have the potential to impact where these processing plants will be, just simply based upon the present zone of schools.

SENATOR SCUTARI: Well, I can just--

SENATOR GILL: So that would be a--

SENATOR SCUTARI: --one thing -- we didn't put that in this Bill -- that drug-free school zone, the zoning radius that we've seen problems with over the years. That's not contained in the Bill.

SENATOR GILL: So that in this Bill, you could have a processing plant near or in a drug-free zone?

SENATOR SCUTARI: You could, depending upon what the local ordinance -- the local planning board decided. But yes, it's not prohibited.

MR. SCHIDLOVSKY: Senator, I could just add there.

The application process for the current dispensaries that are operating had very stringent requirements that were issued by the Department of Health. So I do think that there is some virtue in going

back to those application processes, because the Department of Health had very stringent requirements on ensuring the health of the residents.

So when we applied, we had to perform many, many applications for many town boards, zoning boards. They were eventually cleared by the Department of Health -- schools, churches, you know-- There was a litany of requirements that we had to comply with.

SENATOR GILL: And since we had-- Montclair may have been one of the first, with medical marijuana--

SENATOR SCUTARI: I believe it was.

SENATOR GILL: And it was. So our town was intimately involved in--

MR. SCHIDLOVSKY: Absolutely.

SENATOR GILL: And I remember the zoning--

MR. SCHIDLOVSKY: Yes.

SENATOR GILL: --and where it could be placed and where it could not be placed. And so -- and how far back, and all of those other things. So I don't know if we're going to work off of that zoning, or if this Bill will override municipal zoning that says you can be placed any place, that you can be placed where we would not permit the medical marijuana.

And then I guess the only thing, coming from Montclair, is that if the medical marijuana gets a -- if we pass the Bill -- I don't know, since you're already up and running, you kind of get a preference. Because I know our town, as progressive as we are, is not looking to be the only dispensary for legalized marijuana between New York and New Jersey.

So we like to host things that are progressive; but we also like to retain control over what is going on. But I know we'll talk about that down the road.

Thank you very much; very informative.

SENATOR SCUTARI: Thank you, Senator Gill.

Any other questions for this panel? (no response)

Thank you; thank you all, gentlemen.

MR. SCHIDLOVSKY: Thank you.

SENATOR SCUTARI: Okay; the next panel we'll call forward -- J.H. Barr from the New Jersey State Municipal Prosecutors Association; Hector Corchado, former Newark Deputy Police Director; and Nick Bucci, retired police officer with the Law Enforcement Action Partnership.

Please come forward; thank you, gentlemen, for being here.

I'll start on your right, my left, with J.H. Barr from the New Jersey State Municipal Prosecutors Association.

Mr. Barr; yes, you can start, unless you have a preference.

J O N - H E N R Y B A R R, Esq.: No, that's all right; not at all.

SENATOR SCUTARI: Mr. Barr, turn on your-- Your mike -- red is on. Perfect.

MR. BARR: Thank you, Mr. Chairman.

SENATOR SCUTARI: Welcome.

MR. BARR: If you had told me just five years ago that I would be appearing today before the New Jersey Senate Judiciary Committee testifying in support of legalizing marijuana, I would have told you, you were nuts. But here I am today, and that's exactly what I'm going to tell you today.

I am appearing today as a municipal prosecutor of 16 years; an emergency medical technician of 14 years; I've been a father for 8 years; and I've been a registered Republican since I've been eligible to vote 28 years ago.

Starting as strictly in my capacity as a municipal prosecutor, I am the immediate past President and the current Secretary of the New Jersey State Municipal Prosecutors Association; and I am also a member of New Jersey United for Marijuana Reform.

Strictly speaking as a Republican, to start, I have always pointed out that we Republicans are against the wasteful spending of taxpayer dollars on government programs that do not work and are not necessary. The war on marijuana is a government program that does not work and is not necessary. (applause)

I am not here today *in spite* of being a Republican; I'm here today *because* I am a Republican. My Republican values are entirely consistent with my position on the legalization. Candidly, on a purely political level, I think we're witnessing something of a theft of a political issue -- the Democratic Party, to some degree, is stealing this issue from the Republicans, when it should be, in my view, a Republican issue.

In 2015, Pew Research revealed that 63 percent of registered Republicans, age 18 to 34, support legalizing marijuana. With large majorities of younger voters supporting legalization, it's obviously just a matter of time before the overwhelming majority of the public supports legalization.

We have a failed policy in place right now. The current governmental policy is failing, it doesn't work, and people want a different approach.

As a father, I've been asked if I want my four children, ages 15 months to 8 years old, to smoke marijuana. And my response is always the same, "I don't want my kids to smoke anything." We should be promoting good health, but we need not use the criminal justice system to promote good health.

I'm already doing everything I can to discourage drug and alcohol abuse. But I do not want the government to get involved in my family legal affairs beyond adding to the discouragement and warning the public about products that aren't healthy or are dangerous, but legal.

As an EMT, I have taken multiple patients to the hospital in an ambulance due to substance abuse. In my experience, the most common substance abuse that results in hospitalization is alcohol. After that, I have seen both illegal and prescription drug overdoses prompt an ambulance ride to a medical center. However, I have never seen anyone hospitalized for a marijuana overdose, nor do I know of any other EMTs or paramedics who have seen a marijuana overdose. Remarkably, in New Jersey and most other states, police who are arresting citizens who use or possess marijuana, but more dangerous, more addictive, and more deadly substances do not result in an entanglement with the criminal justice system.

I take my sworn duties as a municipal prosecutor very seriously. My sworn obligation is to enforce the law, but it is not to endorse the law. As a municipal prosecutor -- which is a title that I share with both Chairman Scutari and Senator Bateman -- I can confidently state that the

marijuana law and prohibition is a total disaster. Next to ignoring the speed limit, I sometimes believe that marijuana use is the most violated law. It is so pervasive that three years ago an incident occurred in my municipal court that prompted me to broach the issue of legalization with the New Jersey State Municipal Prosecutors Association. At that time, the Association -- which is a fully bipartisan organization, I should point out -- agreed to endorse the legalization and regulation of marijuana. Candidly, the Association is not going to support or post any particular bill, but remain steadfast that it is time to legalize and regulate marijuana.

Senator Bateman and Senator Scutari can echo my concerns about problems that we've had in getting laboratory reports. When someone is arrested for marijuana possession, the marijuana they possess is sent to a lab to be analyzed to see if it's actually marijuana. We can't get lab reports because of the backlog at these labs. It's not taking days, it's not taking weeks, it's taking months. And while this is happening, defense attorneys are moving to dismiss for lack of prosecution, for lack of being ready to have your case ready. And to compound the problem, we've now seen episodes in our State Police labs of corruption, where the people we're paying to actually analyze the lab -- the (indiscernible) substance aren't doing the analysis at all. There's actual corruption being bred by the current prohibition on marijuana.

The police community relations are endangered by the need to have municipal and county and state police officers arresting people for marijuana. It is not necessary; it's accomplishing nothing. The one case that caused me to change my mind about this was a months-long hearing over a marijuana joint, and whether or not the cops violated the young

woman -- who happened to be African American -- whether her rights -- her constitutional rights, search and seizure rights, were violated.

And after the hearing, which I won -- the cops didn't do anything wrong -- I felt, for the first time, sick to my stomach. I thought to myself, "Well, I won this hearing; but what did I just do?" I looked at this young woman -- who was very well presented, clean cut, appeared to be a recent college grad -- and I thought to myself, "This isn't right. I have a job to do, and I'm sworn to do it; but I need to start telling people that this law needs to be changed."

I suspect that Senator Scutari has had similar feelings and episodes that caused him to bring this issue public; and I thank him for that.

I do not believe that an imperfect legalization bill should be defeated because it's imperfect when the primary result desired by the bill will be accomplished. When a government policy does not work, it becomes time to change that policy. And with marijuana, the time to change the policy is now.

And I thank you for your time, and I would be happy to answer any questions. (applause)

SENATOR SCUTARI: Thank you; thank you, Mr. Barr.

Next; state your name and affiliation for the record.

H E C T O R C O R C H A D O: My name is Hector Corchado; I'm with Cannabis Association from Newark, New Jersey, living there 40 years; and I'm still there.

I come here to give you my bare testimony -- a hurtful one -- listening to members of the ACLU and being part of law enforcement, and

knowing full well the impact of the laws that you pass here that get trickled down all the way to the local law -- the local departments in Newark, Irvington, and so forth.

I have to tell you, I came in here with one perspective, and I'm not feeling too good about myself right now. The fact is, when I worked in Newark, I worked there in many different departments, but I also worked in the department we call the ERT, which is, quite frankly, like the SWAT teams that you see out in California. And one of our main objectives was to go out there and do warrants; anywhere from two to three a night. And the fact was that, during these warrants, you would be arresting a lot of people; a lot of people who, I felt back then, as the officer who responded, right, to my rank, I thought I was doing my job. I didn't feel bad.

The light came on about two years ago. I had the pleasure of getting into a debate with a young man in Newark who has been involved in medical marijuana for over five years, and actually helped pass the laws in Las Vegas. He gave me a whole different perspective on how to look at this and why these things were not harmful -- as I was taught in the academy; because you go there six months and all they teach you is the negativities, and they teach you why things are wrong, and why you should arrest. There's no gray area in the law. Whether that person is young or old, you're going to make that arrest because you have an obligation, because you took that oath of office.

I had the ability to go to Las Vegas where they actually started the program there -- not only starting the cannabis industry, but they also put a lot of regulations in place -- laboratories in place. And if you asked me today how do I feel about all those arrests -- I approximately, have,

maybe, 200 arrests when I was on the SWAT team -- I would say, I feel -- like him, I feel sick to my stomach. Because the mere fact -- this thing should not be illegal. There are people who actually need this to survive.

I want to commend you, Senator Nia Gill, because you've asked some very tough questions. And I want to be able to answer some of those questions that -- you know, the age, very important. Because if I tell you some of the gateway issues that we have in Newark, when you look at how do young people get involved in drugs, it's really because the individuals who are selling it are controlling it; they know that young kids, less than 18 years of age, really won't get a criminal record. So they use them; they start them off at about 11 or 12 years old; put them on a bicycle, and say, "Here, make this drop off." And that's when they start incorporating them into gangs, and so forth, and for protection. And if they -- unfortunately, if they get arrested and they go to the youth house, now we've made a permanent criminal out of someone who should not have been there at all.

And it's something that I think is in the conscience of many law enforcement officials -- we don't think about that, because they don't teach you that. In the culture, when you go into the academy, you are not taught that. They tell you, "This is the law, this is the way you apply it, go out there and do it."

As a human being, you might look at it; but if you don't do your job, you could be brought up on charges when you talk about social issues.

And I want to commend Dianne, because she touched on a lot of issues that I was going to touch on. But there are a lot of disparities. You know, they ask the question, "Well, why is it that you have more

Latinos and African Americans getting arrested?” And I can talk about that; I was one of the lucky Latinos who got out of that environment. But the mere fact is that when you arrest someone, it is a permanent damage for their life. You are not going to be able to fix that. Because the mere fact is, that once you get that record, you are not going to be able to get a permanent job. So if you take the equation of someone who is self-employed, and lives in the suburbs, and is well off, and they can have their drugs in their house, but we’re never going to see that-- The fact is that you have that because, once you get arrested, and you get tarnished, you won’t be able to get a job.

So what are your options? You can go to McDonald’s -- you can go anywhere you want to go. The first thing they ask you on that application is, “Have you ever been convicted of a crime?” When you put that, you’re out.

So what we’re doing, in essence, is that we’re pushing people back into that environment; we really are, you know? And I like to compare -- I love to see that show *Naked and Afraid* -- not because of the fact that they’re naked, but the mere fact is, that when you take everything away from people and you give them nothing, they become totally different. Their attitudes change; their survival skills have to go to a different level. And that is what is happening in a lot of these inner cities neighborhoods. When you don’t give them the ability to go work, guess what happens? They are going to do what they have to do to survive. They might have a family that depends on them; they might have children, a mother. So those things come into question. If they have no other option, you are not giving them an option but to get involved in illegal activities.

You also talked about when -- how do they target. And it's not that they're targeting, but they do have GIS systems in place where they get information on certain areas that they know are high-crimes areas. And they set out sector units and sector cars, more so than they would in another area. By doing that you're going to get an increase of arrests; because, although they don't tell you, yes, there are some standards that they judge you by when you're working as a law enforcement official. They're going to judge you by: how many arrests did you get this week? How many summonses did you get? They might not tell you openly, but it is known in the culture that you have to do that.

In these areas you also have programs that are under the Federal government. By getting those grants, now you have housing units. In those housing units, you might have cameras -- lots and lots of cameras. I mean, we don't think anything of it; after 9/11, you know, a lot of people just see them and they think it's normal. But when you go into one of these buildings, you might find cameras on every floor and every step. So somebody is out there, smoking marijuana; what is there for one of the security guards, or someone who is working there, to call the police department? So you won't have this in the suburbs. So that increases the value of who's getting arrested.

I tell you this. If you had asked me, just two years ago, I would have told you, "No way." I would never have supported taking away -- you know, making this legal. But today I tell you that the benefits far outweigh, more than what I ever would have ever imagined.

And lives of people are at stake every single day. And I think morally everyone on this panel has the ultimate responsibility to do what's right.

If you would allow me-- Prior to getting here, I made a phone call to a friend of mine. Some of you might know the person, and they told me, "Yes, please. You can utilize what happened to my son, as part of the testimony you want to give, because it is a tragedy of a story." And I will give it to you very briefly, so that we don't take up too much time.

But the reality is, you had this couple who had three fine children, law-abiding, God-fearing. One of their children, just actually, has been incarcerated for, now, 10 years. His first offense -- 10 years he got in prison. And you ask yourself, "Wait; how does that happen?"

Well, his story is very simple. He went to college, Monroe; the family -- they both work. In fact, his father was in law enforcement for 26 years and worked in the Narcotics Unit for many, many years. His mother works in the County, and was an elected official.

The fact was, they never expected, and neither did he expect, ever, to be incarcerated for drugs, because they were all successful and they were blessed to have parents like that. He sustained an injury playing football at college. He sprained -- I believe he tore his ACL. From that tear, they put him on Percosets, and he became addicted to legal drugs; legal drugs. And from there, his life spiraled down.

If I may, I just want to read a letter that he wrote to the *Belleville Times*.

He says, “I would like to take this opportunity to try and connect with every person who has ever liked me, loved me, believed in me, hated me, who was hurt by me.

“Please allow me to introduce myself; my name is Trevor Torres. And, as you may or may not know, I am currently incarcerated because of very poor judgement, and choices, and inexcusable actions.

“For years I walked around the streets of Belleville, New Jersey, with immense pride, holding my head up high, knowing that I was fortunate enough to be living in a safe neighborhood with not a worry in the world. I was blessed with a loving and supportive family that was always emphasizing the importance of excellent manners, courtesy, and respect.

“Many of you are probably wondering how could a young student athlete, who seemed to have everything that I’ve done well, come to an end. The answer is, I got caught up in my own shortcomings, tried to find shortcuts, stopped believing in myself, and ended up going down the wrong path. I became everything I never wanted to be, and was in denial to that fact.

“My actions aren’t really explainable or excusable. But I wouldn’t feel right ever moving on with life without expressing my deepest apologies to everyone in my community.

“As I continue to embark on a journey of righteousness, I just hope that all of you can find it in your hearts to forgive me and believe in me once more. As Nelson Mandela once said, ‘No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest.’

“I promise I will do better and be better.

“Respectfully, Trevor Torres.”

I had to share that with you, because these are the things that are going on in our neighborhoods.

You have an awesome, awesome responsibility. I thank you for having me here today, and I welcome any questions, even the hard ones.

Thank you.

SENATOR SCUTARI: Thank you; thank you very much.

Mr. Bucci, if you could introduce yourself.

DOMINICK F. BUCCI: Can you hear me know?

SENATOR SCUTARI: Yes.

MR. BUCCI: My name, again, is Dominick F. Bucci, former member of the New Jersey State Police; current member of Law Enforcement Action Partnership; and member of the New Jersey United for Marijuana Reform.

As I said just now, I am former member of the New Jersey State Police, having served from 1966, retiring in 1991. It should be noted that I was there when Nixon declared war on drugs; and, mainly, the two drugs he was after -- marijuana and cocaine.

As somebody who made hundreds of thousands of arrests for marijuana possession, I have come to the conclusion that our marijuana laws are a failure. They do not improve public safety; and that New Jersey should move towards legalizing and regulating marijuana for adults.

Drugs are always going to be here; they have been here for thousands of years. The new question needs to be, is it preferable to leave the gangsters in control, operating on street corners, using our children as

pawns; or create a safe, licensed, regulated environment, with appropriate limits, designed to protect our youth? Of course, the latter is a better system.

Our current enforcement efforts are directed towards drug violations. Twenty-three thousand marijuana arrests in 2015, just in New Jersey alone, accounts for the police officers' time. This equates to less time solving other crimes.

New Jersey does not keep track of rape kits that are stored in our labs, waiting to be tested, because of the overwhelming amount of drug testing for marijuana. That's 23,000 times an officer was unavailable to respond to a call for domestic violence, theft, child neglect, or rape; 23,000 times that a nonviolent marijuana user was put through the criminal justice system that doesn't have the capacity to deal with the caseload.

Prosecutors, judges, correction officials, active and retired members of the police are demanding that the institutions they serve focus on public safety and reducing crime. Marijuana legalization will do both.

Most Americans like to believe that we are securely protected by the police against crime. But when we look at the crime clearance index, nearly 78.2 percent of New Jersey crimes are not solved and criminals not brought to justice. It's time to free up our law enforcement and criminal justice system to respond to real public safety threats.

And as a side note, my wife and I visited the state of Washington; and one of the things we did while we were out there was visit a marijuana retail store. And my wife was so happy. And the reason being, they asked her to produce identification that she was over 21. (laughter) And being a lawyer, she said, "Why do I have to do that?" They said, "We

want to make sure you're over 21." And that made her whole day. But I was very impressed with how they ran that out there.

So again, I want to thank you for having me here today to testify; and I will be here to answer any questions I can.

SENATOR SCUTARI: Thank you, to all of the panelists. Thank you very much.

Before you're excused, we have some questions.

Senator Gill.

SENATOR GILL: Yes.

First of all, I know you've been prosecutors, but I've been a defense attorney, and I've been a practicing defense attorney for 35 years. I've also, before that, been a public defender; and I try in both Federal Court, as well as a civil trial attorney.

So I have tried more cases in Newark Municipal Court as a Public Defender, and then you move up to Superior Court.

So I'd like to -- I think with the Torres case that you just read from--

MR. CORCHADO: Yes.

SENATOR GILL: I do believe he was charged with armed robbery, discharge of a gun, two counts of -- he went as a masked man into a restaurant in Belleville and shot five rounds; and it also involved the police. And then the only way they were able to catch him was because of the surveillance cameras in the restaurant.

So I just wanted to set the record straight that it wasn't as a result of marijuana use--

MR. CORCHADO: No, no.

SENATOR GILL: --at all -- that this was -- at least with respect to the incarceration.

MR. CORCHADO: Right.

SENATOR GILL: So let's go onto this particular-- Let's talk about-- And I think Mr. Corchado, we know that in policing, they do have high-crime areas that are designated, correct?

MR. CORCHADO: That is correct.

And in those high-crime areas that are designated, they send law enforcement there in larger numbers and more frequently than they do in other districts.

MR. CORCHADO: That is correct.

SENATOR GILL: Okay. And those high-crime areas are usually in urban areas.

MR. CORCHADO: Yes.

SENATOR GILL: Yes? Okay. And also, as you were talking about the-- I see you are the Security Director for the Apartment Management, Inc.

MR. BUCCI: That is correct.

SENATOR GILL: And there are lots of cameras in the apartments.

MR. BUCCI: Yes.

SENATOR GILL: Lots of security--

MR. BUCCI: Actually, that one there, where we are -- in GK, we were doing a remodel, so there is going to be about 250 cameras placed around.

SENATOR GILL: So in an apartment building in, let's say, some other suburban district, there might not be that many cameras.

MR. CORCHADO: That is correct.

SENATOR GILL: And so in the urban districts, with these cameras, if a person who was 21 walked out in the hall to smoke a -- are we allowed to still call it a *joint*? (laughter) Or is it-- I don't want to age myself here -- or are we allowed -- a marijuana cigarette; or if you're older than that, I guess it's a *reefer*.

MR. CORCHADO: Right.

SENATOR GILL: A joint?

MR. BUCCI: Joint; joint's good.

MR. CORCHADO: Joint is good; that's fine. (laughter)

SENATOR GILL: Okay, which is a marijuana cigarette.

That person would likely be under surveillance.

MR. CORCHADO: That is correct.

SENATOR GILL: And that the police officers could then just look at the surveillance camera, or the security, and say, "Look, this particular gentleman is in violation of the marijuana laws."

MR. CORCHADO: That is right. They look at foot traffic and everything else in the apartments; absolutely.

SENATOR GILL: And everything else in the apartments, correct?

MR. CORCHADO: Correct.

SENATOR GILL: And also there are some things that in -- there's a lot of movement in the apartment buildings, in the hallways; because sometimes the apartments, for whatever reason -- not that they're

not nice -- but they may be overcrowded, or people may want to go out and take a smoke, correct?

MR. CORCHADO: That is correct; that is correct.

SENATOR GILL: And so if they go out and take a smoke with a cigarette, it's not the same thing -- even if they are 21 and over, if they take a smoke with a joint.

MR. CORCHADO: Right.

SENATOR GILL: Okay; because that then becomes a criminal offense.

MR. CORCHADO: That is correct.

SENATOR GILL: Okay.

And so we know that there is a concentration of not only police presence, but also camera surveillances, particularly in the urban district.

MR. CORCHADO: That is correct.

SENATOR GILL: And so I want to go to the Colorado Health Department's survey where they found that -- they were prosecuting less adults but more juveniles; and that those juveniles -- for African Americans, it was a 50 percent increase, and for Latinos it was 20. But the age range was from 10-years-old to 17-years-old. And that would not be anything that you find unusual, correct?

MR. CORCHADO: Absolutely not; that's a no-no.

SENATOR GILL: So that with the legalization of marijuana, and with the policing the same way it is, with the surveillance the same way it is, it would not be unreasonable to expect that there would be an increase in juvenile marijuana arrests?

MR. CORCHADO: It wouldn't be unreasonable; I just think that the comment you made earlier -- that you have to take that into consideration. With the passing of the Bill, if you do it right, you're going to get a different result from Colorado.

SENATOR GILL: So how do you do it right? You're in law enforcement; you've been in Newark as a Captain--

MR. CORCHADO: No, no. I was there as a Sergeant; and then I became Deputy Police Director; and then I came back--

SENATOR GILL: So you have the real bird's-eye view here.

MR. CORCHADO: Yes.

SENATOR GILL: Right.

MR. CORCHADO: Yes.

SENATOR GILL: How do we do it right?

MR. CORCHADO: And I think you mentioned that; I think not criminalizing the age. Once you put that criminalization of an age, then you're going to have individuals who are older, smarter, probably use those individuals so that they don't get arrested and get a criminal record at 18 and above, for example, as they do now. So by not criminalizing an age and saying, "You know, let's do 10 years," or something like that, then they're going to use younger and younger generations

So I think that that is part of what you have to look at -- policy, to create a policy that would cover that.

SENATOR GILL: Okay; because without a policy that covers that, or considers it, the African American and Latino youth can be collateral damage, if you will, to the larger pursuit of legalized marijuana.

MR. CORCHADO: Right. But I think you don't make any type of change that you want to incur in fixing something that's been broken for a long time -- that testimony has been given.

SENATOR GILL: Okay.

And even as a defense attorney, and I know as a prosecutor -- prosecutors sometime have wide discretion as to the charging in municipal court -- if it will be downgraded, what offense will be charged; and with respect to that, what punishment may be recommend to the court.

MR. CORCHADO: Right.

SENATOR GILL: Okay.

So thank you very much for your testimony.

MR. CORCHADO: If I may, I just want to clarify with the Torres case.

I never said it had to do with marijuana; it was the Percocets and the OxyContin that led him down that path.

SENATOR GILL: Okay; so I just wanted the--

MR. CORCHADO: Yes.

SENATOR GILL: I just wanted--

MR. CORCHADO: I know; I didn't get to all the specifics; actually, his brother was a law enforcement official, and he used his gun. And he did a robbery, tried to scare somebody. But the fact was, that he was not in his right conscience; he was high on opiates when he did that.

SENATOR GILL: Well, I just--

MR. CORCHADO: And that's the clarity that I wanted to make.

SENATOR GILL: Okay; because it left the impression that it either had something solely to do with opiates, or marijuana--

MR. CORCHADO: No.

SENATOR GILL: --and I just wanted to make sure that we made the record complete--

MR. CORCHADO: Right.

SENATOR GILL: --with respect to that.

MR. CORCHADO: Thank you; I appreciate that.

SENATOR GILL: That was all it was.

MR. CORCHADO: Thank you so much.

SENATOR GILL: That's all it was.

Okay; thank you very much.

MR. BUCCI: If I could, I'd like to add something to juveniles, as far as being arrested.

I think it's in another lens where if somebody is picked up for possession of marijuana, that they have a diversion unit where they are diverted to a social system, and not arrested. And I think with our juveniles, that's something we could look into -- that we could have a diversion unit; that if a police officer finds a juvenile in possession of marijuana, that they not be arrested, but diverted to this unit.

As it stands now, when we used to make a juvenile arrest, you take them back to the police station, you would call their parents, they would come down, sign them out, and then it would go with a juvenile complaint, and go up to juvenile court.

Well, to keep it out of the courts, if we could have some type of a diversion unit that could take over, and then sit down with that child and see what they need. Just something to consider.

Thank you.

SENATOR GILL: That's very -- that's a very different story.

Thank you.

SENATOR SCUTARI: Did you have a question?

Senator Cardinale has a question for the panel.

SENATOR CARDINALE: Thank you, Mr. Chairman.

Mr. Prosecutor, I'm trying to make sense out of your testimony.

MR. BARR: Sure.

SENATOR CARDINALE: You said that five years ago, you couldn't imagine that you would be giving this kind of testimony. Something changed.

MR. BARR: Yes.

SENATOR CARDINALE: I read a lot about this topic, and I see some of the arguments that are advanced in favor of the position that you're now taking. Would it be reasonable for me to assume that you've bought into the idea that casual use of marijuana is not associated with any bad consequences, except for the fact that we have an artificial law that you fall victim to?

MR. BARR: To some degree, sure; yes.

SENATOR CARDINALE: That's where you are.

MR. BARR: Essentially, yes.

SENATOR CARDINALE: Now, if there were evidence presented to you that casual marijuana use is associated with bad

consequences physically, to the person doing it, would that change your testimony?

MR. BARR: No. And the reason for that is, I have to base my beliefs and my testimony on my life experience. I now have the benefit of 16-and-a-half years of prosecuting people for possession of marijuana under 50 grams. I've been doing it, week in and week out; and I also have encountered and interviewed these people as they sit in front of me in my municipal prosecutors office. I have gotten a sense of who most of them are -- not all, but most of them. Most of them -- for reasons, candidly, Senator, I don't understand -- they like marijuana. I think it stinks; I think it's smelly, I think it's unhealthy. But for some reason, there's a desire amongst a significant number of our citizenry to engage in using marijuana.

For the most part, they aren't criminals. They don't steal, they don't cheat, they don't engage in harmful or destructive behaviors that you normally do associate with drug abuse and drug use. They just want to be left alone and smoke their joint.

I have come to the conclusion -- after all these years of prosecuting these people -- that they should be allowed to do that.

What I'm doing, on a weekly basis, by prosecuting them is not advancing any healthy public interest. And I should also point out, Senator -- and this is really important -- I came to this position; I wasn't always here, like some of my law enforcement colleagues -- I don't know of anyone who was, at one time, in favor of legalization and then comes to a prohibition position. You either have experienced it and you've maintained a prohibition position, or you realize, "We have to be doing something differently."

I would like to see -- as the medical community and the medical experts have testified to -- a system where we discourage people from using marijuana. How? We put labels warning them of the adverse health consequences, like we do with tobacco. We put labels warning them of what the potency is. We restrict them from going to a store unless they have ID and they are over 21. It is evident to me that if you are coming out of your high school building today, right now, or between now and 3:00 p.m. today, and you ask any high school student, "What's easier for you to get right now, a bottle of vodka or a marijuana joint?", overwhelmingly those high school students will tell you it's easier for them to get a joint than it is to get a bottle of vodka. Why? Because they have to go into a store, they have to show ID, there are cameras all over the place, it's very restricted.

We cannot eliminate the scourge of drug use and abuse. And what we ought to do is do something that will reduce the frequency and use of it, I believe, by legalizing and regulating it, and discouraging it officially as official government policy, like we do with tobacco and alcohol. We would be far better off than the status quo. Because I've just seen too many lives ruined or damaged for no valid reason, in my view. As I said, I continue to enforce the law; that's my sworn duty. But I am not going to endorse the law any longer; and I will speak to anyone who will listen and say, "Please change this law. Let's take a different approach," because that will be better for long-term public health and safety in my view. (applause)

SENATOR SCUTARI: Okay; thank you.

SENATOR CARDINALE: I took a completely wrong meaning with respect to your testimony. And I thank you for clarifying it.

The reason I took that wrong meaning is I thought you were simply talking about -- and maybe I have a new meaning -- you seem to be supporting not *legalization*, but *decriminalization*.

MR. BARR: Well--

SENATOR CARDINALE: Am I right in that conclusion?

MR. BARR: --I have thought about that issue. And I feel that decriminalization is a step in the right direction, but it doesn't ultimately accomplish what we're trying to do. Because my understanding of decriminalization is, people wouldn't be arrested; they would be fined civilly, they would pay a ticket -- something of that nature. Essentially, they're not held to a criminal account anymore.

While I certainly agree that's better than the status quo, I feel the ultimate -- the ideal situation would be to treat, restrict, regulate, and tax the product, like we do with alcohol and tobacco, because I believe we have achieved a greater level of success in educating the public about the unhealthy and dangerous aspects of those drugs because it's constantly pounded into their head at the point of sale.

Right now, the point of sale of marijuana is your local corner street dealer. He doesn't care about how unhealthy it is; he doesn't care whether you have ID or not; and he certainly -- he can't tell you, even if he knew, what the potency of the marijuana is.

So it's -- I'm readily admitting to you, Senator, that a legalization environment is not a panacea; that does not solve all the problems. And it probably would create some problems. But I say with confidence, after all these years, that it will solve far more problems than it will create. And I can't emphasize enough, I genuinely-- I was afraid, three

years ago, when I changed my mind and decided to come out publicly in favor of legalization. I was candidly afraid that some time down the road, what happened in Washington and Colorado would end up being a disaster. There would be stoned people all over the place; there would be chaos on the streets; and I was going to end up eating crow and regretting that I came out in favor of the legalization.

As I sit before you today, Senator, I say with confidence -- not only do I have no regrets about supporting legalization, I'm doubling down and I am even more aggressively in favor of legalization; and that's why I am here today. (applause)

SENATOR CARDINALE: So you want us to tell people this is very bad for you to do. Here are the problems that are going to occur; you're going to have pieces of your brain die -- and that's established medically -- but we are going to let you do that because we have all these other problems with respect to enforcement and with respect to what this does to your life; because we charge you with these things and you're going to be paying fines, you may even go to jail, or you can't get a job. And by the way, we can even tax this thing and put some money in the Treasury.

Which of those are the big things that motivate you?

SENATOR SCUTARI: Let me say this.

We already let people smoke marijuana. I guarantee you, within a mile of this facility, you can get marijuana all over the place.

SENATOR GILL: You have to go to the Weedman. (laughter)

SENATOR SCUTARI: You don't have to go to him; there are a lot of different other places.

So despite the best efforts of every President before, it's still going on. I mean, why don't we make it illegal, Senator, and then everybody will stop doing it; how about that? Why don't we try that? Because we tried that 80 years ago; it doesn't work, it hasn't worked; it's ridiculous. We've penalized our public, we've ruined countless lives; and no one has died from it. You're talking about the dying of the brain, but no one has died from it. But yet we -- doctors prescribe opioids like they're going out of style. Opioids you can get all day long. I don't want say this, but my mother can get 120 opioids at the drop of a hat because she has multiple sclerosis. But to try to get marijuana is such a rigmarole that she will not do it. Because it's so much easier to get this narcotic, that if she takes too many of she can die. But she can't get the marijuana that would probably benefit her, because it's too much of an onerous problem that we've set up, under the Bill that I passed several years ago, because of the restrictions and all of the hurdles that we've put up.

So what I can say is, for every reason -- that all these speakers have said -- there are just so many reasons to legalize it.

Decriminalization does not take the guys off the street corner. What it does is, it gives them a bigger marketplace, a bigger market share because people aren't going to get arrested to go get it. They'll be lining up on the street corners. But the street corner dealer is not going to check ID; the street corner dealer is not going to tell him about the potency of the product.

SENATOR CARDINALE: Senator, you're an excellent advocate for your Bill. (laughter) I've known that for 10 years now; or maybe -- something like 10 years. But that doesn't change what, to me, is a

very important fact -- that the mere passage of this Bill will encourage the public to believe that marijuana use is not harmful. It will encourage the increased use of marijuana by a lot of people who are definitely going to be harmed by it.

Now, I don't know if this is the right time, but I want to acquaint you with a study.

SENATOR SCUTARI: Well, let's finish with this panel; and then you can acquaint us.

SENATOR CARDINALE: Okay.

SENATOR SCUTARI: All right; let's do that.

Anything else for this panel?

MR. BUCCI: If I might--

SENATOR SCUTARI: If you're brief, because we have a lot of other people who want to speak, and--

MR. BUCCI: I will be very -- I will be very brief.

SENATOR SCUTARI: --the questions are done.

MR. BUCCI: We talked about legalization versus decriminalization.

The biggest issue there is the stuff that is out on the street today, that kids are buying on the street from the illegal market, is not always marijuana. It's laced with other things, and I have seen that with lab reports when I was in years ago. In those lab reports they're laced with opium, they're laced with all other types of drugs to give the potency that that dealer wants to put out on the street when it's that way. With legalization, you're not going to have that.

Thank you.

SENATOR SCUTARI: Thank you very much to all of the speakers. You were all eloquent, and I appreciate that.

Thank you.

ALL: Thank you.

SENATOR SCUTARI: Okay; you want to talk to me about it now? Should I call up the other panel? Do you just want to have a dialogue, or--

SENATOR CARDINALE: Let me just--

SENATOR SCUTARI: Go ahead.

SENATOR CARDINALE: --put this into the record.

SENATOR SCUTARI: Go ahead; Senator Cardinale wants to make a statement.

SENATOR CARDINALE: I believe that we should, by reference, include in the record of this hearing, a study that was conducted by Northwestern Medicine and Massachusetts General Hospital; that's Harvard Medical School and Northwestern Medical School. It's a study entitled, "Casual Marijuana Use Linked to Brain Abnormalities." It is published in the *Journal of Neuroscience*, April of 2014. The doctors who conducted the study were Dr. Hans Breiter and Dr. Jodi Gilman.

And, briefly, the study raises a strong challenge to the idea that casual use of marijuana is not associated with bad consequences. The study goes on to establish that even one or two joints per week changes how one assesses positive and negative circumstances, and how one makes decisions.

It documents physical changes to the brain, which occur from this kind of casual use; and it documents that greater changes occur as the usage gets greater. Those changes may not necessarily be available to the

untrained eye, but those changes are real. And they lessen ones capacity to perform functions that require brain activity.

As a side issue, I did ask -- Dr. Nathan, I believe; and I think his colleague -- whether they were familiar with any such studies. I find it interesting and almost remarkable that people so interested in this topic are unaware of an article published just three years ago, in the *Journal of Neuroscience*. It raises in my mind -- maybe not in anyone else's -- a question about their total attitude with respect to this subject. Have they shut out from their conclusions information to the contrary of what they testified before us?

I think this is a powerful study; we're going to search for more. And I think there are more that we can identify.

And for everybody who-- You know, I understand that there are people who think that marijuana use is fine; that there is nothing at all wrong with it. I meet those people all the time. But I'm telling you, as one person who has looked at this topic, you ought to look a little closer and find out what has actually happened to you, or to others who you know, or what will happen to more people, if we encourage the continued attitude toward marijuana which exists. And I understand -- a majority of the people in the State of New Jersey do not believe this is a harmful thing. But perhaps a majority of the people who believe it's not a harmful thing have just not been exposed to all of the facts.

And that's the end of my statement, Mr. Chairman. And I thank you for giving me the opportunity to speak. (applause)

SENATOR SCUTARI: Thank you.

And you know, I want to draw up-- The recent Harvard University study that came from -- a New Zealand study that moderate alcohol usage causes significant brain damage. And there was data -- over 3,000 older New Zealanders who were studied. But there's no bill to go back to Prohibition times to get rid of alcohol. I mean, alcohol-- I mean, would you agree, Dr. Cardinale, that alcohol, even moderate usage, can be unhealthy for you?

SENATOR CARDINALE: Yes.

SENATOR SCUTARI: But we're not making that illegal.

SENATOR CARDINALE: Yes.

SENATOR SCUTARI: We're not hanging convictions on everyone on that.

SENATOR CARDINALE: Yes.

SENATOR SCUTARI: People are drinking all the time; I see it. The bars are full. (laughter)

SENATOR CARDINALE: But I believe there is a difference; and if you want my answer to -- you asked me the question.

SENATOR SCUTARI: Smoking's not good for you either.

SENATOR CARDINALE: One does not-- There are a lot of things that we do-- I mean, you know, we eat fatty food.

SENATOR SCUTARI: That's what I'm saying.

SENATOR CARDINALE: I mean, are we going to get into that?

SENATOR SCUTARI: Right.

SENATOR CARDINALE: I mean, there was a Mayor of New York City--

SENATOR SCUTARI: But you're a Republican; we're not supposed to be overregulating.

SENATOR CARDINALE: --who said we shouldn't have sugary drinks.

SENATOR SCUTARI: This is the home of the brave, and the free, and liberty. (applause) I mean, this country, was-- I mean, when are we going to allow people to do what they want, as long as they don't interfere with other people's enjoyment?

SENATOR CARDINALE: There was a time when laudanum was sold on the streets in this country as a regular operation.

SENATOR SCUTARI: There was also a time -- and you could tell me -- that cocaine could be used in your dental office.

SENATOR CARDINALE: And there was a time when cocaine use was not illegal. But we have found that these things were harmful, and we have tried to protect people who didn't know better. We do that all the time; three-quarters of our laws are to protect people--

SENATOR SCUTARI: Well, that's the whole point that Mr. Barr brought up--

SENATOR CARDINALE: --who just don't know--

SENATOR SCUTARI: --is that we have done a heck of lot better job curbing smoking, by allowing it to be legal but talking about the health risks involved, rather than just saying it's illegal and arresting our way out of a problem. And that's the whole -- that's one of the main purposes.

SENATOR CARDINALE: So we are going to put up a summary of this study on every package of marijuana to get the Bill through?

SENATOR SCUTARI: I'm not going to summarize that.

Okay; let's move on to our next panel.

We have a bunch of other people who want to testify and we want to bring them up.

John Moor, the Mayor of Asbury Park, who has signed up; is he here? Randy Thompson, Help Not Handcuffs; Ricardo Rivera, written testimony is provided, opposed to the Bill; and Marilou Halvorsen, New Jersey Restaurant and Hospitality Association. Are any of those people here who wish to testify?

I see one person; come on up, sir.

If you could just give us your name, and if you represent somebody, and what you want to tell us.

What is your name?

RICARDO RIVERA: Hi; my name is Ricardo Rivera.

I am the father of Tatyana Angelique Rivera; everyone knows her as *Tuffy*. She's a happy, strong, and special 10-year-old little girl.

Tuffy suffers from a severe form of epilepsy called Lennox Gastaut Syndrome, or LGS.

Her nickname has real meaning. At just 10 months old, she was averaging over 300 seizures in a 24-hour period. Doctors would tell us that Tuffy would have a lifespan of about 9 years, so every day has been a gift to us.

Yes, we were able to keep her alive, but we knew, after six difficult years, we needed to do something different. Her doctors were always helpful; but no medication was resolving Tuffy's biggest problems.

Four years ago, Tuffy became a patient in the New Jersey Medicinal Marijuana Program. It wasn't easy. We had to get three doctors and a child psychologist to approve. Then we had to learn to make the cannabis oil in our very own kitchen.

Medical cannabis has done what pharmaceutical drugs never accomplished: helping decrease her seizures by over 90 percent.

Cannabis saved Tuffy's life. She beat the odds when she turned 10 this year; and she keeps beating the odds every day with this natural therapy.

I've already been forced to become my daughter's pharmacist, carefully tracking data on the strains that work and the ones that don't. Many times New Jersey's only five dispensaries don't have the strain of cannabis that Tuffy really needs.

That's why our biggest hope for fully legalization is gaining the right to grow cannabis in our home. Not only will this save us tens of thousands of dollars per year -- money that will go back to Tuffy -- but it allows us to control what is in and what is on the plant that is needed.

Please help us by allowing home cultivation.

Full legalization with home grow isn't just for people having fun -- the 21-and-over crowd. For us it's a matter of debt, prosperity, and, literally, life and death.

I thank the panel for your time. And if there are any questions about my daughter, please.

SENATOR SCUTARI: Thank you, sir.

Any questions for this gentleman? (no response)

Thank you for being here; we appreciate it. (applause)

Okay; next we have a panel-- Next we'll bring up a panel of the following speakers, if they are here. Jay Lassiter, in favor of the Bill; Mr. Lassiter is here. Roseanne Scotti, Drug Policy Alliance; Chris Goldstein, Garden State Cannabis Consumers; and Kate Bell, Marijuana Policy.

Are they here? I see Ms. Scotti is here. If any of those individuals are here, please come forward. Yes, I see Mr. Goldstein.

Why don't you come on up to the front row?

Mr. Goldstein, why don't you state your name for the record, and tell us--

CHRIS GOLDSTEIN: Sure.

My name is Chris Goldstein; a resident here of New Jersey. I teach the *Marijuana in the News* class at Temple University; a long-time consumer advocate here.

And I'm glad to hear all these questions about statistics, because in my columns at *philly.com* -- this is what I cover, is arrest statistics. So it's great to hear Senator Gill talk about these stats, which do need to change.

Like nearly one million of my fellow New Jersey residents -- you know, we've heard from the industry and law enforcement -- I smoke marijuana; I'm a cannabis consumer. And attention, Jeff Sessions: Most of us are good people.

Recently, we formed a group called *Garden State Cannabis Consumers* to work on 3195. There's an alternate Bill, down in the

Assembly; Michael Patrick Carroll's A-4193. We'd like you to take a look at that as well.

As we consider legalization here, the rights of everyday consumers -- of us -- should come at the forefront, and it should stay there, because legalization means more than just a right to buy. It means creating spaces for social use, ending workplace discrimination, clearing records, and, importantly, on the economic side, it means allowing people to cultivate their own plants.

You know, if New Jersey really wants to reap the full economic benefit of ending prohibition, we need the thousands of entry-level jobs that come with nutrients, lights, gardening supplies. That's a big part of the economy in Colorado.

And we should be teaching the other states something about issues they haven't really tackled yet; and a big one is drug testing. Workplace screening for marijuana has barred countless consumers from good jobs; and THC tests for everyone in a court case is a major burden on our treatment resources. Today, there were 10,000 treatment admissions in New Jersey last year for marijuana; NIDA tells us that 6 in 10 of those were there from the criminal justice system.

So we should immediately stop testing those on pre-trial probation and parole. During the height of the opiate crisis, we can't afford to waste a single treatment on those being tested as a bureaucratic formality, rather than those who have a legitimate addiction or dependence problem.

Another significant concern for consumers is the records. Now, there is some good placeholder language in 3195 about expungement;

there's a flight of expungement reform bills that are out there. But you have to understand that under Title 2C -- and some of the lawyers might understand -- you have to pay \$500 to \$800 to a lawyer to get your expungement processed. They are doing something different in California; it's a simple form, and the courts process these *en masse*. You know, there are hundreds of thousands of New Jersey residents who need this relief; we don't want to clog the courts by passing this Bill.

SENATOR SCUTARI: Let me just interrupt you, because I want to ask you one question about that.

MR. GOLDSTEIN: Yes.

SENATOR SCUTARI: And I know there's been significant dialogue with respect to automatic expungement as part and parcel of the Bill that I proposed.

But my question to you is, where would you stop, or where would you allow the expungement in the Bill? So my question to you is, would we expunge a person with one simple possession charge; should we expunge somebody with multiple simple possession charges; should we expunge people with possession with intent to distribute? That's one of the areas that is not completely clear as to what people are advocating for, in terms of inclusion in the Bill.

MR. GOLDSTEIN: Well, certainly, I think that anybody who has a record for possession -- whether that be one or two times -- should have the opportunity to expunge it.

Now, keep in mind that under Title 2C, juveniles under the age of 21 already have an expedited expungement process for distributing less

than 25 grams of marijuana. So I'd like to see that included in the expungement scheme for full legalization as well.

SENATOR SCUTARI: Let me ask you one other question.

Tell me more about the California model, in terms of their process for expedited expungement.

MR. GOLDSTEIN: Yes, it's very easy. People who do have a past record for possession fill out a simple form online. And as I understand it, the courts process these *en masse*. Again, they're collecting these forms and processing these expungements as we speak.

Again, there are hundreds-- At 25,000 arrests a year, there are hundreds of thousands of New Jersey residents who need this. We can't ask most of them, who are low-income who have been arrested, to go pay \$500 to \$800 to a lawyer and ask the courts to process them one by one.

So, you know, again, we have to innovate here little bit. And when it comes to ending the illicit market, which is also something that every legalization bill wants to do, but no state has actually done yet--

So I know that you've gone out to Colorado, and I know you've heard from the Department of Revenue, and the folks out there. But when we talk about what New Jersey does, we have unique problems. We're a densely populated state; we have urban areas. These are things that Colorado didn't quite have to deal with as much.

So we might want to consider trying to transition the underground market above ground. You know, small class sales permits that have smart phone apps to allow people to do this. You know, this melts the zoning requirements for retail. Home delivery is another option that's already being legalized in California and other states. So that the sale

of marijuana isn't tied to a retail location that then needs to be zoned and placed into different neighborhoods.

Also, craft cultivator permits. You know, when we talk about home cultivation, we can't forget that there are a lot of small-time cultivators in New Jersey. Look, I've been to several trials; and as prosecutors in this room, you know. I've seen people get 10 years here in New Jersey for less than 20 plants. They're prosecuted under a first degree -- operating and maintaining a controlled dangerous substance manufacturing facility. That is just horrendous, and I've been to too many trials of people who end up getting prison time for cultivating a small amount of marijuana.

So if we're going to legalize marijuana, why leave the worst laws on the books that send people to prison for the longest?

So we're having this hearing today in part because we want to deal with social justice issues, we want to deal with the racial disparity. Now, in Philadelphia, we dropped arrests with decriminalization by 90 percent in the last three years; it's been a great success as far as the volume goes. The racial disparity has remained, and that's been very disturbing. You know, I have heard good questions in this hearing today about whether that racial disparity is something that's tied specifically to marijuana. As somebody who does look at the arrests in Pennsylvania -- because there is far more transparency on Pennsylvania's arrest data than we have in New Jersey, because we can look at this data -- I could tell you that those in Pennsylvania, at least -- and the two states are very similar in their arrest patterns -- people who get arrested in Pennsylvania are in urban environments, African American; across the state, they're young, 18- to 30-

year-olds make up the largest bulk of people getting arrested for marijuana possession. So these are millennials; these are people we don't want to saddle with a record for years.

And also, the hearing today is about collecting the tax revenue, right? -- \$300 million. That will take selling more than a billion dollars' worth of marijuana to a million people like me. Now, how do you get me to buy in to the legal market? The underground marijuana economy in America is one of the most efficient underground markets that has ever been known in this country. How do you get the buy-in of consumers? And I'm here to tell you that by allowing home cultivation -- by putting consumer rights first, ending workplace drug testing, ending pre-trial drug testing -- this puts our rights first. And that gets us to buy in to a regulated market down the road.

So again, I appreciate any questions you have about arrests statistics. This is something that -- it is my particular area of expertise, so I am happy to talk about it.

And thank you for considering all of these options for legalization. (applause)

SENATOR SCUTARI: Just one question, before I move on to Ms. Scotti.

The drug testing prohibition that you talk about -- what-- Because I took down some notes--

MR. GOLDSTEIN: Sure.

SENATOR SCUTARI: --get rid of drug testing for parolees, probationary people, and for entry-level into a job. Now, I don't think we're going to be able to do anything in terms of-- Drug testing is going to be

allowed -- there's no doubt in my mind -- randomized for certain types of activities. But I don't disagree with you that drug testing to see if anyone has marijuana in their system should be a barment to employment, because that's really the problem. A lot of jobs -- people are accepted, and then they have to take a drug screening. And then if they pass the drug screening, they have the job; if they fail it, they don't have the job.

So I don't disagree with that, that that's a point that we can consider. What we won't be able to do is to bar employers from randomized drug testing, especially if they want to see if someone is under the influence while on the job. That does become a problem.

But I'm open-minded to considering what you suggested.

Ms. Scotti; and just state your name for the record, please.

R O S E A N N E S C O T T I: My name is Roseanne Scotti, and I'm the Director of the Drug Policy Alliance here in New Jersey.

First of all, I'd like to thank Senator Scutari for your leadership on this issue. We do have some recommendations for improving this Bill.

The questions that Senator Gill has raised resonate with us and go to the heart of the campaign that we're advocating for, in terms of having best practices based on what we know from around the country.

My organization was involved in drafting most of the legislation, the ballot initiatives, that have passed around the country. And we have learned things over the years.

What we want to make sure is that we don't repeat some of the mistakes of the past here in New Jersey. I think the example that was raised about Colorado goes to the heart of that. Because Colorado did not decriminalize for people under 18, and remove this as a criminal penalty,

what you did was create a situation where young people continued to be arrested. And Senator Gill was absolutely right -- that the number of young people of color who were arrested and had to go through the criminal justice system actually increased.

Now, we know that a lot of that is because -- about two-thirds of that is because certain school districts in Colorado decided to send a message. They decided to say that the way we say to young people that, you know, marijuana legalization isn't for you, you shouldn't be doing this, is by buying into the school-to-prison pipeline. By saying that we're going to arrest these young people, and we're going to use that as the way we keep them away from marijuana -- from legal marijuana.

So we would want to make sure in any bill that we do here in New Jersey -- and we have drafted a model bill we provided to Senator Scutari. We're willing to share it with whoever is interested; it's on our website -- it does things like that so you would not have repeat of what happened in Colorado.

I think, by the same token, a lot of the issues that have been raised about people who might be using marijuana in really semi-public places -- like housing projects and things like that, where they could be seen -- again, the question is, we can't separate marijuana legalization from the historical and social perspectives of marijuana prohibition. We know that African Americans and Latinos were three times and, in some places, more times more likely to be arrested. And any legalization bill has to take that into consideration. Any legalization bill has to say, "We're going to address those past harms, and we're going to do everything we can to make sure that we don't replicate them going forward."

Again, Senator Gill was absolutely right when she says that in terms of set-asides and what we can do constitutionally in New Jersey, we're limited. That doesn't mean there aren't things we can do. One of the things we would like to do, to guard against these kinds of disparities and to guarantee a level playing field and a diverse market, would be things like guarding against vertical integration; saying that, for this market, there's going to be different levels, and there are going to be different kinds of licenses. And if you have one kind of license, you can't get another kind of license. Because the more opportunity there is, the better our chances of having a diverse market.

By the same token, having micro businesses, businesses where people can get in on a smaller level, will prevent what has happened in some other states where people with lots of money -- and there's nothing wrong with having lots of money -- but people with lots of money have come in and, basically, bought up licenses. And the end result of that has been that the industry in those states -- and that's most of the eight states -- and the jobs in those states -- and that's most of the eight states -- and the jobs in those states -- the jobs that were made available, do not reflect the diversity of those states. Any bill we have in New Jersey -- we must do everything we can to guard against that, and everything we can to make sure that we're really very consciously moving towards something that benefits all New Jerseyans and that represents the diversity of New Jersey.

Another issue Senator Scutari just recently raised -- how many times would you expunge a record? I think we would expunge possession -- all possession records. We would make it automatic, as it is in California. I think also we have to be careful when we set certain bars to who gets in

the industry. Under our medical marijuana bill, and under legalization of medical marijuana bills in most states, there's a bar against people who might have a felony marijuana conviction. Now, since we know that we were three or more times as likely to arrest people of color, if we put that bar in place and say, "You can't get into the industry on any level, even including having one of the many jobs that will be available in the industry," we know we are going to disparately impact people of color who have been disparately impacted by the arrests in this state for the last 80 years.

And so there are steps we can take. We can say that the State can strive to have a diverse industry without doing set-asides that run the risk of some constitutional challenge. And so we would like to see these things put into the Bill as we move forward.

Because we simply can't flip a switch and say, "This is legal; and the folks who are involved in this market now are entrepreneurs." One of the things I have to say, as I sat here listening to a lot of the testimony -- I find it very disturbing the way we talk about the current illicit market as people who are in gangs, or who are street corner drug dealers, or whatever. I guess when we flip the switch, then people become respectable business people, respectable entrepreneurs; at the same time that we are barring from the industry all those individuals who were involved in that illicit market. I think it would be a tragedy if we went forward in that manner.

And I think there are very practical reasons why some legislatures, why some ballot initiatives, because all the eight states have been done by ballot initiatives, you know -- didn't include those things. They didn't think they had the votes. They thought, "Well, you know,

we'll come back and fix things." You know, I think it's very hard to say to the communities that have been most negativity impacted by the war on marijuana and the war on drugs, "Hey, we'll come back and fix this later." I think if you ask those communities if it's okay to come back and fix this later, they will say a resounding "no." They will say, "Let's do it right the first time." And that is our position -- we should do it right the first time.

Thank you. (applause)

SENATOR SCUTARI: Okay; any questions for the panel? (no response)

Thank you.

Oh, you do have a question?

Senator Gill has a question; I'm sorry.

SENATOR GILL: What happens if the Trump Administration-- We know that the Trump Administration -- Sessions has already vilified the last Attorney General's position, in memo, on marijuana. And he's trying to go after medical marijuana with the amendment.

But what happens if they decide to enforce the prohibition on marijuana? How does that look; and is there any indication that they won't do it? I know for the investors -- you're just taking a chance, right, on your money. But how does that look? Because we know about the banking issue with legalized marijuana. We won't go into it now, because we have to go into Caucus. But that's the real issue. So how do you think it looks? What happens if Sessions decides to enforce and send the DEA in?

MS. SCOTTI: Well, that's a great question, Senator.

And looking historically how the Federal government has involved itself in these kinds of issues -- where there was considered to be a Federal-State conflict -- I think that can be very informative.

First of all, one good thing to remember is that about 99 percent of arrests at the Federal level are for distribution. They don't really involve themselves in possession charges. So I don't think we have to worry about regular people in New Jersey having the DEA come in--

SENATOR GILL: You don't think we have to worry under Trump and Sessions?

MS. SCOTTI: Oh, I think that they-- Well, there's a lot to worry about there, Senator. (laughter) But I think they don't have the resources to come in and start arresting people, on an individual level, for possession.

You know, anything could happen. But that's the same situation we faced with medical marijuana, even before Eric Holder's memos, before the Obama Administration came out with a more flexible position on this. I think anyone who is involved in the industry is always going to be taking a risk until we legalize marijuana at the Federal level. What we do know is that, generally speaking, when the Federal government has gotten involved in things like this, they didn't usually do it by, like, coming down and arresting a lot of people. Like, they're not going to come down and arrest the head of, as we used to say with medical marijuana -- the head of the Department of Health, and say, "You can't do this." What they would do is file suit; and then the State of New Jersey -- and any other state, if they are going to file suit -- is going to play that out in court.

Whether there will end up being injunctions, things like that, we can't predict.

And so, like I say, anyone who is investing money is taking a risk until we have that done. I don't think we're taking a risk with the rank and file individuals; and I also think -- the more states that legalize, I think it becomes harder and harder. We have eight states; we have the state of California. One in nine people in this country lives in the state of California. We have a huge number of people now living under a legalization regime. And whether or not there are the resources and the political will for the Federal government to come in and try and stop the states, it is possible. I think it's a chance worth taking, because it's the essence of federalism. It is the states as a laboratory for Democracy. And you know, the thing to remember -- and I think this is something we have on our side -- if New Jersey were to legalize marijuana any time in the near future we would be the first state to do it through a legislature. Every other state has done it has it as a ballot initiative. And I think that sends a powerful message, because you've got the voters in all those states who had the chance to do an up-and-down vote; the voters said "yes." And again, I think we have that on our side.

SENATOR GILL: And that is very-- That's a very interesting point, and to my point: New Jersey is different. It will not have-- This Legislature and its Governor will not have the argument, shall we say, that we put this before the voters. And so this will be the first one, if it's done, where the legislature and the Governor signs, and it becomes statutory that way.

And this is just a fact -- that we know President Trump has his golf course and comes to New Jersey, and uses that as one of his second or third -- I guess, third home. And so as we go forward, I think there are these-- Yes, they would love to challenge the Federalist approach. And New Jersey may well be ripe for that, with the Federal government, because of all of these other things.

So I think as we go forward we should realize there has been not one other state -- not that we shouldn't do it -- but we have to discuss what the legal ramifications may well be since we will be the only state, if it's done, to do it by the legislative process and signed by the Governor.

So, I mean, I won't belabor that, but I think that it is an interesting kind of legal discussion as to what would or could happen, so that we could then -- what is the saying? -- *forewarned is forearmed*. And so I think we want to be *forearmed* on this, especially since it's the Legislature.

So I look forward to--

MR. GOLDSTEIN: Senator, I would just add that the Delaware legislature is set to vote on legalization. They have already had two committee votes; and they just have a few weeks left in their hearing, so New Jersey may not be the first.

Also, Vermont -- both the house and the senate passed a very different kind of legalization bill. It has no retail; it is home grow and possession only. Governor Sununu -- oh, I'm sorry, that's New Hampshire there -- but the Vermont Governor is looking at a revised version of that bill, and may end up signing it this week.

So New Jersey may not be the first; so you had better get working. This is a good race happening there, Senator. (laughter)

SENATOR GILL: No, I mean, it may not be the first, but that does not say that we don't need to look at it.

MR. GOLDSTEIN: Agreed.

SENATOR GILL: We have the President of the United States, who has his golf course in Mendham -- or is that the Governor's house? (laughter)

SENATOR SCUTARI: It's Bedminster.

SENATOR GILL: Bedminster.

MR. GOLDSTEIN: Yes.

SENATOR GILL: And so just as a practical political consideration, so we just don't get caught out here. We're not Vermont; we're New Jersey. And President Trump comes here on the weekends.

And that's all I'll say about that. But I look forward to that discussion offline. (applause)

SENATOR CARDINALE: Hello.

SENATOR GILL: Hello.

SENATOR SCUTARI: I think Senator Cardinale has one more question for you.

SENATOR CARDINALE: My question is for Ms. Scotti.

I believe you've taken the position that we need to have protections for those who apply for a license or employment in the industry who have prior arrests and/or convictions.

That's rather extraordinary. I mean, I know of physicians who were convicted of something, who are not allowed to practice medicine anymore; their licenses were lifted. I believe there is a valid public policy

issue involved that when we issue licenses, we don't give them to criminals. But you seem to be advocating for criminals.

Now, perhaps you only mean criminals who are criminals because they involved themselves with illegality with respect to marijuana. Is that what you meant, or do you mean--

MS. SCOTTI: Yes; I believe that--

SENATOR CARDINALE: --bank robbers, and rapists, and other people like that?

MS. SCOTTI: Yes, I believe that's what I said, Senator. People who have engaged in conduct that would now be legal under our new paradigm. And I think that's the difference, when you're talking about doctors having their licenses taken away. You know, doctors are violating some law that is still on the books and continues to be on the books. We're basically, by the Legislature by voting on this, saying that the policy we've had all these years was the wrong policy and that marijuana should be legal; people over the age of 21 should be legally able to use it and consume it, and buy it; and that people over the age of 21 should be able to be in the legal market.

And so recognizing, as I say, the historical and social context of that--

SENATOR CARDINALE: I understand; you're correct, because I'm reading from your actual submission to us, not from your testimony. So I understand the limited position that you have now.

But have you thought of the fact that the reason we have this kind of prohibition on licensing is because the person who was doing that act, which caused them to be convicted, was knowledgeable that they were

violating the laws -- of the Federal laws, as well our State laws -- and said, "I don't give a damn. I'm going to go and violate the law." And that's an attitude that they have. It is a criminal attitude.

It boggles my mind that a responsible organization that you represent would say, "We don't have to worry about people having criminal attitudes."

You know, we're very lucky, I believe -- contrary to what my colleague has said or indicated -- she's gone -- that we no longer have an Attorney General like Eric Holder who was willing to say publicly, "I'm not going to bother enforcing these laws." Suppose they were someone who said, "Hey, wait a minute. There are these other Federal laws too, you know? Why should we pay income tax? Really, why should we do that?"

MS. SCOTTI: Well, Senator--

SENATOR CARDINALE: Why should we pick -- do we have the right to pick and choose which Federal laws we are going to recognize?

MR. GOLDSTEIN: Sports betting?

SENATOR CARDINALE: Are we no longer residents of the entire country; is New Jersey, Colorado, Alaska, any of the other-- Are they somehow exempt from their obligations under the Constitution to abide by all of the Federal laws? Are you taking the position that we can pick and choose which Federal laws we are going to recognize?

MS. SCOTTI: Well, actually, Senator-- I mean, constitutionally, a state-- The Federal government cannot require any state to enforce a Federal law within the boundaries of those states. That's settled Constitutional law. What New Jersey is doing with medical marijuana -- what New Jersey would be doing with legal marijuana, as the

other states are doing -- is saying, "We, in our state, are going to allow for this activity under our State law, as is our right," and nothing in the Constitution, nothing in the Federal statutory code requires us to enforce Federal law.

So again, I mean, it's the essence of Federalism. I mean, there are different spheres of authority; and, you know, again, it has long been settled law that the Federal government can't force states to enforce Federal law within their boundaries. So I don't see anything at all unusual about that.

SENATOR CARDINALE: Well, in your testimony, and in your conversation with Senator Gill, you sort of gloss over the fact that the Federal government can-- And you know we have a U.S. Attorney who has some sort of authority in New Jersey and does bring charges against various people. And you sort of gloss over the fact that, "Well, maybe they wouldn't" -- and I might agree with you -- "go after somebody for one joint." They wouldn't use resources in that fashion. But certainly, if we license somebody to sell marijuana, I wonder if the U.S. Attorney would be derelict in his duty-- as Eric Holder was -- by not enforcing that law.

Do you have any thoughts on that?

MS. SCOTTI: Well, Senator, we license people to sell marijuana right now under the medical marijuana program.

SENATOR CARDINALE: Yes.

MS. SCOTTI: I don't think they're derelict -- the Federal government is derelict in their duty, in terms of choosing what they're going to prioritize in terms of enforcement and what they're not. They're not derelict in their duty in not interfering with the 25-plus states that have

medical marijuana laws; they would not be derelict in their duties in terms of choosing not to prioritize legal recreational marijuana. All prosecutors pick and choose based on priorities and resources, and a whole range of issues. So I don't know, again, that there's any legal precedent, any case law, that says that a US. Attorney is derelict in their duties for not prosecuting every violation of Federal law that might occur within their district.

SENATOR CARDINALE: Yes; and you're correct, and I would predict that they will not be active, in general, on medical marijuana laws. But I think you may have some reason to be concerned that if we actually license people to sell marijuana in the State of New Jersey, as Senator Gill expressed, we may have a different cat that we're dealing with. And those who are advocating folks to go into this business may be in for -- I hope you're in for a surprise; I can't predict that that's actually going to happen.

That's it, Mr. Chairman.

SENATOR SCUTARI: Okay; thank you. (applause)

Louis Santiago; Anthony Laberte; Justin Escher Alpert; Moira Nelson. Are any of those people here?

Okay; since only one responded, is there another person-- I'll call some other people to join you.

Juan Cartagena and the Reverend Charles Boyer.

Okay; we have four. All right; thank you.

J U S T I N E S C H E R A L P E R T, Esq.: Thank you.

SENATOR SCUTARI: Why don't you introduce yourselves, starting on your left, my right.

MR. ALPERT: Hi; my name is Justin Alpert. I'm a resident of Livingston, New Jersey.

Senator Cardinale, the State Motto is *Liberty and Prosperity*. And being that we are a nation conceived in liberty, the definition of liberty is important.

Our freedoms come from securing the blessings of liberty. And the Federal law is what it is; the State laws are what they are. They were designed out of racist and corrupt corporate practices 70 years ago.

There's no public support for them. They are not good laws. They were designed to keep people down. And in that regard, they were very effective.

There exists in this state and in this country a responsible cannabis community who exercises the personal liberty every day to use this God-given plant. The nature of liberty is very important, all right? We have the laws we have; but, ultimately, our governments are answerable to us. And the law is what it is; but what we do in our own private time is our own business.

So as we look to legalize, we are going to be acknowledging that there is and has existed a responsible cannabis community. If you want to see them on the 25th of this month, Dead & Company will be playing down in Camden. Nobody down there is asking for permission from their government to use cannabis. They will be exercising that liberty; they are seeking to secure the blessings of liberty; they are seeking safe access, as adults, to this plant. They are seeking the ability to grow this plant on their own.

I'll tell you, in 9th grade, I went to the county science fair. Based on a study that I did, based on Gregor Mendel's original genetic work with the pea plant, I am fully qualified to plant tomatoes. If I wanted to right now, I could plant very potent capsaicin peppers and weaponize them, and no one would care at all as a matter of the law.

Here, people have their own personal experience with this God-given plant. And I appreciate your concern; thank you for your concern; thank you for engaging in the dialogue; thank you to the entire Committee for engaging in the dialogue. But nobody is asking for permission from the State. The consumers are saying, "You know, let's do this and let's do it right; and give me the freedom to participate in the industry."

I will take one more minute.

When the medical program passed, seven years ago, we were going to get it right for about 6 ATCs, and then we were going to open up the economic opportunity. And for some reason, those 6 ATCs could never figure out how to sell pot to people who wanted to buy it. And everyone else was excluded from the market.

You know, if we wanted to right now, we could pass a law to remove the morality from the issue. We could vote on it; we would just say, "Look, it's no longer a moral issue," and then we could just go and create a system that works. How do we get over the moral judgement? You know, it's created over the course of time.

And so I thank you for your time; I thank the Committee for its time; I thank you for engaging in the conversation. But the country where we are all free, supposedly, and this State -- which has this great Liberty and

Prosperity stained glass up here -- we're all ready to move forward, as a matter of personal liberty and economic liberty.

Thank you; thank you Mr. Chairman; thank you, everyone, for your time. I appreciate it.

SENATOR SCUTARI: I'm going to let Senator Cardinale say something, and then we'll go to the next speaker, since you were mentioned by name.

SENATOR CARDINALE: You see, thank you for your lesson in liberty.

One of the liberties that we have-- You know, I go to a lot of Eagle Scout ceremonies. And part of their presentation in their Citizenship requirement to get an Eagle Scout badge is -- exactly how it goes, I may not quote it exactly, but I'll give you the gist of it. We're obligated to obey all of the laws of our land. And if there are those with which we disagree, we make an effort to change them in a dignified fashion.

And that's what we are about here. You disagree with the laws; I don't disagree with your trying to change them. I disagree with your objective.

MR. ALPERT: Sir--

SENATOR CARDINALE: And that's why-- And we are very, very fortunate to live in a country where people can have varying opinion, and not necessarily go shooting one another when those opinions get hot -- although I wonder where we are going in the very recent past. I hope that that's a very, very passing example.

MR. ALPERT: May I note, Senator, that Martin Luther King noted that there is no obligation to enforce an unjust law.

SENATOR CARDINALE: Well, I think you're stretching it.

MR. ALPERT: Sir--

SENATOR CARDINALE: I think you're stretching it.

MR. ALPERT: Sir--

SENATOR CARDINALE: No, you're stretching now.

Whether this is an unjust law--

MR. ALPERT: We had testimony today that it's an unjust law.

SENATOR CARDINALE: --is something that--

SENATOR SCUTARI: Let Senator Cardinale complete--

MR. ALPERT: I'm sorry; I'm sorry. Thank you.

SENATOR CARDINALE: I don't believe even Senator Scutari goes that far.

You have a law; it was passed in normal order. Until very recent years, it was generally an accepted law. And yes, public attitudes are changing; and yes, you're making an attempt to change the law to coordinate with the public attitudes that are here. My job, as an opponent of your effort, is to present facts that might not otherwise be presented, to deter you from creating what I believe to be a mistake.

MR. ALPERT: I don't want to go to jail for your beliefs.

SENATOR CARDINALE: This is the Democratic process; this is our Democratic process.

MR. ALPERT: Correct.

SENATOR CARDINALE: And it is founded in liberty; it is not an abuse of liberty.

SENATOR SCUTARI: Thank you, Senator.

Okay.

Ma'am, state your name for the record.

MOIRA NELSON: Good afternoon.

My name is Moira Nelson. Thank you, Chairman; and to the Senators. It has been very inspiring today -- all the thoughtful discourse; really good stuff.

I live in Bloomfield, New Jersey, in Essex County. I am Director of Drug Policy Reform with an organization called Action Together New Jersey. We are a progressive, grassroots organization here in the state; we're the fastest-growing, largest grassroots organization, with 18,000 members statewide; and we have a chapter in every county in the state.

So I am speaking today on behalf of that membership.

We are also part of the New Solutions Campaign Coalition, which several other people who you've heard from today are also part of that Coalition.

So we are grateful for this legislation; we believe that marijuana should be legalized. However, as many other people have pointed out today, there are some elements that we think are lacking in this particular legislation as it is.

The elements that we think we need to see incorporated here, which touch on a lot of the social justice issues that Senator Gill has raised up related to-- We'd like to see automatic pardoning and expungement for anyone with a marijuana possession conviction; we'd like to see-- As many of you know, and has been mentioned earlier, people of color have been disproportionately harmed by the prohibition of marijuana, so we would like to see some portion of the tax revenues funneled back into those communities to repair some of the harm.

And thirdly -- I'm sorry; I lost my train of thought here -- as was just discussed at length, licensing -- that those people who have the -- if they were convicted and it's automatically expunged from the record, that they now have access to licenses and/or some ability to engage in employment in this marijuana market to help repair the harms from the prohibition.

Thank you.

SENATOR SCUTARI: Thank you, ma'am.

Sir, state your name for the record.

JUAN CARTAGENA, Esq.: Good afternoon.

My name is Juan Cartagena; I am the President and the General Counsel of LatinoJustice. I am a lifelong resident of Jersey City and a former Municipal Court Judge in Hoboken.

LatinoJustice is an organization national in scope; a civil rights public interest law office that represents Latinas and Latinos throughout the country, and works to increase their entry into legal professions.

I want to thank all of you, and Senator Scutari, for this opportunity to talk about this important legislation.

And I am going to be very brief. My statement already indicates some of the areas in which we overlap -- my organization with what you have heard today.

And I really want to just make two quick points.

We are very concerned that, throughout the country, decisions that are made, that increase this amazing level of mass incarceration in the United States, have to be tackled. And to that end, we've looked at

marijuana law enforcement throughout many parts of the country, and that's why I'm here today.

It's an issue regarding racial disparity, regarding law enforcement convictions and sentencing, which actually brings us here today.

But the second point, and my last point, is that all good reform cannot just drop from the sky, and not look backwards at the harm that was created beforehand. Before measures that we have seen in other states-- Places like California and other places are making sure that whatever the harms that were created by the previous regime and prohibition models get addressed in any kind of new reform. And to that end, it is obvious that were we to legalize marijuana tomorrow, you would still have, in prison, many people who were convicted for marijuana possession. You would still have, in the streets and in the labor marketplace in New Jersey, people looking for employment with a previous conviction for marijuana possession. We have to make sure the reforms, as important as they are to look forward for new industry and equal access to that industry, as well -- which we also support -- also look backwards and undo the worst parts of the prohibitions model that we've pursued in the state for decades.

Thank you very much.

SENATOR SCUTARI: Thank you, sir.

Next.

Reverend; state your name for the record.

REVEREND CHARLES F. BOYER: Reverend Charles Boyer; I'm the Pastor at Bethel African Methodist Episcopal Church in Woodbury, New Jersey.

I'm also a member of the New Solutions Campaign, and Coordinator of Salvation and Social Justice, a coalition of faith leaders throughout the state, as well as social justice organizations.

Let me just say that you can tell public opinion is changing if they can find a Reverend to come up here in favor of marijuana legalization. (laughter)

Let me also say, for the record, that I do not personally promote marijuana use, especially for my parishioners, because they would certainly be late on Sunday morning. (laughter)

But I do want to say this. I do agree that marijuana is a gateway drug and has fatal consequences -- but it's a gateway to blacks into the criminal justice system, and it destroys lives of people of color and has destroyed communities. And the morality of this demands that we look at how these consequences far outweigh how we have viewed this in the past. We've had a very robust discussion here today about looking backwards at expungement; and these are things that I very much agree with because I think what's a tragedy right now, as we look across the nation, is that we have young white males who are millionaire entrepreneurs looked at with envy, while we have young black men sitting in prisons for the very same things.

And I understand the constitutional challenges around market access. But I find it interesting that we can always find a way to unintentionally, disproportionately, negatively affect communities of color, but it's so hard for us to be intentional in repairing communities of color after we've destroyed them. (applause)

So my challenge to all of you, as lawmakers, is, let's get this right the first time. Let's work diligently to repair what we know is broken. And we can do it; we must do it. And it's a moral imperative that we do it.

Thank you so much for your time. (applause)

SENATOR SCUTARI: Thank you very much.

Thank you very much, all.

ALL: Thank you.

SENATOR SCUTARI: Thomas Moran; Gale Muhammad; Leo Bridgewater; Jo Anne Zito; Sanjay Chaudhari; and Claire Marsden.

Okay; if any of those people are here and if they wish to still testify, please come forward.

Before they testify, the names of people who signed up with no need to testify.

MR. LORETTE: We have several individuals who are indicating support for the legislation with no need to testify; many of whom have also included written testimony for the members.

Bonnie Kerness, American Friends Service Committee, Prison Watch Program; Alexandra Goncalves-Pena, American Friends Service Committee, Immigrant Rights Program; Peter Rosenfeld, Coalition for Medical Marijuana, New Jersey; Satenik Margaryan, Action Together; the Reverend Robin Tanner, Beacon Unitarian Universalist Congregation; Christina Carrell, Action Together, Burlington County; Renee Koubiadis, Anti-Poverty Network of New Jersey; Kathy Wright, New Jersey Parents' Caucus; Angel M. Perez, Executive Director, New Jersey Association on Correction; Daniel Lombardo, Volunteers of America Delaware Valley; Rabbi Marc Aaron Kline, of Monmouth Reform Temple; Melissa Dardani,

New Jersey Cannabis Industry Association; Pete Cammarano, New Jersey Cannabis Industry Association; Ryan Haygood, New Jersey Institute for Social Justice; and finally Christiane Ludescher-Furth, ACLU.

Again, these are all “in favor, no need to testify.”

SENATOR SCUTARI: Thank you.

Okay; so this is our final-- Oh, there are some opposition panelists as well.

Okay; Mr. Moran.

T O M M O R A N: Thank you; thank you, Chairman.

SENATOR SCUTARI: State your name for the record.

MR. MORAN: Members of the Senate Committee, my name is Tom Moran; I’m a resident of Morris County and a Board member of the Unitarian Universalist Legislative Ministry of New Jersey, the UULMNJ. The UULMNJ represents Unitarian Universalist congregations across our state.

I want to thank you for holding this public hearing on marijuana legalization, and I want to thank Senator Scutari for his leadership on this issue.

I am here today to express my Board’s and our 3,000 members’ concern with Senate Bill 3195. While we commend Senator Scutari’s leadership on the issue of marijuana legalization, we are disappointed that the Bill does not establish a fair and equitable marijuana market, addressing proactively years of disproportionate harm to poorer communities and, especially, communities of color in New Jersey.

For 200 years, the Unitarian Universalists have spoken up for core principles of freedom of conscience and the rights of the marginalized

and dispossessed. The plain fact of the matter is that for years, people who look like me and live where I live could smoke marijuana now and then with little to no repercussions with regard to our criminal justice system. Meanwhile, down the road in other communities, persons who do not look like me were far more often arrested and jailed for the same exact action.

We know that African Americans are three times more likely to be arrested for marijuana possession than whites, even though both use marijuana at the same rates.

It is for exactly that reason that our religious body -- including our Board and the members in plenary session -- have arrived at the decision that, despite some reservations, we will support the decriminalization of marijuana use in New Jersey.

That is also why we require that any plan for legalization will not heap insult on injury by gifting this lucrative new franchise to people who look like me and, formally or informally, exclude members of those communities that have suffered the most harm.

As New Jersey considers legalizing, taxing, and regulating marijuana, fairness and equity demand a system that includes policies that provide a level playing field and addresses past harms, including protections for those who apply for licenses or employment in the industry who have prior arrests and/or convictions; access to the industry for individuals from different socioeconomic backgrounds; requirements that the State shall actively seek to achieve a diverse industry; provisions intended to repair communities most harmed by marijuana prohibition; and civil penalties, rather than criminal penalties, for marijuana activities that occur outside

the new legal system, to avoid the continuation of a criminal system that disproportionately harms communities of color.

These components are critical to making any marijuana legalization law fair and equitable.

The criminalization of marijuana has been a tragic failure. New Jersey arrests more than 22,000 people a year for marijuana possession at a cost of more than \$125 million to New Jersey taxpayers. This absurd and wasteful policy criminalizes otherwise law-abiding people and wastes resources that would be better spent on projects that support our families and communities.

A conviction for marijuana possession can have severe long-term consequences. The resulting criminal record subjects a person to a system of legal discrimination that can last a lifetime, and make it difficult or impossible to secure employment, housing, student loans, or even a driver's license. Even without a conviction, the consequences of an arrest can include untold stigma and humiliation, the financial burden of a criminal court proceeding, and lost hours at work or school.

As people of faith who have historically supported the abolition of slavery, the rights of suffrage for women, civil and human rights for Americans of color and LGBT Americans, Unitarian Universalists in New Jersey now also call for thoughtful consideration of marijuana legalization legislation, but only one that creates a fair and equitable market and repairs the harms that have disproportionately impacted our brothers and sisters of color.

Thank you for your consideration. (applause)

SENATOR SCUTARI: Thank you.

Next; state your name for the record.

L E O B R I D G E W A T E R: Good morning; my name is Leo Bridgewater. I am the President of the New Jersey Chapter for Minorities for Medical Marijuana. I am also the Subcommittee Chair for Minorities for the New Jersey Cannabis Association.

Along with those titles, I also represent a demographic that you have not heard from today. I am one of the three veterans who testified at the Senate Committee to have PTSD added to our State's medical marijuana program.

I am also a resident of the City of Trenton; I was born and raised here. I have been back in this city, now, for 2 years, after having been gone for over 21. I've done multiple deployments in Iraq and Afghanistan. And upon my return to New Jersey, I've noticed that we have a quality of leadership issue. Understand, I worked directly for General David Petraeus; I was a part of his COMs package. My profession is DoD telecommunications, satellite and microwave. I was a part of battle staff. I have also worked directly for Admiral Mike Mullen.

So when I tell you that we have a quality of leadership issue, understand the measuring sticks I am using.

I often tell people you cannot-- I used to have to brief four-star and three-star generals; and I often tell people, "You cannot put a little black boy from Trenton, New Jersey, in a room with that caliber of mind and expect he not know something."

Now, what I find here, sir -- Senator Cardinale -- is that what I hear is an unevolved mind, particularly when you give clues -- because you used the verbiage that has been debunked.

SENATOR SCUTARI: I just want to remind all of the speakers -- don't address the individual Senators; it's about the Bill itself. You can address them through me, though.

MR. BRIDGEWATER: Okay; well, Senator Scutari, when I hear the verbiage *gateway drug*, that has been debunked years ago, and you date yourself when you use that word, when you use that term.

I like to offer my-- Yes, you date yourself; no one uses that anymore, because it's no longer--

SENATOR CARDINALE: Sir, I didn't use that term. It was used by a witness.

MR. BRIDGEWATER: Sir?

SENATOR CARDINALE: It was used by the minister who was sitting on the end. He said, "It's a gateway drug."

MR. BRIDGEWATER: No, no; he--

SENATOR CARDINALE: He said, "It's a gateway drug." If you have an argument with that, your argument is with him, not with me.

MR. BRIDGEWATER: Sir--

SENATOR CARDINALE: Do I believe it's a gateway drug? Yes, I do. But that's not language I use.

MR. BRIDGEWATER: Sir, sir--

SENATOR SCUTARI: Sir, why don't you continue to address the Bill itself.

MR. BRIDGEWATER: Yes, thank you.

So with the Bill -- one of the issues that I see, that needs to make it so it will be evolved, is when you look at the tax rate from 5 percent to 25 percent in 5 years. If it's at 25 percent in 5 years, you will keep your

black market open. And we've already heard, time and time again, that the drug dealers on the corner do not care what your age is.

When you talk about licensing and the ability to work in this industry, those who have been arrested for cannabis should be allowed to still work in this industry. In fact, to help you with your evolution, the word *marijuana* -- we don't use that anymore. It's *cannabis*. We don't say *weed* anymore; we say *flower*. These are all clues to the trained ear that lets us know how much you know and how much you don't know.

Now, I just spent three days in New York City at the Cannabis World Business Expo. And I can tell you, talking to other industry leaders such as Jesse Ventura, such as Roger Stone, the Reverend Al Sharpton -- for a lot of people, New Jersey was not on the cannabis industry radar. We are now.

And so what I challenge you all to do-- Well, first, I thank you all for going there with this conversation, but my challenge to you all is to open up the dialogue and come and talk to the people here in this state -- the advocates. I invite you all to go one block over onto Spring Street, if you need to get the further evidence that you need in order to understand how bad the opioid abuse and addiction epidemic has taken over. The way -- the Capital City of New Jersey is only 7.2 square miles. And it was just announced that six new pharmacies are being opened on the borders of the City of Trenton. That's six more pharmacies on top of the Rite Aids, and the CVSs, and the pharmacies inside of the grocery stores.

And so if you're having an issue with trying to decide whether this is real or not, I just invite you to just take a walk with me around the corner onto Spring Street; or we can go up onto Martin Luther King

Boulevard; or we can go down to Stuyvesant Avenue. They are all within two minutes' drive from here.

Thank you.

SENATOR SCUTARI: Thank you, sir.

Next; state your name for the record.

S A N J A Y R. C H A U D H A R I: Hi; my name is Sanjay Chaudhari.

I just wanted to thank the Committee for your dedication for being here so long into the day. So thank you for that.

Before I delve into the meat of my testimony, I don't believe anyone has really touched on the endocannabinoid system yet. So I just wanted to touch on that real quick.

I know I've heard a lot of testimony from people who are reluctant for marijuana legalization, and people who are staunch opponents of marijuana legalization. But if every single person in this room was tested for cannabinoids and THC metabolites, and we took that decimal point down a few notches, everyone would test positive for cannabinoid metabolites in this room, because our bodies produce cannabinoids in very small amounts. These small amounts -- we have endocannabinoid receptors in all of our major organs -- our heart, our brain, our kidneys, our lungs have receptors for this, for these cannabinoids; and we all produce them in varying degrees.

I'm currently a horticultural specialist at Spectrum 360, where I work with adults on the autistic spectrum, 21 and over. And this population -- Stanford has recently -- they've been doing a lot of studies on autism, and they found statistical significance that adults and children on

the autistic spectrum are significantly lower in naturally occurring cannabinoids than the general population. So from that we can infer that there's likely a link between an ineffective endocannabinoid system and the need for cannabinoids to be supplemented. A lot of states, currently, prescribe cannabinoids to people who are autistic; that's one of the qualifying conditions. In this state, it is not; but it is a qualifying condition, and this is a group that I'm trying to become a champion for, and I want to help. I think that this plant is very medicinal for so many different things. But if anyone here is a staunch opponent of this plant as medicine and wants to put it in the same league as alcohol or tobacco -- if you go on Google or Yahoo and do a search about the endocannabinoid system, there will be so much information that will come up, and anyone can get an education from mutual information that's online.

But I just wanted to say that to anyone who thinks that this is a drug and wants to put it in the same league as alcohol and cigarettes -- I don't drink alcohol, I don't smoke cigarettes; I am a good person.

So let me just get back into the meat here.

I am a CUMMA patient, and I do have some issues with the CUMMA program that I'd like to see this legislation address. I think that would be great.

First, this is addressed to the person sitting next to me whose name has escaped me--

MR. BRIDGEWATER: Leo Bridgewater.

MR. CHAUDHARI: Leo. The term *marijuana*-- *Marijuana*, the term itself, if anyone knows the history of it -- it's steeped in bigotry and racism, which a lot of the history of this country, unfortunately, is also

steeped in the same. Marijuana -- if anyone thinks about why we use the term *marijuana*, which is a Spanish term for cannabis -- cannabis is the scientific name of this plant. For some reason, marijuana (indicating pronunciation) is used, and we don't say it like that now; we say marijuana. Originally, when marijuana was introduced, with the reefer madness population, it was used also with *devil weed*, which is where the term *weed* came from -- devil weed and marijuana. The link between the Spanish population -- specifically, the Mexican population -- calling it marijuana was to stigmatize this medicinal plant so that -- people at that time were more racist against Hispanics, and Latins, and Mexicans than they are currently, and this was used as a tactic to stigmatize this medicinal plant.

So I would recommend -- as many words through our history are no longer being used, because they are discriminatory, because they are racist, because they are steeped in bigotry -- this should be added to that list that should no longer be used by intelligent Americans, because it is a racist term, because it is a bigoted term.

Cannabis is the appropriate name; *cannabis sativa*, *cannabis indica*. If we're talking about a plant, we should use the scientific name.

I am also currently a Rutgers Certified Master Gardener; I've been a Volunteer Master Gardner, a University of Illinois Volunteer Gardner for over 10 years. So I would like to have my testimony pertaining to horticulture to be taken as an expert testimony on horticulture.

The U.S. Constitution grants everyone the access -- the right to safe medicine. In the month of May I was granted my CUMMA card and, at that time, in the month of May, I visited all five of the ATCs to see the cannabis that they offered, the varieties that they offered. And I was

hoping to see some really good things there. I was very disappointed by the quality of the cannabis that I saw and purchased from these Alternative Treatment Centers. I can list-- Specifically, I spoke to managers and upper management at each of them about their specific production and cultivation methods. And I was very disappointed by all of them. Most of them use hydroponics for their production method, which is a soilless medium, where it's grown essentially in water and with chemical nutrients.

There is a subcategory of chemicals that are used that are called *PGRs, Plant Growth Regulators*, that I don't believe are currently being used by these ATCs. But they are a subcategory of the nutrients that are allowed, and these PGRs have been shown, in a 2011 research study by the Institute of Health -- they tested five PGRs and found over 40 toxins in all of these -- in all of these PGRs.

Now, no one in this state is currently producing organic medicine; and the patients, like me, are now required to purchase medicine full of chemicals. This group of patients -- based on the recent annual report that came -- 13.6 percent of total chemo patients who have ever been in the program are dead; they are no longer alive. They died; 13.6 percent. This is a protected group; they should be a protected group of people who are getting special treatment. This should not be a group of people who are being taxed -- who are being taxed on medicine. It's discrimination against CUMMA patients. There are no other patients in this state -- over the counter or prescription medication -- who are subjected to tax. And I'd like to know-- And I would like to have this corrected in this legislation; because I know that is part of this legislation -- to remove that. But it's just completely inappropriate. This is a group that needs to be protected; and

instead of being protected -- since there is no recreational legislation at this time -- this group has been taxed for profit. And I think it's unconscionable.

I think it would be appropriate to try to return the tax money to everyone who has paid tax on this medicine, because it's discriminatory to do that. I think for the families that have died -- the patients who died, who have been taxed, return them their tax money; because I think it's the correct thing to do.

It is generally agreed upon that organic, soil-grown cannabis produces the highest quality medicinal cannabis flowers with the highest concentrations of the desired cannabinoids, terpenes, essential oils--

SENATOR SCUTARI: Sir--

MR. CHAUDHARI: -- that are free from toxins.

SENATOR SCUTARI: --you're not on the Bill anymore. I try to give people great latitude; and we've done it today, and we're going into our -- finishing up our fifth hour. But you have to, really, tell us about the Bill; not just in general terms about your experience in the medical marijuana industry.

MR. CHAUDHARI: Okay; well, this is-- I sort of -- I'm hoping that this Bill will address some of the problems with the CUMMA Act that are inherently discriminatory and, possibly, against the U.S. Constitution. So I think -- I've spoken to a lot of patients who are discussing a class action lawsuit, because as a protected group we are being discriminated against.

I'm also a person with a federally recognized disability. The American Disabilities Act -- I think CUMMA is sort of in violation of the Americans with Disabilities Act, the ADA, because it's treating people with

disabilities differently. A lot of people with disabilities now are forced to choose a chemically based medication; or if we can't do that, we have to be scofflaws. We have to go back to the black market to purchase safe, organic medicine. We're not given an option for safe usage. It's either -- use this, it's made out of chemicals.

Now, most people don't know; I am educated enough and knowledgeable enough about what they're doing that I'm completely uncomfortable smoking something that has been produced exclusively of water and chemicals. I'm not going to combust water and chemicals and put it into my lungs. I have certain sensitivities and allergies to PGRs; I have certain sensitivities and allergies to synthetic nutrients. So I've been put in a position, now, where it's a Catch-22. I'm a medical patient here, but the only medicine I'm allowed to access makes me sicker. So what I'm supposed to do? Am I supposed to be scofflaw again? I've gotten in trouble previously because of my association with cannabis; I'm too old -- I'm approaching my 40th year -- I'm too old to break the law. I don't want to break the law. I want a sensible plan that's going to allow me to grow a few cannabis plants, free of toxins, not made synthetically, grown with care and love by someone who cares about the plant, and knows about the plant, rather than unscrupulous rich Caucasian individuals who don't care about me, who don't know as much about the plant as I know, and who are here just to profit off of our sickness right now. There is only a medical plan here; they're charging up to \$536 for an ounce of chemical beaster, mid-grade cannabis. Anyone who knows anything about cannabis -- it's terrible what they're offering; it's terrible. The worst cannabis I've smoked in 17

years is what this State is offering. It's ridiculous. And now if I grow plants, I'm going to go jail. I can't do that.

SENATOR SCUTARI: Sir--

MR. CHAUDHARI: I have to smoke this garbage--

SENATOR SCUTARI: Sir, you're talking about legislation that I passed seven years ago, not today's Bill.

MR. CHAUDHARI: Today's Bill could address it and correct--

SENATOR SCUTARI: So I'm going to move on to-- Do you have anything that you want to tell me?

MR. CHAUDHARI: We can correct the mistakes of the past.

SENATOR SCUTARI: Do you have anything else, before I call you out of order and I ask you to step away? Is there anything else you have to tell us?

MR. CHAUDHARI: I do; may I just quickly look over my notes here?

SENATOR SCUTARI: Yes, please.

MR. CHAUDHARI: I'm just hoping that, with this, we can correct the mistakes of the past.

SENATOR SCUTARI: You're hoping that this Bill corrects the old Bill. And you want to have some home--

MR. CHAUDHARI: I'm hoping that it will allow for something that's not inherently discriminatory, that's negligent, and liable for civil action--

SENATOR SCUTARI: Okay; got you. Understood.

MR. CHAUDHARI: --a class action lawsuit.

SENATOR SCUTARI: Okay; thank you. Thank you.

Ma'am, state your--

MR. CHAUDHARI: I still have -- may I make a couple of recommendations here? I'll tone it down a little bit?

SENATOR SCUTARI: If you do it in the next 30 seconds; because we still have more people who have to speak.

MR. CHAUDHARI: Okay; I will--

SENATOR SCUTARI: We're about to start voting on the floor, so--

MR. CHAUDHARI: I would like to recommend -- I would like to see if it's possible for CUMMA patients -- at least now I know recreational won't be able to -- to grow 12 plants. I think that's a reasonable amount of plants to grow, given that plants -- half of them will be males and females, and only the female plants are productive and useful for cannabis consumption. I think it's sensible to let the patients be able to have some choice, so the patients, like myself, who can't consume chemical-ridden cannabis, then have an option to be safe and be compliant. I want a plan that's going to allow me to be compliant--

SENATOR SCUTARI: Sir, what else?

MR. CHAUDHARI: --and allow me to have safer--

SENATOR SCUTARI: You want home grown. I got from the last 15 minutes that you'd like to allow home grow; I did get that.

MR. CHAUDHARI: Okay.

SENATOR SCUTARI: So please, tell me what else you want me to-- I'm trying to take notes, but it's getting difficult.

MR. CHAUDHARI: All right; thank you.

I think it would be nice -- I know everyone here is looking -- is excited with dollars signs in their eyes and greed in their heart, and they want to monopolize this plant that has value -- intrinsic value, and also has medicinal value. But I think before we leave this plant only for the elite, and the rich, and the well-connected to produce -- as it currently is -- I think it would also be worthwhile to open this up to people -- to nonprofits, to people who want to open up an L3C or a 501(c)3 -- something that interest is not for personal financial gain. I'd love to be able to run a nonprofit or manage an L3C where I can support my adult clients on the spectrum and help them maintain employment for over a year, which is the biggest problem for this population of adults on the spectrum. And this plant has the ability to do that. I could use my clients to make soil, and we could use that soil to make a higher-quality cannabis flower than anyone in the state, or anyone in any of the states, is producing.

I was previously a medical patient in California. I wasn't that impressed with the cannabis coming out of California at that time. I'm not impressed with the cannabis coming out of Colorado, or Oregon, or Washington. I think if the plant is nurtured in a way to produce the highest-quality flowers, we can set ourselves up in New Jersey here to have the best cannabis policy in the country. Because no one is really looking at -- how can we study the plant; how can we learn from the plant; how can we create a better plant. Everyone wants to hybridize it and create--

SENATOR SCUTARI: I understand what you're saying, sir.

MR. CHAUDHARI: --a plant that's unbelievably high in THC, but you're losing the recessive alleles -- the medicine of the plant -- from the landraces that are originally from the--

SENATOR SCUTARI: Anything else, besides the quality of the plant that you'd like improved?

MR. CHAUDHARI: No, I guess that's it.

SENATOR SCUTARI: Thank you, sir.

MR. CHAUDHARI: Thank you for your patience.

SENATOR SCUTARI: Thank you.

Ma'am; state your name for the record.

CLAIRE MARSDEN: Hi; good afternoon.

My name is Claire Marsden. I'm from South Orange, and I am currently a rising second-year law student at Columbia University.

I'm here today to urge you to pass sensible legislation to end marijuana prohibition in New Jersey.

This issue is important to me because I'm passionate about creating a fair and equal criminal justice system; but also because my family was exposed to the injustice of the State's current system.

Not long ago, my brother was driving through Long Hill and was pulled over by a police officer. The officer told Jack to get out of the car and asked if he could search it. Jack was made to believe that he couldn't say "no." A second officer turned Jack away from the car so he couldn't watch the search, and the next thing he knew, he was arrested for possession of 0.3 grams of marijuana.

The arrest and impending court date created substantial stress in our family's life. Jack didn't know whether he would be required to disclose the charge to his college. We had to pay for an attorney, and the stress of even being called into court is intimidating and scary for anyone.

Everything ended up okay; Jack's finishing school at American University, after which he wants to get a Ph.D. in International Relations. We're also hoping to get his record expunged, which would be made a lot easier and swifter if the expungement process was automatic.

But what has continued to cause my family the most distress and anger isn't what happened to Jack; it's that in Legislative District 21, where Jack was arrested, the data shows that black people are 11.3 times more likely to be arrested for marijuana possession than white people despite similar usage rates. It's seeing how Jack's arrest was a small blip in his life, but that for so many others, disproportionately people of color, a similar arrest for 0.3 grams can be life changing by preventing them from getting housing, an education, and a job.

I'm not proud that my state treats its citizens this way, but I am heartened to see such a strong movement for change. I hope you support legislation that will eliminate this shocking racial disparity, particularly one that encourages automatic expungement, and one that lets my brother -- eliminating a system that lets my brother move forward and succeed, but holds people of color back.

Thank you. (applause)

SENATOR SCUTARI: Thank you; thank you very much.

Thank you to all the panelists; thank you, thank you.

Okay.

Next we have Philip Kirschner; Cathleen Lewis; and Dr. Sherri Rosen.

Okay; thank you.

You may begin, ma'am; on my right, on your left.

State your name for the record.

CATHLEEN LEWIS: Thank you very much, Chairman,

It's Cathleen Lewis, from AAA Clubs of New Jersey.

And you have a much-longer version of my prepared testimony. I will make it quick. I know you've been here a long time, and I appreciate the opportunity to share some of our concerns.

We are here today because we have concerns about the impact that legalization will have on our roadways.

And I think that there are three areas where I think we really need to focus on how we can make our roads safer if this is to move forward.

First, there has been a significant increase in drugged driving and marijuana-involved fatal crashes throughout the country, regardless of legalization; but particularly in states that have legalized.

There are a lack of tools to quantify impairment based on the presence of THC; and there is a lack of understanding by the general public about the impairment capabilities of today's marijuana, and the impact that it has on driving ability.

We -- AAA continues to research the impact that this has had on driving in places where it has been legalized; and we're going to continue to look to evaluate best practices that should be considered here in New Jersey.

Just a couple of things on impaired driving.

A AAA study that looked at the before and after in Washington, after legalization, found that while there was a small increase in consumption, there was a large increase in usage prior to a fatal crash.

One in six drivers involved in fatal crashes had recently used marijuana; that is not to say that the marijuana was what caused the crash, but it is to say they recently used it, and we don't have enough evidence to, sort of, figure out where those impairments have come in.

We know that marijuana use increases after states legalize recreational use, and we know that people drive after using it. We also know that, unfortunately, they think they can drive better; and that is something that needs an education campaign behind it, and every state that has legalized has found that.

We also know that marijuana impairs; it impairs skills and cognitive functions, including reaction time, distance perception, lane tracking, motor coordination, and attention span -- all things that are impairment that is equal or greater to that of driving under the influence of alcohol.

We also know that the potency of today's marijuana is exceptionally stronger. Active THC in the 1960s, and 1970s, and 1980s was at 3 to 5 percent. Today, THC in marijuana bud is between 15 and 35 percent; and if you're looking at edibles or extracts, you're looking at 80 to 90 percent. People do not understand what they're consuming; they don't understand how it's going to impact them and impact our roadways.

Complicating that issue is that there is a lack of tools to effectively quantify impairment. The studies that AAA has done on the per se standards that have been created in the nine states that have legalized do not reliably indicate impairment. When we looked at them, drivers with relatively high levels of marijuana in their systems might not be impaired, while others with lower levels were unsafe behind the wheel. And that's

because all of our impairment studies, right now, use saliva or blood; that's not where the impairment occurs with marijuana. It's in the fatty tissue of the brain, and clearly that's not something we can test today.

That doesn't mean that that impairment doesn't exist. We need to look to ways to prevent increased crash risk; we need to look to education to make sure people understand the impact that marijuana has on the system and how it impairs driving; and what it is that they are consuming.

We need to do more training. There are observational skills with rigorous tests that police have done that can show impairment. We need to be able to have more of that education and training so that police can utilize those programs, and a better understanding of what those programs do.

And we need research. One of the things we hear when we talk to law enforcement in states that have legalized is, "We wish had a better baseline to understand how this was affecting our roadways beforehand. We didn't study it; we didn't take those tests beforehand; we can't figure that out."

SENATOR SCUTARI: That's one of the main things that we found as well. There are no baseline studies to indicate what the level of intoxicated driving was done before they legalized it in Colorado. And then there was such an uptick in drug recognition expert officers that they're not sure that -- if they're arresting more people now because there are just so many more officers looking for it, versus the reasons. But they have indicated there has been no increase statistically.

But you're right; there's been a lack of baseline data, for sure.

MS. LEWIS: So one of the things that we would suggest is that there needs to be a period where we're collecting that baseline data.

New Jersey is fortunate; we have one of the second-largest concentrations of DREs in the country -- it's California, then us. Unfortunately, the DREs are not recognized everywhere; they're not admissible in court in some places. And so what ends up happening is that we see convictions for things other than "under the influence," which means that we still don't have that baseline data.

So there are things we can do. I would say that as we continue to have this discussion -- and I'm very grateful for the Chairman for having this discussion -- is that AAA continues to look to figure how to address these issues. We are actually going to be holding an Impaired Driving Summit in December, and we would invite the members of the Committee, and anyone else who's interested, to participate so they can learn about some of the things that we are working on, as well as some of the questions and how we might best address those.

SENATOR SCUTARI: Thank you.

Next, Dr. Rosen.

SHERI ROSEN, O.D.: Yes; good afternoon.

My name is Dr. Sheri Rosen. I am here as a concerned resident of the State of New Jersey.

I oppose the legalization of recreational marijuana; however, I am in favor of the medicinal use of marijuana.

First, it should be the responsibility of the Food and Drug Administration to oversee the consumption of marijuana. Because it is a

drug, it should be regulated like any pharmaceutical drug. It should be administered orally, in pill or liquid form only. It should never be smoked.

I have reviewed much of the literature on legalization, including the HIDTA Report, which has tracked the effects of marijuana since it was legalized in Colorado. Just a few of the highlights are Colorado legalized recreational marijuana in 2013. Youth smoking marijuana increased 20 percent after legalization. So if you legalize it, more kids will start using.

Impaired driving -- which speaks to your concerns (indicates Ms. Lewis) -- marijuana-related traffic deaths increased 62 percent after recreational marijuana was legalized. Emergency room visits increased 49 percent in the two year average, 2013 through 2014, since Colorado legalized recreational marijuana, compared to the two-year average prior to legalization, 2011 to 2012.

I've also cited some scientific articles pertaining to marijuana use. From the *New England Journal of Medicine*, "Adverse Health Effects of Marijuana Use," dated June 5, 2014; 9 percent who experiment with marijuana will become addicted; and it goes up to 1 in 6 who start using as teenagers.

The next, adults who smoke marijuana regularly during adolescence have impaired neural connectivity affecting learning and memory. There are significant declines in IQ associated with marijuana use.

The American Academy of Pediatrics -- their policy statement, "Any change in the legal status of marijuana, even if limited to adults, could affect the prevalence of use among adolescents. For example, tobacco and alcohol products, both legal for adults, are widely abused by adolescents."

And finally, from the *Journal of Forensic Sciences*, “THC,” -- which is the hallucinogenic portion -- “The levels have increased almost six times in the past 30 years. Higher levels of THC mean more risk of addiction.”

I have a few questions of my own in regards to this proposed Bill. I have about five questions, the first one being -- how will you regulate the use by individuals who hold safety-sensitive jobs, such as pilots, surgeons, teachers, school bus drivers, just to name a few.

SENATOR SCUTARI: Ma’am, I’ll take down your questions; but I’m not going to be cross-examined. So you can put your questions on the--

DR. ROSEN: Well, I’m just-- My concern is, have we--

SENATOR SCUTARI: You can address what your concerns are.

DR. ROSEN: Okay; so should I just read all my questions?

SENATOR SCUTARI: Yes, go ahead.

DR. ROSEN: Okay, so that’s one of them.

The second question I had was, the 10 milligram level of THC that you allow for in the Bill. How does that translate to percentage levels? We all know, in the 1970s, the levels were much lower than they are today. And I just -- I don’t know the correlation between milligrams and percentage.

The next question I have is, you allow for one ounce of marijuana in your Bill. How does that translate in terms of the number of *joints* -- if that’s the term we are still using?

And next, do we have in place protocols for law enforcement? For example, how do we test for driving under the influence? A blood test? Who's going to administer the test? Do we need consent from the driver?

And then my last question would be, where specifically would the tax money go?

Thank you.

SENATOR SCUTARI: Thank you very much.

Mr. Kirschner; state your name for the record.

PHILIP KIRSCHNER, Esq.: Thank you, Mr. Chairman.

As the previous speaker noted, I know some of you and am glad to be before you, as the former President of NJBIA. I want to stress, though, I am speaking on my own behalf as a parent today, and we have no connection whatsoever -- this statement -- to NJBIA. So I wanted to be clear on that.

It's interesting going through this hearing -- I haven't heard the word *parent* once; not once. I've heard very, very little about addiction or young people; very, very little. And I've heard very, very little about the recreational use of the drug as the reason for this Bill.

You could solve these problems without your Bill. This Bill is so premature; a lot of people talked about medical marijuana -- how that system, after seven years, is broken. And you want to add recreational marijuana, which exponentially will grow the field? Are you kidding? Seven years, and it's broken. Why don't you fix that first? That's what people have come up and talked about.

Second, decriminalization. This Bill would be the first to do both at the same time. Every other state did decriminalization first, and

then legalization. And why? You heard so many speakers today, you heard Senator Gill -- because of the disparities that are happening, because of the differences that are happening. You have to get decriminalization first. I know you want the tax money out of the recreational marijuana, but let's be straight here. You need to do decriminalization first. That's what most of the people came up here and talked about; not recreational marijuana. I understand that's where the tax money is, and that's what you want to do, and that's the real reason for the Bill. But it is a poor, poor reason.

On the issue of whether it's a gateway drug -- that's settled. As Dr. Rosen said, there are many studies, and they all say 9 to 11 percent of the people who start marijuana become drug addicts; so let's call it 10 percent average. You will be creating 10 percent more addicts. How does that make any sense, when you've done such good work in the opioid field, -- and trying to lessen the impact of that -- by creating more addicts by legalizing marijuana, whether they're marijuana addicts, or they go up to higher drugs? And the dealers now will push their customers for much higher drugs, much more potent drugs. In the real world, not the world you've been talking about; not the world in Colorado, the Rocky Mountain High state.

You know, if you did a paper -- you were told to do a paper and you came back with research from one state and you read some regulations for other states, and turned that in, you would fail miserably. One state, with two to three years' worth of experience? That's pathetic. That's not a reason to do this Bill.

There will be -- Washington will open up-- And it's interesting that the city of Seattle will not participate in the Washington legalization.

It's very, very interesting. And there's just not enough information. You just want to do it because you want to do it. So, you know, that is just unbelievable.

On the issue of the impact on young people -- do you think that drug dealers are just going to throw up their hands and say, "The state has opened dispensaries; woe is us"?

Somebody was talking -- they are businesses, and they're very good businesses. And they will see there are only two ways for them to maintain their profit. You will either get your current customers, who are teenagers, to use more product; or to bump them up to a higher scale; or you make more incentives for referrals for your customers to bring somebody new in. And they don't pay you in cash; they pay you in drugs.

I mean, as someone said, you can walk a mile here, you know? Give me a list of drugs that you want, give me an hour, I will come back with them. In an hour, no matter how many drugs you list. You think that's just going to go away?

This Bill hurts teenagers the most; the 14-, 15-, 16-, 17-year-olds; your high school students; and your 18-, 19-, and 20-year-olds. That's your people who are working after they graduate high school; or college students. That's a very, very large market that the drug dealers will increase. And the reason they will increase is -- this Bill will make it very, very easy for them. The drug dealers will say, number one, "I can sell you much more potent stuff than you're going to get, that weak stuff at the dispensary." Number two, "I can sell you as much as I want." You're not limited to the purchases. And number three, "I don't put any stinking 25 percent tax on your purchase." And I say, that's what the drug dealers will

say; I'm very well aware that it's scaled up and it won't be 25 percent. But the dealers won't go through that explanation; they will just say, "There's a 25 percent tax on all that. And our price will be very, very competitive."

So what are you doing? What in the world are you doing? Even a lot of 20-year-olds and early 30-year-olds will go to dealers still, because they want the more potent stuff. They don't want to have to go every week or two weeks to the dispensary. You've done a lot of study, and you should be commended for that. But you haven't done the right study; you haven't done on-the-street, gritty stuff, talking to dealers, talking to other people.

I know you don't want to hear the opposition, because you buried us at the end when there are few reporters here--

SENATOR SCUTARI: Are you saying we should take interviews with drug dealers? I'm just--

MR. KIRSCHNER: Huh?

SENATOR SCUTARI: Are you telling me I should go and do an interview with a drug dealer to find out what he thinks about the Bill?

MR. KIRSCHNER: No; I have.

SENATOR SCUTARI: You have.

MR. KIRSCHNER: I have.

SENATOR SCUTARI: All right.

Anything else, sir?

MR. KIRSCHNER: Have you? (no response) Then you don't know.

SENATOR SCUTARI: I'm not going to say what I've done and haven't done with that. But--

MR. KIRSCHNER: Because you don't know.

The only other thing--

SENATOR SCUTARI: I've prosecuted many of them, I can tell you that.

MR. KIRSCHNER: --that I will say is about the economic impact. And somebody has to say it; let's be real. The only people who are going to make any real money are the cultivators, the growers, the producers, the distributors, the owners of the dispensary, the lobbyists who are pushing this, and the lawyers who will represent all the stores. That's it. Do you think the stores, hiring some \$9 an hour dispensary clerk, is going to have any impact on the economy? Again, no; no reasonable person would think that.

We ask you very, very much to don't do this Bill. Please, work on medical marijuana; get that straight first. That needs your attention. You can fix that first. Then you can decriminalize the bills; again, that's what the people have been talking about.

Finally, I plead with you. Despite your rush for taxes, and wanting to do this Bill, and not hearing the opposition, abandon this Bill. It's wrong, it's bad, and the cost in human lives and misery is just too high.

Thank you.

SENATOR SCUTARI: All right; thank you to this panel.

Thank you, and thank you to all the speakers; Senator Cardinale, thank for staying to the bitter end.

And we're adjourned.

(MEETING CONCLUDED)