

tion or issuance of bonds or notes of the municipality and any ordinance with respect to such bonds or notes heretofore adopted and any bonds or notes of the municipality issued or to be issued in pursuance of such proceedings or ordinance, are hereby ratified, validated and confirmed notwithstanding that any such ordinance authorizing the issuance of such bonds or notes failed to state that the issuance of obligations authorized therein was permitted by an exception to the debt limitations prescribed by N. J. S. 40A:2-6 as required by N. J. S. 40A:2-12; or notwithstanding that a notice of election to confirm an ordinance was not published as required by N. J. S. 18A:24-29, of Title 18A, Education; provided, however, that prior to final adoption of any such ordinance by the governing body of a municipality, the consent of the Local Finance Board required by N. J. S. 18A:24-27 shall have been endorsed upon a certified copy thereof; and provided further, that such notice of election to confirm the ordinance shall have been published at least 5 days prior to the election; and provided further, that no action, suit or other proceeding of any nature to contest the validity of such proceedings or ordinance have heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, are instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved October 16, 1970.

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## CHAPTER 226

AN ACT pertaining to the control of dangerous substances and amending and repealing parts of the statutory law.

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

### ARTICLE 1. SHORT TITLE; DEFINITIONS

C. 24:21-1 Short title.

1. Short Title. This act shall be known and may be cited as the "New Jersey Controlled Dangerous Substances Act."

**C. 24:21-2 Definitions.****2. Definitions.** As used in this act:

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

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

“Bureau of Narcotics and Dangerous Drugs” means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice.

“Commissioner” means the State Commissioner of Health.

“Controlled dangerous substance” means a drug, substance, or immediate precursor in Schedules I through IV of article 2 of this act. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R. S. 33:1-1 et seq., or tobacco and tobacco products.

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

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

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

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

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

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

“Marihuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

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

supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

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

(a) Opium, coca leaves, and opiates;

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

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

“Official written order” means an order written on a form provided for that purpose by the Attorney General of the United States or his delegate, under any laws of the United States making provision therefor, if such order forms are authorized and required by the Federal law, and if no such form is provided, then on an official form provided for that purpose by the State Department of Health.

“Opiate” means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 3 of this act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

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

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

“Pharmacist” means a registered pharmacist of this State.

“Pharmacy owner” means the owner of a store or other place of business where controlled dangerous substances are compounded or dispensed by a registered pharmacist; but nothing in this chapter contained shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this State.

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

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

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

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

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

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

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

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

“Immediate precursor” means a substance which the State Department of Health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

“State” means the State of New Jersey.

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

## ARTICLE 2. STANDARDS AND SCHEDULES

**C. 24:21-3 Authority to control.**

3. Authority to control. a. The commissioner shall administer the provisions of this act and may add substances to or delete or reschedule all substances enumerated in the schedules in sections 5 through 8 of this act. In determining whether to control a substance, the commissioner shall consider the following:

- (1) Its actual or relative potential for abuse;
- (2) Scientific evidence of its pharmacological effect, if known;
- (3) State of current scientific knowledge regarding the substance;
- (4) Its history and current pattern of abuse;
- (5) The scope, duration, and significance of abuse;
- (6) What, if any, risk there is to the public health;
- (7) Its psychic or physiological dependence liability; and
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article.

After considering the above factors, the commissioner shall make findings with respect thereto and shall issue an order controlling the substance if he finds that the substance has a potential for abuse.

b. If the commissioner designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

c. If any substance is designated, rescheduled or deleted as a controlled dangerous substance under Federal law and notice thereof is given to the commissioner, the commissioner shall similarly control the substance under this act after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled dangerous substance or rescheduling or deleting a substance, unless within that 30-day period, the commissioner objects to inclusion, rescheduling, or deletion. In that case, the commissioner shall cause to be published in the New Jersey Register and made public the reasons for his objection and shall afford all interested parties an opportunity to be heard. At the conclusion of any such hearing, the commissioner shall publish and make public his decision, which shall be final unless the substance is specifically otherwise dealt with by an act of the Legislature. Upon publication of objection to inclusion or rescheduling under this act by the commissioner, control of such substance under this section shall automatically be stayed until such time as the commissioner makes public his final decision.

The Commissioner of Health may by regulation exclude any nonnarcotic substance from a schedule if such substance may, under the provisions of Federal or State law, be lawfully sold over the counter without a prescription, unless otherwise controlled pursuant to rules and regulations promulgated by the department.

d. The State Department of Health shall update and republish the schedules in sections 5 through 8 on a semiannual basis for 2 years from the effective date of this act and thereafter on an annual basis.

**C. 24:21-4 Schedules of controlled substances.**

4. Schedules of controlled substances. The schedules contained in sections 5 through 8 of this act include the controlled dangerous substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated.

**C. 24:21-5 Schedule I.**

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

b. The controlled dangerous substances listed in this section are included in Schedule I, subject to any revision and republishing by the commissioner pursuant to section 3d, and except to the extent provided in any other schedule.

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

- (1) Acetylmethadol
- (2) Allylprodine
- (3) Alphacetylmethadol
- (4) Alphameprodine
- (5) Alphamethadol
- (6) Benzethidine
- (7) Betacetylmethadol
- (8) Betameprodine
- (9) Betamethadol
- (10) Betaprodine
- (11) Clonitazene
- (12) Dextromoramide
- (13) Dextrorphan

- (14) Diampromide
- (15) Diethylthiambutene
- (16) Dimenoxadol
- (17) Dimepheptanol
- (18) Dimethylthiambutene
- (19) Dioxaphetyl butyrate
- (20) Dipipanone
- (21) Ethylmethylthiambutene
- (22) Etonitazene
- (23) Etoxeridine
- (24) Furethidine
- (25) Hydroxypethidine
- (26) Ketobemidone
- (27) Levomoramide
- (28) Levophenacymorphan
- (29) Morpheridine
- (30) Noracymethadol
- (31) Norlevorphanol
- (32) Normethadone
- (33) Norpipanone
- (34) Phenadoxone
- (35) Phenampromide
- (36) Phenomorphan
- (37) Phenoperidine
- (38) Piritramide
- (39) Proheptazine
- (40) Properidine
- (41) Racemoramide
- (42) Trimeperidine.

d. Any of the following narcotic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine
- (2) Acetylcodone
- (3) Acetyldihydrocodeine
- (4) Benzylmorphine
- (5) Codeine methylbromide
- (6) Codeine-N-Oxide
- (7) Cyprenorphine
- (8) Desomorphine
- (9) Dihydromorphine



- (10) Etorphine
- (11) Heroin
- (12) Hydromorphenol
- (13) Methyldesorphine
- (14) Methylhydromorphone
- (15) Morphine methylbromide
- (16) Morphine methylsulfonate
- (17) Morphine-N-Oxide
- (18) Myrophine
- (19) Nicocodeine
- (20) Nicomorphine
- (21) Normorphine
- (22) Phoclo dine
- (23) Thebacon.

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

- (1) 3,4-methylenedioxy amphetamine
- (2) 5-methoxy-3,4-methylenedioxy amphetamine
- (3) 3,4,5-trimethoxy amphetamine
- (4) Bufotenine
- (5) Diethyltryptamine
- (6) Dimethyltryptamine
- (7) 4-methyl-2, 5-dimethoxylamphetamine
- (8) Ibogaine
- (9) Lysergie acid diethylamide
- (10) Marihuana
- (11) Mescaline
- (12) Peyote
- (13) N-ethyl-3-piperidyl benzilate
- (14) N-methyl-3-piperidyl benzilate
- (15) Psilocybin
- (16) Psilocyn
- (17) Tetrahydrocannabinols.

C. 24:21-6 Schedule II.

6. Schedule II. a. Tests. The commissioner shall place a substance in Schedule II if he finds that the substance: (1) has high potential abuse; (2) has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and (3) abuse may lead to severe psychic or physical dependence.

b. The controlled dangerous substances listed in this section are included in Schedule II, subject to any revision and republishing by the commissioner pursuant to section 3d, and except to the extent provided in any other schedule.

c. Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine.

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

(1) Alphaprodine

(2) Anileridine

(3) Bezitramide

(4) Dihydrocodeine

(5) Diphenoxylate

(6) Fentanyl

(7) Isomethadone

(8) Levomethorphan

(9) Levorphanol

(10) Metazocine

(11) Methadone

(12) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane

(13) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid

(14) Pethidine

- (15) Pethidine—Intermediate—A, 4-cyano-1-methyl-4-phenylpiperidine
- (16) Pethidine—Intermediate—B, ethyl-4-phenylpiperidine-4-carboxylate
- (17) Pethidine—Intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
- (18) Phenazocine
- (19) Piminodine
- (20) Racemethorphan
- (21) Racemorphan.

**C. 24:21-7 Schedule III.**

7. Schedule III. a. Tests. The commissioner shall place a substance in Schedule III if he finds that the substance: (1) has a potential for abuse less than the substances listed in Schedules I and II; (2) has currently accepted medical use in treatment in the United States; and (3) abuse may lead to moderate or low physical dependence or high psychological dependence.

b. The controlled dangerous substances listed in this section are included in Schedule III, subject to any revision and republishing by the commissioner pursuant to section 3d, and except to the extent provided in any other schedule.

c. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
- (2) Phenmetrazine and its salts.
- (3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
- (4) Methylphenidate.

d. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules
- (2) Chloral betaine
- (3) Chloral hydrate

- (4) Chlorhexadol
- (5) Ethchlorvynol
- (6) Ethinamate
- (7) Glutethimide
- (8) Lysergic acid
- (9) Lysergic acid amide
- (10) Methyprylon
- (11) Parelddehyde
- (12) Petrichloral
- (13) Phenacylidine
- (14) Sulfondiethylmethane
- (15) Sulfonethylmethane
- (16) Sulfonmethane.

e. Nalorphine.

f. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amount.

(3) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.80 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium or any of its salts per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

g. The commissioner may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections a. and b. of this schedule from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

**C. 24:21-8 Schedule IV.**

8. Schedule IV. a. Tests. The commissioner shall place a substance in Schedule IV if he finds that the substance: (1) has low potential for abuse relative to the substances listed in Schedule III; (2) has currently accepted medical use in treatment in the United States; and (3) has limited physical dependence or psychological dependence liability relative to the substances listed in Schedule III.

b. The controlled dangerous substances listed in this section are included in Schedule IV.

c. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams;

(3) Not more than 50 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium or any of its salts per 100 milliliters or per 100 grams.

ARTICLE 3. REGULATION OF MANUFACTURE, DISTRIBUTION  
AND DISPENSING OF CONTROLLED DANGEROUS SUBSTANCES

**C. 24:21-9 Rules and regulations.**

9. Rules and regulations. The commissioner is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances within this State.

**C. 24:21-10 Registration requirements.**

10. Registration requirements. a. Every person who manufactures, distributes, or dispenses any controlled dangerous substance within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance within this State, shall obtain annually a registration issued by the State Department of Health in accordance with the rules and regulations promulgated by it.

b. Persons registered by the commissioner under this act to manufacture, distribute, dispense, or conduct research with controlled dangerous substances are authorized to possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

c. The following persons shall not be required to register and may lawfully have under their control or possess controlled dangerous substances under the provisions of this act; provided, however, that nothing in this section shall be construed as conferring on a person who is not registered or licensed as a practitioner or as a pharmacist any authority, right or privilege that is not granted him by the laws of this State:

(1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;

(2) A common carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;

(3) An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule IV substance;

(4) Peace officers or employees in the performance of their official duties requiring possession or control of controlled dangerous

substances; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is authorized for the purpose of aiding peace officers in performing their official duties.

d. The commissioner may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

e. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.

f. The commissioner is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

**C. 24:21-11 Registration.**

11. Registration. a. The State Department of Health shall not register an applicant to manufacture or distribute controlled dangerous substances included in Schedules I through IV of article 2 of this act unless it determines that the issuance of such registration is consistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable State and local laws;

(3) Any convictions of the applicant under any Federal and State laws relating to any controlled dangerous substance;

(4) Past experience in the manufacture of controlled dangerous substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant false or fraudulent material in any application filed under this act;

(6) Suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled dangerous substances as authorized by Federal law; and

(7) Such other factors as may be relevant to and consistent with the public health and safety.

b. Registration granted under subsection a. of this section shall not entitle a registrant to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the registration.

c. Practitioners shall be registered to dispense substances in Schedules II through IV if they are authorized to dispense or conduct research under the law of this State. The commissioner need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled dangerous substances in Schedules II through IV where the registrant is already registered under this article in another capacity. Practitioners registered under Federal law to conduct research in Schedule I substances are permitted to conduct research in Schedule I substances within this State upon furnishing the commissioner evidence of that Federal registration.

d. Compliance by manufacturers and distributors with the provisions of the Federal law respecting registration (excluding fees) entitles them to be registered under this act.

e. The State Department of Health shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution or dispensing of any controlled dangerous substances prior to the effective date of this act and who are registered or licensed by the State.

**C. 24:21-12 Denial, revocation or suspension of registration.**

12. Denial, revocation, or suspension of registration. a. A registration pursuant to section 11 to manufacture, distribute, or dispense a controlled dangerous substance, may be suspended or revoked by the commissioner upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to this act or required by this act; or

(2) Has been convicted of an indictable offense under this act or any law of the United States, or of any State, relating to any substance defined herein as a controlled dangerous substance; or

(3) Has violated or failed to comply with any duly promulgated regulation of the commissioner and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to controlled dangerous substances; or

(4) Has had his Federal registration suspended or revoked by competent Federal authority and is no longer authorized by Federal law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances; or

(5) Has had his registration suspended or revoked by competent authority of another state for violation of its laws or regulations comparable to those of this State relating to the manufacture, distribution or dispensing of controlled dangerous substances.



b. The commissioner may limit revocation or suspension of a registration to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.

c. Before taking action pursuant to this section or pursuant to a denial of registration under section 11, the commissioner shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the commissioner at a time and place stated in the order, but in no event less than 30 days after the date of receipt of the order unless an earlier date is requested by the applicant or registrant and agreed to by the commissioner. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with the provisions of the "Administrative Procedure Act" (C. 52:14B-1 et seq.). Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this act or any law of the State.

d. The commissioner may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section in cases where he finds that there is an imminent danger to the public health or safety. Such suspensions shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the commissioner or dissolved by a court of competent jurisdiction.

e. In the event the commissioner suspends or revokes a registration granted under section 11, all controlled dangerous substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the commissioner be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances may be forfeited to the State.

f. The commissioner shall promptly notify the Bureau of Narcotics and Dangerous Drugs of all orders suspending or revoking registration and all forfeitures of controlled dangerous substances.

**C. 24:21-13 Records of registrants.**

13. Records of registrants. Persons registered to manufacture, distribute, or dispense controlled dangerous substances under this act shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of Federal law and with such additional rules as may be issued by the commissioner.

**C. 24:21-14 Order forms.**

14. Order forms. a. Controlled dangerous substances in Schedule I and II shall be distributed only by a registrant, pursuant to an official written order form, clearly identifying it as covering or relating to Schedule I and Schedule II, or either thereof, controlled dangerous substances and bearing the registration number of the registrant. Except as provided herein, compliance with Federal law respecting order forms shall be deemed compliance with this section.

b. A pharmacist, only upon an official written order, may sell to a practitioner in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions compounded by him of which the content of narcotic drugs or other controlled dangerous substances does not exceed a proportion greater than 20% of the complete solution, to be used for medical purposes.

c. An official written order for any controlled dangerous substance in Schedule I or Schedule II shall be signed in triplicate by the person giving said order or by his duly authorized agent. The original and triplicate shall be presented to the person who sells or dispenses the controlled dangerous substance or substances named therein. In the event of the acceptance of such order by said person, except as may be otherwise required by rule, regulation, or order of the commissioner, each party to the transaction shall preserve his copy of such order for a period of 2 years, in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter.

**C. 24:21-15 Prescriptions.**

15. Prescriptions. a. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as defined in R. S. 45:14-14 may be dispensed without the written prescription of a practitioner; provided that in emergency situations, as prescribed by the State Department of Health by

regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist, if such oral prescription is authorized by Federal law. Prescriptions shall be retained in conformity with the requirements of section 13 of this act. No prescription for a Schedule II substance may be refilled.

b. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedule III which is a prescription drug as defined in R. S. 45:14-14 may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner.

c. No controlled dangerous substance included in Schedule IV may be distributed or dispensed other than for a valid and accepted medical purpose.

d. A practitioner other than a veterinarian who prescribes a controlled dangerous substance in good faith and in the course of his professional practice may administer the same or cause the same to be administered by a nurse or intern under his direction and supervision.

e. A veterinarian who prescribes a controlled dangerous substance not for use by a human being in good faith and in the course of his professional practice may administer the same or cause the same to be administered by an assistant or orderly under his direction and supervision.

f. A person who has obtained a controlled dangerous substance from the prescribing practitioner for administration to a patient during the absence of the practitioner shall return to the practitioner any unused portion of the substance when it is no longer required by the patient or when its return is requested by the practitioner.

g. Whenever it appears to the State Department of Health that a drug not considered to be a prescription drug under existing State law should be so considered because of its abuse potential, it shall so advise the State Board of Pharmacy and furnish to it all available data relevant thereto.

## ARTICLE 4. LABELS AND CONTAINERS

**C. 24:21-16 Form of label on containers of manufacturers and wholesalers; altering or removing label.**

16. Form of label on containers of manufacturers and wholesalers; altering or removing label. Whenever a manufacturer sells or dispenses a controlled dangerous substance in a package prepared by him, he shall securely affix to each package in which that substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of the substance contained therein. Whenever a wholesaler sells or dispenses a controlled dangerous substance in any package or shipping container other than the package in which received from the manufacturer, he shall securely affix to such package a label showing in legible English his name and address.

No person except a pharmacist for the purpose of filling a prescription under this act, shall alter, deface or remove any label so affixed by the manufacturer.

**C. 24:21-17 Form of label to be used by pharmacists; altering or removing label.**

17. Form of label to be used by pharmacists; altering or removing label. Whenever a pharmacist sells or dispenses any controlled dangerous substance on a prescription issued by a practitioner he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the pharmacist or pharmacy owner for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address and registry number of the practitioner by whom the prescription was written; such directions as may be stated on the prescription and such directions as may be required by rules or regulations promulgated by the commissioner.

No person shall alter, deface, or remove any label so affixed as long as any of the original contents remain.

**C. 24:21-18 Drug to be kept in original container.**

18. Drug to be kept in original container. An individual to whom or for whose use any controlled dangerous substance has been prescribed, sold or dispensed, by a practitioner and the owner of any animal for which any such substance has been prescribed, sold, or dispensed by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

## ARTICLE 5. OFFENSES AND PENALTIES

**C. 24:21-19 Prohibited acts A.; manufacturing, distributing, or dispensing; penalties.**

19. Prohibited acts A.—Manufacturing, distributing, or dispensing—Penalties. a. Except as authorized by this act, it shall be unlawful for any person:

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

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

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

(1) A substance classified in Schedules I or II which is a narcotic drug is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 12 years, a fine of not more than \$25,000.00, or both; or

(2) Any other controlled dangerous substance classified in Schedules I, II, or III is guilty of a high misdemeanor and shall be punished by imprisonment for not more than five years, a fine of not more than \$15,000.00, or both; or

(3) A substance classified in Schedule IV is guilty of a misdemeanor and shall be punished by imprisonment for not more than 1 year, a fine of not more than \$5,000.00, or both.

**C. 24:21-20 Prohibited acts B.; possession, use or being under influence; penalties.**

20. Prohibited acts B.—Possession, use or being under influence—Penalties. a. It is unlawful for any person, knowingly or intentionally, to obtain, or to possess, actually or constructively, a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this act. Any person who violates this section with respect to:

(1) A substance classified in Schedule I or II which is a narcotic drug and any other controlled dangerous substance classified in Schedule I, II or III, is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 5 years, a fine of not more than \$15,000.00, or both, except as provided in subsection a. (3) below;

(2) Any controlled dangerous substance classified in Schedule IV is guilty of a misdemeanor and shall be punished by imprisonment

of not more than 1 year, a fine of not more than \$5,000.00, or both; or

(3) Possession of more than 25 grams of marihuana, or more than 5 grams of hashish is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 5 years, a fine of not more than \$15,000.00, or both; provided, however, that any person who violates this section with respect to 25 grams or less of marihuana, or 5 grams or less of hashish is a disorderly person.

b. Any person who uses or who is under the influence of any controlled dangerous substance, as defined in this act, for a purpose other than the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings, is a disorderly person.

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

c. In addition to the general penalty prescribed for a disorderly person's offense pursuant to N. J. S. 2A:169-4, every person adjudged a disorderly person for a violation of this subsection shall, at the discretion of the sentencing judge, forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not more than 2 years from the date of his conviction and until such privilege shall be restored to him by the Director of Motor Vehicles upon application to and after certification by a physician to the director that such person is no longer a drug dependent person within the meaning of this act. The court before whom any person is convicted of a violation of this section shall cause a report of such conviction to be filed with the Director of Motor Vehicles.

**C. 24:21-21 Prohibited acts C.; records and order forms of registered manufacturers and distributors; penalties.**

21. Prohibited acts C.—Records and order forms of registered manufacturers and distributors—Penalties. a. It shall be unlawful for any person:

(1) Who is subject to the requirements of article 3 of this act to distribute or dispense a controlled dangerous substance in violation of section 14;

(2) Who is a registrant, to manufacture, distribute, or dispense a controlled dangerous substance not authorized by his registration;

(3) To omit, remove, alter, or obliterate a symbol, label or mark required by Federal or State law;

(4) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act;

(5) To refuse, any entry into any premises or inspection authorized by this act; or,

(6) Knowingly to keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled dangerous substances in violation of this act for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this act.

b. Any person who violates this section shall be subject to a fine of not more than \$25,000.00; provided, that if the violation is prosecuted by an accusation or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person is guilty of a high misdemeanor and shall be punished by imprisonment for not more than 3 years, or by a fine of not more than \$25,000.00, or both.

**C. 24:21-22 Prohibited acts D.; fraud or misrepresentation by registered manufacturers or distributors; penalties.**

22. Prohibited acts D.—Fraud or misrepresentation by registered manufacturers or distributors—Penalties. a. It shall be unlawful for any person knowingly or intentionally:

(1) Who is a registrant to distribute a controlled dangerous substance classified in Schedule I or II, in the course of his legitimate business, except pursuant to an order form as required by section 14 of this act;

(2) To use in the course of the manufacture or distribution of a controlled dangerous substance a registration number which is fictitious, revoked, suspended or issued to another person;

(3) To acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery, deception or subterfuge;

(4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or

(5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance.

b. Any person who violates this section shall be punished by imprisonment for not more than 3 years, or by a fine of not more than \$30,000.00, or both.

**C. 24:21-23 General penalty.**

23. General Penalty. Any person who violates any provision of this act for which no specific penalty is provided shall be guilty of a misdemeanor.

**C. 24:21-24 Attempt, endeavor and conspiracy.**

24. Attempt, Endeavor and Conspiracy. a. Any person who attempts, endeavors or conspires to commit any offense defined in this act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the endeavor or conspiracy.

b. Information communicated to a practitioner in an effort unlawfully to obtain or procure the administration of a controlled dangerous substance shall not be a privileged communication.

**C. 24:21-25 Additional penalties.**

25. Additional penalties. Any penalty imposed for violation of this act shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law. In any case where a violation of this act is a violation of a Federal law or the law of another state, the conviction or acquittal under Federal law or the law of another state for the same act is a bar to prosecution in this State.

**C. 24:21-26 Distribution to persons under age 18.**

26. Distribution to persons under age 18. a. Any person who is at least 18 years of age who violates subsection 19 a. (1) by distributing a substance listed in Schedules I or II which is a narcotic drug to a person 17 years of age or younger who is at least 3 years his junior is punishable by a term of imprisonment of up to twice that authorized by subsection 19 b. (1), (2) or (3) or by the fine authorized by subsection 19 b. (1), or by both.

b. Any person who is at least 18 years of age who violates subsection 19 a. (1) by distributing any other controlled dangerous



substance listed in Schedules I, II, III or IV to a person 17 years of age or younger who is at least 3 years his junior is punishable by a term of imprisonment up to twice that authorized by subsections 19 b. (2) or (3), or by the fine authorized by subsections 19 b. (2) or (3), or both.

**C. 24:21-27 Conditional discharge for certain first offenses; expunging of records.**

27. Conditional discharge for certain first offenses; expunging of records. Whenever any person who has not previously been convicted of any offense under the provisions of this act or, subsequent to the effective date of this act, under any law of the United States, this State or of any other state, relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of any offense under subsections 20 a. (2) and (3) and b., the court may, without entering a judgment of conviction and with the consent of such person, after proper reference to the Controlled Dangerous Substances Registry, as established and defined in the Controlled Dangerous Substances Registry Act, place such person on probation upon such reasonable terms and conditions as it may require, or as otherwise provided by law. Upon violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities, if any, imposed by law upon conviction of a crime or disorderly person offense, but shall be reported by the clerk of the court pursuant to the Controlled Dangerous Substances Registry Act. Discharge and dismissal under this section may occur only once with respect to any person.

**C. 24:21-28 Expunging of records of young offenders placed on probation.**

28. Expunging of records of young offenders placed on probation. After a period of not less than 6 months, which shall begin to run immediately upon the expiration of a term of probation imposed upon any person under this act, such person, who at the time of the offense was 21 years of age or younger, may apply to the court for an order to expunge from all official records, except from those records maintained under the Controlled Dangerous Substances Registry, as established and defined in the Controlled Dangerous Substances Registry Act of 1970, all recordations of his arrest, trial

and conviction pursuant to this section. If the court determines, after a hearing and after reference to the Controlled Dangerous Substances Registry, that such person during the period of such probation and during the period of time prior to his application to the court under this section has not been guilty of any serious or repeated violation of the conditions of such probation, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied prior to such arrest and trial. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest or trial in response to any inquiry made of him for any purpose.

**C. 24:21-29 Second or subsequent offenses.**

29. Second or subsequent offenses. a. Any person convicted of any offense under this act, if the offense is a second or subsequent offense, shall be punished by a term of imprisonment of up to twice that otherwise authorized, by up to twice the fine otherwise authorized, or by both; provided, however, that this section shall not apply to section 20 a. (2) and (3) and b. offenses.

b. For purposes of this section, an offense shall be considered a second or subsequent offense, if, prior to the commission of the offense, the offender has at any time been convicted of an offense or offenses under this act or under any law of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

**C. 24:21-30 Thefts of large quantities of controlled dangerous substances from legitimate registrants.**

30. Thefts of large quantities of controlled dangerous substances from legitimate registrants. Notwithstanding any other provisions of this article 5, any person who by misrepresentation, fraud, forgery, deception, subterfuge, or by force of arms obtains a controlled dangerous substance or substances in excess of one kilogram from a legitimate registrant or from a common carrier legitimately transporting such substance or substances in the ordinary course of business is guilty of a high misdemeanor and shall be punished by imprisonment of not more than 12 years, or by a fine of not more than \$25,000.00, or both.

## ARTICLE 6. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

## C. 24:21-31 Powers of enforcement personnel.

31. Powers of enforcement personnel. a. It is hereby made the duty of the State Department of Health, its officers, agents, inspectors and representatives, and of all peace officers within the State, and of the Attorney General and all county prosecutors, to enforce all provisions of this act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to narcotic drugs or controlled dangerous substances, and it shall be the duty of the Board of Pharmacy in the Division of Professional Boards in the Department of Law and Public Safety, its officers, agents, inspectors and representatives also to assist the State Department of Health, peace officers and county prosecutors in the enforcement of all provisions of this act relating to the handling of controlled dangerous substances by pharmacy owners and pharmacists.

b. Authority is hereby granted to the Commissioner of Health:

(1) To promulgate all necessary rules and regulations for the efficient enforcement of this act;

(2) To promulgate, insofar as applicable, regulations from time to time promulgated by the Attorney General of the United States;

(3) To promulgate an order relative to any controlled dangerous substance under this act when the delay occasioned by acting through promulgation of a regulation would constitute an imminent danger to the public health or safety.

(a) An order of the commissioner shall take effect immediately, but it shall expire 120 days after promulgation thereof. Rules and regulations pursuant to such order may be adopted and promulgated by the commissioner but they shall not take effect until he has given due notice of his intention to take such action and has held a public hearing.

(b) Any person who denies that a drug or pharmaceutical preparation is properly subject to an order by the commissioner which applies the provisions of this act to such drug or pharmaceutical preparation, may apply to the commissioner for a hearing which must be afforded, except where a drug or pharmaceutical preparation has been the subject of a prior hearing or determination by the commissioner, in which case a hearing shall be discretionary with the commissioner. In such case a decision must be rendered by the commissioner or his designee within 48 hours of the request for a hearing. If the petitioning

party is aggrieved by the decision, he shall have the right to apply for injunctive relief against the order. Jurisdiction for such injunctive relief shall be in the Superior Court of New Jersey by way of summary proceedings.

c. In addition to the powers set forth in subsection a. of this section, any officer or employee of the State Department of Health designated by the commissioner may:

(1) Execute search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this State;

(2) Make seizures of property pursuant to the provisions of this act; and

(3) Perform such other law enforcement duties as may be designated by the commissioner with the approval of the Attorney General.

**C. 24:21-32 Administrative inspections and warrants.**

32. Administrative inspections and warrants. a. Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of a court having jurisdiction in the municipality where the inspection or seizure is to be conducted, may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of the act or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by section 31 to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or con-

veyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

(4) The judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

b. The commissioner is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this article only, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under this act are required to keep records, and

(b) Places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under this act are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to subsection a.(1) of this section an officer or employee designated by the commissioner upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting an administrative inspection.

(3) When so authorized by an administrative inspection warrant, an officer or employee designated by the commissioner shall have the right:

(a) To inspect and copy records required by this act to be kept;

(b) To inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection b. (5) of this section, all other things therein including records, files, papers, processes, controls, and facilities bearing on violation of this act; and

(c) To inventory any stock of any controlled dangerous substance therein and obtain samples of any such substance.

(4) This section shall not be construed to prevent entries and administrative inspections (including seizures of property) without a warrant:

(a) With the consent of the owner, operator or agent in charge of the controlled premises;

(b) In situations presenting imminent danger to health or safety;

(c) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and,

(e) In all other situations where a warrant is not constitutionally required.

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:

(a) Financial data;

(b) Sales data other than shipment data;

(c) Pricing data;

(d) Personnel data; or

(e) Research data.

**C. 24:21-33 Injunctions.**

33. Injunctions. The Superior Court shall have jurisdiction in accordance with the rules of court to enjoin violations of this act.

**C. 24:21-34 Cooperative arrangements.**

34. Cooperative arrangements. a. The commissioner may cooperate with Federal and other State agencies in discharging his responsibilities concerning traffic in dangerous substances and in suppressing the abuse of dangerous substances. To this end, he is authorized to:

(1) Except as otherwise provided by law, arrange for the exchange of information between government officials concerning the use and abuse of dangerous substances; provided, however, that in no case shall any officer having knowledge by virtue of his office of any such prescription, order or record divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer to which prosecution or proceeding the person to whom the records relate, is a party;

(2) Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and State levels;

(3) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

b. Results, information, and evidence received from the Bureau of Narcotics and Dangerous Drugs relating to the regulatory functions of this act, including results of inspections conducted by that agency, may be relied upon and acted upon by the commissioner in conformance with his regulatory functions under this act.

**C. 24:21-35 Nuisances and forfeitures.**

35. Nuisances and Forfeitures. a. The maintenance of any building, conveyance or premises whatever which is resorted to by persons for the unlawful manufacture, distribution, dispensing, administration or use of controlled dangerous substances shall constitute the keeping of a common nuisance.

b. The following shall be subject to forfeiture and no property right shall exist in them:

(1) All controlled dangerous substances which have been manufactured, distributed, dispensed or acquired in violation of the provisions of this act;

(2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled dangerous substance in violation of the provisions of this act;

(3) All property which is used or intended for use, as a container for property described in subsections b. (1) and (2) above;

(4) All conveyances including aircraft, vehicles, or vessels, which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in b. (1) or (2) above, except that:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this chapter unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this act, and

(b) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission, established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state, and

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.

c. Any property subject to forfeiture under this act may be seized by the State or any person charged with enforcement of this act, upon process issued by any court of competent jurisdiction over the property except that seizure without such process may be made when:

(1) It is not inconsistent with the Constitution of this State and the United States;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this act;

(3) The commissioner or any other person charged with enforcement of this act has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The commissioner or any other person charged with enforcement of this act has probable cause to believe that the property has been used or intended to be used in violation of this act.

In the event of seizure pursuant to paragraphs (3) and (4) of this subsection, proceedings under subsection d. of this section shall be instituted promptly.

d. Property taken or detained under this section shall not be replevable, but shall be deemed to be in the custody of the State or political subdivision, acting as agent for the State, whichever



may have seized said property, and subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under the provisions of this act, the State may:

- (1) Place the property under seal;
- (2) Remove the property to a place designated by it; or
- (3) Require that the political subdivision or State take custody of the property and remove it to an appropriate location for disposition in accordance with law.

e. Whenever any property, including motor vehicles and other conveyances, is forfeited under this act, it shall be forthwith deposited in the custody of the Director of the Division of Purchase and Property, State Department of the Treasury, whereupon disposition of such property shall be carried out in the following manner:

- (1) Any State agency or bureau, or any county or municipality, having a demonstrated need for specific property or classes of property, subject to forfeiture under this act, shall make application for such property to the Director of the Division of Budget and Accounting, State Department of the Treasury, and shall clearly set forth in the application his or its need for the property and the use to which such property will be put; and

- (2) The Director of the Division of Budget and Accounting shall review all applications for such property submitted pursuant to subsection e. (1) of this section, and shall make a determination based on necessity and advisability, as to final disposition, and shall so notify the applicant and the Director of Purchase and Property, subject to such rules and regulations as may be required.

- (3) In the event no application or disposition is made under (1) or (2) above the Director of Purchase and Property shall dispose of such property in the manner authorized by law for disposal of surplus property.

f. All substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of the provisions of this act shall be deemed contraband and seized and summarily forfeited to the State of New Jersey. Similarly, all substances listed in Schedule I, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the State of New Jersey.

- (1) All species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultiva-

tors are unknown, or which are wild growths, may be seized and summarily forfeited to the State of New Jersey.

(2) The failure upon demand by the commissioner, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

g. Whenever any property is subject to forfeiture under this act, such forfeiture may be enforced by a civil action, commenced by the seizing authority in the name of the State of New Jersey and against the property sought to be forfeited.

(1) Complaint. The complaint shall be verified on oath or affirmation. It shall describe with reasonable particularity the property that is the subject matter of the action and the place of seizure and shall contain such allegations as may be required by this act.

(2) Process. Upon the filing of the complaint, the clerk shall forthwith issue a warrant for the seizure of the property that is the subject matter of the action and deliver it to the sheriff for service.

(3) Notice. The notice requirements of the Rules of Court for an in rem action shall be followed.

(4) Claim and answer. The claimant of property that is the subject of an action under this section shall file his claim within 10 days after the execution of process, or within such additional time as may be allowed by the court, and shall serve his answer within 20 days after the filing of the claim. The claim shall be verified on oath or affirmation, and shall state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made on behalf of the person entitled to possession by an agent, bailee or attorney, it shall state that he is duly authorized to make the claim. At the time of answering the claimant shall also serve answers to any interrogatories served with the complaint.

**C. 24:21-36 Reports of convictions of manufacturers and practitioners.**

36. Reports of conviction of manufacturers and practitioners. Whenever a manufacturer or practitioner is convicted of violating any provision of this act or of a rule or regulation issued thereunder, the court shall cause a copy of the judgment and sentence and opinion of the court, if any, to be sent to the State Department or professional board, as the case may be, by which the defendant was registered or licensed.

**C. 24:21-37 Burden of proof; liabilities; immunity.**

37. Burden of proof; liabilities; immunity. a. It shall not be necessary for the State to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this act, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

b. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this act, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

c. No liability shall be imposed by virtue of this act upon any duly authorized State officer, engaged in the enforcement of this act, who shall be engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances.

**C. 24:21-38 Judicial review.**

38. Judicial review. All final determinations, findings and conclusions of the commissioner under this act shall be final and conclusive decisions of the matters involved, subject to the provisions for judicial review provided by the Rules of Court.

## ARTICLE 7. MISCELLANEOUS

**C. 24:21-39 Reports by practitioners of drug dependent persons.**

39. Reports by practitioners of drug dependent persons. Every practitioner, within 24 hours after determining that a person is a drug dependent person by reason of the use of a controlled dangerous substance for purposes other than the treatment of sickness or injury prescribed and administered as authorized by law, shall report such determination verbally or by mail to the Commissioner of the State Department of Health. Such a report by a physician shall be confidential and shall not be admissible in any criminal proceeding. The commissioner, in his discretion, may also treat any other reports submitted under this section as confidential if he determines that it is in the best interest of the drug dependent person and the public health and welfare. A practitioner who fails to make a report required by this section is a disorderly person.

**C. 24:21-40 Pending proceedings.**

40. Pending proceedings. a. Prosecutions for any violation of law occurring prior to the effective date of this act shall not be affected or abated by the repealers contained in section 47 of this act.

b. Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this act shall not be affected or abated by the repealers contained in section 47 of this act.

c. All administrative proceedings pending before any enforcing authority on the effective date of this act shall be continued and brought to final determination in accord with laws and regulations in effect prior to the effective date of this act. Such drugs placed under control prior to the effective date of this act which are not listed within Schedules I through IV shall automatically be controlled and listed in the appropriate schedule.

d. The provisions of this act shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

**C. 24:21-41 Continuation of regulations.**

41. Continuation of regulations. Any orders, rules and regulations which have been promulgated under any law affected by this act and which are in effect on the day preceding the effective date of this act shall continue in effect until modified, superseded or repealed by the State Department of Health.

**C. 24:21-42 Uniformity of interpretation.**

42. Uniformity of interpretation. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**C. 24:21-43 Severability of act.**

43. Severability. If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the case in which said judgment shall have been rendered.

44. Section 1 of P. L. 1962, chapter 113 (C. 2A:170-77.8) is amended to read as follows:

**C. 2A:170-77.8 Unlawful possession of prescription legend drugs.**

1. Except as hereinafter provided, any person who uses or is under the influence of, or who possesses or has under his control, in any form, any prescription legend drug which is not a narcotic, depressant or stimulant drug or controlled dangerous substance within the meaning of existing law, unless obtained from, or on a

valid prescription of, a duly licensed physician, veterinarian or dentist, is a disorderly person.

In a prosecution under this act, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug or drugs, but it shall be sufficient for a conviction under this act for the State to prove that the accused did use or was under the influence of some drug or drugs as aforesaid by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any such drug.

45. Section 2 of P. L. 1962, chapter 113 (C. 2A:170-77.9) is amended to read as follows:

**C. 2A:170-77.9 Unlawful sale of prescription legend drugs.**

2. Except as hereinafter provided, any person who sells, dispenses or gives away, in any form, any prescription legend drug which is not a narcotic, depressant or stimulant drug or controlled dangerous substance within the meaning of existing law, is a disorderly person.

**C. 24:21-44 Study and review of certain penalties by Legislature.**

46. Within 1 year after the date the Federal Commission on Marihuana and Drug Abuse submits its report to the President and the United States Congress, the Legislature shall conduct a comprehensive study and review of the penalties established in this act concerning offenses relating to the use and possession of marihuana.

**C. 24:21-45 Repealer.**

47. The following acts and parts of acts are repealed:

R. S. 24:18-1 to 24:18-7, 24:18-9 to 24:18-16, 24:18-18 to 24:18-28, 24:18-30 to 24:18-48 (constituting the remaining sections in chapter 18 of Title 24 of the Revised Statutes not previously repealed); P. L. 1953, chapter 190 (C. 24:18-24.1, 24:18-24.2); P. L. 1951, chapter 57 (C. 24:18-38.1 to 24:18-38.3); P. L. 1966, chapter 314, sections 1-3 (C. 24:6C-1 to 24:6C-3); N. J. S. 2A:170-8.

48. Effective date. This act shall take effect on the ninetieth day following the date of its enactment.

Approved October 19, 1970.