



OFFICE OF THE MERCER COUNTY PROSECUTOR

ANGELO J. ONOFRI

Prosecutor

JESSICA PLUMERI

Chief of County Detectives

209 S. Broad Street, 3rd Floor
P.O. Box 8068
Trenton, New Jersey 08650-0068
Phone: (609) 989-6350
mercercountypProsecutor.com

STEPHANIE A. KATZ

First Assistant Prosecutor

TAREK A. ELKACHOUTY

Deputy Chief of County Detectives

LAW ENFORCEMENT DIRECTIVE 21-03

**TO: ALL CHIEFS OF POLICE / POLICE DIRECTORS /
SHERIFF JACK KEMLER**

**FROM: ANGELO J. ONOFRI
MERCER COUNTY PROSECUTOR** *Angelo J. Onofri*

**RE: MARIJUANA DECRIMINALIZATION AND LEGALIZED CANNABIS
PUBLIC LAWS 2021, CHAPTERS 16, 19 AND 25**

DATE: MARCH 9, 2021

I. INTRODUCTION

As you are aware, on February 22, 2021, Governor Murphy signed Public Laws 2021, Chapter 16 (legalized cannabis), Chapter 19 (marijuana decriminalization), and Chapter 25 (clarifying provisions commonly referred to as the "clean-up" bill).

Chapter 16 legalizes "regulated cannabis", which is a substance bought, sold, and used under specific circumstances that will be fully legal in New Jersey, and establishes the New Jersey Cannabis Regulatory Commission which will adopt and implement the rules and regulations concerning legalized and regulated cannabis. However, regulated cannabis will not be available in New Jersey for several months until the new government entity, the Cannabis Regulatory Commission, issues the rules and regulations governing the regulated sales and use of cannabis.

Chapter 19 establishes that all forms of the substance that are not regulated or medical cannabis are treated as "marijuana" and "hashish" which are still controlled dangerous substances under N.J.S.A. 2C:35-2. Marijuana and hashish are generally decriminalized for non-distribution offenses. The new laws eliminate existing prohibitions and penalties while creating new and more lenient provisions for the possession and distribution of marijuana and hashish which are tiered and based on weight.

II. NEW LIMITS FOR MARIJUANA AND HASHISH

For your reference, I have attached the Attorney General's Interim Guidance Regarding Marijuana Decriminalization. On page two (2) of the Guidance, the new weight thresholds are summarized both for possession under N.J.S.A. 2C:35-10 and distribution under N.J.S.A. 2C:35-5(b). Please note that possession with the intent to distribute also applies within the distribution framework.

As you will note, the following conduct **no longer violates state law** as of February 22, 2021:

- Simple possession of six (6) ounces or less of marijuana, N.J.S.A. 2C:35-10(a)(4)(b);
- Simple possession of seventeen (17) grams or less of hashish, N.J.S.A. 2C:35-10(a)(4)(b);
- Being under the influence of marijuana or hashish, N.J.S.A. 2C:35-10(c);
- Failure to make lawful disposition of marijuana or hashish, N.J.S.A. 2C:35-10(c);
- Possession of paraphernalia for marijuana or hashish, N.J.S.A. 2C:36-2; and,
- Possession of marijuana or hashish while operating a motor vehicle, N.J.S.A. 39:4-49.1.

Where an officer observes the distribution of one (1) ounce or less of marijuana or five (5) grams or less of hashish, officers shall issue a written warning to individuals for their first offense. This applies even if the person has previous convictions for marijuana distribution. However, a mechanism has not been established to track the warnings on a statewide basis. The Attorney General advises that law enforcement agencies "should rely on existing resources" to track the warnings.

For a second or subsequent offense of the above provisions, it is a fourth degree crime. Grading, based on weight, is also set forth on page 2.

It should be noted that officers may not detain, arrest, or otherwise take into custody an individual for violating the following marijuana or hashish offenses:

- Simple possession of marijuana of more than six (6) ounces, N.J.S.A. 2C:35-10(a)(3)(b);

- Simple possession of hashish over 17 grams, N.J.S.A. 2C:35-10(a)(3)(b);
- Distribution of one (1) ounce or less of marijuana, N.J.S.A. 2C:35-5(b)(12)(b); and,
- Distribution of five (5) grams or less of hashish, N.J.S.A. 2C:35-5(b)(12)(b).

These above offenses are fourth degree offenses (except when an individual engages in their first violation of distribution of marijuana – 1 ounce or less – or distribution of hashish – 5 grams or less) and are to be charged on a complaint–summons and not a complaint–warrant. These individuals should not be fingerprinted until their initial court appearance on the summons.

It is imperative that your officers be instructed that THE ODOR OF MARIJUANA OR HASHISH, WHETHER BURNT OR RAW, NO LONGER CONSTITUTES PROBABLE CAUSE OR A REASONABLE ARTICULABLE SUSPICION TO INITIATE A STOP OR SEARCH A PERSON OR THEIR VEHICLE to determine a violation of a possession or a fourth degree distribution offense. This also applies to alcohol possession and the PLAIN VIEW DOCTRINE.

III. RULES FOR THOSE UNDER 21

Under the new law, the framework for those persons under the age of 21, who possess or consumes any amount of marijuana, hashish, cannabis, or alcohol in a school or other public place is as follows:

- **First Offense:** Written warning (which **must** include the person's name, address, and, date of birth). This written warning **shall not** be shared with the person's parent or guardian.
- **Second Offense:** Written warning and also provide the individual with informational materials on drug treatment services. If the individual is under 18, a copy of the first and second warnings to the parent or guardian.
- **Third or Subsequent Offense:** Written warning and information on drug treatment programs. If the person is between the ages of 18 and 21, the issuing officer shall provide notice of the written warning to the drug treatment program in the community. If the individual is under 18, a copy of the written warning shall again be provided to the parent or guardian.¹

¹ Individuals may not be detained or taken into custody except to the extent necessary to issue the written warning, provide notice to the parent/guardian or make the referral to the drug program. This does not apply if the individual is being taken into custody for committing another offense if legally permitted.

Law enforcement officers must retain:

- A copy of the written warnings;
- A sworn statement describing the factual circumstances that support the finding of a violation;
- Audio and video components of BWCs which must be activated for the entirety of the encounter and may not be deactivated until the encounter has concluded. The BWC cannot be deactivated even if requested;
- Records are to be retained for two (2) years or until the offender attains 21 years of age, whichever occurs sooner. These records must be kept separate from all other records.

Again, law enforcement agencies should develop new mechanisms to track the issuance of these warnings. Law enforcement may seize the marijuana, cannabis, hashish, and alcohol.

Further, the odor of marijuana, hashish, or alcohol alone neither constitutes a reasonable, articulable suspicion to initiate a stop of a person under the age of 21 nor does it provide probable cause to search the person's personal property or vehicle to determine a violation of N.J.S.A. 2C:33-15(a)(1). This also applies to plain sight. A person under the age of 21 is deemed incapable of consenting to a search to determine a violation of N.J.S.A. 2C:33-15(a)(1) and the officer may not ask for consent. However, if the person is over the age of 18, an officer may ask for consent if he/she believes there is other criminal conduct.

If the officer engages in any of this prohibited conduct related to N.J.S.A. 2C:33-15(a)(1), they may be criminally charged with violating the individual's civil rights regardless of the officer's intent.

This office realizes that the new laws are a sea change for law enforcement and guidance from the Attorney General will be issued as new questions and concerns are raised. Accordingly, we will issue an "on-call" list for marijuana-related issues. Further, the Attorney General is establishing a listserve for marijuana issues. First Assistant Prosecutor Stephanie Katz (skatz@mercercounty.org; cell [REDACTED]) and Executive Assistant Prosecutor Mike Borgos (mborgos@mercercounty.org; cell: [REDACTED]) are designated as our liaisons for adult marijuana questions to be submitted to the Attorney General. Please designate an adult marijuana liaison (including e-mail address and cell phone number) so we can create our own listserve. Assistant Prosecutor Jennifer Moran (jmoran@mercercounty.org; cell: [REDACTED]) will be the contact for all juvenile marijuana issues and questions.

We are formulating a training which we hope to present in the next few weeks.

IV. ADDITIONAL GUIDANCE FROM THE ATTORNEY GENERAL

a. Community Caretaking Function

The Attorney General has been crystal clear that all law enforcement officials have the obligation to assist those who are highly intoxicated or under the influence of a controlled dangerous substance as part of the community caretaking function regardless of the person's age and independent of N.J.S.A. 2C:33-15. Officers are required to call for medical assistance.

b. Use of K-9s

Given that the plain smell doctrine has been eliminated to establish probable cause in marijuana possession/distribution cases, K-9s imprinted on marijuana cannot be used to establish probable cause for a marijuana possession/low level distribution case. However, K-9s that are imprinted on marijuana can still be used in the execution of search warrants where probable cause for the search warrant has been established through other means (i.e., surveillance, UC buys, etc.).

The Attorney General has also taken the position that K-9s imprinted on marijuana can be used for administrative searches (such as in schools, prisons). Here again, the positive indication by the K-9 is not probable cause for further law enforcement action or charges under the New Jersey Criminal Code. Rather, the positive indication can be provided to the principal or warden and they may take the appropriate administrative action.

c. Marijuana on School Property

This issue has arisen a few times since February 22. The best advice is for officers not to get involved in these matters; officers should instead have school authorities handle the matter. However, officers should accept any marijuana seized by the school administrators. The marijuana should be entered into evidence as "found property" with the name of the administrator, and not the student, who turned over the marijuana.

I am also attaching the most recent FAQs issued by the Attorney General as well as a marijuana reference card. These documents should be distributed to your officers.

Should you have any questions, please feel free to contact me.



State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

GURBIR S. GREWAL
Attorney General

VERONICA ALLENDE
Director

TO: All Law Enforcement Officers

FROM: Gurbir S. Grewal, Attorney General

DATE: February 22, 2021

SUBJECT: **Interim Guidance Regarding Marijuana Decriminalization**

Earlier today, Governor Phil Murphy signed three bills changing the legal status of marijuana. These laws, which went into immediate effect, create a two-tier framework:

- **Regulated cannabis.** When the substance is bought, sold, and used under certain conditions, it is treated as “regulated cannabis” and fully legal in New Jersey. As a practical matter, however, regulated cannabis will not be available in the State for several months until a new government body, the Cannabis Regulatory Commission, issues rules governing its use.
- **Marijuana and hashish.** All forms of the substance that are not regulated cannabis or medical cannabis are treated as “marijuana” or “hashish.” Under the new laws, marijuana and hashish are still defined as “controlled dangerous substances” under N.J.S.A. 2C:35-2 but are largely decriminalized for non-distribution offenses. The laws eliminate existing prohibitions and create new, more lenient penalties for possession and distribution that remain tiered based on weight.

This document is designed to provide interim guidance to law enforcement officers regarding the treatment of marijuana and hashish under the new laws. In addition, today I am issuing a separate document answering a number of the questions most commonly asked by law enforcement officials about marijuana enforcement. My office will continue to update that document and post answers on our website in the coming weeks and months. In the meantime, all officers are encouraged to familiarize themselves with the three new laws, which are codified as chapters 16 (legalized cannabis), 19 (marijuana decriminalization), and 25 (clarifying provisions) of the 2021 Public Laws.



I. New Limits on Marijuana and Hashish

As of February 22, 2021, the following conduct no longer violates state law:

- Simple possession of 6 ounces or less of marijuana, 2C:35-10(a)(4)(b);
- Simple possession of 17 grams or less of hashish, 2C:35-10(a)(4)(b);
- Being under the influence of marijuana or hashish, 2C:35-10(b);
- Failure to properly dispose of marijuana or hashish, 2C:35-10(c);
- Possession of paraphernalia for marijuana or hashish, 2C:36-2; and
- Possession of marijuana or hashish as a motor vehicle operator, 39:4-49.1.

In addition, the following weight thresholds now apply to the possession and distribution¹ of marijuana and hashish:

Possession – 2C:35-10			
Marijuana	Hashish	Subsect.	Degree
More than 6 oz.	More than 17 g.	3(b)	Fourth
6 oz. or less	17 g. or less	4(b)	Not a crime

Distribution – 2C:35-5(b)			
Marijuana	Hashish	Subsect.	Degree
25 lbs. or more	5 lbs. or more	10(a)	First
5 lbs. or more	1 lbs. or more	10(b)	Second
More than 1 oz.	More than 5 g.	11(b)	Third
1 oz. or less	5 g. or less	12(b)	[See below]

As part of these revised thresholds, the law creates a new framework for individuals who distribute 1 ounce or less of marijuana or 5 grams or less of hashish:

- **First offense.** Officers shall issue a written warning to individuals for their first offense. In the coming weeks, law enforcement agencies will need to build new mechanisms to track the issuance of such warnings. In the interim, agencies should rely on existing resources to track warnings and, out of an abundance of caution, treat any individual's offense as a first offense unless the officer has clear evidence of a prior violation.
- **Second or subsequent offense.** Individuals who engage in a second or subsequent violation of the statute are subject to a complaint-summons for a fourth-degree crime.

¹ Under the new law, the prohibitions against distribution of marijuana also apply to possession with intent to distribute marijuana. Therefore, all references to "distribution" in this guidance document also apply to conduct that involves possession with intent to distribute.

In addition to these changes, law enforcement officers may no longer detain, arrest, or otherwise take into custody an individual for violating certain marijuana or hashish offenses. Instead, officers should collect the individual's personal information and process them accordingly. Those offenses are:

- Simple possession of more than 6 ounces of marijuana, 2C:35-10(a)(3)(b);
- Simple possession of more than 17 grams of hashish, 2C:35-10(a)(3)(b);
- Distribution of 1 ounce or less of marijuana, 2C:35-5(b)(12)(b); and
- Distribution of 5 grams or less of hashish, 2C:35-5(b)(12)(b).

All four of these offenses constitute fourth-degree crimes, except when an individual engages in their first violation of the distribution offenses (which, as noted above, only results in a warning). Officers should therefore charge these fourth-degree offenses by complaint-summons rather than complaint-warrant, and should not fingerprint the individual until their initial court appearance on the summons.

Finally, the odor of marijuana or hashish, either burnt or raw, by itself no longer establishes "reasonable articulable suspicion" to initiate a stop or search of a person or their vehicle to determine a violation of a possession offense or a fourth-degree distribution offense.

II. Special Rules for Those Under the Age of 21

The law also establishes a new framework for individuals under the age of 21 who possess or consume any amount of marijuana, hashish, cannabis, or alcohol in any public place, including a school:

- **First offense.** Officers shall issue a written warning, which must include the person's name, address, and date of birth, but the warning shall *not* be provided to the individual's parent or guardian.
- **Second offense.** Officers shall issue a written warning, and also provide the person with informational materials on community drug treatment services. For individuals under the age of 18, the officer shall provide the individual's parent or guardian with copies of the warnings issued for both the first and second offenses.
- **Third or subsequent offense.** Officers shall issue a written warning and again provide the individual with information on community drug treatment services. If the individual is between 18 and 21, then the officer shall provide notice of the written warning to the community drug treatment program; if the individual is under 18, then the officer shall again provide the juvenile's parents or guardian with a copy of the written warning.

Law enforcement officers must also retain, with any of the written warnings outlined above, a sworn statement with a description of the factual circumstances that support a finding of the

violation. As with the new warning system required for adults who distribute small amounts of marijuana, this new framework for individuals under the age of 21—codified at N.J.S.A. 2C:33-15—will require law enforcement agencies to develop new mechanisms to track the issuance of these warnings. In the interim, agencies should use existing resources to track this information. Additional guidance on this issue will be forthcoming.

Please note that, under this framework, officers may not fingerprint individuals under the age of 21 for their first, second, third, or subsequent offenses. However, if an individual under 21 is in possession of more than 6 ounces of marijuana or 17 grams of hashish, that individual is also in violation of N.J.S.A. 2C:35-10(a)(3)(b), a fourth-degree crime, and may be issued a complaint-summons and fingerprinted at their first court appearance.

The new law also prohibits law enforcement officers from engaging in certain actions when investigating an individual under the age of 21 for possession of marijuana, hashish, cannabis, or alcohol, in violation of N.J.S.A. 2C:33-15(a)(1). Importantly, officers who violate these provisions may be charged criminally with depriving the individual of their civil rights, *regardless of whether the officer intended to do so*. Prohibited conduct includes:

- Officers shall not ask an individual under 21 for consent to search the person to determine a violation of that crime. (However, if the individual is over 18 and the officer reasonably believes that other criminal activity is afoot, the individual may grant consent to search);
- The odor of marijuana, hashish, or alcohol no longer constitutes reasonable articulable suspicion to initiate a stop of an individual under the age of 21, nor does it provide probable cause to search the person's personal property or vehicle to determine a violation of N.J.S.A. 2C:33-15(a)(1).
- The unconcealed possession of an alcoholic beverage, marijuana, hashish, or cannabis item in violation of N.J.S.A. 2C:33-15(a)(1) that is observed in plain sight shall not constitute probable cause to initiate a search of an individual under the age of 21 or that individual's personal property or vehicle to determine a violation of any law.
- An individual under the age of 21 who violates N.J.S.A. 2C:33-15(a)(1) shall not be arrested, detained, or otherwise taken into custody except to the extent required to issue a written warning or provide notice of a violation to a parent/guardian, unless the person is being arrested, detained, or otherwise taken into custody for also committing another violation of law for which that action is legally permitted or required.
- When responding to a violation or suspected violation of N.J.S.A. 2C:33-15(a)(1), law enforcement officers must activate their body worn cameras, which must remain activated throughout the encounter.



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

GURBIR S. GREWAL
Attorney General

VERONICA ALLENDE
Director

Issued February 22, 2021
Updated March 8, 2021

Frequently Asked Questions
Marijuana Decriminalization and Legalized Cannabis

This document contains frequently asked questions (FAQs) to address some of the substantial issues, concerns, and situations that will arise for law enforcement as we all strive to understand, implement, and apply the new cannabis legalization and marijuana decriminalization laws. We anticipate expanding the FAQs as we encounter additional, and more subtle and complex, issues and gain experience and insight into the challenges presented by the new laws.

1. What should an officer do if they smell marijuana coming from a vehicle during a motor vehicle stop?

First, the officer should take the traditional investigative steps to determine if there is probable cause to believe that the driver is operating the vehicle while under the influence, in violation of N.J.S.A. 39:4-50. If so, the driver may be arrested and the vehicle may be searched. If the driver is not found to be under the influence, the new laws are clear that the odor of marijuana, either burned or raw, by itself does not establish reasonable suspicion to justify a continued stop, nor probable cause to conduct a search of the vehicle or the person, in a marijuana possession case or even in a low-level (fourth-degree) possession with intent to distribute marijuana case. As a result, the vehicle and occupants must be released once the initial reason for the stop has been addressed.

2. May an officer initiate or continue a pedestrian stop of an individual based on the officer detecting the odor of marijuana?

No, the new laws are clear that the odor of marijuana, either burned or raw, by itself does not establish reasonable suspicion to justify or continue a pedestrian stop. In addition, the odor of marijuana by itself does not establish probable cause to conduct a search in a marijuana possession case or even a low-level (fourth-degree) possession with intent to distribute marijuana case. The age of the person being stopped is irrelevant in these situations.



3. What happens when a law enforcement officer encounters an individual under the age of 21 who is in possession of marijuana, hashish, cannabis, or alcohol?

Law enforcement officers must be cautious when they encounter an individual under the age of 21 who is in possession of marijuana, hashish, cannabis, or alcohol. The officer can seize the marijuana, hashish, cannabis, and alcohol and issue the appropriate written warning. However, the new law also sets forth the following prohibitions on officers when investigating possession or consumption of marijuana, hashish, cannabis, or alcohol by an underage individual to determine a violation of N.J.S.A. 2C:33-15:

- *Officers may not request consent from an individual who is under the age of 21;*
- *Officers may not use odor of marijuana to stop an individual who is under the age of 21 or to search the individual's personal property or vehicle;*
- *Officers who observe marijuana in plain view will not be able to search the individual or the individual's personal property or vehicle; and*
- *Officers may not arrest, detain, or otherwise take an individual under the age of 21 into custody for a violation of N.J.S.A. 2C:33-15 except to the extent required to issue a written warning or provide notice of a violation to a parent/guardian (note: the officer may only notify the parent/guardian when it is the juvenile's second or subsequent warning; under the law, the officer is precluded from notifying the juvenile's parent/guardian for the first written warning;¹ and there is no requirement or restriction on parent/guardian notification for individuals between 18 and 21 years of age).*

4. Does the new law alter the use of an officer's body worn camera (BWC) in any way?

The law requires that whenever an officer is equipped with a BWC, the BWC must be activated when responding to or handling a call involving a violation or suspected violation of the amended N.J.S.A. 2C:33-15, which addresses the underage possession or consumption of alcohol, marijuana, hashish, or cannabis. The BWC may not be deactivated for any reason throughout the entire encounter. Underage refers to people under the age of 21.

5. How do decriminalization and legalization change fingerprinting?

Marijuana is still by definition pursuant to N.J.S.A. 2C:35-2 a "controlled dangerous substance," and, therefore, appropriately charged violations involving marijuana or hashish are still subject to fingerprint compliance under N.J.S.A. 53:1-18.1. However, when law enforcement officers encounter an individual who has violated N.J.S.A. 2C:35-5(b)(12)(b) (distribution/possession with intent to distribute 1 ounce or less) or N.J.S.A. 2C:35-10(a)(3)(b) (possession of more than 6 ounces), the officer is prohibited under the law from arresting, detaining, or otherwise bringing that individual into the station for those offenses, which means the officer will generally be unable to fingerprint the violator

¹ Procedures for written warnings for juveniles may change. Should there be an amendment, this document will be updated.

at the time of the incident. Therefore, those individuals must be fingerprinted at their first court appearance.

Individuals under the age of 21 who are in violation of N.J.S.A. 2C:33-15 are precluded from being fingerprinted for that offense under the new law.

6. What is the difference between marijuana and cannabis?

Despite the different names, there is no difference in substance, as the two terms both describe parts of the plant Cannabis sativa L.. However, the law now creates a distinction between legal "cannabis," which is parts of the plant cultivated and produced for use in a cannabis item regulated by the Cannabis Regulatory Commission in accordance with the provisions of P.L.2021, c.16 (the cannabis legalization act), and illegal "marijuana," which is parts of the same plant that have not been subject to Cannabis Regulatory Commission regulation. Cannabis may be legally manufactured and distributed, while marijuana may not.

Until the Cannabis Regulatory Commission promulgates and implements regulations governing the cultivation, production, processing, distribution and consumption of cannabis in accordance with P.L.2021, c.16, legal cannabis does not exist, and (except for regulated medical cannabis) any Cannabis sativa L. cultivated and produced until that time is to be considered marijuana and remains illegal and subject to seizure.

7. May law enforcement officers continue to use K-9s to "sniff" for the odor of marijuana?

The new laws are clear that the odor of marijuana alone may not be used to establish reasonable suspicion for a stop, nor probable cause for a search, to determine a violation of marijuana possession, low-level (fourth-degree) distribution, or underage possession or consumption under N.J.S.A. 2C:33-15. Therefore, a K-9 which has been trained to alert, or signal its handler, when it detects the odor of marijuana may not be used to "sniff" in these situations.

However, K-9s may still be used in the investigation of higher-level marijuana distribution cases. In such cases, if significant circumstances exist demonstrating a higher-level of marijuana distribution, a K-9 may be used to alert for the presence of marijuana. The totality of those factors, including the odor, may be considered to develop reasonable suspicion for a stop or probable cause for a search, but only in these higher-level marijuana distribution cases. In addition, K-9s may still be used in non-criminal investigations in places such as correctional facilities, when locating marijuana will generally result only in administrative violations and not criminal charges or warnings pursuant to N.J.S.A. 2C:33-15.

8. Can a law enforcement officer use marijuana while off duty without consequence?

No. Until the Cannabis Regulatory Commission promulgates and implements regulations, there is no regulated, legal cannabis in New Jersey. Therefore, any marijuana consumed by a law enforcement officer or applicant for a law enforcement position will be a controlled dangerous substance and illegal. The Attorney General's Law Enforcement Drug Testing Policy remains unchanged.

- 9. What should an officer do if an underage individual (under 21) refuses to provide identifying information for the written warning?**

Reasonable efforts should be taken to explain the situation to the underage individual (procedural-justice techniques). If the underage individual continues to refuse, the law does not allow for the underage individual to be placed under arrest (adult) or taken into custody (juvenile) for violating N.J.S.A. 2C:29-1, unless the individual has engaged in some affirmative act of interference with the officer; simply refusing to provide identifying information does not constitute an affirmative act under N.J.S.A. 2C:29-1.

- 10. What can an officer do if they observe an underage individual with marijuana but the underage individual puts the marijuana in their pocket or conceals it in some way?**

Amended 2C:33-15 states, "As part of the process for the issuance of a written warning or write-up to a person for a violation of paragraph (1) of this subsection, the law enforcement officer shall take possession of any alcoholic beverage, marijuana, hashish, or cannabis item from the person, and any drug or cannabis paraphernalia for use with any marijuana, hashish, or cannabis item." Thus, the officer may order the underage person to turn over the marijuana.

Should the underage individual refuse, reasonable efforts should be taken to explain the situation to the underage individual (procedural-justice techniques) just as the officer would if the underage individual refused to give their identifying information (reference question #9 above).

If the underage individual continues to refuse, the law does not allow for the underage individual to be placed under arrest (adult) or taken into custody (juvenile) for violating N.J.S.A. 2C:29-1, unless the individual has engaged in some affirmative act of interference with the officer; simply refusing to turn over the marijuana does not constitute an affirmative act under N.J.S.A. 2C:29-1.

- 11. The directive says an officer can be charged with Deprivation of Civil Rights even if they did not intentionally violate the law (2C:33-15) – what is the standard?**

The applicable provision is found in P.L. 2021, chapter 25 (A5342) and the standard in the newly enacted law is "knowingly." Specifically, the law states: "A law enforcement officer...shall be guilty of a crime of official deprivation of civil rights as defined in section 2 of P.L.2003, c.31 45 (C.2C:30-6) if that officer knowingly violates the provisions of subsection a. of section 1 of P.L.1979, c.264 (C.2C:33-15) that address law enforcement

actions involving persons who are under the legal age to purchase alcoholic beverages or cannabis items by... [engaging in one of the listed prohibited actions]."

To have criminal liability, therefore, the officer must act knowingly, but the law does not "...require that the law enforcement officer have acted with the purpose to intimidate or discriminate against a person or group of persons because of race, color, religion, gender, handicap, sexual orientation or ethnicity." For example, if an officer approaches an individual who they know to be 20 years old (either because they ask them or from prior experience) and the individual places the suspected marijuana in their pocket as the officer approaches, the officer may not then ask the individual for consent to search their person. In this scenario, the simple act of requesting consent from an individual under 21 would constitute a violation of N.J.S.A. 2C:33-15 and the officer could be in jeopardy of being charged with deprivation of civil rights.

- 12. When an officer comes across a juvenile (under 18 years of age) who is using marijuana, can the officer do a curbside warning rather than issue a written warning under N.J.S.A. 2C:33-15?**

No. N.J.S.A. 2C:33-15 sets forth the mechanism for underage individuals, including juveniles, who are in possession of or consuming marijuana or alcohol, as it is no longer a disorderly persons offense or a crime. However, if the juvenile is in possession of over 6 ounces of marijuana, they are in violation of N.J.S.A. 2C:35-10(a)(3)(b) and can be charged with the fourth-degree crime.

- 13. Can an officer conduct a search of an underage individual based on the smell of marijuana? What if the officer observes the underage individual holding marijuana?**

If the officer smells marijuana on an underage individual, the officer cannot stop or search the underage individual or the individual's personal property. Thus, unless there are other factors that support a finding of probable cause that the underage individual is in possession of marijuana, the officer may not issue a warning.

However, if the officer observes the marijuana in plain sight or comes across the marijuana during a search incident to arrest for another crime or in accordance with another lawful procedure, the officer may seize the marijuana and issue the warning. Under the new law, the officer cannot use plain sight to initiate a search to determine any "further violation of [2C:33-15] or any other violation of law."

- 14. Is it illegal for a student to possess marijuana on school property?**

N.J.S.A. 2C:33-15 states that "any person under the legal age to purchase alcoholic beverages, or under the legal age to purchase cannabis items, who knowingly possesses without legal authority or who knowingly consumes any alcoholic beverage, cannabis item, marijuana, or hashish in any school, public conveyance, public place, or place of public assembly, or motor vehicle, shall" be subject to the written warnings. Thus, when a student under the age of 21 is in possession of marijuana in any school, the officer may issue a

written warning pursuant to 2C:33-15. However, if that student is in possession of over 6 ounces, it is a fourth-degree crime under N.J.S.A. 2C:35-10(a)(3)(b) and can be charged. If the student is 21 or older and in possession of under 6 ounces in a school, the officer cannot charge the individual with N.J.S.A. 2C:35-10(a)(4)(b) because that is no longer a crime and cannot issue a warning under N.J.S.A. 2C:33-15 because the individual is not underage. However, if the student is 21 years of age or older and in possession of over 6 ounces of marijuana in a school, the officer can charge N.J.S.A. 2C:35-10(a)(3)(b), a fourth-degree crime. Regardless of the age of the student, nothing in the law precludes the school from imposing any administrative disciplinary action for possession of marijuana on school property.

15. What should an officer do when they encounter a person who is intoxicated and unable to reasonably care for themselves?

The new marijuana laws have not changed the community caretaking duties of law enforcement officers to protect individuals, either under or over 21 years of age, who may be highly intoxicated because of alcohol, marijuana, or any other substance. Officers must still protect such individuals by getting them to a safe place, such as a medical facility or home. Officers who adhere to this standard will have the full support of the Attorney General and the entire law enforcement community.

In situations involving juveniles, N.J.S.A. 2C:33-15 does not affect the applicability of N.J.S.A. 2A:4A-31 to -33, which permit an officer to take a juvenile into short term custody if the officer has reasonable grounds to believe the juvenile's health and safety is in serious danger and taking the juvenile into immediate custody is necessary. This would include situations where the law enforcement officer reasonably believes that the juvenile is under the influence based upon all available information, including physical observations at the scene. Notice to the juvenile's parent or guardian is required in these circumstances and would not violate the notice restriction in N.J.S.A. 2C:33-15 because the officer is not investigating underage consumption or possession, but rather ensuring the safety of the juvenile.

MARIJUANA REFERENCE CARD

(Effective date 2/22/2021)

DISTRIBUTION of MARIJUANA 2C:35-5(b)		
<u>§§</u>	<u>Amount</u>	<u>Degree</u>
10(a)	25 lbs. or more	First
10(b)	5 lbs. or more but less than 25 lbs.	Second
11(b)	More than 1 oz. but less than 5 lbs.	Third
12(b)	1 oz. or less (see "arrest/detention" below)	Written warning (first), Fourth (subsequent)

DISTRIBUTION of HASHISH 2C:35-5(b)		
<u>§§</u>	<u>Amount</u>	<u>Degree</u>
10(a)	5 lbs. or more	First
10(b)	1 lb. or more but less than 5 lbs.	Second
11(b)	More than 5 g. but less than 1 lb.	Third
12(b)	5 g. or less (see "arrest/detention" below)	Written warning (first), Fourth (subsequent)

POSSESSION of MARIJUANA 2C:35-10(a)		
<u>§§</u>	<u>Amount</u>	<u>Degree</u>
(3)(b)	More than 6 oz. (see "arrest/detention" below)	Fourth
(4)(b)	6 oz. or less	NOT an offense

POSSESSION of HASHISH 2C:35-10(a)		
<u>§§</u>	<u>Amount</u>	<u>Degree</u>
(3)(b)	More than 17 g. (see "arrest/detention" below)	Fourth
(4)(b)	17 g. or less	NOT an offense

NO LONGER CRIMES WHEN THEY RELATE TO MARIJUANA OR HASHISH:

2C:35-10(b)	Under the Influence of marijuana or hashish
2C:35-10(c)	Failure to Properly Dispose of marijuana or hashish
2C:36-2	Possession of Drug Paraphernalia if used, or intended to be used, for marijuana or hashish
39:4-49.1	Possession of marijuana or hashish by a Motor Vehicle Operator

SEARCH AND SEIZURE			
<u>Odor</u>	<u>Arrest/Detention</u>	<u>Distribution of Large Amounts</u>	<u>Seizing Marijuana</u>
The odor of marijuana or hashish, burned or raw, by itself does not establish "reasonable articulable suspicion" to initiate a stop/search of a person to determine: - distribution of marijuana of 1 ounce or less, 2C:35-5(b)(12)(b), or - possession of any amount of marijuana, 2C:35-10(a)(3) and (a)(4).	Officers shall not search, arrest, detain, or otherwise take into custody any individual solely for: - distributing 1 ounce or less of marijuana, 2C:35-5(b)(12)(b), or - possessing any amount of marijuana, 2C:35-10(a)(3) and (a)(4). *Includes detaining for fingerprinting*	If there are other indications of distribution of large amounts of marijuana or other unlawful activity, the officer may detain, search, investigate, or arrest.	Because marijuana is still a controlled dangerous substance, you may still seize the marijuana, even if you cannot charge the individual for it.

MARIJUANA REFERENCE CARD

(Effective date 2/22/2021)

NEW RULES FOR INDIVIDUALS UNDER 21

Charges for Individuals Under 21 (2C:33-15)			
Possession or consumption of any amount of marijuana, hashish, cannabis, or alcohol	2C:33-15(a)(1)	First Violation	Written warning (including name, address, & DOB); if under 18, <u>shall not</u> send a copy of the written violation to the juvenile's parent/guardian. ¹
	cannot fingerprint or photograph for these violations	Second Violation	Written warning (including name, address, DOB & informational materials on how to access community services agency/organization); if under 18, <u>shall</u> provide a copy of the 2nd and 1st warnings to the juvenile's parent/guardian.
		Third or Subsequent Violation	Written warning (including name, address, DOB, & referral for accessing a community services agency/organization); <u>shall</u> give notice of the violation to the community services agency to initiate contact with the underage individual; if under 18, <u>shall</u> provide a copy of the 3rd warning to the juvenile's parent/guardian.
	Possession of more than 6 ounces of marijuana or 17 grams of hashish	Fourth-degree crime	may issue a complaint-summons

Investigation and Prosecution of 2C:33-15(a)(1)	
(possession or consumption of marijuana, hashish, cannabis, or alcohol when an individual is under the age of 21)	
• You CANNOT ask for consent from someone under 21 to search for a violation of 2C:33-15(a)(1), and they CANNOT give consent. If reason to believe other criminal activity afoot, you may ask and they may grant consent in relation to that other violation.	
• Odor of marijuana, hashish, or alcohol NOT reasonable articulable suspicion to initiate a stop, NOR probable cause to search the property/vehicle of someone under 21 for 2C:33-15(a)(1).	
• Unconcealed possession of alcohol, marijuana, hashish, or cannabis item in violation of 2C:33-15(a)(1) observed in plain sight is NOT probable cause to search someone or their property of vehicle under 21 for any further violation of 2C:33-15(a)(1) or violation of any other law .	
• You CANNOT arrest, detain, or otherwise taken into custody someone under 21 who violates 2C:33-15(a)(1), except to the extent required to issue a written warning or provide notice of a violation to a parent/guardian; the underage individual may only be arrested, detained, or otherwise taken into custody for committing a different violation of law.	
• When responding to a violation of, or a suspected violation, of 2C:33-15(a)(1), if you are equipped with a BWC, it MUST be activated and remain activated throughout the encounter.	
An officer may be charged with the crime of deprivation of civil rights if the officer knowingly violates the above. This does not require the officer have acted with the purpose to intimidate or discriminate against a person because of race, color, religion, gender, handicap, sexual orientation, or ethnicity.	

¹ Procedures for written warnings for juveniles may change. Should there be an amendment, this document will be updated.



Robbinsville Township Police Department

General Order

Title:

Investigations of Underage Possession of
Alcohol/Marijuana

Issuing Authority:

Christopher A. Nitti, Chief of Police

Reference:

Revised:

Reviewed Dates/Authority:

Accreditation Standards:

Section:	Order Number:	Issued Date:	Effective Date:	Distribution:	Supersedes:
I	4.12	6/4/2021	6/4/2021		

PURPOSE: The purpose of this policy is to establish procedures and provide guidance to officers for law enforcement interactions with underage individuals possessing marijuana, cannabis, hashish, and/or alcoholic beverages.

POLICY: It is the policy of the Robbinsville Township Police Department to be fully committed and compliant with the initiatives of the Attorney General regarding the

de-criminalization of marijuana and underage possession of alcohol in an effort to resolve disparate treatment within the criminal justice system. It is also the policy of the Robbinsville Township Police Department that the responsibility for participating in or supporting the Organization's operation and function for this initiative is shared by all agency components and personnel.

This policy is written to be in compliance with New Jersey Attorney General Guidelines and Mercer County Prosecutor's Office memorandums consistent with direction from the New Jersey Division of Criminal Justice.

PROCEDURES:

I. DEFINITIONS

A. Underage person

1. Any person under the age of twenty-one (21) years of age as defined in NJSA 2C:33-15 et seq.
2. Underage Adult: any person between the ages of eighteen (18) and twenty-one (21) years of age.
3. Juvenile: any person below the age of eighteen (18) years of age.

B. Simple Possession

1. Any person having in their control, on their person, consumption, or under the influence of, in any school, public conveyance, public place, place of assembly, or motor vehicle/vessel, a substance enumerated in NJSA 2C:33-15 et seq.
2. Possession for this definition is finite and consists of the following amounts as outlined in the New Jersey Attorney General's Guidelines and would have been considered a disorderly person or petty disorderly persons offense:
 - a. Simple possession of 6 ounces or less of marijuana, 2C:35-10(a)(4)(b);
 - b. Simple possession of 17 grams or less of hashish, 2C:35-10(a)(4)(b);
 - c. Being under the influence of marijuana or hashish, 2C:35-10(b);
 - d. Failure to properly dispose of marijuana or hashish, 2C:35-10(c);
 - e. Possession of paraphernalia for marijuana or hashish, 2C:36-2; and
 - f. Possession of marijuana or hashish as a motor vehicle operator, 39:4-49.1.

C. Possession with Intent to Distribute

1. Any person who possesses weight thresholds above the amounts of simple possession as defined above.
2. Possession with Intent to Distribute is further defined and graded as:

Possession – 2C:35-10			
Marijuana	Hashish	Subsect.	Degree
More than 6 oz.	More than 17 g.	3(b)	Fourth
6 oz. or less	17 g. or less	4(b)	Not a crime

Distribution – 2C:35-5(b)			
Marijuana	Hashish	Subsect.	Degree
25 lbs. or more	5 lbs. or more	10(a)	First
5 lbs. or more	1 lbs. or more	10(b)	Second
More than 1 oz.	More than 5 g.	11(b)	Third
1 oz. or less	5 g. or less	12(b)	[See below]

D. First Offense

1. An initial offense by an individual regarding possession of an alcoholic beverage or marijuana, to include derivatives of cannabis which was noted and documented.

E. Second or Subsequent Offense

1. Any person who engages in an additional offense after the initial offense was noted and documented for possessing an alcoholic beverage, marijuana, or a cannabis derivative.

F. Parent or Guardian

1. Any person who has a legal responsibility for the care and well-being of a juvenile, or has assumed the responsibility, care, custody, or control of a juvenile with a legal duty for such care.

G. Custody

1. The state of being detained or held under watch or guard.
2. Custody shall be considered an arrest.

H. Detained

1. The holding of a person, who is not free to leave, for the purpose of conducting investigatory purposes, but who is not under arrest.

I. Non-secure Custody

1. The placement of a juvenile in a location that is not secured where the juvenile is not being held, has freedom of movement, and the right to leave the location/facility, as defined by the Juvenile Justice Commission.

J. Odor of Marijuana

1. The odor of marijuana or its derivative, either raw or burnt, is **no longer** a basis for Reasonable Articulate Suspicion, and no longer gives an officer the right to stop or search a person, contents, vessel, etc. for the purpose of locating contraband to determine a violation of law.

II. Law Enforcement Officer's Responsibilities

A. Underage Adults

1. Officers who come in contact with underage adults in possession of an alcoholic beverage, possession of marijuana or a cannabis derivative shall perform the following tasks:

- a. Procedural Requirements:

2. Take custody of the contraband for disposal if in plain view;
 3. Issue the appropriate warning form (Appendix);
 4. Document the incident with the appropriate sworn statement (Appendix);
 5. Record and document incident with the Robbinsville Township Police Department's CAD system;

- b. First Offense

1. Issue a warning for simple possession as prescribed by the New Jersey Attorney General's Guidelines;
 2. Utilize the appropriate form(s) within the Appendix of this policy;
 3. Obtain subject's pedigree information for the purpose of filling out the warning form appropriately;
 4. Release the subject on scene with the warning form;
 5. Document the incident for tracking purposes.

- c. Second or Subsequent Offense

1. If the Second Offense is Simple Possession, below the threshold of a 4th degree crime or higher, the officer shall provide the subject with informational materials regarding treatment from C.A.R.E. (Community Addiction Recovery Effort). **No criminal complaints shall be filed for simple possession offenses.**

1. If the offense is a Third or Subsequent Offense for simple possession, the officer shall again provide information materials regarding treatment services and **SHALL** make a referral to a community-based organization that offers assistance; the Robbinsville Township Police Department will utilize C.A.R.E. (Community Addiction Recovery Effort) for the referral services. **No criminal complaints shall be filed for simple possession offenses.**

- B. Underaged Possession with Intent to Distribute

1. First Offense- person in possession with intent to distribute an amount of marijuana of 1 ounce or less or 5 grams or less of Hashish shall be issued a written warning, utilizing the appropriate forms and tracking of the offense.
 2. Individuals who engage in a second or subsequent violation of the statute are subject to a complaint-summons for a fourth-degree crime, if the person is in possession of 1 ounce or less of marijuana or a cannabis derivative, or 5 grams or less of Hashish.
 3. Grading of the offense is based upon the amount the person has in their possession and shall be consistent with the chart provided in Section I, Subsection C, Item 2 listed above.
 4. Subjects being charged with a second or subsequent offense shall be taken into custody and processed in accordance with

departmental standards and procedures through the eCDR complaint system.

C. Juveniles Underage Possession

1. Officers who encounter a juvenile in possession of an alcoholic beverage and/or simple possession of marijuana or its derivative shall perform the following tasks:

b. Procedural Requirements:

1. Take custody of the contraband for disposal if in plain view;
2. Issue the appropriate warning form (Appendix);
3. Document the incident with the appropriate sworn statement (Appendix);
4. Record and document incident with the Robbinsville Township Police Department's CAD system;
5. Notification to a parent/guardian
6. Release of juvenile from the scene or protected location to a parent/guardian; juveniles shall not be placed in custody but may be held in non-secure custody to assure their safety and well-being while awaiting a parent/guardian.

c. First Offense

1. Issuance of the Underage Warning Form (Appendix)
2. Issuance to the juvenile's parents and the juvenile for notification purposes, as required by law.

d. Second Offense

1. Officers shall issue a second written warning and fill out the Underage Warning Form;
2. A copy, noting the second offense, shall be issued to the juvenile's parents and the juvenile;
3. The officer shall also provide the person with informational materials on community drug treatment services; the Robbinsville Township Police Department has formed a partnership with C.A.R.E. (Community Addiction Recovery Effort) to provide treatment services.

e. Third Offense

1. Issuance of Underage Warning Form (Appendix)
2. Issuance to the juvenile's parents and the juvenile for notification purposes, as required by law.
3. Officers shall again provide the individual with information on community drug treatment services, C.A.R.E. (Community Addiction Recovery Effort)

III. Fourth Amendment Issues

A. Consent

1. A person under the legal age to purchase alcoholic beverages or cannabis items is not capable of giving consent to a search to determine a violation of NJSA 2C:33-15 et seq.
2. Law enforcement personnel shall not request that a person consent to a search for that purpose.

B. Odor Not Establishing Probable Cause or Reasonable Suspicion

1. Odor, raw or burnt, does not establish probable cause or reasonable suspicion for an investigatory stop of a person or vehicle.
2. Plain sight observations of violation allows the officer to seize the contraband, but does not authorize or allow an officer to conduct further searches of a person, property, or a vehicle.

C. Immunity from Arrest or Detention

1. A person under the legal age to purchase alcoholic beverages or cannabis items who violate conditions of simple possession and a first offense distribution matter shall not be transported to a police station, headquarters, or other law enforcement operational facility, or be taken into custody near the location the violation occurred.
2. Detention or custody may only occur to the extent that is required to obtain necessary information to provide notice of a violation to the person, or in juvenile matters, notification and warnings to the parent/guardian, or for appropriate referral matters.
3. Detention, arrest, or custody may only occur if committing another violation of law where action is legally permitted or required, or in matters of distribution that is an indictable offense or second/subsequent offense where the amount of marijuana is one (1) ounce or less, or 5 grams or less of Hashish as enumerated in Section II, Subsection B.
4. Persons under the legal age to purchase alcoholic beverages or cannabis items, where warnings are issued and qualify as simple possession, shall not be fingerprinted or photographed. Any distribution matter where an arrest is made and is an indictable offense where charges are brought, shall adhere to fingerprint and photographing requirements under NJSA 53:1-15

IV. Seizure of Contraband

- A. Law enforcement, as part of the process of issuing written warnings, shall take possession of any alcoholic beverage, marijuana, hashish, or cannabis item, and any drug paraphernalia item that is in plain view.
- B. The existence and description of the seized item shall be included in the sworn statement, along with all relevant facts and circumstances that support the determination that an offense occurred and a violation was committed.
- C. Items seized shall be placed into evidence in accordance with departmental procedures for destruction or use for law enforcement training or educational programs in accordance with applicable law and directives issued by the Attorney General.

V. Mandatory Body Worn Camera Recording

- A. Consistent with NJSA 40A:14-118.5, video and audio recording shall be activated whenever law enforcement officers respond to calls for service related to violations or suspected violations of this policy, or at the initiation of any other law enforcement encounter/investigation.
- B. The BWC shall be recording for the entirety of the incident and investigation until the officer has fully concluded the encounter and leaves the scene.
- C. The officer shall not deactivate the camera, even if a person who is the subject of the response request the camera deactivated.

- D. Violations of this mandate will appear suspect and undermines the required transparency of departmental initiatives. Officers who violate this section may face disciplinary sanctions in congruence with the New Jersey Attorney General's Guidelines surrounding Internal Affairs components.
- E. All videos shall be assigned their appropriate case numbers and "tagged" as needed for preservation in accordance with departmental policies and procedures.

VI. Confidentiality of Records-Destruction

- A. All forms filed for underage persons, to include but not limited to warning forms and sworn statements, shall be maintained in a separate file, located in records room for tracking purposes.
- B. All incidents will also be tracked in the department's CAD system to determine the level of offense as a first or subsequent offense.
- C. All records regarding the issuance of warnings and/or criminal complaints are confidential and not subject to release to the public and are outside the scope of OPRA/FIOA. No information regarding warnings shall be made public and are not under the scope of public information. Only arrest information consistent with the compliance with Executive Order 69 is permissible.
- D. Information required for a referral of a subject for treatment services are permitted, as well as warnings being provided to a parent or guardian. Only the required information shall be provided.
- E. Information for quarterly or annual reports, as required by the Attorney General, may be dispersed to the appropriate authority for accountability and tracking purposes.
- F. Databases or repositories storing information may only be accessed to determine second or subsequent offenses, outside the conditions accounted for in this section.
- G. Records of violations shall only be maintained temporarily and shall be destroyed or deleted permanently.
 - 1. Records shall be maintained by the Robbinsville Township Police Department on the second anniversary following the creation of the record concerning a violation, or not later than the last day of the month in which the anniversary date falls, or alternatively not later than the 21st birthday of the person, or not later than the last day of the month the person's 21st birthday is reached.
 - 2. If the record is subject to a lawsuit, disciplinary complaint, or criminal prosecution arising from subsequent violations, the records may be maintained and preserved as evidence and exculpatory purposes. Upon final disposition of the case, the record shall be destroyed or permanently deleted.
 - 3. The Chief of Police shall assign an officer of superior rank to maintain and review the purging or records in accordance with the Attorney General's mandate.

VII. Criminal Liability of Law Enforcement Officers

- A. A law enforcement officer shall be guilty of a crime of official deprivation of civil rights for violating provisions of this policy.
- B. Under NJSA 2C:30-6.1, if a law enforcement where responding to a call for service or upon initiating an investigative encounter suspected to violate NJSA 2C:33-15 et seq., knowingly violates the provisions of NJSA 2C:33-15 et seq. by detaining, searching, arresting, or improperly obtains consent, or improperly issues a warning without proper basis, or engages in any other unlawful act as described in NJSA 2C:30-6.1, an officer is subject to criminal and civil penalties.

VIII. Industry Employment of Underage People

- A. Nothing in this policy shall apply or restrict individuals engaged in the performance of their duties pursuant to employment, as permitted and issued by the Director of Alcoholic Beverage Control, or while engaged in school for culinary arts or hotel management studies, or engaged in the performance of their duties in a cannabis establishment, distributor, or delivery service as regulated by New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.

IX. Immunity for Life-Saving Calls for Help

- A. An underage person shall be immune from prosecution under this section if:
1. The underage person called 9-1-1 and reported another underage person was in need of medical assistance due to consumption of a prohibited item from within this policy;
 2. The underage person who called 9-1-1, and if applicable, one or two other persons acting in concert with the person who called 9-1-1, provided the 9-1-1 operator with their names;
 3. The underage person was the first person to make the 9-1-1 report; and
 4. The underage person, and if applicable, one or two other persons acting in concert with the underage person who made the call to 9-1-1 remained on scene, with the person suffering the medical emergency and was under the legal age, until assistance arrived and cooperated with law enforcement and medical personnel on the scene.
- B. The underage person who received medical assistance shall also be immune from prosecution under this section.

X. Appendix (See Attached)

Sworn Statement

Date: _____

Law Enforcement Agency: _____

Time: _____

County: _____

Location: _____
County: _____

Name: _____
Last First Middle

Street Address: _____

Municipality: _____ State: _____ Zip: _____

I, _____ (Officer's/Trooper's name) offer the following facts and information to support the finding of a violation against _____ (violation's name), to whom I have issued a written warning under N.J.S.A. 2C:35-5(b)(12)(b):

Certification: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Officer/Trooper Name, Badge Number

Signature _____

Date: _____
Time: _____
Location: _____

Law Enforcement Agency: _____
County: _____

Street Address: _____

I, _____ (Officer's/Trooper's name) offer the following facts and information to support the finding of a violation against _____ (underage violator's name), to whom I have issued a written warning/write-up under N.J.S.A. 2C:33-15:

Certification: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Officer/Trooper Name, Badge Number

Signature _____

First Offense Warning

Date: _____

Law Enforcement Agency: _____

Time: _____

County: _____

Location: _____

Type: ☐ Marijuana ☐ Hashish

Name: _____
Last First Middle

Street Address: _____

Municipality: _____ State: _____ Zip: _____

DOB & Age: _____ Race: _____

Ethnicity: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____ Gender: _____

SS# (if known): _____ SBI# (if known): _____

ID: ☐ Yes ☐ No Type: _____ Recording: ☐ BWC ☐ MVR

Distribution or Possession with the Intent to Distribute 1 ounce or less of marijuana or 5 grams or less of hashish is a violation of N.J.S.A. 2C:35-5(b)(12)(b). A first violation results in the issuance of a written warning. Any subsequent violation of N.J.S.A. 2C:35-5(b)(12)(b) is a 4th degree crime, punishable by a term of imprisonment, a fine, or both.

Other Charges (if applicable): _____

Officer/Trooper Name, Badge Number

Signature

Warning/Write-up # _____

Date: _____

Law Enforcement Agency: _____

Time: _____

County: _____

Location: _____

Type:

☐ Marijuana ☐ Hashish ☐ Alcohol ☐ Cannabis

Name: _____

Last

First

Middle

Street Address: _____

Municipality: _____ State: _____ Zip: _____

DOB: _____ Race: _____

Ethnicity: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____ Gender: _____

ID: ☐ Yes ☐ No Type: _____ Recording: ☐ BWC (activation required if equipped)
☐ MVR

IF UNDER 18 YEARS OF AGE

Parent/Guardian Name: _____

Address: _____

Telephone: _____ Email: _____

First offense: If you are under the age of 18, written notification of this warning will be provided to your parent/guardian.

Second offense: If you are under the age of 18, written notification of this warning will be provided to your parent/guardian. Regardless of age, you are being provided with information regarding community treatment services.

Community treatment services provider name and contact information: _____

Third or subsequent offense: If you are under the age of 18, written notification of this write-up will be provided to your parent/guardian. Regardless of age, you are being provided with information regarding community treatment services, and your contact information will be provided to the treatment provider.

Community treatment services provider name and contact information: _____

Officer/Trooper Name, Badge Number _____

Signature _____