

CHAPTER 69

AN ACT concerning criminal penalties for tampering and amending P.L.1987, c.421.

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

1. Section 1 of P.L.1987, c.421 (C.2C:40-16) is amended to read as follows:

C.2C:40-16 Definitions.

1. As used in this act:
 - a. "Cosmetic" means any substance or other device which is used for the treatment of the skin, hair or nails.
 - b. "Drug" means any over-the-counter or prescribed medicine.
 - c. "Food product" means anything sold for human consumption, and includes tobacco products.
 - d. "Tamper" means to adulterate a cosmetic, drug or food product by adding any poisonous, deleterious or noxious substance or diluent which may be injurious or detrimental to a person's health. "Tamper" includes the addition of any substance or diluent or both to a prescribed drug resulting in a reduction or increase of the strength of that drug without so being ordered by the prescriber. Any change in the strength of the prescribed drug must be noted on the medication or prescription label and if not so noted the drug shall be considered to have been tampered with and mislabeled.

2. Section 2 of P.L.1987, c.421 (C.2C:40-17) is amended to read as follows:

C.2C:40-17 Tampering, degree of offense; sentencing requirements.

2. a. Except as provided in subsection b. of this section, a person who knowingly tampers with a cosmetic, drug or food product is guilty of a crime of the third degree, except that nothing herein shall be deemed to preclude a charge for a greater crime under any other provision of Title 2C of the New Jersey Statutes.

b. A health care professional or his agent who is authorized to prescribe, dispense or administer medication who knowingly tampers with medicine prescribed for a person is guilty of a crime of the second degree, except that nothing herein shall be deemed to preclude a charge for a greater crime under any other provision of Title 2C of the New Jersey Statutes.

c. Notwithstanding the provisions of paragraph (2) of subsection a. of N.J.S.2C:43-6, any sentence imposed upon a health care professional or his agent pursuant to subsection b. of this section shall include a term of imprisonment. The court may not suspend

or make any other noncustodial disposition of a person sentenced pursuant to the provisions of this subsection.

3. This act shall take effect immediately.

Approved April 30, 2007.