



General Assembly

January Session, 2005

**Amendment**

LCO No. 6514

\*SB0012406514SR0\*

Offered by:

SEN. FREEDMAN, 26<sup>th</sup> Dist.

REP. BOUCHER, 143<sup>rd</sup> Dist.

To: Subst. Senate Bill No. 124

File No. 403

Cal. No. 326

**"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 21a-277 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2005*):

5 (a) Any person who manufactures, distributes, sells, prescribes,  
6 dispenses, compounds, transports with the intent to sell or dispense,  
7 possesses with the intent to sell or dispense, offers, gives or  
8 administers to another person any controlled substance which is a  
9 hallucinogenic substance other than marijuana, or a narcotic substance,  
10 except as authorized in this chapter, for a first offense, shall be  
11 imprisoned not more than [~~fifteen~~] twenty years and may be fined not  
12 more than fifty thousand dollars or be both fined and imprisoned; and  
13 for a second offense shall be imprisoned not more than [~~thirty~~] thirty-  
14 five years and may be fined not more than one hundred thousand  
15 dollars, or be both fined and imprisoned; and for each subsequent

16 offense, shall be imprisoned not more than [thirty] thirty-five years  
17 and may be fined not more than two hundred fifty thousand dollars,  
18 or be both fined and imprisoned.

19 (b) Any person who manufactures, distributes, sells, prescribes,  
20 dispenses, compounds, transports with intent to sell or dispense,  
21 possesses with intent to sell or dispense, offers, gives or administers to  
22 another person any controlled substance, except a narcotic substance,  
23 or a hallucinogenic substance other than marijuana, except as  
24 authorized in this chapter, may, for the first offense, be fined not more  
25 than twenty-five thousand dollars or be imprisoned not more than  
26 [seven] twelve years or be both fined and imprisoned; and, for each  
27 subsequent offense, may be fined not more than one hundred  
28 thousand dollars or be imprisoned not more than [fifteen] twenty  
29 years, or be both fined and imprisoned.

30 (c) No person shall knowingly possess drug paraphernalia in a drug  
31 factory situation as defined by subdivision (20) of section 21a-240 for  
32 the unlawful mixing, compounding or otherwise preparing any  
33 controlled substance for purposes of violation of this chapter.

34 (d) As an alternative to the sentences specified in subsections (a)  
35 and (b) of this section, the court may sentence the person to the  
36 custody of the Commissioner of Correction for an indeterminate term  
37 not to exceed [three] eight years or the maximum term specified for the  
38 offense, whichever is the lesser, and, at any time within such  
39 indeterminate term and without regard to any other provision of law  
40 regarding minimum term of confinement, the Commissioner of  
41 Correction may release the convicted person so sentenced subject to  
42 such conditions as he may impose including, but not limited to,  
43 supervision by suitable authority. At any time during such  
44 indeterminate term, the Commissioner of Correction may revoke any  
45 such conditional release in his discretion for violation of the conditions  
46 imposed and return the convicted person to a correctional institution.

47 Sec. 2. Section 21a-278 of the general statutes is repealed and the

48 following is substituted in lieu thereof (*Effective October 1, 2005*):

49 (a) Any person who manufactures, distributes, sells, prescribes,  
50 dispenses, compounds, transports with the intent to sell or dispense,  
51 possesses with the intent to sell or dispense, offers, gives or  
52 administers to another person one or more preparations, compounds,  
53 mixtures or substances containing an aggregate weight of one ounce or  
54 more of heroin, methadone or cocaine or an aggregate weight of one-  
55 half gram or more of cocaine in a free-base form or a substance  
56 containing five milligrams or more of lysergic acid diethylamide,  
57 except as authorized in this chapter, and who is not, at the time of such  
58 action, a drug-dependent person, shall be imprisoned for a minimum  
59 term of not less than [five] ten years nor more than [twenty] twenty-  
60 five years; and, a maximum term of life imprisonment. The execution  
61 of the mandatory minimum sentence imposed by the provisions of this  
62 subsection shall not be suspended except the court may suspend the  
63 execution of such mandatory minimum sentence if at the time of the  
64 commission of the offense (1) such person was under the age of  
65 eighteen years, or (2) such person's mental capacity was significantly  
66 impaired but not so impaired as to constitute a defense to prosecution.

67 (b) Any person who manufactures, distributes, sells, prescribes,  
68 dispenses, compounds, transports with the intent to sell or dispense,  
69 possesses with the intent to sell or dispense, offers, gives or  
70 administers to another person any narcotic substance, hallucinogenic  
71 substance other than marijuana, amphetamine-type substance, or one  
72 kilogram or more of a cannabis-type substance except as authorized in  
73 this chapter, and who is not at the time of such action a drug-  
74 dependent person, for a first offense shall be imprisoned not less than  
75 [five] ten years nor more than [twenty] twenty-five years; and for each  
76 subsequent offense shall be imprisoned not less than [ten] fifteen years  
77 nor more than [twenty-five] thirty years. The execution of the  
78 mandatory minimum sentence imposed by the provisions of this  
79 subsection shall not be suspended except the court may suspend the  
80 execution of such mandatory minimum sentence if at the time of the  
81 commission of the offense (1) such person was under the age of

82 eighteen years, or (2) such person's mental capacity was significantly  
83 impaired but not so impaired as to constitute a defense to prosecution.

84 Sec. 3. Section 21a-278a of the general statutes is repealed and the  
85 following is substituted in lieu thereof (*Effective October 1, 2005*):

86 (a) Any person eighteen years of age or older who violates section  
87 21a-277 or 21a-278, as amended by this act, and who is not, at the time  
88 of such action, a drug-dependent person, by distributing, selling,  
89 prescribing, dispensing, offering, giving or administering any  
90 controlled substance to another person who is under eighteen years of  
91 age and is at least two years younger than such person who is in  
92 violation of section 21a-277 or 21a-278, as amended by this act, shall be  
93 imprisoned for a term of [two] seven years, which shall not be  
94 suspended and shall be in addition and consecutive to any term of  
95 imprisonment imposed for violation of section 21a-277 or 21a-278, as  
96 amended by this act.

97 (b) Any person who violates section 21a-277 or 21a-278, as amended  
98 by this act, by manufacturing, distributing, selling, prescribing,  
99 dispensing, compounding, transporting with the intent to sell or  
100 dispense, possessing with the intent to sell or dispense, offering, giving  
101 or administering to another person any controlled substance in or on,  
102 or within one thousand five hundred feet of, the real property  
103 comprising a public or private elementary or secondary school, a  
104 public housing project or a licensed child day care center, as defined in  
105 section 19a-77, that is identified as a child day care center by a sign  
106 posted in a conspicuous place shall be imprisoned for a term of [three]  
107 eight years, which shall not be suspended and shall be in addition and  
108 consecutive to any term of imprisonment imposed for violation of  
109 section 21a-277 or 21a-278, as amended by this act. To constitute a  
110 violation of this subsection, an act of transporting or possessing a  
111 controlled substance shall be with intent to sell or dispense in or on, or  
112 within one thousand five hundred feet of, the real property comprising  
113 a public or private elementary or secondary school, a public housing  
114 project or a licensed child day care center, as defined in section 19a-77,

115 that is identified as a child day care center by a sign posted in a  
116 conspicuous place. For the purposes of this subsection, "public housing  
117 project" means dwelling accommodations operated as a state or  
118 federally subsidized multifamily housing project by a housing  
119 authority, nonprofit corporation or municipal developer, as defined in  
120 section 8-39, pursuant to chapter 128 or by the Connecticut Housing  
121 Authority pursuant to chapter 129.

122 (c) Any person who employs, hires, uses, persuades, induces,  
123 entices or coerces a person under eighteen years of age to violate  
124 section 21a-277 or 21a-278, as amended by this act, shall be imprisoned  
125 for a term of [three] eight years, which shall not be suspended and  
126 shall be in addition and consecutive to any term of imprisonment  
127 imposed for violation of section 21a-277 or 21a-278, as amended by this  
128 act.

129 Sec. 4. Section 21a-279 of the general statutes is repealed and the  
130 following is substituted in lieu thereof (*Effective October 1, 2005*):

131 (a) Any person who possesses or has under his control any quantity  
132 of any narcotic substance, except as authorized in this chapter, for a  
133 first offense, may be imprisoned not more than [seven] twelve years or  
134 be fined not more than fifty thousand dollars, or be both fined and  
135 imprisoned; and for a second offense, may be imprisoned not more  
136 than [fifteen] twenty years or be fined not more than one hundred  
137 thousand dollars, or be both fined and imprisoned; and for any  
138 subsequent offense, may be imprisoned not more than [twenty-five]  
139 thirty years or be fined not more than two hundred fifty thousand  
140 dollars, or be both fined and imprisoned.

141 (b) Any person who possesses or has under his control any quantity  
142 of a hallucinogenic substance other than marijuana or four ounces or  
143 more of a cannabis-type substance, except as authorized in this  
144 chapter, for a first offense, may be imprisoned not more than [five] ten  
145 years or be fined not more than two thousand dollars or be both fined  
146 and imprisoned, and for a subsequent offense may be imprisoned not

147 more than ~~[ten]~~ fifteen years or be fined not more than five thousand  
148 dollars or be both fined and imprisoned.

149 (c) Any person who possesses or has under his control any quantity  
150 of any controlled substance other than a narcotic substance, or a  
151 hallucinogenic substance other than marijuana or who possesses or has  
152 under his control less than four ounces of a cannabis-type substance,  
153 except as authorized in this chapter, for a first offense, may be fined  
154 not more than one thousand dollars or be imprisoned not more than  
155 ~~[one year]~~ six years, or be both fined and imprisoned; and for a  
156 subsequent offense, may be fined not more than three thousand dollars  
157 or be imprisoned not more than ~~[five]~~ ten years, or be both fined and  
158 imprisoned.

159 (d) Any person who violates subsection (a), (b) or (c) of this section  
160 in or on, or within one thousand five hundred feet of, the real property  
161 comprising a public or private elementary or secondary school and  
162 who is not enrolled as a student in such school or a licensed child day  
163 care center, as defined in section 19a-77, that is identified as a child day  
164 care center by a sign posted in a conspicuous place shall be imprisoned  
165 for a term of ~~[two]~~ seven years, which shall not be suspended and shall  
166 be in addition and consecutive to any term of imprisonment imposed  
167 for violation of subsection (a), (b) or (c) of this section.

168 (e) As an alternative to the sentences specified in subsections (a) and  
169 (b) and specified for a subsequent offense under subsection (c) of this  
170 section, the court may sentence the person to the custody of the  
171 Commissioner of Correction for an indeterminate term not to exceed  
172 ~~[three]~~ eight years or the maximum term specified for the offense,  
173 whichever is the lesser, and at any time within such indeterminate  
174 term and without regard to any other provision of law regarding  
175 minimum term of confinement, the Commissioner of Correction may  
176 release the convicted person so sentenced subject to such conditions as  
177 he may impose including, but not limited to, supervision by suitable  
178 authority. At any time during such indeterminate term, the  
179 Commissioner of Correction may revoke any such conditional release

180 in his discretion for violation of the conditions imposed and return the  
181 convicted person to a correctional institution.

182 (f) To the extent that it is possible, medical treatment rather than  
183 criminal sanctions shall be afforded individuals who breathe, inhale,  
184 sniff or drink the volatile substances defined in subdivision (49) of  
185 section 21a-240."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	21a-277
Sec. 2	<i>October 1, 2005</i>	21a-278
Sec. 3	<i>October 1, 2005</i>	21a-278a
Sec. 4	<i>October 1, 2005</i>	21a-279