



Senate

General Assembly

File No. 700

January Session, 2009

Substitute Senate Bill No. 349

Senate, April 20, 2009

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PENALTY FOR POSSESSION OF A SMALL AMOUNT OF MARIJUANA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) Any person eighteen
2 years of age or older who possesses or has under his control less than
3 one-half ounce of a cannabis-type substance as defined in section 21a-
4 240 of the general statutes, except as authorized in chapter 420b of the
5 general statutes, shall be fined two hundred fifty dollars.

6 Sec. 2. Subsection (c) of section 21a-279 of the general statutes is
7 repealed and the following is substituted in lieu thereof (*Effective*
8 *October 1, 2009*):

9 (c) Any person who possesses or has under his control any quantity
10 of any controlled substance other than a narcotic substance, or a
11 hallucinogenic substance other than marijuana or, [who] if such person
12 is under eighteen years of age, possesses or has under his control less
13 than four ounces of a cannabis-type substance or, if such person is

14 eighteen years of age or older, possesses or has under his control one-
15 half ounce or more but less than four ounces of a cannabis-type
16 substance, except as authorized in this chapter, for a first offense, may
17 be fined not more than one thousand dollars or be imprisoned not
18 more than one year, or be both fined and imprisoned; and for a
19 subsequent offense, may be fined not more than three thousand dollars
20 or be imprisoned not more than five years, or be both fined and
21 imprisoned.

22 Sec. 3. Subsection (b) of section 51-164n of the general statutes is
23 repealed and the following is substituted in lieu thereof (*Effective*
24 *October 1, 2009*):

25 (b) Notwithstanding any provision of the general statutes, any
26 person who is alleged to have committed (1) a violation under the
27 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-
28 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-
29 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292, or 12-326g,
30 subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section
31 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-
32 113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-
33 143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-
34 90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or
35 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,
36 subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e)
37 of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49,
38 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b
39 or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-
40 80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152,
41 14-153 or 14-163b, a first violation as specified in subsection (f) of
42 section 14-164i, section 14-219 as specified in subsection (e) of said
43 section, subdivision (1) of section 14-223a, section 14-240, 14-249, 14-
44 250 or 14-253a, subsection (a) of section 14-261a, section 14-262, 14-264,
45 14-267a, 14-269, 14-270, 14-275a, 14-278 or 14-279, subsection (e) of
46 section 14-283, section 14-291, 14-293b, 14-296aa, 14-319, 14-320, 14-321,
47 14-325a, 14-326, 14-330 or 14-332a, subdivision (1), (2) or (3) of section

48 14-386a, section 15-33, subsection (a) of section 15-115, section 16-256,
49 16-256e, 16a-15 or 16a-22, subsection (a) or (b) of section 16a-22h,
50 section 17a-24, 17a-145, 17a-149, 17a-152, 17a-465, 17a-642, 17b-124,
51 17b-131, 17b-137 or 17b-734, subsection (b) of section 17b-736, section
52 19a-30, 19a-33, 19a-39 or 19a-87, subsection (b) of section 19a-87a,
53 section 19a-91, 19a-105, 19a-107, 19a-215, 19a-219, 19a-222, 19a-224,
54 19a-286, 19a-287, 19a-297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338,
55 19a-339, 19a-340, 19a-425, 19a-502, 20-7a, 20-14, 20-158, 20-231, 20-257,
56 20-265 or 20-324e, subsection (a) of section 20-341, section 20-341l, 20-
57 597, 20-608, 20-610, 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63, 21-
58 76a, 21a-21, 21a-25, 21a-26 or 21a-30, subsection (a) of section 21a-37,
59 section 21a-46, 21a-61, 21a-63 or 21a-77, subsection (b) of section 21a-
60 79, section 21a-85, 21a-154, 21a-159, 22-13, 22-14, 22-15, 22-16, 22-29, 22-
61 34, 22-35, 22-36, 22-38, 22-39, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-
62 49, 22-54, 22-61, 22-89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-279, 22-
63 280a, 22-318a, 22-320h, 22-324a, 22-326 or 22-342, subsection (b) or (e)
64 of section 22-344, section 22-359, 22-366, 22-391, 22-413, 22-414, 22-415,
65 22a-66a or 22a-246, subsection (a) of section 22a-250, subsection (e) of
66 section 22a-256h, subsection (a) of section 22a-381d, section 22a-449,
67 22a-461, 23-37, 23-38, 23-46 or 23-61b, subsection (a) or (b) of section 23-
68 65, section 25-37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-49, 26-54,
69 26-59, 26-61, 26-64, 26-79, 26-89, 26-97, 26-107, 26-117, 26-128, 26-131,
70 26-132, 26-138, 26-141, 26-207, 26-215, 26-224a, 26-227, 26-230, 26-294,
71 28-13, 29-6a, 29-109, 29-143o, 29-143z, 29-156a, subsection (b), (d), (e) or
72 (g) of section 29-161q, section 29-161y, 29-161z, 29-198, 29-210, 29-243,
73 29-277, 29-316, 29-318, 29-341, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11,
74 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-28, 31-32,
75 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-
76 52a or 31-54, subsection (a) or (c) of section 31-69, section 31-70, 31-74,
77 31-75, 31-76, 31-76a, 31-89b or 31-134, subsection (i) of section 31-273,
78 section 31-288, 36a-787, 42-230, 45a-450, 45a-634 or 45a-658, subdivision
79 (13) or (14) of section 46a-54, section 46a-59, 46b-22, 46b-24, 46b-34,
80 46b-38dd, 46b-38gg, 46b-38kk, 47-34a, 47-47, 49-8a, 49-16 or 53-133, or
81 section 53-212a, 53-249a, 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-
82 321, 53-322, 53-323, 53-331, 53-344 or 53-450, or section 1 of this act, or

83 (2) a violation under the provisions of chapter 268, or (3) a violation of
 84 any regulation adopted in accordance with the provisions of section
 85 12-484, 12-487 or 13b-410, or (4) a violation of any ordinance,
 86 regulation or bylaw of any town, city or borough, except violations of
 87 building codes and the health code, for which the penalty exceeds
 88 ninety dollars but does not exceed two hundred fifty dollars, unless
 89 such town, city or borough has established a payment and hearing
 90 procedure for such violation pursuant to section 7-152c, shall follow
 91 the procedures set forth in this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section
Sec. 2	October 1, 2009	21a-279(c)
Sec. 3	October 1, 2009	51-164n(b)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Public Safety, Dept.; Correction, Dept.; Criminal Justice, Div.; Judicial Dept.; Pub. Defender Serv. Com.	GF - Potential Savings	See Below	See Below
Judicial Dept.	GF - Revenue Gain	Up to \$675,000	Up to \$900,000

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Municipal Police Departments	Potential Savings	See Below	See Below

Explanation

The bill decriminalizes possession of less than half an ounce of marijuana for individuals age 18 or older, and reduces the penalty to a violation punishable by a fine of \$250. This results in workload and potentially budgetary savings to the Department of Public Safety (DPS), the Division of Criminal Justice (DCJ), the Public Defender Services Commission (PDS), the Judicial Department, municipal law enforcement agencies, and to some lesser potential extent, the Department of Correction (DOC).

Police

There were 8,118 marijuana arrests of individuals age 18 and older in Connecticut in 2007, which represents 5.7% of total arrests statewide. Based on a sampling of arrest data compiled by the Department of Public Safety (DPS), 76% of those arrests were for possession of less than half an ounce of marijuana. Therefore, the cases

affected by the bill account for an estimated 4.4% of statewide arrests.

Assuming equivalency of resources allocated to each arrest regardless of type or severity of crime, these cases account for \$3.8 million and \$26.2 million of state and local law enforcement agency resources, respectively. Theoretically, these are resources that would no longer be required due to the elimination of having to process arrests for possession of less than half an ounce of marijuana by individuals age 18 or older. However, this does not account for the range of differences in workload and resources associated with the current range of crimes. As a result, savings in these amounts are calculated estimates, not budgetary achievable amounts, and may not be realized by state and local law enforcement budgets due to the fact that resources would likely be reallocated, rather than eliminated.

In addition, it is important to note that law enforcement is involved in a broader range of activities than arrests alone. Therefore, the estimates described here would be lower based on the actual proportional distribution of police resources.

Courts and Probation

The Superior Court handles approximately 2,700 cases each year under CGS 21a-279(c) exclusively which involve defendants age 18 years and older. It is estimated that possession of half an ounce or less of marijuana accounts for 76% of these cases; therefore, assuming the same methodology described above, the annual-resources cost to process them is estimated to be \$970,000 (consisting of the salaries associated with two Public Defenders, four State's Attorneys, a portion of one Judge and support staff, expenses and fringe benefits).

In addition, approximately 1,090 probationers¹ aged 18 years and older are under supervision in the community with possession of less than 4 ounces of marijuana as their primary charge. Again, assuming

¹ Approximately 1/3 of these offenders are under an administrative form of probation, which does not require ongoing contact with probation officers or contract services (and therefore is much less costly).

the same methodology, the estimated amount of resources associated with their supervision in the community is \$1.0 million, including probation officer salaries, fringe benefits, expenses and contracted services.

To the extent that the resources identified above are not reallocated to serve existing caseloads, a potential budgetary savings could be obtained.

Prisons

The passage of the bill is anticipated to have a minimal, if any, impact on correctional costs. Currently there are 17 individuals incarcerated under CGS 21a-279(c) as their primary charge. Although a case history is not currently available on these individuals, they likely fall into the category of possession of amounts greater than half an ounce of marijuana.

Revenues from Fines

It is anticipated that making the violation punishable by a \$250 fine only would greatly increase the frequency with which fines are imposed and result in a net revenue gain to the General Fund. Based on the total number of offenses that occur under current law, it is estimated that this reclassification could yield up to \$900,000 in additional General Fund revenue each year.

Background

This offense currently lies within CGS 21a-279(c) along with the other following offenses: (1) possession of 1 to 4 ounces of marijuana; and (2) possession of up to 4 ounces of either hallucinogenic or controlled (excluding narcotic) substances. This comingling of statutory offenses makes them indistinguishable upon review of criminal justice statistics (which are collected and tabulated by statute). Due to this data limitation, the fiscal estimates indicated above are based on an analysis of CGS 21a-279(c) in its entirety with certain estimates regarding the proportion of offenses involving possession of

less than half an ounce of marijuana by individuals age 18 or older.

The Out Years

The annualized potential savings identified above would continue into the future subject to inflation; the annualized revenue from fines would remain constant into the future since fine amounts are set by statute.

*Sources: 2008 Annual Report of the Chief Public Defender
Case Management Information System (CMIS) of the Court Support Services
Division
Connecticut Department of Public Safety
Federal Bureau of Investigation
National Center for State Courts 2002 Minnesota Workload Assessment
Quarterly Disposition by Statute File from the Judicial Department's
Criminal/Motor Vehicle System*

OLR Bill Analysis**sSB 349*****AN ACT CONCERNING THE PENALTY FOR POSSESSION OF A SMALL AMOUNT OF MARIJUANA.*****SUMMARY:**

This bill decriminalizes the illegal possession of less than one half ounce of marijuana by anyone age 18 or older by reducing the penalty to a violation punishable by a \$250 fine. Violators may pay the fine by mail to the Centralized Infractions Bureau.

The bill leaves the current penalty in place for possession of (1) less than one half ounce by people under age 18 and (2) one-half ounce to four ounces by anyone. Under current law, first offenders may be imprisoned for up to one year, fined up to \$1,000, or both. Subsequent offenders may be imprisoned for up to five years, fined up to \$3,000, or both.

EFFECTIVE DATE: October 1, 2009

BACKGROUND***Marijuana Tax***

The law prohibits anyone from purchasing, acquiring, transporting, or importing marijuana or controlled substances into the state and imposes a tax on violators.

Related Bill

sHB 6587, favorably reported by the Planning and Development Committee, entitles municipalities to 40% of the marijuana tax under certain circumstances.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 24 Nay 14 (03/31/2009)