



General Assembly

January Session, 2009

Raised Bill No. 6581

LCO No. 3979

03979_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE ENHANCED PENALTY FOR THE SALE OR POSSESSION OF DRUGS NEAR SCHOOLS, DAY CARE CENTERS AND PUBLIC HOUSING PROJECTS.

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

1 Section 1. Section 21a-267 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) No person shall use or possess with intent to use drug
4 paraphernalia, as defined in subdivision (20) of section 21a-240, to
5 plant, propagate, cultivate, grow, harvest, manufacture, compound,
6 convert, produce, process, prepare, test, analyze, pack, repack, store,
7 contain or conceal, or to ingest, inhale or otherwise introduce into the
8 human body, any controlled substance as defined in subdivision (9) of
9 section 21a-240. Any person who violates any provision of this
10 subsection shall be guilty of a class C misdemeanor.

11 (b) No person shall deliver, possess with intent to deliver or
12 manufacture with intent to deliver drug paraphernalia knowing, or
13 under circumstances where one reasonably should know, that it will
14 be used to plant, propagate, cultivate, grow, harvest, manufacture,

15 compound, convert, produce, process, prepare, test, analyze, pack,
16 repack, store, contain or conceal, or to ingest, inhale or otherwise
17 introduce into the human body, any controlled substance. Any person
18 who violates any provision of this subsection shall be guilty of a class
19 A misdemeanor.

20 (c) Any person who violates subsection (a) or (b) of this section in or
21 on, or within [one thousand five hundred feet] two hundred feet of the
22 perimeter of, the real property comprising a public or private
23 elementary or secondary school during regular school hours and who
24 is not enrolled as a student in such school shall be imprisoned for a
25 term of one year, which [shall not be suspended and] shall be in
26 addition and consecutive to any term of imprisonment imposed for
27 violation of subsection (a) or (b) of this section.

28 Sec. 2. Section 21a-278a of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective October 1, 2009*):

30 (a) Any person eighteen years of age or older who violates section
31 21a-277 or 21a-278, and who is not, at the time of such action, a drug-
32 dependent person, by distributing, selling, prescribing, dispensing,
33 offering, giving or administering any controlled substance to another
34 person who is under eighteen years of age and is at least two years
35 younger than such person who is in violation of section 21a-277 or 21a-
36 278, shall be imprisoned for a term of two years, which shall not be
37 suspended and shall be in addition and consecutive to any term of
38 imprisonment imposed for violation of section 21a-277 or 21a-278.

39 (b) Any person who violates section 21a-277 or 21a-278 by
40 manufacturing, distributing, selling, prescribing, dispensing,
41 compounding, transporting with the intent to sell or dispense,
42 possessing with the intent to sell or dispense, offering, giving or
43 administering to another person any controlled substance in or on, or
44 within [one thousand five hundred feet] two hundred feet of the
45 perimeter of, the real property comprising (1) a public or private
46 elementary or secondary school during regular school hours, (2) a

47 public housing project, or (3) a licensed child day care center, as
48 defined in section 19a-77, [that] during the operating hours of such
49 center, which center is identified as a child day care center by a sign
50 posted in a conspicuous place, shall be imprisoned for a term of three
51 years, which [shall not be suspended and] shall be in addition and
52 consecutive to any term of imprisonment imposed for violation of
53 section 21a-277 or 21a-278. To constitute a violation of this subsection,
54 an act of transporting or possessing a controlled substance shall be
55 with intent to sell or dispense in or on, or within [one thousand five
56 hundred feet] two hundred feet of the perimeter of, the real property
57 comprising a public or private elementary or secondary school during
58 regular school hours, a public housing project or a licensed child day
59 care center, as defined in section 19a-77, [that] during the operating
60 hours of such center, which center is identified as a child day care
61 center by a sign posted in a conspicuous place. For the purposes of this
62 subsection, "public housing project" means dwelling accommodations
63 operated as a state or federally subsidized multifamily housing project
64 by a housing authority, nonprofit corporation or municipal developer,
65 as defined in section 8-39, pursuant to chapter 128 or by the
66 Connecticut Housing Authority pursuant to chapter 129.

67 (c) Any person who employs, hires, uses, persuades, induces,
68 entices or coerces a person under eighteen years of age to violate
69 section 21a-277 or 21a-278 shall be imprisoned for a term of three
70 years, which shall not be suspended and shall be in addition and
71 consecutive to any term of imprisonment imposed for violation of
72 section 21a-277 or 21a-278.

73 Sec. 3. Section 21a-279 of the general statutes is repealed and the
74 following is substituted in lieu thereof (*Effective October 1, 2009*):

75 (a) Any person who possesses or has under his control any quantity
76 of any narcotic substance, except as authorized in this chapter, for a
77 first offense, may be imprisoned not more than seven years or be fined
78 not more than fifty thousand dollars, or be both fined and imprisoned;

79 and for a second offense, may be imprisoned not more than fifteen
80 years or be fined not more than one hundred thousand dollars, or be
81 both fined and imprisoned; and for any subsequent offense, may be
82 imprisoned not more than twenty-five years or be fined not more than
83 two hundred fifty thousand dollars, or be both fined and imprisoned.

84 (b) Any person who possesses or has under his control any quantity
85 of a hallucinogenic substance other than marijuana or four ounces or
86 more of a cannabis-type substance, except as authorized in this
87 chapter, for a first offense, may be imprisoned not more than five years
88 or be fined not more than two thousand dollars or be both fined and
89 imprisoned, and for a subsequent offense may be imprisoned not more
90 than ten years or be fined not more than five thousand dollars or be
91 both fined and imprisoned.

92 (c) Any person who possesses or has under his control any quantity
93 of any controlled substance other than a narcotic substance, or a
94 hallucinogenic substance other than marijuana or who possesses or has
95 under his control less than four ounces of a cannabis-type substance,
96 except as authorized in this chapter, for a first offense, may be fined
97 not more than one thousand dollars or be imprisoned not more than
98 one year, or be both fined and imprisoned; and for a subsequent
99 offense, may be fined not more than three thousand dollars or be
100 imprisoned not more than five years, or be both fined and imprisoned.

101 (d) Any person who violates subsection (a), (b) or (c) of this section
102 in or on, or within [one thousand five hundred feet] two hundred feet
103 of the perimeter of, the real property comprising (1) a public or private
104 elementary or secondary school during regular school hours and who
105 is not enrolled as a student in such school, or (2) a licensed child day
106 care center, as defined in section 19a-77, [that] during the operating
107 hours of such center, which center is identified as a child day care
108 center by a sign posted in a conspicuous place, shall be imprisoned for
109 a term of two years, which [shall not be suspended and] shall be in
110 addition and consecutive to any term of imprisonment imposed for

111 violation of subsection (a), (b) or (c) of this section.

112 (e) As an alternative to the sentences specified in subsections (a) and
113 (b) and specified for a subsequent offense under subsection (c) of this
114 section, the court may sentence the person to the custody of the
115 Commissioner of Correction for an indeterminate term not to exceed
116 three years or the maximum term specified for the offense, whichever
117 is the lesser, and at any time within such indeterminate term and
118 without regard to any other provision of law regarding minimum term
119 of confinement, the Commissioner of Correction may release the
120 convicted person so sentenced subject to such conditions as he may
121 impose including, but not limited to, supervision by suitable authority.
122 At any time during such indeterminate term, the Commissioner of
123 Correction may revoke any such conditional release in his discretion
124 for violation of the conditions imposed and return the convicted
125 person to a correctional institution.

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

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2009</i> | 21a-267 |
| Sec. 2 | <i>October 1, 2009</i> | 21a-278a |
| Sec. 3 | <i>October 1, 2009</i> | 21a-279 |

Statement of Purpose:

To revise the boundary of the area near schools, day care centers and public housing projects where the enhanced penalty for the sale or possession of controlled substances or drug paraphernalia applies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]