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WRITTEN TESTIMONY OF  
REPRESENTATIVE TOM REYNOLDS, 42<sup>ND</sup> DISTRICT  
REPRESENTATIVE ELISSA WRIGHT, 41<sup>ST</sup> DISTRICT

***Re: Proposed House Bill No. 5393, AN ACT CONCERNING THE USE OF SEIZED  
CONTROLLED SUBSTANCES AND DRUGS FOR TRAINING NARCOTIC DETECTION  
CANINES***

*General Law Committee  
February 5, 2009*

Senator Colapietro, Representative Shapiro, members of the General Law Committee, thank you holding a public hearing on this bill and for the opportunity to provide written testimony in support of ***Proposed House Bill No. 5393, AN ACT CONCERNING THE USE OF SEIZED CONTROLLED SUBSTANCES AND DRUGS FOR TRAINING NARCOTIC DETECTION CANINES.***

The purpose of the proposed legislation is to amend section 21a-262(a) of the general statutes to allow the Commissioner of Consumer Protection to deliver excess or undesired controlled substances in his or her custody to authorized persons, who are engaged in the private for-profit business of training drug detection dogs and who hold a controlled substance laboratory certificate issued by the Commissioner of Consumer Protection and a controlled substance registration certificate issued by the United States Drug Enforcement Administration (DEA).

This issue was brought to our attention by the owners of Nutmeg State K-9, LLC, of Groton, a small business to train drug detecting dogs to be sold to local, state and federal law enforcement agencies.

Under current law, the commissioner "may...destroy excess or undesired controlled substances and may in his discretion deliver, upon application, to any hospital, laboratory, incorporated college, scientific institution or any state or municipal agency or institution *not operated for private gain* (emphasis added) any controlled substances that have come into his custody." General Statutes Section 21a-262(a).



As noted in an OLR Research Report (2007-R-0544) entitled "Drug Detection Dogs," it is unclear whether the phrase "not operated for private gain" in the statute applies only to "institution" or to all of the listed entities, including laboratories. The Department of Consumer Protection interprets the statute as prohibiting the release of controlled substances to any private for-profit business with a controlled substance laboratory certificate, including a business operated for the purpose of training drug detection dogs. For your information, a copy of the research report is attached to this testimony.

The proposed bill would craft a narrow exception to existing law to allow the department to release controlled substances to authorized persons, with a controlled substances laboratory certificate and a DEA certificate of registration, for use in the for-profit business of training dogs to detect drugs.

Thank you for your consideration of this matter.



**DRUG DETECTION DOGS**  
1 of 1 document(s) retrieved**Topic:**

ANIMALS; BUSINESS (GENERAL); DRUGS; TRAINING PROGRAMS; CONSUMER PROTECTION DEPARTMENT;

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October 5, 2007

2007-R-0544

**DRUG DETECTION DOGS**

By: Veronica Rose, Principal Analyst

You asked (1) for background information on the law that allows private businesses to get access to controlled substances to train dogs to detect drugs; (2) whether state law allows any agency to give businesses controlled substances for such purposes and, if no; (3) what action would be necessary to allow agencies to provide controlled substances to such businesses.

**SUMMARY**

Anyone wanting to have access to controlled substances to train dogs to detect drugs must be certified by the state Department of Consumer Protection (DCP) and U. S. Drug Enforcement Agency (DEA) to handle controlled substances.

State law does not appear to authorize any agency to provide such drugs to private businesses that train drug detection dogs. It authorizes DCP to give controlled substances in its custody to specified entities, but these do not include private entities engaged in the business of training dogs to detect drugs, according to DCP.

If the legislature wants DCP or any other agency to provide controlled substances to private, dog training businesses, it can amend this law.

**DCP REGULATORY AUTHORITY**

Acting on the Pharmacy Commission's advice, DCP designates certain substances as controlled substances based on the exceptional danger they pose to health or exceptional potential for abuse (CGS § 21a-254). By law, unauthorized people cannot possess, manufacture, compound, process, or control these drugs or sell, prescribe, dispense, deliver, or administer them to other people. DCP is responsible for regulating all such transactions (CGS § 21a-245).

By law, a person must have a DCP license to manufacture, sell at wholesale,

repackage, supply, compound, mix, cultivate or grow, or otherwise produce or prepare controlled substances. Also, a person must have a DCP license to operate a laboratory for researching or analyzing controlled substances (CGS § 21a-246). The law defines a "laboratory" as one approved by DCP to keep and use controlled substances for scientific and medical purposes and for instruction, research, or analysis (CGS § 21a-240(27)). Neither the law nor the regulations specify the kind of authorization that a person engaged in the business of training drug detection dogs must have but, according to DCP, the person must have a controlled substance laboratory registration.

Before issuing the registration, DCP inspects the premises where the drugs are to be kept to determine that they are secure. The regulations specify the conditions under which the drugs must be stored (Conn. Agencies Reg. 21a-262-7).

### **FEDERAL LAW**

As is the case with state law, federal law does not explicitly state what authorization people engaged in the dog training business must have in order to handle controlled substances. But, in practice, the person operating the business must get a DEA certificate of registration as a controlled substance researcher. The agency may deny an application if it determines that granting the registration would be inconsistent with the public interest. In making this determination, the agency must consider:

1. the recommendations of the appropriate state licensing board or professional disciplinary authority;
2. the applicant's experience in dispensing or conducting research on controlled substances;
3. the applicant's conviction record under federal or state laws relating to the manufacture, distribution, or dispensing of controlled substances;
4. compliance with applicable state, federal, or local drug laws; and
5. such other conduct that may threaten public health or safety (21 USC 823(f)).

### **LAWS PERTAINING TO DISPOSITION OF CONTROLLED SUBSTANCES**

By law, the DCP commissioner may receive, take custody of, or destroy excess or undesired controlled substances. When a case involving narcotics as evidence is resolved, the narcotics, on the order of the court, must be destroyed by the authority that seized the drug or delivered to the commissioner (CGS § 21a-262). The law also allows the commissioner to receive, take into custody, or destroy drug paraphernalia. And it requires drug paraphernalia held as evidence in criminal cases or seized or held as contraband to be destroyed upon court order by the seizing authority or delivered to the DCP commissioner as soon as possible after the case is resolved (CGS § 21a-263).

The law allows the commissioner to dispose of controlled substances in his custody.

Specifically, the commissioner “may . . . destroy excess or undesired controlled substances and may in his discretion deliver, upon application, to any hospital, laboratory, incorporated college, scientific institution or any state or municipal agency or institution *not operated for private gain* (emphasis ours) any controlled substances that have come into his custody. . . .” (CGS § 21a-262). It is unclear whether the phrase “not operated for private gain” applies only to “institution” or to all of the listed entities, including laboratories. Thus, it is unclear if, under this statute, the commissioner may give controlled substances to any for-profit business with a controlled substance laboratory certificate, such as a business involved in training dogs to detect drugs. According to DCP, it interprets this statute as a prohibition on giving controlled substances to private for-profit businesses such as a dog training business. The legislature may choose to clarify this statute or specifically authorize DCP to give the narcotics to such businesses.

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