



# House of Representatives

## File No. 902

General Assembly

January Session, 2011

**(Reprint of File No. 655)**

House Bill No. 6554  
As Amended by House  
Amendment Schedules "A" and "B"

Approved by the Legislative Commissioner  
June 4, 2011

**AN ACT CONCERNING EMERGENCY MEDICAL ASSISTANCE FOR PERSONS EXPERIENCING AN OVERDOSE AND THE DESIGNATION OF CERTAIN SYNTHETIC STIMULANTS AS CONTROLLED SUBSTANCES.**

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

1 Section 1. Section 21a-279 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Any person who possesses or has under his control any quantity  
4 of any narcotic substance, except as authorized in this chapter, for a  
5 first offense, may be imprisoned not more than seven years or be fined  
6 not more than fifty thousand dollars, or be both fined and imprisoned;  
7 and for a second offense, may be imprisoned not more than fifteen  
8 years or be fined not more than one hundred thousand dollars, or be  
9 both fined and imprisoned; and for any subsequent offense, may be  
10 imprisoned not more than twenty-five years or be fined not more than  
11 two hundred fifty thousand dollars, or be both fined and imprisoned.

12 (b) Any person who possesses or has under his control any quantity

13 of a hallucinogenic substance other than marijuana or four ounces or  
14 more of a cannabis-type substance, except as authorized in this  
15 chapter, for a first offense, may be imprisoned not more than five years  
16 or be fined not more than two thousand dollars or be both fined and  
17 imprisoned, and for a subsequent offense may be imprisoned not more  
18 than ten years or be fined not more than five thousand dollars or be  
19 both fined and imprisoned.

20 (c) Any person who possesses or has under his control any quantity  
21 of any controlled substance other than a narcotic substance, or a  
22 hallucinogenic substance other than marijuana or who possesses or has  
23 under his control less than four ounces of a cannabis-type substance,  
24 except as authorized in this chapter, for a first offense, may be fined  
25 not more than one thousand dollars or be imprisoned not more than  
26 one year, or be both fined and imprisoned; and for a subsequent  
27 offense, may be fined not more than three thousand dollars or be  
28 imprisoned not more than five years, or be both fined and imprisoned.

29 (d) Any person who violates subsection (a), (b) or (c) of this section  
30 in or on, or within one thousand five hundred feet of, the real property  
31 comprising a public or private elementary or secondary school and  
32 who is not enrolled as a student in such school or a licensed child day  
33 care center, as defined in section 19a-77, that is identified as a child day  
34 care center by a sign posted in a conspicuous place shall be imprisoned  
35 for a term of two years, which shall not be suspended and shall be in  
36 addition and consecutive to any term of imprisonment imposed for  
37 violation of subsection (a), (b) or (c) of this section.

38 (e) As an alternative to the sentences specified in subsections (a) and  
39 (b) and specified for a subsequent offense under subsection (c) of this  
40 section, the court may sentence the person to the custody of the  
41 Commissioner of Correction for an indeterminate term not to exceed  
42 three years or the maximum term specified for the offense, whichever  
43 is the lesser, and at any time within such indeterminate term and  
44 without regard to any other provision of law regarding minimum term  
45 of confinement, the Commissioner of Correction may release the

46 convicted person so sentenced subject to such conditions as he may  
47 impose including, but not limited to, supervision by suitable authority.  
48 At any time during such indeterminate term, the Commissioner of  
49 Correction may revoke any such conditional release in his discretion  
50 for violation of the conditions imposed and return the convicted  
51 person to a correctional institution.

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

56 (g) The provisions of subsections (a) to (c), inclusive, of this section  
57 shall not apply to any person (1) who in good faith, seeks medical  
58 assistance for another person who such person reasonably believes is  
59 experiencing an overdose from the ingestion, inhalation or injection of  
60 intoxicating liquor or any drug or substance, (2) for whom another  
61 person, in good faith, seeks medical assistance, reasonably believing  
62 such person is experiencing an overdose from the ingestion, inhalation  
63 or injection of intoxicating liquor or any drug or substance, or (3) who  
64 reasonably believes he or she is experiencing an overdose from the  
65 ingestion, inhalation or injection of intoxicating liquor or any drug or  
66 substance and, in good faith, seeks medical assistance for himself or  
67 herself, if evidence of the possession or control of a controlled  
68 substance in violation of subsection (a), (b) or (c) of this section was  
69 obtained as a result of the seeking of such medical assistance. For the  
70 purposes of this subsection, "good faith" does not include seeking  
71 medical assistance during the course of the execution of an arrest  
72 warrant or search warrant or a lawful search.

73 Sec. 2. Section 21a-267 of the general statutes is repealed and the  
74 following is substituted in lieu thereof (*Effective October 1, 2011*):

75 (a) No person shall use or possess with intent to use drug  
76 paraphernalia, as defined in subdivision (20) of section 21a-240, to  
77 plant, propagate, cultivate, grow, harvest, manufacture, compound,

78 convert, produce, process, prepare, test, analyze, pack, repack, store,  
79 contain or conceal, or to ingest, inhale or otherwise introduce into the  
80 human body, any controlled substance as defined in subdivision (9) of  
81 section 21a-240. Any person who violates any provision of this  
82 subsection shall be guilty of a class C misdemeanor.

83 (b) No person shall deliver, possess with intent to deliver or  
84 manufacture with intent to deliver drug paraphernalia knowing, or  
85 under circumstances where one reasonably should know, that it will  
86 be used to plant, propagate, cultivate, grow, harvest, manufacture,  
87 compound, convert, produce, process, prepare, test, analyze, pack,  
88 repack, store, contain or conceal, or to ingest, inhale or otherwise  
89 introduce into the human body, any controlled substance. Any person  
90 who violates any provision of this subsection shall be guilty of a class  
91 A misdemeanor.

92 (c) Any person who violates subsection (a) or (b) of this section in or  
93 on, or within one thousand five hundred feet of, the real property  
94 comprising a public or private elementary or secondary school and  
95 who is not enrolled as a student in such school shall be imprisoned for  
96 a term of one year which shall not be suspended and shall be in  
97 addition and consecutive to any term of imprisonment imposed for  
98 violation of subsection (a) or (b) of this section.

99 (d) The provisions of subsection (a) of this section shall not apply to  
100 any person (1) who in good faith, seeks medical assistance for another  
101 person who such person reasonably believes is experiencing an  
102 overdose from the ingestion, inhalation or injection of intoxicating  
103 liquor or any drug or substance, (2) for whom another person, in good  
104 faith, seeks medical assistance, reasonably believing such person is  
105 experiencing an overdose from the ingestion, inhalation or injection of  
106 intoxicating liquor or any drug or substance, or (3) who reasonably  
107 believes he or she is experiencing an overdose from the ingestion,  
108 inhalation or injection of intoxicating liquor or any drug or substance  
109 and, in good faith, seeks medical assistance for himself or herself, if  
110 evidence of the use or possession of drug paraphernalia in violation of

111 said subsection was obtained as a result of the seeking of such medical  
 112 assistance. For the purposes of this subsection, "good faith" does not  
 113 include seeking medical assistance during the course of the execution  
 114 of an arrest warrant or search warrant or a lawful search.

115 Sec. 3. Section 21a-243 of the general statutes is amended by adding  
 116 subsection (h) as follows (*Effective July 1, 2011*):

117 (NEW) (h) Notwithstanding the provisions of subsection (c) of this  
 118 section, the Commissioner of Consumer Protection shall designate the  
 119 following substances, by whatever official, common, usual, chemical or  
 120 trade name designation, as controlled substances in schedule I of the  
 121 controlled substances scheduling regulations:

- 122 (1) Mephedrone (4-methylmethcathinone); and
- 123 (2) MDPV (3,4-methylenedioxypropylone).

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	21a-279
Sec. 2	<i>October 1, 2011</i>	21a-267
Sec. 3	<i>July 1, 2011</i>	21a-243

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 12 \$	FY 13 \$
Judicial Dept.	GF - Potential Revenue Gain	Less than 40,000	Less than 40,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill exempts a person from being charged with possession of narcotics when they seek emergency medical assistance for themselves or another person experiencing a drug overdose. To the extent this change results in less fine money being collected from individuals no longer being charged with possession of narcotics, a revenue loss of less than \$10,000 to the General Fund would result.<sup>1</sup>

The bill also requires the commissioner of the Department of Consumer Protection (DCP) to designate Mephedrone and MDPV as controlled substances. This will not result in a fiscal impact, as the agency has expertise in this area.

To the extent that offenders are prosecuted and required to pay fines for the sale and/or possession of Mephedrone and MDPV, a potential annual revenue gain of less than \$50,000 to the General Fund would result.

It is anticipated that the number of additional low-risk offenders placed on probation as a result of this change would be less than 100,

<sup>1</sup> In 2010 there were 126 offenses for possession of narcotics, with \$119,905 in revenue collected.

and would not result in additional resources being required by the Judicial Department.<sup>2</sup> An additional 100 offenders placed on probation would represent a 0.15% increase to the total probation caseload.

House “A” makes a clarifying change that will not result in a fiscal impact.

House “B” requires the commissioner of the Department of Consumer Protection (DCP) to designate Mephedrone and MDPV as controlled substances, which results in the fiscal impact specified above.

### ***The Out Years***

The annualized ongoing revenue identified above would remain constant into the future since fine amounts are set by statute.

*Sources: Judicial Department Offenses and Revenue Database*

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<sup>2</sup> The majority of these offenders would be expected to be placed under an administrative form of probation, which does not require ongoing contact with probation officers or contracted services.

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**OLR Bill Analysis****HB 6554 (as amended by House "A" and "B")\******AN ACT CONCERNING EMERGENCY MEDICAL ASSISTANCE FOR PERSONS EXPERIENCING A DRUG OVERDOSE.*****SUMMARY:**

This bill prohibits prosecuting a person for possessing drugs or drug paraphernalia based solely on discovery of evidence arising from efforts to seek medical assistance for a drug overdose. It applies to incidents involving someone who is reasonably believed to be suffering a drug overdose by ingesting, inhaling, or injecting an intoxicating liquor or any drug or substance.

Specifically, it prohibits prosecuting someone who seeks or receives medical assistance in good faith under the following scenarios:

1. when the person assistance is doing so based on a reasonable belief that someone else needs medical attention,
2. when a person seeks medical attention for himself or herself based on a reasonable belief that he or she is experiencing an overdose, or
3. when he or she is the subject of another person's reasonable belief that medical attention is needed.

"Good faith" does not include seeking medical assistance while law enforcement officers are executing an arrest or search warrant or conducting a lawful search.

The bill also requires the commissioner of consumer protection to designate mephedrone and MDPV, or any other name by which they are referred, as controlled substances in schedule I of the Controlled

Substances Act's scheduling regulations.

EFFECTIVE DATE: October 1, 2011, except that the provision making the two drugs schedule I controlled substances is effective on July 1, 2011.

\*House Amendment "A" adds the (1) requirement that the reporter's belief must be reasonable and (2) actions that can give rise to a drug overdose claim.

\*House Amendment "B" adds the two drugs to schedule I of the Controlled Substances Act.

## **POSSESSION PENALTIES**

### ***Drugs***

Penalties for drug possession vary considerably depending on the type of drug and quantity involved. They range from (1) imprisonment for up to one year, a fine of up to \$1,000, or both to (2) imprisonment for up to 25 years, a fine of up to \$250,000, or both.

### ***Drug Paraphernalia***

Penalties for possession of drug paraphernalia vary depending on whether the paraphernalia is for personal use or sale. It ranges from imprisonment for up to three months, a fine of up to \$500, or both, to imprisonment for up to one year, a fine of up to \$2,000, or both.

## **BACKGROUND**

### ***Schedule I Controlled Substances***

Schedule I drugs are those that have been determined to (1) have a high potential for abuse, (2) have no currently accepted medical use in treatment in the United States and (3) not be safe for use under medical supervision.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 45 Nay 0 (04/14/2011)