



Senate

General Assembly

File No. 638

January Session, 2011

Substitute Senate Bill No. 1014

Senate, April 27, 2011

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PENALTY FOR CERTAIN NONVIOLENT DRUG OFFENSES.

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

1 Section 1. (NEW) (*Effective July 1, 2011*) Any person who possesses
2 or has under his control less than one-half ounce of a cannabis-type
3 substance, as defined in section 21a-240 of the general statutes, except
4 as authorized in chapter 420b of the general statutes, shall (1) have
5 committed an infraction for a first offense, and (2) be fined not less
6 than two hundred dollars or more than five hundred dollars for a
7 second or subsequent offense.

8 Sec. 2. Subsection (c) of section 21a-279 of the general statutes is
9 repealed and the following is substituted in lieu thereof (*Effective July*
10 *1, 2011*):

11 (c) Any person who possesses or has under his control any quantity
12 of any controlled substance other than a narcotic substance, or a
13 hallucinogenic substance other than marijuana or who possesses or has
14 under his control one-half ounce or more but less than four ounces of a
15 cannabis-type substance, except as authorized in this chapter, for a first

16 offense, may be fined not more than one thousand dollars or be
17 imprisoned not more than one year, or be both fined and imprisoned;
18 and for a subsequent offense, may be fined not more than three
19 thousand dollars or be imprisoned not more than five years, or be both
20 fined and imprisoned.

21 Sec. 3. Section 21a-267 of the general statutes is repealed and the
22 following is substituted in lieu thereof (*Effective July 1, 2011*):

23 (a) No person shall use or possess with intent to use drug
24 paraphernalia, as defined in subdivision (20) of section 21a-240, to
25 plant, propagate, cultivate, grow, harvest, manufacture, compound,
26 convert, produce, process, prepare, test, analyze, pack, repack, store,
27 contain or conceal, or to ingest, inhale or otherwise introduce into the
28 human body, any controlled substance, as defined in subdivision (9) of
29 section 21a-240, other than a cannabis-type substance in a quantity of
30 less than one-half ounce. Any person who violates any provision of
31 this subsection shall be guilty of a class C misdemeanor.

32 (b) No person shall deliver, possess with intent to deliver or
33 manufacture with intent to deliver drug paraphernalia knowing, or
34 under circumstances where one reasonably should know, that it will
35 be used to plant, propagate, cultivate, grow, harvest, manufacture,
36 compound, convert, produce, process, prepare, test, analyze, pack,
37 repack, store, contain or conceal, or to ingest, inhale or otherwise
38 introduce into the human body, any controlled substance, other than a
39 cannabis-type substance in a quantity of less than one-half ounce. Any
40 person who violates any provision of this subsection shall be guilty of
41 a class A misdemeanor.

42 (c) Any person who violates subsection (a) or (b) of this section in or
43 on, or within one thousand five hundred feet of, the real property
44 comprising a public or private elementary or secondary school and
45 who is not enrolled as a student in such school shall be imprisoned for
46 a term of one year which shall not be suspended and shall be in
47 addition and consecutive to any term of imprisonment imposed for
48 violation of subsection (a) or (b) of this section.

49 (d) No person shall (1) use or possess with intent to use drug
50 paraphernalia to plant, propagate, cultivate, grow, harvest,
51 manufacture, compound, convert, produce, process, prepare, test,
52 analyze, pack, repack, store, contain or conceal, or to ingest, inhale or
53 otherwise introduce into the human body, less than one-half ounce of a
54 cannabis-type substance, or (2) deliver, possess with intent to deliver
55 or manufacture with intent to deliver drug paraphernalia knowing, or
56 under circumstances where one reasonably should know, that it will
57 be used to plant, propagate, cultivate, grow, harvest, manufacture,
58 compound, convert, produce, process, prepare, test, analyze, pack,
59 repack, store, contain or conceal, or to ingest, inhale or otherwise
60 introduce into the human body, less than one-half ounce of a cannabis-
61 type substance. Any person who violates any provision of this
62 subsection shall have committed an infraction.

63 Sec. 4. Section 14-111e of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective July 1, 2011*):

65 (a) The Commissioner of Motor Vehicles shall suspend, for a period
66 of one hundred fifty days, the motor vehicle operator's license or
67 nonresident operating privilege of any person under the age of twenty-
68 one who has been convicted of a violation of section 30-88a involving
69 the misuse of an operator's license, subsection (d) of section 21a-267, as
70 amended by this act, or section 1 of this act. The commissioner shall
71 suspend, for a period of sixty days, the motor vehicle operator's license
72 or nonresident operating privilege of any person under the age of
73 twenty-one who has been convicted of a violation of subdivision (1) of
74 subsection (b) of section 30-89. The commissioner shall suspend, for a
75 period of thirty days, the motor vehicle operator's license or
76 nonresident operating privilege of any person under the age of twenty-
77 one who has been convicted of a violation of subdivision (2) of
78 subsection (b) of section 30-89. The commissioner shall conform any
79 suspension for violation of section 30-89 that is in effect on June 25,
80 2007, to comply with the provisions of this section.

81 (b) Any person under the age of twenty-one who has not been

82 issued a motor vehicle operator's license under section 14-36 and who
83 has been convicted of a violation of section 30-88a involving the
84 misuse of an operator's license, section 30-89 involving the purchase
85 and possession of alcoholic liquor by a minor, [or] subsection (e) of
86 section 1-1h involving the misuse of an identity card, subsection (d) of
87 section 21a-267, as amended by this act, or section 1 of this act shall not
88 be issued a new operator's license by the commissioner under section
89 14-36 until a period of one hundred fifty days has elapsed from the
90 date all applicable requirements for any such license have been
91 satisfied by the applicant.

92 Sec. 5. Section 51-164n of the general statutes is amended by adding
93 subsection (i) as follows (*Effective July 1, 2011*):

94 (NEW) (i) Notwithstanding the provisions of subsections (g) and (h)
95 of this section, in any trial of a person for the alleged violation of
96 section 1 of this act, the testimony of a police officer that, based upon
97 his or her training and experience, the substance possessed by such
98 person was a cannabis-type substance shall, unless contradicted by
99 other evidence, be sufficient evidence to sustain a conviction of such
100 person for such violation.

101 Sec. 6. Subsection (b) of section 51-164n of the general statutes is
102 repealed and the following is substituted in lieu thereof (*Effective July*
103 *1, 2011*):

104 (b) Notwithstanding any provision of the general statutes, any
105 person who is alleged to have committed (1) a violation under the
106 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-
107 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-
108 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292 or 12-326g,
109 subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section
110 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-
111 113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-
112 143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-
113 90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or
114 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414,

115 subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e)
116 of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49,
117 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b
118 or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-
119 80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152,
120 14-153 or 14-163b, a first violation as specified in subsection (f) of
121 section 14-164i, section 14-219 as specified in subsection (e) of said
122 section, subdivision (1) of section 14-223a, section 14-240, 14-249, 14-
123 250 or 14-253a, subsection (a) of section 14-261a, section 14-262, 14-264,
124 14-267a, 14-269, 14-270, 14-275a, 14-278 or 14-279, subsection (e) of
125 section 14-283, section 14-291, 14-293b, 14-296aa, 14-319, 14-320, 14-321,
126 14-325a, 14-326, 14-330 or 14-332a, subdivision (1), (2) or (3) of section
127 14-386a, section 15-33, subsection (a) of section 15-115, section 16-256,
128 16-256e, 16a-15 or 16a-22, subsection (a) or (b) of section 16a-22h,
129 section 17a-24, 17a-145, 17a-149, 17a-152, 17a-465, 17a-642, 17b-124,
130 17b-131, 17b-137 or 17b-734, subsection (b) of section 17b-736, section
131 19a-30, 19a-33, 19a-39 or 19a-87, subsection (b) of section 19a-87a,
132 section 19a-91, 19a-105, 19a-107, 19a-215, 19a-219, 19a-222, 19a-224,
133 19a-286, 19a-287, 19a-297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338,
134 19a-339, 19a-340, 19a-425, 19a-502, 20-7a, 20-14, 20-158, 20-231, 20-257,
135 20-265 or 20-324e, section 20-341l, 20-597, 20-608, 20-610, 21-30, 21-38,
136 21-39, 21-43, 21-47, 21-48, 21-63, 21-76a, 21a-21, 21a-25, 21a-26 or 21a-
137 30, subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63 or
138 21a-77, subsection (b) of section 21a-79, section 21a-85, 21a-154, 21a-
139 159, 22-13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-38, 22-39,
140 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61, 22-89, 22-90,
141 22-98, 22-99, 22-100, 22-111o, 22-279, 22-280a, 22-318a, 22-320h, 22-324a,
142 22-326 or 22-342, subsection (b) or (e) of section 22-344, section 22-359,
143 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a or 22a-246, subsection (a)
144 of section 22a-250, subsection (e) of section 22a-256h, section 22a-381d,
145 22a-449, 22a-461, 23-37, 23-38, 23-46 or 23-61b, subsection (a) or (b) of
146 section 23-65, section 25-37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-
147 49, 26-54, 26-59, 26-61, 26-64, 26-79, 26-89, 26-97, 26-107, 26-117, 26-128,
148 26-131, 26-132, 26-138, 26-141, 26-207, 26-215, 26-224a, 26-227, 26-230,
149 26-294, 28-13, 29-6a, 29-109, 29-143o, 29-143z or 29-156a, subsection (b),

150 (d), (e) or (g) of section 29-161q, section 29-161y, 29-161z, 29-198, 29-
 151 210, 29-243, 29-277, subsection (c) of section 29-291c, section 29-316, 29-
 152 318, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11, 31-12, 31-13, 31-14, 31-15,
 153 31-16, 31-18, 31-23, 31-24, 31-25, 31-28, 31-32, 31-36, 31-38, 31-38a, 31-40,
 154 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-52a or 31-54, subsection (a)
 155 or (c) of section 31-69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b
 156 or 31-134, subsection (i) of section 31-273, section 31-288, 36a-787, 42-
 157 230, 45a-450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-
 158 54, section 46a-59, 46b-22, 46b-24, 46b-34, 46b-38dd, 46b-38gg, 46b-
 159 38kk, 47-34a, 47-47, 49-8a, 49-16 or 53-133, or section 53-212a, 53-249a,
 160 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323, 53-331,
 161 53-344 or 53-450, or subdivision (2) of section 1 of this act, or (2) a
 162 violation under the provisions of chapter 268, or (3) a violation of any
 163 regulation adopted in accordance with the provisions of section 12-484,
 164 12-487 or 13b-410, or (4) a violation of any ordinance, regulation or
 165 bylaw of any town, city or borough, except violations of building codes
 166 and the health code, for which the penalty exceeds ninety dollars but
 167 does not exceed two hundred fifty dollars, unless such town, city or
 168 borough has established a payment and hearing procedure for such
 169 violation pursuant to section 7-152c, shall follow the procedures set
 170 forth in this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	New section
Sec. 2	<i>July 1, 2011</i>	21a-279(c)
Sec. 3	<i>July 1, 2011</i>	21a-267
Sec. 4	<i>July 1, 2011</i>	14-111e
Sec. 5	<i>July 1, 2011</i>	51-164n
Sec. 6	<i>July 1, 2011</i>	51-164n(b)

Statement of Legislative Commissioners:

In section 1, "as defined in section 21a-240 of the general statutes" was added after "cannabis-type substance" for accuracy.

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 12 \$	FY 13 \$
Various State Agencies	GF - Potential Savings	See Below	See Below
Judicial Dept.	GF - Potential Revenue Gain	1.4 million	1.4 million

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Municipal Police Departments	Potential Savings	See Below	See Below

Explanation

The bill establishes possession of less than half an ounce of marijuana, for individuals age 18 or older, as an infraction with a fine of up to \$500. This change would result in savings to the Department of Public Safety (DPS), the Division of Criminal Justice (DCJ), the Public Defender Services Commission (PDS), the Judicial Department and municipal law enforcement agencies. The bill would also result in a potential annual revenue gain to the General Fund of up to \$1.4 million.

Police

There were 9,290 marijuana arrests of individuals age 18 and older in Connecticut in 2009, which represents 6.7% of total arrests statewide. Based on a sampling of arrest data compiled by the Department of Public Safety (DPS), approximately 75% 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 5.1% of statewide

arrests.

Assuming equivalency of resources allocated to each arrest regardless of type or severity of crime, these cases account for \$6.3 million and \$43.9 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.

Criminal Justice Agency Savings

The decriminalization of less than half an ounce of marijuana for individuals age 18 or older would result in a total savings of \$885,000 to the Judicial Department, Division of Criminal Justice, and Public Defender Services Commission. A breakout of agency savings is included in the table below:

Agency	Savings
Judicial Department	\$ 525,000
Criminal Justice	\$ 240,000
Public Defenders	\$ 120,000
Comptroller (Fringe Benefits)	\$ 135,000
Total Savings	\$ 885,000

These savings reflect salaries associated with four State's Attorneys, two Public Defenders, four probation officers, court staff and

associated fringe benefits. It is assumed that 2,025 fewer cases involving possession of less than a half an ounce of marijuana will have to be litigated by prosecutors and public defenders and processed by the courts.¹

Savings estimates also reflect a reduction in the overall low-risk probation caseload. Approximately 1,090 probationers aged 18 years and older are under supervision in the community with possession of less than four ounces of marijuana as their primary charge.² Decriminalization of less than half an ounce of marijuana for individuals age 18 or older would result in approximately 820 fewer individuals on probation.

No impact upon the Department of Correction is anticipated. As of February 2011 there were 21 individuals incarcerated with CGS 21a-279(c) as their primary charge. Although a case history is not currently available on these individuals, it is likely that their offenses do not fall into the category of possession of less than half an ounce of marijuana.

Revenues from Fines

It is anticipated that making possession of less than a half an ounce of marijuana punishable by a \$500 fine only would result in a potential annual revenue gain of \$1.4 million to the General Fund. This estimate assumes that establishment of an infraction only for this offense will greatly increase the frequency with which fines are imposed and collected (at a rate of 75%) for an estimated 5,000 offenders annually.³

The Out Years

¹ The Superior Court handles approximately 2,700 cases annually that involve possession of less than four ounces of marijuana for individuals age 18 or older. It is estimated that possession of half an ounce or less of marijuana accounts for 75% of these cases.

² 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.

³ In 2010 there were 8,198 offenses for possession of four ounces or less of marijuana, with \$156,500 in revenue collected.

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: *Core-CT Financial Accounting System*
Department of Administrative Services website
Department of Revenue Services
Connecticut Department of Public Safety
Federal Bureau of Investigation

OLR Bill Analysis

sSB 1014

***AN ACT CONCERNING THE PENALTY FOR CERTAIN
NONVIOLENT DRUG OFFENSES.***

SUMMARY:

This bill reduces the penalty for possessing less than one-half ounce of marijuana from a crime that carries a possible prison term to an infraction for a first offense (see BACKGROUND). Under the bill, a second or subsequent offense is punishable by a fine of \$200 to \$500.

The bill also reduces, from a crime to an infraction, the penalty for specified actions involving drug paraphernalia when such actions relate to less than one-half ounce of marijuana.

The bill provides that in a trial for the alleged possession of less than one-half ounce of marijuana, a police officer's testimony that the substance was marijuana, based on the officer's training and experience, is sufficient evidence to sustain the conviction unless other evidence contradicts that testimony. This applies despite the general rule that extends to infraction trials the rules of evidence, burden of proof, practice, and procedure that apply to criminal proceedings.

The bill establishes driver's license penalties for a person under age 21 who is convicted of possessing less than one-half ounce of marijuana or specified actions involving drug paraphernalia relating to less than one-half ounce of marijuana. The motor vehicle commissioner must suspend the person's driver's license or nonresident operating privilege for 150 days. If someone under age 21 commits such a violation but does not have a driver's license, the person is ineligible for a driver's license for 150 days after meeting all licensing requirements.

EFFECTIVE DATE: July 1, 2011

§§ 1, 2 — MARIJUANA POSSESSION

The bill makes the first offense of possessing less than one-half ounce of marijuana an infraction. A second or subsequent offense is punishable by a fine of \$200 to \$500. While a second or subsequent offense is not an infraction, the bill provides that violators must still follow the procedures the law prescribes for infractions. For example, violators can pay the fine by mail without making a court appearance.

Currently, the penalties for possessing up to four ounces of marijuana are:

1. for a first offense, up to one year in prison, up to a \$1,000 fine, or both;
2. for a subsequent offense, (a) up to five years in prison, up to a \$3,000 fine, or both or (b) an indeterminate sentence of up to three years; and
3. a mandatory two-year prison sentence running consecutively to the term imposed for possession if the crime is committed within 1,500 feet of an elementary or secondary school (unless the offender is a student at the school) or a licensed day care center. (A judge may depart from this sentence under certain circumstances.)

The law imposes certain other restrictions on people who are convicted for marijuana possession or other specified drug crimes. For example, such people may be denied licensure for a family day care home (CGS § 19a-87e) and are prohibited from obtaining licensure in other areas, such as bail enforcement (CGS § 29-152f). Under the bill, these restrictions do not apply to people convicted of possessing less than one-half ounce of marijuana.

§ 3 — DRUG PARAPHERNALIA RELATED TO MARIJUANA USE

The bill reduces the penalty for specified actions involving drug paraphernalia from a crime to an infraction when such actions relate to less than one-half ounce of marijuana. Specifically, it reduces the

penalty from a:

1. class C misdemeanor (up to three months in prison, up to a \$500 fine, or both) when drug paraphernalia is used or possessed with intent to use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the body less than one-half ounce of marijuana and
2. class A misdemeanor (up to one year in prison, up to a \$2,000 fine, or both) to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances in which one should reasonably know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the body less than one-half ounce of marijuana.

Current law also provides for a mandatory prison term, as provided above for possession, for such paraphernalia-related offenses committed within 1,500 feet of a school or day care center, except the mandatory term is one year. This would not apply to infractions under the bill.

BACKGROUND

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus additional fees, surcharges, and costs. Some infraction fines increase when committed in designated construction, utility work, and school zones. An infraction is not a crime; thus, violators do not have criminal records and can pay the fine by mail without making a court appearance (CGS §§ 51-164m, -164n).

Related Bills

sSB 952, reported favorably by the Judiciary Committee, makes a

number of changes to the laws that enhance the penalties for illegal drug activities near schools, day care centers, and public housing projects including (1) allowing the court to suspend the enhanced penalty, (2) reducing the size of the zones around the locations from 1,500 to 200 feet in cities with a population of more than 60,000, and (3) eliminating the zones around public housing projects.

SB 1015 (File 605), reported favorably by the Judiciary Committee, allows a physician to certify an adult patient's use of marijuana after determining that the patient has a specified debilitating condition and could potentially benefit from the palliative use of marijuana. It prohibits physicians, qualifying patients, and their caregivers who comply with its provisions from being arrested, prosecuted, or otherwise punished for certifying, using, or possessing palliative marijuana.

HB 6293 (File 241), reported favorably by the Planning and Development Committee, allows a municipality with a population under 25,000 to collect unpaid taxes on marijuana and controlled substances when they are seized during an arrest or found during a search. The bill provides that any unpaid taxes of this nature owed to a municipality constitute a lien against any property the dealer has in the municipality and are treated similarly to a property tax lien.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 23 Nay 15 (04/12/2011)