
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)