

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-71—sSB 1014

Judiciary Committee

Finance, Revenue and Bonding Committee

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

SUMMARY: This act reduces the penalty for possessing less than one-half ounce of marijuana from a crime that carries a possible prison term to (1) a \$150 fine for a first offense and (2) a \$200 to \$500 fine for a subsequent offense. Under the act, violaters must follow the procedures the law prescribes for infractions. For example, they can pay the fine by mail without making a court appearance. But the act provides a lower burden of proof than is generally required for infractions or other violations that follow infraction procedures.

It requires a law enforcement officer who issues a complaint for such a violation to seize the marijuana and cause it to be destroyed as contraband according to law.

The act requires referral to a drug education program for anyone who for a third time enters a plea of nolo contendere to, or is found guilty after trial of, possessing less than one half-ounce of marijuana. The act specifies that the person must pay the expenses of his or her participation in the program.

The act also reduces, from a crime to an infraction, the penalty for specified actions involving drug paraphernalia when they relate to less than one-half ounce of marijuana. It provides the same lower burden of proof as provided for possession.

The act requires a 60-day suspension of the driver's license of anyone under age 21 who is convicted of a violation or infraction under the act.

The act provides that a violation or infraction under it is a delinquent act when committed by someone 16 years old or younger, or 17 years old starting July 1, 2012. Proceedings related to delinquent acts are generally brought in juvenile court.

EFFECTIVE DATE: July 1, 2011, except the provisions relating to delinquent acts by 17-year-olds are effective July 1, 2012.

§§ 1 & 2 — MARIJUANA POSSESSION

The act makes the first offense of possessing less than one-half ounce of marijuana punishable by a \$150 fine. A second or subsequent offense is punishable by a fine of \$200 to \$500. Under prior law, the penalties were as follows (these still apply to possession of one-half ounce or more but less than four ounces):

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,

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- 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 of 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 act, 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 act 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 (see Table on Penalties) 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 (see Table on Penalties) 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.

Unlike such paraphernalia-related actions involving other controlled substances or larger amounts of marijuana, such infractions are not subject to a mandatory one-year prison term, running consecutively to the term for the underlying offense, when committed within 1,500 feet of a school or day care center.

§ 4 — DRIVING-RELATED PENALTIES FOR THOSE UNDER AGE 21

The act establishes driver's license penalties for people under age 21 who are convicted of possessing less than one-half ounce of marijuana or the actions specified above 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 60 days. If someone under age 21 commits such a violation or infraction 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.

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§ 5 — BURDEN OF PROOF

The law extends to trials for infractions and violations that follow infraction procedures the same rules of evidence, procedure, burden of proof, and practice that apply to criminal proceedings. The act creates an exception for trials involving the possession of less than one-half ounce of marijuana or the actions specified above involving drug paraphernalia and less than one-half ounce of marijuana. For such trials, the act lowers the burden of proof from beyond a reasonable doubt to a preponderance of the evidence.

§§ 7-10 — PERSONS 17 YEARS OLD OR YOUNGER WHO COMMIT A VIOLATION OR INFRACTION

By law, 16-year-olds cannot be convicted as delinquent for committing an infraction or violation. The same is true for 17-year-olds starting July 1, 2012, when the maximum age for juvenile court jurisdiction is scheduled to rise from age 16 to 17. The act provides an exception for 16-year-olds, or 17-year-olds starting July 1, 2012, who commit an infraction or violation under the act, specifying that they may be convicted as delinquent for such acts. It provides that infractions or violations under the act, unlike other infractions or violations, are included within the law's definition of delinquent acts for these age groups.

By law, persons under 16 can be convicted as delinquent for any violation or infraction.

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