



General Assembly

January Session, 2013

Raised Bill No. 6511

LCO No. 3576



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE
CONNECTICUT SENTENCING COMMISSION REGARDING THE
ENHANCED PENALTY FOR THE SALE OR POSSESSION OF DRUGS
NEAR SCHOOLS, DAY CARE CENTERS AND PUBLIC HOUSING
PROJECTS.**

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

1 Section 1. Section 21a-267 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

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

12 (b) No person shall deliver, possess with intent to deliver or
13 manufacture with intent to deliver drug paraphernalia knowing, or

14 under circumstances where one reasonably should know, that it will
15 be used to plant, propagate, cultivate, grow, harvest, manufacture,
16 compound, convert, produce, process, prepare, test, analyze, pack,
17 repack, store, contain or conceal, or to ingest, inhale or otherwise
18 introduce into the human body, any controlled substance, other than a
19 cannabis-type substance in a quantity of less than one-half ounce. Any
20 person who violates any provision of this subsection shall be guilty of
21 a class A misdemeanor.

22 (c) Any person who violates subsection (a) or (b) of this section (1)
23 with intent to commit such violation in or on [, or within one thousand
24 five hundred feet of,] a specific location, (2) which location the trier of
25 fact determines is either the real property comprising a public or
26 private elementary or secondary school, or within two hundred feet of
27 the perimeter of real property comprising a public or private
28 elementary or secondary school, and (3) who is not enrolled as a
29 student in such school, shall be imprisoned for a term of one year
30 which shall not be suspended and shall be in addition and consecutive
31 to any term of imprisonment imposed for violation of subsection (a) or
32 (b) of this section.

33 (d) No person shall (1) use or possess with intent to use drug
34 paraphernalia to plant, propagate, cultivate, grow, harvest,
35 manufacture, compound, convert, produce, process, prepare, test,
36 analyze, pack, repack, store, contain or conceal, or to ingest, inhale or
37 otherwise introduce into the human body, less than one-half ounce of a
38 cannabis-type substance, or (2) deliver, possess with intent to deliver
39 or manufacture with intent to deliver drug paraphernalia knowing, or
40 under circumstances where one reasonably should know, that it will
41 be used to plant, propagate, cultivate, grow, harvest, manufacture,
42 compound, convert, produce, process, prepare, test, analyze, pack,
43 repack, store, contain or conceal, or to ingest, inhale or otherwise
44 introduce into the human body, less than one-half ounce of a cannabis-
45 type substance. Any person who violates any provision of this
46 subsection shall have committed an infraction.

47 (e) The provisions of subsection (a) of this section shall not apply to
48 any person (1) who in good faith, seeks medical assistance for another
49 person who such person reasonably believes is experiencing an
50 overdose from the ingestion, inhalation or injection of intoxicating
51 liquor or any drug or substance, (2) for whom another person, in good
52 faith, seeks medical assistance, reasonably believing such person is
53 experiencing an overdose from the ingestion, inhalation or injection of
54 intoxicating liquor or any drug or substance, or (3) who reasonably
55 believes he or she is experiencing an overdose from the ingestion,
56 inhalation or injection of intoxicating liquor or any drug or substance
57 and, in good faith, seeks medical assistance for himself or herself, if
58 evidence of the use or possession of drug paraphernalia in violation of
59 said subsection was obtained as a result of the seeking of such medical
60 assistance. For the purposes of this subsection, "good faith" does not
61 include seeking medical assistance during the course of the execution
62 of an arrest warrant or search warrant or a lawful search.

63 Sec. 2. Section 21a-278a of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2013*):

65 (a) Any person eighteen years of age or older who violates section
66 21a-277 or 21a-278, and who is not, at the time of such action, a drug-
67 dependent person, by distributing, selling, prescribing, dispensing,
68 offering, giving or administering any controlled substance to another
69 person who is under eighteen years of age and is at least two years
70 younger than such person who is in violation of section 21a-277 or 21a-
71 278, shall be imprisoned for a term of two years, which shall not be
72 suspended and shall be in addition and consecutive to any term of
73 imprisonment imposed for violation of section 21a-277 or 21a-278.

74 (b) Any person who violates section 21a-277 or 21a-278 by
75 manufacturing, distributing, selling, prescribing, dispensing,
76 compounding, transporting with the intent to sell or dispense,
77 possessing with the intent to sell or dispense, offering, giving or
78 administering to another person any controlled substance (1) with

79 intent to commit such violation in or on [, or within one thousand five
80 hundred feet of,] a specific location, and (2) which specific location the
81 trier of fact determines is (A) the real property comprising a public or
82 private elementary or secondary school, or (B) within two hundred feet
83 of the perimeter of the real property comprising (i) a public or private
84 elementary or secondary school, (ii) a public housing project, or (iii) a
85 licensed child day care center, as defined in section 19a-77, that is
86 identified as a child day care center by a sign posted in a conspicuous
87 place, shall be imprisoned for a term of three years, which shall not be
88 suspended and shall be in addition and consecutive to any term of
89 imprisonment imposed for violation of section 21a-277 or 21a-278. To
90 constitute a violation of this subsection, an act of transporting or
91 possessing a controlled substance shall be with intent to sell or
92 dispense in or on, or within [one thousand five] two hundred feet of
93 the perimeter of, the real property comprising a public or private
94 elementary or secondary school, a public housing project or a licensed
95 child day care center, as defined in section 19a-77, that is identified as a
96 child day care center by a sign posted in a conspicuous place. For the
97 purposes of this subsection, "public housing project" means dwelling
98 accommodations operated as a state or federally subsidized
99 multifamily housing project by a housing authority, nonprofit
100 corporation or municipal developer, as defined in section 8-39,
101 pursuant to chapter 128 or by the Connecticut Housing Authority
102 pursuant to chapter 129.

103 (c) Any person who employs, hires, uses, persuades, induces,
104 entices or coerces a person under eighteen years of age to violate
105 section 21a-277 or 21a-278 shall be imprisoned for a term of three
106 years, which shall not be suspended and shall be in addition and
107 consecutive to any term of imprisonment imposed for violation of
108 section 21a-277 or 21a-278.

109 Sec. 3. Section 21a-279 of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2013*):

111 (a) Any person who possesses or has under his control any quantity
112 of any narcotic substance, except as authorized in this chapter, for a
113 first offense, may be imprisoned not more than seven years or be fined
114 not more than fifty thousand dollars, or be both fined and imprisoned;
115 and for a second offense, may be imprisoned not more than fifteen
116 years or be fined not more than one hundred thousand dollars, or be
117 both fined and imprisoned; and for any subsequent offense, may be
118 imprisoned not more than twenty-five years or be fined not more than
119 two hundred fifty thousand dollars, or be both fined and imprisoned.

120 (b) Any person who possesses or has under his control any quantity
121 of a hallucinogenic substance other than marijuana or four ounces or
122 more of a cannabis-type substance, except as authorized in this
123 chapter, for a first offense, may be imprisoned not more than five years
124 or be fined not more than two thousand dollars or be both fined and
125 imprisoned, and for a subsequent offense may be imprisoned not more
126 than ten years or be fined not more than five thousand dollars or be
127 both fined and imprisoned.

128 (c) Any person who possesses or has under his control any quantity
129 of any controlled substance other than a narcotic substance, or a
130 hallucinogenic substance other than marijuana or who possesses or has
131 under his control one-half ounce or more but less than four ounces of a
132 cannabis-type substance, except as authorized in this chapter, (1) for a
133 first offense, may be fined not more than one thousand dollars or be
134 imprisoned not more than one year, or be both fined and imprisoned;
135 and (2) for a subsequent offense, may be fined not more than three
136 thousand dollars or be imprisoned not more than five years, or be both
137 fined and imprisoned.

138 (d) Any person who violates subsection (a), (b) or (c) of this section
139 in or on, or within [one thousand five] two hundred feet of the
140 perimeter of, (1) the real property comprising a public or private
141 elementary or secondary school and who is not enrolled as a student in
142 such school, or (2) a licensed child day care center, as defined in

143 section 19a-77, that is identified as a child day care center by a sign
144 posted in a conspicuous place, shall be imprisoned for a term of two
145 years, which shall not be suspended and shall be in addition and
146 consecutive to any term of imprisonment imposed for violation of
147 subsection (a), (b) or (c) of this section.

148 (e) As an alternative to the sentences specified in subsections (a) and
149 (b) and specified for a subsequent offense under subsection (c) of this
150 section, the court may sentence the person to the custody of the
151 Commissioner of Correction for an indeterminate term not to exceed
152 three years or the maximum term specified for the offense, whichever
153 is the lesser, and at any time within such indeterminate term and
154 without regard to any other provision of law regarding minimum term
155 of confinement, the Commissioner of Correction may release the
156 convicted person so sentenced subject to such conditions as he may
157 impose including, but not limited to, supervision by suitable authority.
158 At any time during such indeterminate term, the Commissioner of
159 Correction may revoke any such conditional release in his discretion
160 for violation of the conditions imposed and return the convicted
161 person to a correctional institution.

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

166 (g) The provisions of subsections (a) to (c), inclusive, of this section
167 shall not apply to any person (1) who in good faith, seeks medical
168 assistance for another person who such person reasonably believes is
169 experiencing an overdose from the ingestion, inhalation or injection of
170 intoxicating liquor or any drug or substance, (2) for whom another
171 person, in good faith, seeks medical assistance, reasonably believing
172 such person is experiencing an overdose from the ingestion, inhalation
173 or injection of intoxicating liquor or any drug or substance, or (3) who
174 reasonably believes he or she is experiencing an overdose from the

175 ingestion, inhalation or injection of intoxicating liquor or any drug or
176 substance and, in good faith, seeks medical assistance for himself or
177 herself, if evidence of the possession or control of a controlled
178 substance in violation of subsection (a), (b) or (c) of this section was
179 obtained as a result of the seeking of such medical assistance. For the
180 purposes of this subsection, "good faith" does not include seeking
181 medical assistance during the course of the execution of an arrest
182 warrant or search warrant or a lawful search.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	21a-267
Sec. 2	<i>October 1, 2013</i>	21a-278a
Sec. 3	<i>October 1, 2013</i>	21a-279

Statement of Purpose:

To adopt the recommendations of the Connecticut Sentencing Commission regarding the enhanced penalty for the sale or possession of drugs near schools, day care centers and public housing projects.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]