



General Assembly

**Amendment**

January Session, 2013

LCO No. 8274

**\*HB0651108274HRO\***

Offered by:

REP. REBIMBAS, 70<sup>th</sup> Dist.

To: Subst. House Bill No. 6511

File No. 666

Cal. No. 459

**"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."**

1 "Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

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 Section 21a-267 of the general statutes is repealed and the  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

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

13 this subsection shall be guilty of a class C misdemeanor.

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

24 (c) Any person who violates subsection (a) or (b) of this section (1)  
25 with intent to commit such violation in or on [, or within one thousand  
26 five hundred feet of,] a specific location, (2) which location the trier of  
27 fact determines is the real property comprising a public or private  
28 elementary or secondary school, or within the greater of (A) three  
29 hundred feet of the perimeter of the real property comprising a public  
30 or private elementary or secondary school, or (B) a distance that a  
31 municipality may establish by ordinance that is no more than one  
32 thousand five hundred feet from the perimeter of the real property  
33 comprising a public or private elementary or secondary school in such  
34 municipality, and (3) who is not enrolled as a student in such school,  
35 shall be imprisoned for a term of one year which shall not be  
36 suspended and shall be in addition and consecutive to any term of  
37 imprisonment imposed for violation of subsection (a) or (b) of this  
38 section.

39 (d) No person shall (1) use or possess with intent to use drug  
40 paraphernalia to plant, propagate, cultivate, grow, harvest,  
41 manufacture, compound, convert, produce, process, prepare, test,  
42 analyze, pack, repack, store, contain or conceal, or to ingest, inhale or  
43 otherwise introduce into the human body, less than one-half ounce of a  
44 cannabis-type substance, or (2) deliver, possess with intent to deliver  
45 or manufacture with intent to deliver drug paraphernalia knowing, or

46 under circumstances where one reasonably should know, that it will  
47 be used to plant, propagate, cultivate, grow, harvest, manufacture,  
48 compound, convert, produce, process, prepare, test, analyze, pack,  
49 repack, store, contain or conceal, or to ingest, inhale or otherwise  
50 introduce into the human body, less than one-half ounce of a cannabis-  
51 type substance. Any person who violates any provision of this  
52 subsection shall have committed an infraction.

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

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

71 (a) Any person eighteen years of age or older who violates section  
72 21a-277 or 21a-278, and who is not, at the time of such action, a drug-  
73 dependent person, by distributing, selling, prescribing, dispensing,  
74 offering, giving or administering any controlled substance to another  
75 person who is under eighteen years of age and is at least two years  
76 younger than such person who is in violation of section 21a-277 or 21a-  
77 278, shall be imprisoned for a term of two years, which shall not be  
78 suspended and shall be in addition and consecutive to any term of

79 imprisonment imposed for violation of section 21a-277 or 21a-278.

80 (b) Any person who violates section 21a-277 or 21a-278 by  
81 manufacturing, distributing, selling, prescribing, dispensing,  
82 compounding, transporting with the intent to sell or dispense,  
83 possessing with the intent to sell or dispense, offering, giving or  
84 administering to another person any controlled substance (1) with  
85 intent to commit such violation in or on [, or within one thousand five  
86 hundred feet of,] a specific location, and (2) which specific location the  
87 trier of fact determines is (A) the real property comprising (i) a public  
88 or private elementary or secondary school, (ii) a public housing  
89 project, or (iii) a licensed child day care center, as defined in section  
90 19a-77, that is identified as a child day care center by a sign posted in a  
91 conspicuous place, or (B) within the greater of (i) three hundred feet of  
92 the perimeter of the real property comprising such public or private  
93 elementary or secondary school, public housing project or licensed  
94 child day care center, or (ii) a distance that a municipality may  
95 establish by ordinance that is at no more than one thousand five  
96 hundred feet from the perimeter of the real property comprising a  
97 public or private elementary or secondary school, public housing  
98 project or licensed child day care center in such municipality, shall be  
99 imprisoned for a term of three years, which shall not be suspended  
100 and shall be in addition and consecutive to any term of imprisonment  
101 imposed for violation of section 21a-277 or 21a-278. To constitute a  
102 violation of this subsection, an act of transporting or possessing a  
103 controlled substance shall be with intent to sell or dispense in or on, or  
104 within [one thousand five hundred feet of the real property  
105 comprising a public or private elementary or secondary school, a  
106 public housing project or a licensed child day care center, as defined in  
107 section 19a-77, that is identified as a child day care center by a sign  
108 posted in a conspicuous place] the perimeter of the real property  
109 comprising a public or private elementary or secondary school, public  
110 housing project or licensed child day care center pursuant to  
111 subparagraph (B) of this subdivision. For the purposes of this  
112 subsection, "public housing project" means dwelling accommodations

113 operated as a state or federally subsidized multifamily housing project  
114 by a housing authority, nonprofit corporation or municipal developer,  
115 as defined in section 8-39, pursuant to chapter 128 or by the  
116 Connecticut Housing Authority pursuant to chapter 129.

117 (c) Any person who employs, hires, uses, persuades, induces,  
118 entices or coerces a person under eighteen years of age to violate  
119 section 21a-277 or 21a-278 shall be imprisoned for a term of three  
120 years, which shall not be suspended and shall be in addition and  
121 consecutive to any term of imprisonment imposed for violation of  
122 section 21a-277 or 21a-278.

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

125 (a) Any person who possesses or has under his control any quantity  
126 of any narcotic substance, except as authorized in this chapter, for a  
127 first offense, may be imprisoned not more than seven years or be fined  
128 not more than fifty thousand dollars, or be both fined and imprisoned;  
129 and for a second offense, may be imprisoned not more than fifteen  
130 years or be fined not more than one hundred thousand dollars, or be  
131 both fined and imprisoned; and for any subsequent offense, may be  
132 imprisoned not more than twenty-five years or be fined not more than  
133 two hundred fifty thousand dollars, or be both fined and imprisoned.

134 (b) Any person who possesses or has under his control any quantity  
135 of a hallucinogenic substance other than marijuana or four ounces or  
136 more of a cannabis-type substance, except as authorized in this  
137 chapter, for a first offense, may be imprisoned not more than five years  
138 or be fined not more than two thousand dollars or be both fined and  
139 imprisoned, and for a subsequent offense may be imprisoned not more  
140 than ten years or be fined not more than five thousand dollars or be  
141 both fined and imprisoned.

142 (c) Any person who possesses or has under his control any quantity  
143 of any controlled substance other than a narcotic substance, or a

144 hallucinogenic substance other than marijuana or who possesses or has  
145 under his control one-half ounce or more but less than four ounces of a  
146 cannabis-type substance, except as authorized in this chapter, (1) for a  
147 first offense, may be fined not more than one thousand dollars or be  
148 imprisoned not more than one year, or be both fined and imprisoned;  
149 and (2) for a subsequent offense, may be fined not more than three  
150 thousand dollars or be imprisoned not more than five years, or be both  
151 fined and imprisoned.

152 (d) Any person who violates subsection (a), (b) or (c) of this section  
153 in or on [, or within one thousand five hundred feet of,] the real  
154 property comprising a public or private elementary or secondary  
155 school and who is not enrolled as a student in such school or a licensed  
156 child day care center, as defined in section 19a-77, that is identified as a  
157 child day care center by a sign posted in a conspicuous place, or within  
158 the greater of (1) three hundred feet of the perimeter of the real  
159 property comprising such public or private elementary or secondary  
160 school or such child day care center, or (2) a distance that a  
161 municipality may establish by ordinance that is no more than one  
162 thousand five hundred feet from the perimeter of the real property  
163 comprising a public or private elementary or secondary school or such  
164 day care center in such municipality, and who is not enrolled as a  
165 student in such school, shall be imprisoned for a term of two years,  
166 which shall not be suspended and shall be in addition and consecutive  
167 to any term of imprisonment imposed for violation of subsection (a),  
168 (b) or (c) of this section.

169 (e) As an alternative to the sentences specified in subsections (a) and  
170 (b) and specified for a subsequent offense under subsection (c) of this  
171 section, the court may sentence the person to the custody of the  
172 Commissioner of Correction for an indeterminate term not to exceed  
173 three years or the maximum term specified for the offense, whichever  
174 is the lesser, and at any time within such indeterminate term and  
175 without regard to any other provision of law regarding minimum term  
176 of confinement, the Commissioner of Correction may release the

177 convicted person so sentenced subject to such conditions as he may  
 178 impose including, but not limited to, supervision by suitable authority.  
 179 At any time during such indeterminate term, the Commissioner of  
 180 Correction may revoke any such conditional release in his discretion  
 181 for violation of the conditions imposed and return the convicted  
 182 person to a correctional institution.

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

187 (g) The provisions of subsections (a) to (c), inclusive, of this section  
 188 shall not apply to any person (1) who in good faith, seeks medical  
 189 assistance for another person who such person reasonably believes is  
 190 experiencing an overdose from the ingestion, inhalation or injection of  
 191 intoxicating liquor or any drug or substance, (2) for whom another  
 192 person, in good faith, seeks medical assistance, reasonably believing  
 193 such person is experiencing an overdose from the ingestion, inhalation  
 194 or injection of intoxicating liquor or any drug or substance, or (3) who  
 195 reasonably believes he or she is experiencing an overdose from the  
 196 ingestion, inhalation or injection of intoxicating liquor or any drug or  
 197 substance and, in good faith, seeks medical assistance for himself or  
 198 herself, if evidence of the possession or control of a controlled  
 199 substance in violation of subsection (a), (b) or (c) of this section was  
 200 obtained as a result of the seeking of such medical assistance. For the  
 201 purposes of this subsection, "good faith" does not include seeking  
 202 medical assistance during the course of the execution of an arrest  
 203 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

