OLR Bill Analysis
sHB 6377

AN ACT CONCERNING LABOR PEACE AGREEMENTS AND A MODERN AND EQUITABLE CANNABIS WORKFORCE.

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Makes it illegal to refuse to rent, lease, license or otherwise make unavailable any unit of housing based on a person’s cannabis-related charge or arrest without conviction or substantial independent evidence; places requirements on federally-assisted housing including to notify the commission and the OJR when there are denials or evictions based on lawful cannabis activity; requires the attorney general to promptly take reasonable remedial and corrective measures, including seeking equitable and injunctive relief, if a review identifies a pattern of disparate racial impact or intentional discrimination based on lawful cannabis activity

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§ 45 — BOATING UNDER THE INFLUENCE
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§ 51 — RETURN OF SEIZED PROPERTY
Requires the return of drug paraphernalia or other cannabis-related products seized from a consumer for a suspected violation of the law on cannabis possession.

§ 52 — CANNABIS PARAPHERNALIA
Allows consumers to manufacture, possess, or purchase cannabis-related paraphernalia or gift, distribute, or sell it to other consumers.

§ 54 — PAROLE, SPECIAL PAROLE, OR PROBATION
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§ 59 — PROHIBITION ON ALLOWING UNDERAGE PERSONS TO LOITER AT CANNABIS RETAILERS

Establishes penalties for cannabis retailers or their agents or employees who allow individuals under age 21 to loiter at the premises

COMMENT

BACKGROUND

SUMMARY:

This bill makes numerous changes to employment, licensing, consumer, economic development, tax, criminal justice, and traffic enforcement laws to establish a legal recreational cannabis consumer and business sector.

The bill establishes an Equity Task Force to make recommendations to the General Assembly and the governor, and a Cannabis Control Commission to issue and regulate various cannabis licenses, including equity licenses. It creates (1) a new workforce training and small business grant program to help support new small cannabis businesses in the state and (2) employment and housing protections related to legal cannabis for adults.

The bill allows individuals age 21 or older (consumers) to possess and use cannabis (marijuana) and cannabis products, subject to a six-ounce possession limit. It allows for the erasure of criminal records for those convicted of possessing small amounts of cannabis. It establishes specific penalties for various actions, such as (1) individuals under age 21 possessing certain quantities of cannabis or attempting to purchase it and (2) retailers selling cannabis to customers under age 21.

The bill modifies the state’s driving under the influence (DUI) and boating under the influence laws and the related administrative sanction processes to enhance enforcement of those who are drug impaired but do not have an elevated blood alcohol content (BAC). It includes increasing the number of police officers trained in impaired driving assessment techniques. It also makes it illegal to use cannabis products while driving or smoke cannabis in a motor vehicle.

EFFECTIVE DATE: Various, see below
§ 1 — DEFINITIONS

Defines numerous terms including cannabis, cannabis establishment and business, cannabis product, and labor peace agreement

This bill defines numerous applicable terms, including the following:

1. “cannabis” means all parts of a plant or species of the genus cannabis whether growing or not, including its seeds and resin, compounds, manufactures, salts, derivatives, mixtures and preparations, and cannabinon, cannabinol, and cannabidiol; but excluding the plant’s mature stalks, fiber produced from the stalks, fiber, oil, or cake, sterilized seeds, and industrial hemp;

2. “cannabis establishment” or “cannabis business” means any cannabis business licensed or seeking licensure by the Cannabis Control Commission (CCC) created in the bill;

3. "cannabis product" means a cannabis concentrate or a product that is comprised of cannabis or cannabis concentrates and other ingredients and is intended for use or consumption;

4. “bona fide labor organization” means a labor union (a) that represents employees in this state with regard to wages, hours, and working conditions; (b) whose officers have been elected by a secret ballot or otherwise in a manner consistent with federal law; (c) that is free of domination or interference by any employer; (d) that has received no improper assistance or support from an employer; and (e) that is actively seeking to represent cannabis workers in this state; and

5. “labor peace agreement” means an agreement between a cannabis establishment and a bona fide labor organization that protects the state’s interests by, at minimum, prohibiting the labor organization from engaging in picketing, work stoppages or boycotts against the cannabis establishment.

EFFECTIVE DATE: Upon passage
§ 2 — DECD WORKFORCE TRAINING AND SMALL BUSINESS GRANTS

Appropriates $5 million annually from the General Fund to DECD for FY 22-FY 26 for (1) workforce training program grants for residents with adverse criminal history related to cannabis, (2) grants and loans for new small cannabis businesses, and (3) grants and loans to municipalities and community development organizations for rehabilitating facilities for cannabis equity applicants; restricts the funding to 12 towns for the initial five years.

The bill appropriates $5 million from the General Fund to the Department of Economic and Community Development (DECD) for each fiscal year from FY 22 through FY 26 for workforce training, small business support, and facilities rehabilitation in 12 specific towns. Specifically, the bill requires the funds to be used to:

1. provide grants for workforce training, education, and other programs to the entities described below that prepare state residents with an adverse criminal history related to cannabis to participate in the lawful cannabis business sector and in secondary industries that directly support it;

2. provide grants or low-interest loans in support of equity among new small cannabis businesses in the state or on tribal lands within the state that commit to engaging in substantial workforce development, apprenticeships, or on-the-job training and education for individuals with an adverse criminal history related to cannabis;

3. provide grants and loans to municipalities, community development corporations, and other public or private entities for (a) rehabilitating disused or abandoned industrial and commercial facilities and remediating brownfields that are reserved for cannabis equity applicants and licensees (see § 13) and (b) supporting environmental justice in communities of color and low-income communities; and

4. administer the above grants, including hiring additional staff, contracting with vendors, engaging in public outreach and education, and funding any other measures that the DECD commissioner deems necessary to ensure the grants and loans.
are provided in an equitable manner and comply with program regulations.

For five years beginning with FY 22, the grants must be awarded exclusively to individuals, organizations, or public municipal entities located in Ansonia, Bloomfield, Bridgeport, Derby, Hartford, New Britain, New Haven, New London, Norwalk, Torrington, Waterbury, and Windham. After five years, grants may be awarded to individuals, organizations, or public municipal entities in all municipalities.

The workforce training grants created in the bill may be directed toward a range of organizations including workforce training providers, educational institutions, labor unions, private employers, nonprofit community organizations, local governments, and other public and private entities that DECD identifies in consultation with the Labor Department (DOL), the Black and Puerto Rican Caucus (BPRC), the Governor's Workforce Council, and the Cannabis Control Commission (hereafter, “commission”) and Office of Justice Reinvestment (OJR) established under the bill.

The bill requires the DECD commissioner to adopt regulations, issue guidance, and create forms and procedures as he deems necessary to ensure that grants are distributed in an equitable and cost-effective manner for their intended purpose.

EFFECTIVE DATE: Upon passage

§ 3 — EMPLOYMENT PROTECTIONS

Bars employers from (1) prohibiting the possession, use, or other consumption of cannabis in the course of employment unless certain conditions are met and (2) discriminating against an employee for using cannabis outside employment; exempts any position or condition of employment governed by federal law that preempts this provision

Starting one year after the bill’s passage, it prohibits employers from:

1. barring employees from possessing, using, or consuming cannabis in the course of employment unless the policy is (a) in writing, (b) equally applicable to each employee, (c) available to each employee before it becomes effective, (d) directly related to
a clear business necessity, and (e) given to each prospective employee when the employer makes an offer of employment to the prospective employee;

2. requiring an employee or prospective employee, as a condition of employment, to refrain from using cannabis outside employment;

3. discriminating against an employee with respect to compensation, terms, conditions, or privileges of employment for using cannabis outside employment;

4. discriminating against an employee or prospective employee based on their prior, current, or future involvement in lawful cannabis commerce; and

5. retaliating against an employee or prospective employee for alleging a violation of these prohibitions or assisting another employee in an investigation of an alleged violation.

The bill exempts any position or condition of employment governed by federal law that preempts these provisions regarding an employee's possession, use, or other consumption of cannabis or involvement in lawful cannabis commerce.

Under the bill, people aggrieved by violations of its protections may bring a civil suit for compensatory damages and judicial enforcement, plus attorney’s fees and costs.

EFFECTIVE DATE: Upon passage

§§ 4-7 — CANNABIS EQUITY TASK FORCE

Creates a task force to make recommendations to the governor and General Assembly regarding the equity relevant to the state cannabis industry; includes conflict of interest provisions for task force members; requires the task force to issue a report that includes recommendations on qualifying criteria for “equity applicants” for licenses; establishes a task force budget

Composition and Charge (§ 4)

The bill establishes the Cannabis Equity Task Force (hereafter “task force”) to study and issue recommendations to the governor and
General Assembly regarding equity relevant to establishing and regulating cannabis cultivation, manufacturing, and sales in the state. The bill defines “equity” and “equitable” as regulations, policies, programs, standards, processes, and other functions of government or law intended to: (1) identify and remedy past and present patterns of discrimination and disparities of race, ethnicity, gender, and sexual orientation; (2) ensure that these patterns and disparities, whether intentional or unintentional, are not continued; and (3) prevent the emergence and persistence of foreseeable patterns of discrimination or disparities of race, ethnicity, gender, and sexual orientation.

The seven-member task force consists of the DOL, DECD, and Department of Consumer Protection (DCP) commissioners (or their designees), plus four members appointed by the BPRC. The task force members are referred to as commissioners and they elect a chairperson from among themselves.

The appointing authority may remove any of the four appointed commissioners at any time and must appoint a replacement within 14 days after the removal.

Under the bill, BPRC appointed commissioners (1) cannot have any present or pending financial or managerial interest in any cannabis business in this state and (2) must have entirely divested themselves of any of these interests at least 14 days before accepting the appointment.

The task force must establish rules for the task force’s meetings and governance as it deems reasonable and necessary to carry out the purpose described in the bill. There must be a quorum of at least four commissioners present for any binding vote.

Task Force Report Findings (§ 5)

The bill requires the task force, within one year after the seventh commissioner is appointed, to report detailed findings of fact to the General Assembly and the governor regarding:

1. historical and present-day social, economic, and familial
consequences of cannabis prohibition, the criminalization and stigmatization of cannabis use, and related public policies;

2. historical and present-day structures, patterns, causes, and consequences of intentional and unintentional racial discrimination and racial disparities in the development, application, and enforcement of cannabis prohibition and related public policies;

3. foreseeable, long-term social, economic, and familial consequences of unremedied past racial discrimination and disparities arising from past and continued cannabis prohibition, stigmatization, and criminalization;

4. existing patterns of racial discrimination and racial disparities in access to entrepreneurship, employment, and other economic benefits arising in the medical marijuana sector; and

5. any other matters it deems relevant and feasible in making its recommendations.

Task Force Report Recommendations (§ 6)

The bill also requires the task force, when it issues the above report, to issue specific recommendations (1) for the legislature and governor to implement in order to create and regulate an equity-based and lawful adult-use cannabis business sector; (2) to remedy and uproot past and present patterns of racial and other forms of unlawful discrimination arising from cannabis prohibition, stigmatization, and criminalization; and (3) for the legislature and governor to improve and achieve equity within the medical marijuana sector.

The bill requires the task force to issue additional recommendations about the criteria and regulatory structure the commission should use when defining “equity applicant” and “equity applicant ownership of a cannabis business” for licensing purposes. Under the bill, an equity applicant means an applicant for a commission-issued license who must be given priority eligibility for licensure based on criteria and qualifications established under the commission’s licensing standards.
(see § 13).

The task force must, at a minimum, recommend the following:

1. criteria to qualify as an equity applicant or business and the benefits and responsibilities that should accompany this classification;

2. limitations and controls to be imposed on the ownership, transfer, and sale of businesses receiving these benefits;

3. amount of capital and number of cannabis businesses needed to sustain an equitable cannabis business sector and workforce composition in the state; and

4. amendments to cannabis-related criminal statutes, penalties, and related collateral civil consequences of convictions.

**Cannabis Equity Task Force Budget (§ 7)**

The bill provides the task force with a budget of $500,000 allocated from the General Fund (the bill does not specify the fiscal years to which this allocation applies).

From these funds, the task force must contract with researchers and research organizations and may hire staff and purchase goods and services in order to carry out its duties and purposes including developing, in a thorough and timely manner, the findings of fact and recommendations the bill requires of the task force.

It also requires the task force, when selecting researchers and research organizations, to prioritize hiring researchers and research organizations (1) with substantial experience in qualitative and quantitative research related to race and racial disparities and (2) that are certified minority-owned businesses operating in the state. (The bill does not specify from what authority a business must be certified minority-owned in order to be prioritized.) The bill specifies this provision must not be interpreted to limit the number or areas of knowledge and expertise of researchers and research organizations
that the task force may hire. The task force must supervise and manage all hires made pursuant to this section.

The bill states that any moneys remaining after the task force completes its duties must be retained in trust and remitted to the commission to support the commission’s first year of operations.

EFFECTIVE DATE: Upon passage

§§ 8, 9 & 12 — CANNABIS CONTROL COMMISSION

Establishes the commission as an independent agency with regulatory authority over cannabis for non-medical use; authorizes it to hire staff; requires it to establish licenses

Commissioners and Staff (§ 8)

The bill establishes the commission, composed of five commissioners who must be appointed and seated within six months after the task force issues its report and recommendations. The commission members are the DOL, DCP, and DECD commissioners (or their qualified designees), plus two members the BPRC appoints (the bill does not specify what qualified means here).

The BPRC appointees have two-year renewable terms and a base annual salary of at least $100,000. They may be removed for cause by the BPRC at any time. The bill requires that any vacancy be filled within 30 days.

The bill requires the commission to employ an executive director and allows it to establish, alter, and remove subordinate offices within the commission. It also allows the commission to hire staff, contract with personnel and vendors, establish an operational budget, spend moneys, communicate with the general public, and carry out all other ordinary duties and activities of a regulatory agency.

The commission must establish rules for its own operations and decision-making, but it cannot make any public policy decisions without a properly convened quorum, which consists of at least three commissioners.

Commission Powers (§ 9)
The bill establishes the commission as an independent agency with exclusive regulatory authority and oversight over all aspects of the cultivation, production, distribution, transport, sale, and other commerce in cannabis and cannabis products for nonpalliative and nonmedical use, unless expressly provided under the bill. Under the bill, cannabis is defined as cannabis-type substances (as described above), as specified in existing law for the medical marijuana program.

The bill expressly states that its provisions do not prevent the commission from cooperating with other departments, agencies, or state or local authorities provided the commission does not delegate final decision-making authority on any matter under its jurisdiction to any authority or body outside of the commission and its subordinate offices.

The bill allows the commission to adopt regulations to (1) establish a system of cannabis business licenses; (2) investigate applicants, licensees, and other relevant persons; (3) set standards; (4) set and waive fees; (5) hold administrative hearings; and (6) impose discipline and take other measures needed to establish a modern well-regulated cannabis business sector, ensure equity in all aspects of the sector, and protect public safety and public health related to cannabis use.

Furthermore, the commission must, as part of carrying out its duties, adopt the task force’s findings of fact and seek to implement the task force recommendations. The commission and the OJR, must report every six months to the General Assembly and the governor on the commission’s progress toward implementing the recommendations until all the recommendations are fulfilled. The reports must be made available to the public.

**Allowance for Prior Cannabis-Related Offenses (§ 12)**

The bill prohibits the commission from adopting or implementing any regulation or other requirement that prohibits individuals from participating in or obtaining licensure in the lawful cannabis business sector because of an arrest or conviction for a (1) cannabis-related offense or (2) misdemeanor drug offense.
EFFECTIVE DATE: Upon passage

§§ 10, 11 & 16 — INTERACTION WITH MEDICAL MARIJUANA LAW

Requires its provisions to prevail over conflicting provisions of medical marijuana law; prohibits commission licensees from holding themselves out as medical marijuana providers unless they obtain that license; temporarily prohibits the commission from considering a medical marijuana provider’s application for a license.

The bill provides that if any of its provisions, or regulations adopted under its authority, conflict with any provisions of the medical marijuana law, the provisions of the bill prevail.

It also prohibits anyone licensed by the commission from holding itself out as providing medical marijuana unless licensed by DCP under the medical marijuana laws. The bill specifies that this does not prohibit someone from holding both types of licenses.

Further, the bill temporarily prohibits the commission from accepting an application for any type of license from someone who owns or operates a licensed medical marijuana business, until OJR determines that equity in ownership in the cannabis business sector has been sustainably achieved.

EFFECTIVE DATE: Upon passage

§§ 1, 13 & 15 — COMMISSION LICENSES

Requires the commission to establish, issue, and regulate licenses authorizing various aspects of cannabis cultivation, production, and sale; creates qualifications for licensure as an equity applicant; creates a microbusiness license; authorizes the commission to create additional licenses in the future; requires the commission to adopt regulations.

The bill requires the commission, within one year after it is established, to establish, issue, and regulate licenses for the following:

1. the cultivation and production of cannabis (“cannabis cultivation facility” means a facility licensed to cultivate, prepare, and package cannabis and sell cannabis to cannabis product manufacturing facilities, cannabis retailers, and other cannabis cultivation facilities);

2. the manufacture of cannabis products intended for sale (“cannabis product manufacturing facility” means a facility
licensed to purchase cannabis; manufacture, prepare and package cannabis products; and sell cannabis and cannabis products to cannabis product manufacturing facilities and cannabis retailers);

3. the retail sale of cannabis and cannabis products to consumers ("cannabis retailer" means a person registered to (a) purchase cannabis from cannabis cultivation facilities, (b) purchase cannabis and cannabis products from cannabis product manufacturing facilities, and (c) sell cannabis and cannabis products to consumers);

4. laboratories for testing cannabis under standards and guidelines the commission establishes ("laboratory" means a laboratory in the state licensed to analyze controlled substances as permitted under state law);

5. businesses that deliver cannabis and cannabis products directly to consumers at a residential address;

6. microbusinesses, ("cannabis microbusiness" means a vertically integrated cannabis business with no more than 10,000 total square feet of space dedicated to cultivating cannabis plants or manufacturing cannabis products that is (a) permitted to cultivate, process, and distribute cannabis and cannabis products to licensed retailers and to deliver its own cannabis or cannabis products directly to consumers under a single license, and (b) eligible for approval as a social consumption establishment); and

7. social consumption establishments and cannabis lounges ("social consumption establishment" means a facility or part of a facility that is (a) approved to sell cannabis or cannabis products to consumers for on-premises consumption, except by smoking, or (b) approved to allow consumers to bring cannabis or cannabis products to the premises for on-premises consumption, except by smoking, without the intent to sell, distribute for compensation of any kind, or engage in any other
manner of commercial transaction involving cannabis or cannabis products; a “cannabis lounge” is a type of social consumption establishment approved to exclusively sell cannabis or cannabis products for on-premises consumption, except by smoking).

**License Revocation (§ 13(d))**

The bill authorizes the commission to revoke any of the above license types upon a finding that it fails to improve equity within the cannabis business sector, fails to be fiscally prudent, or endangers public safety or health, as long as the license holders have reasonable notice and an opportunity to appeal the decision under state law.

**License Regulations (§ 13(c))**

The bill requires the commission to adopt regulations for each of the above licenses, set standards, and establish mechanisms necessary to enforce the bill’s provisions, and to ensure equity, fiscal prudence, public safety, and public health. This provision does not appear to include equity licenses (§ 13 (e)) or as yet undetermined licenses the commission may establish later (§ 13 (b)).

**Equity Applicant Licenses (§ 13(e))**

The bill requires the commission to establish eligibility criteria and qualifications for equity applicant licenses. These must include people who (1) were arrested for or convicted of a cannabis criminal offense or (2) had a parent or sibling who was arrested or convicted of one. But, it requires that the absence of such an arrest or conviction must not automatically disqualify a person from eligibility for an equity applicant license if other criteria and qualifications, as established by the commission, are satisfied.

The bill allows the commission, in consultation with OJR, to consider permanent residency in a neighborhood that meets the bill’s requirements as an additional qualification for an equity applicant. The commissioner may do so as long as the residency qualification is compatible with the task force’s findings of fact and recommendations.
Under the possible permanent residency requirement, a neighborhood, as defined by the commission, must meet at least three of the following criteria:

1. median income below 80% of the state’s average median household income;
2. unemployment rate at least 150% of the state’s rate;
3. uninsured rate for health insurance of at least 150% of the state’s rate;
4. food stamp or SNAP (supplemental nutrition assistance plan) rate at least 150% of the state’s rate;
5. poverty rate of at least 150% of the state’s rate;
6. disproportionately high rates of arrest, conviction, and incarceration for cannabis possession; or
7. any other criteria and qualifications the commission identifies.

The bill allows the commission, consultation with OJR, to establish other eligibility criteria for equity licenses not based on residency or neighborhood, as long as they are still generally compatible with the task force’s finding of fact and recommendations.

**Licenses Issued in Two Phases (§ 13(f))**

The bill also requires the commission, for all license types, to solicit applications, issue licenses, and permit the start of operations in two phases. Phase one is for equity applicants only (except as described below); phase two is for regular applicants and begins one year after the first equity applicant of the same license type begins operations. The bill defines “operations” as the first date that a cannabis business transaction authorized by a license takes place in the cannabis establishment.

The bill allows DCP-licensed medical marijuana dispensaries that are fully operational and in good standing with any state agency,
including with the Department of Revenue Services, to seek licensure under a cannabis retailer license and begin operations under that license, simultaneous with equity applicants. The dispensaries must have been in good standing for at least 12 months before January 1, 2021. Medical marijuana dispensaries that do not qualify as equity applicants must seek licensure as regular applicants (for licenses other than cannabis retailer licenses).

Furthermore, to be eligible for licensure simultaneous with the equity applicants, a dispensary (1) must, as a condition of licensure, purchase cannabis and cannabis products exclusively from licensed equity applicants, whether they are cultivators, retailers, manufacturers or microbusinesses, and (2) is prohibited from diverting cannabis or cannabis products intended for medical or palliative care to sale in the adult use market.

**Consulting With OJR (§ 13(h))**

The bill requires the commission to consult with OJR regarding regulations, requirements, qualifications, standards, and application review for all license types and for both equity applicants and regular applicants.

**Equity Applicant Regulations (§ 13(i))**

The bill requires the commission to adopt regulations that (1) limit changes or ownership transfers of businesses holding an equity applicant license and (2) strictly limit the use of subsidiaries, holding, and shell companies and other similar corporate vehicles in the equity application process to preserve the bill’s equitable purposes and prevent misuse of the equity application process. The regulations must include (1) a 10-year prohibition on transferring or selling a business licensed by an equity applicant to a person or business that does not qualify as an equity applicant or licensee, and (2) a requirement to repay for the previous 10 years all equity-based license fee waivers, subsidies, grants, low-interest loans and other financial supports provided by the state.

**Cannabis Microbusiness License (§ 15)**
The bill specifically requires that a cannabis microbusiness license allow for, under a single microbusiness license, the (1) cultivation, processing, manufacture and distribution of cannabis and cannabis products to licensed retailers and (2) delivery of the microbusinesses' cannabis and cannabis products directly to consumers. It authorizes the holder of a cannabis microbusiness license to function in all these capacities regardless of any requirements, standards, or restrictions the commission can impose under its authority.

The bill (1) permits a licensed microbusiness to ask the commission to operate as a social consumption establishment and (2) presumes it eligible for approval if the social consumption establishment and the microbusiness are reasonably related and integrated into a single business operation sharing a single premises or adjacent premises, under the control of the license holder.

**Hearing for Possible Additional Licenses (§ 13(b))**

The bill requires the commission to deliberate and hold public hearings about establishing other types of licenses such as single-use event licenses. Furthermore, the commission, after at least one public hearing, may choose to issue and regulate additional license types if they are (1) likely to support equity within the cannabis business sector, (2) fiscally prudent, and (3) consistent with public safety and health.

**EFFECTIVE DATE:** Upon passage

**§ 14 — LEGALIZATION OF HOME-GROWN CANNABIS PLANTS**

*Allows anyone age 21 or older to possess and cultivate certain amounts of cannabis at their primary residence without arrest, prosecution, or any denial of a right or privilege*

One year after the bill becomes effective, it provides that anyone age 21 or older does not need a license and cannot be arrested, prosecuted, penalized, sanctioned, disqualified, or denied any right or privilege, or subject to seizure or forfeiture of assets for:

1. any cannabis produced by cannabis plants cultivated at the person’s primary residence; or
2. possessing, cultivating, or processing up to six flowering plants at any one time for personal use at his or her primary residence, as the sole adult resident, or up to 12 flowering plants if the premises is shared by two or more adults.

It is not clear if this section conflicts with § 47 that imposes an individual possession limit of six ounces of cannabis and cannabis products.

EFFECTIVE DATE: Upon passage

§ 17 — LABOR PEACE AGREEMENTS

Requires labor peace agreements for each cannabis establishment in order to maintain a license

Under the bill, in addition to any other licensure requirements it establishes, the commission must require each cannabis establishment license applicant to enter into, maintain, and abide by the terms of a labor peace agreement. The bill requires that all labor peace agreements contain a clause that the parties agree that final and binding arbitration will be the exclusive remedy for any violation of the agreement.

Furthermore, each applicant, whether for initial licenses or renewals, must submit an attestation signed by the applicant and the bona fide labor organization stating that the applicant meets the labor peace agreement requirement. The bill states that the agreement is an ongoing material condition of a license and a violation, established exclusively through arbitration, may result in suspension, revocation, or denial of the renewal of the license.

The bill also requires the commission to require that each applicant for a cannabis cultivation or retail license whose operation entails substantial construction or renovation (1) pay at least the construction worker prevailing wage and (2) require the applicant to engage in a good faith negotiation of a project labor agreement. Under the prevailing wage law that the bill references, the prevailing wage rates take effect for state or municipal projects that meet or exceed the following cost thresholds: (1) at least $100,000 for renovation or repair.
and (2) at least $1 million for new construction.

EFFECTIVE DATE: Upon passage

§§ 18 & 19 — OFFICE OF JUSTICE REINVESTMENT (OJR)

Requires the establishment of the Office of Justice Reinvestment; authorizes it to hire staff; specifies its oversight powers, including over grants provided under the bill; requires state agencies to delegate powers to the office for it to carry out its duties; authorizes OJR to request and compel documents for an investigation

The bill requires the commission to establish the OJR within six months after the commission is established. It also requires the commission to (1) hire staff, (2) authorize the OJR to hire staff, and (3) provide funding and other resources for the office to:

1. advise the commission, legislature, and governor on all equity matters under the commission's jurisdiction;

2. have quarterly meetings with the BPRC to provide (a) updates on implementing the task force recommendations, the cannabis business sector’s condition, and any other equity-related matters and (b) any requests for legislation that OJR deems reasonable;

3. oversee cannabis workforce grants, loans, and other financial supports under the commission's jurisdiction (e.g., assessing their equitable distribution, their use by recipients, and recipient compliance with their terms);

4. investigate agreements between cannabis businesses and municipal governments and refer them to the commission for further review and action if they are contrary to the bill or any related regulation; and

5. conduct research, engage in public outreach and education, and carry out all other duties assigned to it by the commission.

Regarding the oversight of grants, loans, and other financial support, the bill allows OJR to exercise any authority and powers delegated to it by the commission, DOL, DCP, or DECD, and any other
state, local, or tribal authority in order to carry out its oversight duties. (The bill does not specify what powers these agencies may delegate to the OJR.).

Further, the bill requires, within 180 days after OJR is established, the commission, DOL, DCP, and DECD to expressly delegate powers to the OJR as necessary for it to carry out its duties, including duties the commission subsequently assigns to it. The bill also authorizes the commission and agencies to delegate additional power to, or enter into cooperative agreements with, OJR, so it may carry out its duties in a timely and efficient manner.

The bill authorizes OJR to request and compel the production of documents, data, witnesses, and other investigatory materials from other public entities and any private entity receiving a benefit or license under the bill, but the information produced is not considered a public record or open to public inspection.

EFFECTIVE DATE: Upon passage

§ 20 — CANNABIS CONTROL COMMISSION OPERATIONAL TRUST FUND

Establishes the Cannabis Control Commission Operational Trust Fund; requires licensing fees and sales tax revenue to be deposited in the fund; specifies how trust fund money must be used; requires at least 10% of the trust’s funds to be spent to support workforce development programs

The bill establishes the Cannabis Control Commission Operational Trust Fund, held and administered by the commission, to receive 100% of the licensing and other regulatory fees and all cannabis sales tax surcharges. The bill requires that the fund be expended to support the commission’s regulatory operations and supplement any funds allocated from the General Fund. It requires the commission to allocate at least 70% of the fund to support OJR and its functions.

Under the bill, the commission must spend at least 10% of the fund’s revenue to support workforce development programs aimed at increasing the number of qualified cannabis sector workers from disproportionately impacted backgrounds, which may include programs established in the bill. These allocations must not reduce the
amount allocated to DECD for grants (in § 2) but must be used to supplement that allocation.

EFFECTIVE DATE: Upon passage

§ 21 — CANNABIS TAXES

Establishes a 10% sales tax surcharge on cannabis sales; allows municipalities to impose a municipal sales tax of up to 5%; establishes a restorative justice tax on cannabis businesses equal to 2% of their gross revenue over $1 million and 10% on gross revenue over $10 million

The bill establishes a 10% sales tax surcharge, in addition to the general sales tax, on all cannabis and cannabis product sales (presumably, DRS is responsible for collecting this tax). It also allows any municipality to impose up to a 5% municipal cannabis sales tax on sales of cannabis and cannabis products in the municipality, in addition to the general sales tax and the sales tax surcharge. Any sales to a medical marijuana patient by a licensed dispensary exclusively for palliative care for a debilitating medical condition are exempt from the surcharge, municipal sales tax, and the general state sales tax. (Under current DRS practice, marijuana sold for palliative use by licensed dispensaries is considered a natural or herbal drug or medicine and is thus currently exempt as a nonprescription drug and medicine.)

The bill also establishes an additional restorative justice tax on cannabis businesses equal to (1) 2% on their annual gross revenue between $1 million and $10 million and (2) 10% on their annual gross revenue over $10 million. The tax applies in addition to any other tax on corporations or pass-through income. (Presumably, DRS must collect the restorative justice tax.)

The bill requires DRS to adopt regulations, issue guidance, issue or amend forms, and otherwise establish measures required to enact and enforce these tax provisions in a timeline that is consistent with the Cannabis Control Commission’s needs and requirements.

EFFECTIVE DATE: Upon passage

§ 22 — MUNICIPAL LIMITATIONS
Prohibits municipalities from unconditionally prohibiting the operation of cannabis establishments; permits municipalities to regulate zoning, licensing, hours of operation, and other aspects as long as it is not a greater burden than that imposed on alcohol businesses.

The bill prohibits municipalities from unconditionally barring the operation of cannabis establishments or businesses. It specifies that this does not prevent municipalities from regulating the zoning, licensing, operating hours, outward appearance, or other matters subject to municipal jurisdiction of business establishments generally. But it prohibits them from enacting any ordinance, regulation, license, permit, fee, or tax that imposes a burden greater than what the municipality imposes on a similarly sized business that manufactures, distributes, or sells alcohol.

EFFECTIVE DATE: Upon passage

§ 23 — INTERSTATE COMPACT FOR CANNABIS COMMERCE

Requires the governor to invite other jurisdictions with legal cannabis to enter an interstate or inter-jurisdictional compact that provides for well-regulated interstate and interjurisdictional commerce in cannabis; requires the governor to seek agreement from federal agencies that regulate commerce to not interfere with cannabis commerce conducted under a compact.

The bill requires the governor, within six months after the commission is established, to invite other jurisdictions with legal cannabis commerce to enter an interstate or inter-jurisdictional compact that provides for a well-regulated interstate and interjurisdictional commerce in cannabis. He must do so in consultation with the commission and the OJR.

The governor must also take the necessary steps to secure agreement from the federal agencies that regulate commerce to withhold interference or interdiction of a well-regulated cannabis commerce established through the compacts.

The bill requires the terms of the compact to be consistent with the equity-related goals established by the commission and OJR.

EFFECTIVE DATE: Upon passage

§ 24 — CONFLICTS OF INTEREST
Prohibits certain government employees and officials, including commissioners on the Cannabis Control Commission, from having any financial or managerial interest in a licensed cannabis establishment; prohibits the same officials from receiving commissions, profits, gifts, promises of future employment, and other enticements.

The bill prohibits certain government employees and officials from having any financial or managerial interest in a cannabis establishment licensed by the commission or under the medical marijuana laws, or in any business whose principal source of revenue or market involves providing goods or services specifically and directly to them. This includes any direct or indirect interest, whether individually or as a member of a partnership or shareholder of a corporation.

This ban applies to (1) commissioners on the commission during their term of office and for one year after leaving office, (2) executive or managerial employees of state or municipal government, (3) judges of any court, (4) prosecutors, and (5) employees of a police department or other law enforcement agency with jurisdiction over investigating and enforcing cannabis-related crimes or crimes regarding controlled substances. Under existing law, the state Code of Ethics for Public Officials (CGS § 1-79 et seq) already prohibits individuals subject to it (e.g., state employees) from having any financial interest in a business that is in substantial conflict with their official duties.

The bill prohibits the same officials, for the duration of their public employment or terms, from receiving any commission; profit; gratuities; offer of future employment; partnership, ownership, or other financially beneficial association; or gifts of any kind from any person or cannabis establishment or cannabis business licensed under the bill or the medical marijuana laws.

EFFECTIVE DATE: Upon passage

§ 25 — MUNICIPAL CONDITIONS

Prohibits towns and local officials from conditioning an official action, or accepting a donation, from a cannabis establishment or an individual that applied for a license; bans a town from entering into a local host agreement with a cannabis establishment or an individual applying for a license that violates the bill, either directly or indirectly.

The bill prohibits municipalities and local officials from conditioning any official action, or accepting any donation, from a
cannabis establishment or an individual or corporation that has applied for a license to open or operate a cannabis establishment in the municipality or a neighboring municipality.

The bill also bans a municipality from negotiating or entering into a local host agreement with a cannabis establishment or an individual or corporation that has applied for a license to open or operate a cannabis establishment in the town or a neighboring town that violates, directly or indirectly, any of the bill’s provisions.

EFFECTIVE DATE: Upon passage

§ 26 — MUNICIPAL ELIGIBILITY FOR CANNABIS WORKFORCE AND ECONOMIC DEVELOPMENT FUNDING

Requires municipalities to adopt the task force’s findings in order to be eligible for grants and loans under the bill

The bill conditions municipal eligibility for cannabis workforce and economic development grants and loans, or other funds under the jurisdiction of the commission, OJR, DOL, DCP, or DECD, on the municipality first passing a resolution or ordinance that adopts the task force’s findings and commits the municipality to implementing its municipal recommendations.

EFFECTIVE DATE: Upon passage

§ 27 — UCONN RESEARCH PARTNERSHIP

Requires the commission to consult with UConn regarding a cannabis business sector research partnership

Within 60 days after the commission is formed, the bill requires the commission to consult with UConn about entering a research partnership to provide studies, research, training, and education to support (1) equity in the cannabis business sector, (2) equity applicants and licensees, and (3) equity in the cannabis workforce.

The commission must seek to enter into formal and informal partnerships with UConn for up to 180 days and as needed thereafter.

EFFECTIVE DATE: Upon passage
§ 28 — PROTECTION OF PARENTAL RIGHTS

Provides that a parent, grandparent, or guardian cannot face (1) a child welfare or family court action or (2) an adverse finding regarding any right of privilege in a proceeding, if it is solely or primarily based on the presence of cannabis traces in the person’s system, conduct related to cannabis use, or participation in a cannabis-related business that the bill makes legal.

The bill prohibits certain cannabis-related actions or conduct from forming the sole or primary basis for (1) child welfare agency or family or juvenile court actions or proceedings or (2) any adverse findings or evidence or restriction of rights in adoption or fostering proceedings. Under the bill, this prohibition applies to actions or proceedings for anyone charged with the well-being of a child (e.g., a parent, grandparent, guardian, or pregnant woman) based on (1) the presence of cannabinoid components or metabolites in the person’s bodily fluids, (2) conduct related to the person’s use of cannabis, or (3) the person’s participation in cannabis-related business or other activities made legal under the bill or other state or local authority.

EFFECTIVE DATE: Upon passage

§ 29 — EDUCATIONAL INSTITUTIONS AND STUDENTS

Requires any educational institution receiving public funds or subject to state regulations to revise and implement student disciplinary policies to conform to the bill’s criteria; prohibits disciplinary policies from barring student or school involvement in a criminal investigation; prohibits using out-of-school suspension for more than 10 days to discipline a student found to illegally possess cannabis on school premises; protects financial aid or student loan recipients from losing their eligibility, rights, privileges, or options because of cannabis-related activity the bill allows; provides certain protections for people legally living in student housing for cannabis-related activity the bill allows; allows a student subjected to school discipline in violation of the bill’s protections to bring a lawsuit.

Disciplinary Policies (§ 29(a) & (h))

The bill requires any educational institution receiving public funds or subject to state regulations to, within 180 days after the bill’s effective date, revise and implement student disciplinary policies to conform to the criteria in this section. This means this provision applies to public and private Kindergarten to grade 12 schools, as well as public and private institutions of higher education. For example, many private k-12 schools take part in the federal school lunch program and are entitled to assistance under the federal special education law. Essentially all private institutions of higher education...
receive federal assistance for student financial aid.

The bill specifies that:

1. no school disciplinary policy can prohibit the involvement of a student or school in a criminal investigation reasonably related to the unlawful possession or distribution of cannabis on school premises or in the course of school activities,

2. a student has a right to independent free counsel in any investigation or other proceeding where the student is subject to school discipline for possessing cannabis and may reasonably be expected to be a witness or to be subject to arrest, and

3. a student entitled to counsel must be promptly informed of his or her right to counsel and be granted the means to request counsel by the school.

**Discipline Requirements and Options (§ 29 (d), (e), (f) & (g))**

The bill prohibits using out-of-school suspension for more than 10 days to discipline a student found to illegally possess cannabis on school premises or while engaged in school activities. This provision appears to conflict with the state school expulsion law that requires expulsion for controlled substance offenses (see COMMENT).

The bill allows a student found in illegal possession of cannabis on school premises or during school activities (e.g., field trips, athletic competitions), to receive or be subject to counseling, drug-related education, or community service related to the school, or any combination of them, as long as it is not more severe than equivalent school penalties for underage drinking.

Also, the bill allows educational institutions to establish a (1) restorative justice program for addressing matters related to cannabis, other controlled substances, alcohol, or tobacco or (2) cannabis or other substance abuse diversion program as part of a school drug policy. The restorative justice program must include an education curriculum tailored to the needs and circumstances of individual students. The
diversion program must include counseling, support, and education regarding cannabis abuse and other substance abuse.

**Financial Aid (§ 29(i))**

The bill protects financial aid or student loan recipients from having their eligibility, rights, privileges, or options revoked, restricted, or adversely changed because of cannabis-related activity that the bill allows. The bill specifies that any contractual provision or policy contrary to this section is deemed void and against public policy. This provision could be vulnerable to a legal challenge that it violates the Constitution’s contracts clause (art. 1, § 10), which generally prohibits states from passing laws that impair the obligation of existing contracts (see BACKGROUND).

**Student Housing (§ 29(j))**

The bill protects people legally living in student housing from discipline, termination of residency, eviction, or any other housing-related sanction for cannabis-related activity allowed under the bill that does not substantially involve housing-related misconduct. The bill specifies that any contractual provision or policy contrary to this section is deemed void and against public policy. This provision could also be vulnerable to a contracts clause challenge (see BACKGROUND).

**Violations and Court Actions (§ 29(k))**

Under the bill, a violation of any part of this section can give rise to a private right of action by a student subject to school discipline under this section or any legal parent or guardian of the student. The private right of action may be filed in the Superior Court for the district in which the school is located.

**Regulations (§ 29(b) & (c))**

The bill requires the State Department of Education and the Office of Higher Education, in consultation with the commission and OJR, to adopt regulations for implementing these provisions, including collecting information about student disciplinary actions related to cannabis and undertaking remedial measures to correct discriminatory
conduct and disparate impacts.

Additionally, it requires each covered educational institution to file a detailed report, consistent with regulations, with the relevant regulatory agency for each cannabis-related disciplinary action. The bill does not indicate which agencies are the relevant regulatory agencies.

EFFECTIVE DATE: Upon passage

§ 30 — HOUSING

Makes it illegal to refuse to rent, lease, license, or sell any housing based on a person’s prior cannabis-related charge or conviction or involvement in the lawful cannabis business sector; exempts certain types of lodging, such as (1) sober living or other therapeutic housing and (2) temporary lodgings, including hotels, motels, camps, and private homes.

Beginning 180 days after it becomes effective, the bill makes it illegal to:

1. refuse to rent, lease, license, sell, or otherwise make unavailable any housing unit based on a person’s (a) prior charge or conviction for a cannabis-related offense or (b) past, current, or future involvement or participation in the lawful cannabis business sector;

2. ask about a prospective tenant, licensee, or purchaser’s criminal history related to cannabis; or

3. discriminate in the terms, conditions, or privileges of the sale or rental of any dwelling based on the person’s (a) prior charge or conviction for a cannabis-related offense or (b) past, current, or future involvement or participation in the lawful cannabis business sector.

The bill states that the above provisions also apply to homeless shelters, respite homes, nursing homes, and other long-term care facilities.

However, the bill exempts from these provisions (1) sober living houses or other housing intended to provide a therapeutic or
rehabilitative environment related to drug or alcohol use and (2) temporary lodgings, including hotels, motels, camps, and private homes rented for brief stays.

EFFECTIVE DATE: Upon passage

§ 31 — FEDERALLY ASSISTED HOUSING

Makes it illegal to refuse to rent, lease, license or otherwise make unavailable any unit of housing based on a person’s cannabis-related charge or arrest without conviction or substantial independent evidence; places requirements on federally-assisted housing including to notify the commission and the OJR when there are denials or evictions based on lawful cannabis activity; requires the attorney general to promptly take reasonable remedial and corrective measures, including seeking equitable and injunctive relief, if a review identifies a pattern of disparate racial impact or intentional discrimination based on lawful cannabis activity.

Beginning 180 days after it becomes effective, the provisions of this section apply to any housing governed by (1) the federal Quality Housing and Work and Responsibility Act of 1998 (federal public housing and housing choice voucher rental assistance) or (2) any other provisions of federal law that grant persons or entities that own or manage federally assisted housing the discretion to deny persons housing, or to evict them, based on drug-related offenses.

The bill makes it illegal to refuse to rent, lease, license, or otherwise make unavailable any such housing based on a person’s charge or arrest for a cannabis-related offense, without conviction or other substantial independent and relevant evidence based on actual conduct.

It also requires everyone that owns, manages, or regulates the covered housing to provide the commission and OJR with written notification of any denial of housing or any eviction based on the lawful cultivation, possession, or use of cannabis or other cannabis-related offense.

The notice must provide the affected person’s name, address, race, ethnicity, and gender; the persons with knowledge and decision-making authority regarding the denial or eviction; the specific circumstances of the denial or eviction; and the specific reasons, facts, and evidence for the denial or eviction. The notice must be issued to
the Office of the Attorney General (AG) no more than seven days after the denial or issuance of a notice of eviction.

The bill requires the AG, at least once every two years, to conduct periodic disparate racial impact reviews of denials and evictions for cannabis-related reasons under Title VI of the federal Civil Rights Act of 1964. If a review identifies a pattern of disparate racial impact or intentional discrimination in federally assisted housing based on lawful cannabis activity, the AG must promptly take reasonable remedial and corrective measures, upon the commission’s recommendation or its own initiative. This can include seeking equitable and injunctive relief and imposing civil penalties of up to $100,000 for each instance of a policy or practice that creates a disparate racial impact in the provision or retention of housing.

EFFECTIVE DATE: Upon passage

§ 32 — TRIBAL SOVEREIGNTY

States the bill must not be interpreted to infringe on tribal sovereignty to establish laws, regulations, or ordinances or to govern and regulate matters of public policy within the tribal boundaries; requires that lawful tribe-certified cannabis operations be considered licensed entities for the purpose of commerce between cannabis businesses

The bill explicitly states that its provisions must not be interpreted to infringe on tribal sovereignty to establish laws, regulations, or ordinances, or to govern and regulate matters of public policy, within the tribal jurisdiction boundaries.

The bill requires that lawful cannabis operations certified by the tribes be considered licensed entities for the purpose of commerce between tribal cannabis businesses and licensed cannabis businesses in this state.

EFFECTIVE DATE: Upon passage

§§ 33 & 34 — CRIMINAL RECORD ERASURE

Allows anyone convicted on or after October 1, 2015, for possessing or possessing with intent to sell six ounces or less of cannabis to file a court petition to erase the related records; provides for automatic erasure of records for older convictions for possessing less than four ounces of cannabis or any quantity of non-narcotic or non-hallucinogenic drugs;
makes various changes to existing procedures to erase records for any decriminalized offense

Under existing law, offenders convicted of acts that are subsequently decriminalized may petition to have their records erased. This includes convictions for the possession of less than ½ ounce of cannabis, which was decriminalized in 2011 (see State v. Menditto, 315 Conn. 861 (2015)). If petitioned, the court must order the physical destruction of all related police, court, and prosecution records.

The bill allows anyone convicted on or after October 1, 2015 (see BACKGROUND) for possession, or possession with intent to distribute, of six ounces or less of cannabis to file a court petition for the records’ erasure. It also provides for the automatic erasure of convictions before then for possessing less than four ounces of cannabis or any amount of certain other drugs. This automatic erasure provision does not apply to (1) narcotics (e.g., heroin or cocaine) or (2) non-marijuana hallucinogens.

For the automatic erasure provisions, because of changes to the drug possession laws throughout the years, the specific quantities or drugs vary in some respects depending on the date of the conviction. For example, PA 11-71 (§§ 1 & 2), effective July 1, 2011, decriminalized the possession of up to ½ ounce of marijuana. Thus, possession of less than that amount of cannabis since that date is not a crime and thus is not covered by the bill’s erasure provisions.

The bill also makes certain changes to existing laws on record erasure for any decriminalized offense, such as requiring that the person be given a copy of the records before their destruction.

EFFECTIVE DATE: July 1, 2022

Petitions for Erasure of Cannabis Possession Convictions on or after October 1, 2015

Under the bill, a person seeking this erasure must file the petition with the Superior Court (1) where the person was convicted, (2) that has the conviction records, or (3) where venue would currently exist if the conviction took place in a court that no longer exists (e.g., the Court
of Common Pleas).

The petitioner must include a copy of the arrest record or an affidavit supporting that the conviction was for six ounces or less of cannabis. If the petition includes the required documentation, the court must order the erasure of all related police, court, and prosecution records.

Under the bill, these provisions do not apply if the (1) criminal case is pending or (2) person was charged with multiple counts, until all counts are entitled to destruction or erasure. But if there are multiple counts, the court must direct the records of any offenses that would otherwise be entitled to destruction to be erased under existing procedures.

Under the bill, the court or any agency or department must not charge any fees for these petitions. The court, police, or prosecutor must give the petitioner a complete paper or electronic copy of all the records and certify their authenticity before their destruction. If the applicable court, department, or agency provides an electronic copy, they must not retain any duplicate electronic records.

**Automatic Erasure of Prior Convictions**

The bill additionally provides for automatic erasure of the police, court, and prosecutor records for certain drug possession convictions before October 1, 2015, as specified above. Under the bill, if these records are electronic, they must be erased; if they are not electronic, they are deemed erased by operation of law. The bill specifies that scanned copies of physical documents are not considered to be electronic records. The applicable department, court, or agency is barred from charging any fees for the erasure.

If the person was charged with multiple counts, these provisions do not apply unless all counts are entitled to erasure, except that electronic records, or portions of them, released to the public must be erased to the extent they reference charges entitled to erasure.

The court, police, or prosecutor must give the person a complete
paper or electronic copy of all the records and certify their authenticity before their erasure.

The bill specifies that these provisions do not (1) limit any other procedure for erasure of criminal history record information or (2) prohibit someone from participating in those procedures, even if that person’s records have been erased under the bill’s procedure.

These provisions also do not require the Department of Correction to redact any of their internal records.

**Petitions for Erasure of Convictions for Any Decriminalized Offense**

Under the bill, several of the above provisions on petitions to erase cannabis possession convictions also apply to petitions to erase convictions for any decriminalized offenses. These include the provisions (1) specifying the court in which to file the petition, (2) banning fees, (3) prohibiting petitions while a case is pending, (4) establishing procedures for cases with multiple counts, (5) requiring that the person receive a copy of the records, and (6) banning the court or agency from retaining an electronic copy.

**Background — 2015 Changes to Drug Possession Laws**

Effective October 1, 2015, PA 15-2, June Special Session (§ 1) replaced the prior penalty for drug possession crimes, which punished most types of illegal drug possession as felonies. It created a new structure that generally punishes possession of half an ounce or more of cannabis or any amount of another illegal drug as a class A misdemeanor.

**§ 35 — CANNABIS LABORATORIES**

*Authorizes cannabis laboratories and their employees to obtain and test cannabis from any source and makes related changes*

Current medical marijuana law prohibits licensed laboratory employees from acquiring marijuana from, or delivering, transporting, or distributing it to, anyone other than (1) licensed producers or dispensaries or (2) organizations engaged in approved research programs.
The bill replaces these provisions, and in doing so authorizes certain laboratories to obtain cannabis from a wider range of sources. It generally allows laboratories or laboratory employees licensed to test cannabis (including cannabis products) to (1) acquire and test cannabis from any source or person and (2) report the test results to the requesting person without asking about the source of the cannabis. This applies if the laboratory or employee finds this testing to be relevant to health or safety. Also, as under current law, the laboratory or employee must not obtain or transport marijuana outside of the state in violation of state or federal law.

The bill makes conforming changes to the scope of legal protections for laboratories and laboratory employees when obtaining and testing cannabis products under the authorization described above.

It also specifies that these provisions must not be interpreted to release any laboratory employee from any requirement or liability to any government agency arising from law or regulation or as a condition of licensing.

EFFECTIVE DATE: Upon passage

§§ 36 & 37 — CANNABIS USE IN MOTOR VEHICLES

Makes it a (1) class C misdemeanor to smoke, otherwise inhale, or ingest cannabis while driving a motor vehicle and (2) class D misdemeanor to smoke cannabis in a motor vehicle.

The bill makes it a class C misdemeanor to smoke, otherwise inhale, or ingest cannabis products while driving a motor vehicle. It makes it a class D misdemeanor to smoke cannabis as a passenger in a motor vehicle. A class C misdemeanor is punishable by up to three months in prison, a fine of up to $500, or both, and a class D misdemeanor is punishable by up to 30 days in prison, a fine of up to $250, or both.

In either case, the bill applies to doing these things in a vehicle operated (1) on a public highway, (2) on a road of a specially chartered municipal association or roadway district, (3) in a parking area for 10 or more cars, (4) on school property, or (5) on a private road with a speed limit set pursuant to state law.
Under the bill, someone cannot be convicted of both possession of a controlled substance and smoking, otherwise inhaling, or ingesting cannabis products while driving for the same incident. But someone may be charged and prosecuted for either or both offenses, driving under the influence, and any other applicable offense upon the same information. Relatedly, someone cannot be convicted of both possessing a controlled substance and smoking cannabis in a motor vehicle for the same incident, but he or she may be charged and prosecuted for both offenses upon the same information.

EFFECTIVE DATE: October 1, 2021

§ 38 — DRUG RECOGNITION EXPERTS AND ADVANCED ROADSIDE IMPAIRED DRIVING ENFORCEMENT

Requires POST and DOT to determine the number of drug recognition experts needed, requires certain officers to be trained in advanced roadside impaired driving enforcement, and requires related training plans

The bill requires the Police Officer Standards and Training Council (POST), in conjunction with the Department of Transportation’s (DOT) Highway Safety Office, to determine how many accredited drug recognition experts (DREs) are needed to respond to impaired driving. It also requires (1) certain officers to be trained in advanced roadside impaired driving enforcement (ARIDE) and (2) training plans for both DREs and ARIDE.

Under the bill, a DRE is someone certified by the International Association of Chiefs of Police as having met all requirements of the International Drug Evaluation and Classification Program. ARIDE is a program developed by the National Highway Traffic Safety Administration (NHTSA) with the International Association of Chiefs of Police (IACP) and the Technical Advisory Panel, or a successor program, that focuses on impaired driving enforcement education for police officers.

Determining Minimum Number of DREs

By January 1, 2022, the bill requires each law enforcement unit to report to POST, in a manner it specifies, a recommendation for the minimum number of officers that it should have accredited as DREs to
respond to impaired driving. In making the recommendations, units may consider that they may call on other units’ DREs, as needed and available. A recommendation must be based on (1) DOT impaired driving data and (2) and POST-issued guidance.

The bill requires POST, in conjunction with DOT’s Highway Safety Office, to determine the minimum number of police officers to be accredited as DREs for each law enforcement unit, considering recommendations from law enforcement units. POST and the office must submit their determination to the governor and Office of Policy and Management secretary by July 1, 2022.

By April 1, 2022, POST must develop and promulgate a model DRE policy to ensure that enough police officers in each unit become trained DREs to meet the minimum requirement POST determines. And by October 1, 2022, each law enforcement unit must adopt and maintain a written policy that at least meets the standards in POST’s policy.

**DRE and ARIDE Training**

By January 1, 2022, POST and DOT’s Highway Safety Office must jointly issue a plan to increase access to ARIDE training and DRE training for police officers and law enforcement units. Beginning on that same date, the bill requires each police officer who has not been recertified for the first time after his or her initial certification to be trained and certified in ARIDE before being recertified.

**EFFECTIVE DATE:** July 1, 2021

**§ 39 — DRIVING UNDER THE INFLUENCE (DUI)**

*Modifies the state’s DUI law, including allowing drug influence evaluations to be admitted as evidence, allowing courts to take judicial notice of THC’s effects, and providing immunity to people who draw blood at a police officer’s direction*

The bill makes changes to the state’s DUI law, including allowing evaluations by DREs to be admissible as evidence, allowing courts to take judicial notice of THC’s effects, and providing civil immunity to people who draw blood at the direction of a police officer.
The DUI law prohibits driving a motor vehicle (1) while under the influence of alcohol or drugs (or both) or (2) with an elevated blood alcohol content (BAC) (i.e., at least .08% for non-commercial vehicle drivers, .04% for commercial vehicle drivers, or .02% for drivers under age 21). It applies to drivers operating motor vehicles anywhere, including their own property, and to people operating snowmobiles and all-terrain vehicles. The law imposes various penalties for DUI, including prison terms, fines, and license suspensions (see BACKGROUND).

EFFECTIVE DATE: April 1, 2022

**Drug Influence Evaluations as Evidence**

Existing law allows chemical tests showing the amount of alcohol or drugs in a defendant’s blood, breath, or urine at the time of the alleged DUI offense to be admissible as evidence, provided certain standards are met (e.g., the driver must consent to the test and have a reasonable chance to call a lawyer before taking it, see BACKGROUND).

Under the bill, if a DRE conducts a drug influence evaluation, his or her related testimony must be admissible and competent as evidence of DUI. A “drug influence evaluation” is a twelve-part evaluation developed by NHTSA and IACP that a DRE conducts to determine (1) a person’s impairment level from using drugs and (2) the drug category causing the impairment (see BACKGROUND).

Under the bill, a DRE may testify about his or her opinion or otherwise on the significance of the symptoms of impairment or intoxication (1) for which evidence was admitted or (2) on the condition that the evidence be introduced.

**Refusal to Submit to a Drug Influence Evaluation.** By law, in DUI prosecutions, evidence that the defendant refused to submit to a lawfully requested blood, breath, or urine test is admissible, if certain procedural requirements were followed (e.g., the person was informed of their constitutional rights and allowed to contact an attorney). The bill also allows evidence that a defendant refused to submit to the
nontestimonial portion of a drug influence evaluation to be admissible as evidence under the same conditions. The “nontestimonial portion of a drug influence evaluation” is a drug influence evaluation that does not include a verbal interview with the subject.

**Judicial Notice of Effects of THC**

In a DUI prosecution alleging that a defendant’s driving was impaired wholly or partially by consuming cannabis, cannabis products, or “THC,” the bill allows a court to take judicial notice that ingesting THC (1) can impair a person’s driving ability, motor function, reaction time, tracking ability, cognitive attention, decision-making, judgement, perception, peripheral vision, impulse control, and memory and (2) does not enhance a person’s ability to drive a motor vehicle safely.

“THC” is tetrahydrocannabinol and any material, compound, mixture or preparation containing their salts, isomers, and salts of isomers, whenever their existence is possible within the specific chemical designation, regardless of the source. It is not (1) dronabinol in sesame oil that is in a soft gelatin capsule in a federal Food and Drug Administration (FDA)-approved product or (2) a tetrahydrocannabinol product approved by FDA or a successor agency to have a medical use and reclassified in a schedule of controlled substances or unscheduled by the FDA or successor agency.

**Immunity for People Drawing Blood**

The bill generally gives immunity from civil liability to (1) a qualified person who draws someone’s blood at the request of a police officer acting according to DUI law or laws on blood samples after accidents resulting in death or serious injury and (2) a hospital, lab, or clinic that employs the person or uses his or her services. This immunity does not apply if the person’s actions while drawing blood constitute gross negligence.

§ 40 — ADMINISTRATIVE PER SE LICENSE SUSPENSION PROCESS

Makes changes to the administrative per se process, including (1) expanding it to include procedures for imposing penalties on drivers without an elevated BAC but found to be
driving under the influence based on behavioral impairment evidence and (2) applying the existing per se process to operators who refuse the nontestimonial portion of a drug influence evaluation.

By law, someone arrested for DUI is subject to administrative licensing sanctions through DMV, in addition to criminal prosecution. This process is referred to as “administrative per se,” and the sanctions may occur when (1) a driver refuses to submit to a blood, breath, or urine test or (2) a test indicates an elevated BAC. However, under current law, DMV is unable to suspend drug-impaired drivers that do not have an elevated BAC.

Principally, the bill expands the administrative per se process to include procedures for imposing licensing sanctions and other penalties on drivers that do not have an elevated BAC but are found to be driving under the influence based on evidence of behavioral impairment, among other things. Existing law allows evidence of behavioral impairment to support a DUI conviction.

The bill also applies the existing per se process to drivers who refuse to consent to the bill’s nontestimonial portion of a drug influence evaluation and makes various other changes to the process.

EFFECTIVE DATE: April 1, 2022

**Implied Consent for Drug Influence Evaluations (§ 40(a))**

Under existing law, motor vehicle drivers consent to chemical tests of their blood, breath, or urine when they drive, and if a driver is a minor, the law deems his or her parents to have consented. Under the bill, drivers (or their parents) also consent to a nontestimonial portion of a DRE-conducted drug influence evaluation.

**Requests for Drug Influence Evaluations (§ 40(b))**

Existing law allows a police officer who arrests a person for DUI to request that he or she submit to a blood, breath, or urine test under certain conditions. The bill allows the officer to also ask the person to submit to (1) a drug influence evaluation conducted by a DRE or (2) both a drug influence evaluation and a blood, breath, or urine test.
The bill generally applies the conditions in existing law for requesting blood, breath, or urine tests to requests for drug influence evaluations. Thus, under the bill, a police officer may ask someone to submit to a blood, breath, or urine test, or a drug influence evaluation only after he or she is:

1. informed of his or her constitutional rights;

2. given reasonable opportunity to contact an attorney before the test or evaluation occurs;

3. informed that evidence of refusal to submit to a test or evaluation is admissible as evidence in the prosecution of DUI cases, except that refusing to submit to the testimonial portions of drug influence evaluations is not refusal evidence;

4. informed that his or her license or operating privilege may be suspended under administrative per se procedures if (a) he or she refuses a test or the nontestimonial portion of a drug influence evaluation or submits to a test and the results indicate an elevated BAC or (b) the officer believes there is substantial evidence to conclude that the person was driving under the influence of intoxicating liquor, a drug, or both.

Existing law prohibits giving a test if the subject refuses it. It requires police officers, when someone refuses or is unable to submit to a blood test, to designate a different type of test to be taken. If a test is refused, the officer must officially note that he or she informed the person of the conditions under which the license or driving privilege could be suspended by the refusal.

The bill extends this refusal procedure to requests for drug influence evaluations. It also specifies that if someone submits to a breath test and the results indicate that the person does not have an elevated BAC, the police officer may ask him or her to take a different type of test. But if he or she refuses to submit to a blood test, the officer must designate that a urine test be taken.
**Arrest Reports and 24-Hour Suspension (§ 40(c) & (d))**

The bill (1) adds refusing the nontestimonial portion of a drug influence evaluation to the existing arrest reporting and 24-hour suspension procedures and (2) establishes a similar procedure for people who are arrested for DUI but not asked to take a test or whose results do not indicate an elevated BAC.

The bill also specifies that an officer’s failure to transmit these reports within three business days, as the law requires, does not affect a license or operating privilege suspension decision or the report’s admissibility in a hearing (see below).

**Refusing Test or Elevated BAC.** Under existing law, if a person refuses to submit to a blood, breath, or urine test or submits to a test within two hours after driving and the results indicate the person has an elevated BAC, the police officer, acting on behalf of DMV, must immediately, and for a 24-hour period, (1) revoke and take possession of the person’s driver’s license and (2) suspend his or her operating privilege, if he or she is a nonresident. Under the bill, an officer must do the same if a person refuses a drug influence evaluation.

**No Test Requested or No Elevated BAC.** Under the bill, if an officer arrests someone for DUI but does not ask the person to submit to a blood, breath, or urine test, or gets results indicating that the person does not have an elevated BAC, the officer must (1) advise the person that his or her license or operating privilege may be suspended through the administrative per se process if he or she believes there is substantial evidence to conclude that the person was driving under the influence of alcohol, drugs, or both and (2) submit a report on the arrest and evidence.

The bill requires the report to be submitted under existing law’s procedures, and if the report includes test results that indicate no elevated BAC, it must conform to the requirements for reports on test results that do indicate elevated BAC. In these reports, the officer must document (1) the basis for the belief that there was probable cause to arrest the person for DUI and (2) if he or she believes that there is
substantial evidence to conclude the person was driving under the influence of alcohol, drugs, or both.

Under the bill, if the officer believes substantial evidence of DUI exists, he or she must immediately, and for a 24-hour period, (1) revoke and take possession of the person’s driver’s license or (2) if the person is unlicensed or a nonresident, suspend their operating privilege.

**Laboratory Analysis of Blood or Urine.** The bill eliminates provisions in current law that:

1. prohibit an officer, if a blood or urine test specimen requires laboratory analysis, from (a) taking possession of a person’s license or suspending his or her operating privilege or (b) sending an arrest report to the commissioner and

2. require, if the lab results show an elevated BAC, the officer to immediately notify and send the report to DMV.

**DMV License Suspension (§ 40(e))**

Under current law, after receiving a report, the DMV commissioner may suspend a person’s license, which must start on a date no later than 30 days after the person received notice of their arrest by the police officer. The bill instead requires that the date be within 30 days before the later of the date the person received the (1) notice of the person’s arrest or (2) results of a blood or urine test or a drug influence evaluation.

The suspension lasts for 45 days and is followed by a mandatory period of ignition interlock device use (see below).

**Hearing.** By law, people subject to this license suspension are entitled to a hearing before the suspension takes effect. They may do so by contacting DMV within seven days after the suspension notice’s mailing date.

Under the bill, the hearing of someone who was not asked to take a
blood, urine, or breath test or whose test results did not indicate an elevated BAC, is limited to a determination of the following issues, which are substantially similar to those under existing law’s per se process:

1. if police officer had probable cause to arrest the person for DUI;

2. was the person arrested;

3. is there substantial evidence to conclude that the person was driving a vehicle under the influence of alcohol, drugs, or both; and

4. was the person driving the vehicle.

In these hearings, the following evidence of DUI is admissible:

1. police officer observations of intoxication, as documented in the report;

2. results of a chemical test administered in accordance with the DUI law or a toxicology report certified by the Department of Emergency Services and Public Protection’s (DESPP) Division of Scientific Services;

3. hospital or medical records obtained in accordance with established procedures or by the driver’s consent;

4. results of tests conducted by, or a report of, an officer trained in ARIDE; or

5. DRE reports.

**Ignition Interlock Devices (§ 40(i))**

The bill extends current ignition interlock device (IID) penalties to people who drive a vehicle under the influence of alcohol, drugs, or both, but who did not have an elevated BAC or were not asked to take a blood, breath, or urine test, as shown in Table 1 (see BACKGROUND).
Table 1: IID Penalties for Per Se Offense Under the Bill

<table>
<thead>
<tr>
<th>Per Se Offense</th>
<th>IID Requirement (After 45-Day License Suspension)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>First Suspension</td>
</tr>
<tr>
<td>Age 21 or older: (1) BAC of 0.08% or more or 0.04% or more if operating a</td>
<td>6 months</td>
</tr>
<tr>
<td>commercial vehicle or (2) found to have been driving under the influence of</td>
<td></td>
</tr>
<tr>
<td>alcohol, drugs, or both</td>
<td></td>
</tr>
<tr>
<td>Under Age 21: (1) BAC of 0.02% or more or (2) found to have been driving</td>
<td>1 year</td>
</tr>
<tr>
<td>under the influence of alcohol, drugs, or both</td>
<td></td>
</tr>
<tr>
<td>Refusal of test or nontestimonial portion of drug influence evaluation,</td>
<td>1 year</td>
</tr>
<tr>
<td>regardless of age</td>
<td></td>
</tr>
</tbody>
</table>

Existing law requires IIDs for criminal DUI convictions, even for those involving drugs and not alcohol (CGS § 14-227a(i)).

Process if Driver Suffered Injury or Required Medical Treatment (§ 40(j))

Under existing law, if a police officer obtains a blood or urine sample from a driver who was arrested for DUI and physically injured in an accident or needed hospital treatment or observation, the officer must notify the DMV commissioner if the sample’s results indicate that the operator had an elevated BAC. The bill extends this requirement to blood sample results that show the presence of alcohol, a drug, or both.

The commissioner may then use this information when deciding to suspend the driver’s license, in accordance with the procedures described above.

§ 41 — PROCEDURES FOR ACCIDENTS RESULTING IN DEATH OR SERIOUS INJURY

Modifies intoxication testing procedures for accidents resulting in death or serious injury, including by requiring drug influence evaluations of surviving operators

Surviving Drivers
Existing law requires a blood or breath sample to be obtained from a surviving driver whose vehicle was involved in an accident resulting in the death of or serious physical injury to another person if (1) a police officer has probable cause to believe that the driver operated the vehicle while under the influence of alcohol, drugs, or both, or (2) the driver has been charged in connection with the accident and the officer has a reasonable suspicion that he or she was under the influence of alcohol, drugs, or both. The sample must be tested according to DESPP-approved methods and equipment.

The bill additionally (1) requires that a DRE conduct a drug influence evaluation of a surviving operator if the operator is not seriously injured or otherwise unable to take the evaluation because of the accident and (2) allows a urine sample to be taken instead of a blood or breath sample.

The bill requires police officers who obtain a blood, breath, or urine sample from the surviving driver or a drug influence evaluation conducted on the surviving driver to submit a written report to the DMV commissioner with the respective results. It allows the commissioner, after notice and opportunity for a hearing held according to the administrative per se procedures, to impose the associated license suspension and IID penalties. The hearing must be limited to determining the following:

1. if the person was operating the vehicle;
2. if the person’s sample or the drug influence evaluation was properly obtained or conducted, as applicable, according to the law’s requirements; and
3. if the examined sample had an elevated BAC or if there was substantial evidence that the person drove the vehicle under the influence of alcohol, drugs, or both.

**ARIDE-Trained Officers at Fatal Accidents**

The bill requires law enforcement units, when responding to a fatal motor vehicle accident, to assign an ARIDE-trained officer to respond,
if one is available.

**Examination of Samples**

By law, the chief medical examiner and other specified officials must include in a fatal motor vehicle accident investigation a blood sample from any driver or pedestrian who dies in the accident.

Under current law, DESPP’s Division of Scientific Services or the chief medical examiner examines the samples. The bill also allows a forensic toxicology laboratory, under an agreement with the Office of the Chief Medical Examiner, to examine them.

**EFFECTIVE DATE:** April 1, 2022

§ 42 — COMMERCIAL VEHICLE DRIVING DISQUALIFICATION

*Extends existing commercial motor vehicle driving disqualification penalties to drivers who refused a drug influence evaluation or drove under the influence of alcohol, drugs, or both*

Under existing law, if a commercial driver’s license holder either refuses a test to determine BAC while driving any vehicle or fails the test, he or she is disqualified from driving a commercial motor vehicle for (1) a year for a first offense and (2) life upon a second or subsequent offense.

The bill imposes these disqualification penalties to someone who (1) refuses to submit to a drug influence evaluation by a DRE or (2) was found to have driven a vehicle under the influence of alcohol, drugs, or both, through the administrative per se procedure.

**EFFECTIVE DATE:** April 1, 2022

§ 43 — EDUCATIONAL MATERIALS ON DRE PROGRAM AND DRUG INFLUENCE EVALUATIONS

*Requires the Traffic Safety Resource Prosecutor to develop educational materials and programs about the DRE program and drug influence evaluations*

The bill requires the Traffic Safety Resource Prosecutor, in consultation with other entities and seeking guidance from NHTSA, to develop educational materials and programs about the DRE program and drug influence evaluations and make them available to the judicial
branch and the Connecticut Judges Association. The prosecutor must develop the materials in consultation with DOT, DMV, the Connecticut Police Chiefs Association, and the statewide DRE coordinator. (But the bill does not establish such a coordinator and one does not exist under current law.)

EFFECTIVE DATE: July 1, 2021

§ 44 — ADMINISTRATIVE PENALTIES FOR BOATING UNDER THE INFLUENCE

Makes changes to DEEP’s administrative sanctions process for boating under the influence that are substantially similar to the bill’s changes to DMV’s administrative per se process

The law establishes a process for the Department of Energy and Environmental Protection (DEEP) to impose administrative sanctions on boaters who operate boats with an elevated BAC or who refuse to submit to a blood, breath, or urine test. These procedures largely parallel the administrative per se process for driving with an elevated BAC or refusing to submit to a test (see above). Like DMV, under current law DEEP cannot suspend a drug-impaired boater’s safe boating certificate or certificate of personal watercraft operation ("certificate") if they do not have an elevated BAC.

The bill’s changes to this process are substantially similar to the changes it makes to DMV’s administrative per se process. It (1) expands the process to include procedures for imposing certification sanctions on boaters who do not have an elevated BAC but are found to be boating under the influence based on evidence of behavioral impairment, among other things, and (2) applies the existing process to boaters who refuse the nontestimonial portion of a drug influence evaluation. Its other changes include the following, among other things:

1. deeming that boaters consent to a nontestimonial portion of a drug influence evaluation conducted by a DRE;

2. allowing peace officers to request drug influence evaluations in addition to or instead of a blood, breath, or urine test under the
same conditions as police officers under the administrative per se statute for DUI;

3. requiring a peace officer to revoke certificates, following procedures substantially similar to the DUI per se process, if the (a) boater refuses a drug influence evaluation or (b) officer believes that he or she has substantial evidence that the boater operated a boat under the influence of alcohol, drugs, or both;

4. establishing review standards for hearings for boaters who did not refuse a test or whose results did not indicate an elevated BAC that align with those under the DUI administrative per se process; and

5. imposing existing suspension periods (which are different than those under the DUI administrative per se process) on people found to be operating a boat under the influence of alcohol, drugs, or both (see Table 2).

Table 2: Administrative Certificate Suspensions

<table>
<thead>
<tr>
<th>Violation</th>
<th>First Offense</th>
<th>Second Offense</th>
<th>Third or Subsequent Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) BAC of 0.08% or more (or 0.02% if under age 21) or (2) found to have been boating under the influence of alcohol, drugs, or both</td>
<td>90 days</td>
<td>9 months</td>
<td>2 years</td>
</tr>
<tr>
<td>Refusal of test</td>
<td>6 months</td>
<td>1 year</td>
<td>3 years</td>
</tr>
<tr>
<td>BAC of 0.16% or more</td>
<td>120 days</td>
<td>10 months</td>
<td>2 years, 6 months</td>
</tr>
</tbody>
</table>

Unlike its DMV administrative per se changes, the bill does not similarly extend the penalties for refusing a test to refusing the nontestimonial portion of a drug influence evaluation.

EFFECTIVE DATE: April 1, 2021

§ 45 — BOATING UNDER THE INFLUENCE

Makes substantially similar changes to the boating under the influence law as those the bill makes to the DUI law, such as allowing DREs to testify in boating under the influence cases.
State law prohibits boating (1) while under the influence of alcohol or drugs or (2) with an elevated BAC (i.e., at least 0.08%, or 0.02% in the case of boaters under age 21) (CGS § 15-133(d)). It imposes penalties for boating under the influence convictions, including prison time, fines, and certificate suspension (see BACKGROUND).

The bill makes substantially similar changes to the boating under the influence law that it makes to the DUI law. These changes include:

1. making testimony from a DRE who conducted a drug influence evaluation admissible and competent as evidence of boating under the influence;

2. allowing a DRE to testify about his or her opinion or otherwise on the significance of impairment or intoxication symptoms for which evidence was admitted or on the condition that it be introduced;

3. allowing evidence that a defendant refused to submit to the nontestimonial portion of a drug influence evaluation to be admissible as evidence under conditions substantially similar to those that apply to DUI (see above); and

4. allowing the court to take judicial notice that ingesting THC (1) can impair a person’s boating ability, motor function, reaction time, tracking ability, cognitive attention, decision-making, judgement, perception, peripheral vision, impulse control, and memory and (2) does not enhance a person’s ability to boat safely.

Unlike its DUI changes, the bill does not explicitly extend immunity from civil liability to people who draw blood samples at an officer’s request.

EFFECTIVE DATE: April 1, 2022

§§ 46, 47 & 53 — CANNABIS POSSESSION, USE, AND GIFTS
Allows people age 21 or older to possess or use cannabis or gift it to other such people, up to a six-ounce possession limit; establishes penalties for people under age 21 who possess up to 2.5 ounces, similar to existing penalties for possessing up to 0.5 ounce.

The bill allows individuals age 21 or older (consumers) to possess, use, or otherwise consume cannabis and cannabis products, up to the possession limit described below. The bill also allows consumers to gift cannabis or cannabis products to other consumers for free outside of commercial transactions, subject to the same limit.

The bill sets the following possession limit: the amount of cannabis must not exceed (1) six ounces of cannabis plant material, (2) an equivalent amount of cannabis product, or (3) an equivalent combined amount of cannabis and cannabis product.

Current law prohibits the possession of cannabis, except as authorized by law for medical purposes, and imposes civil fines and other penalties for possession of under ½ ounce and criminal penalties for the possession of larger amounts. The following table describes the current penalties.

<table>
<thead>
<tr>
<th>Table 3: Penalties for Cannabis Possession Under Current Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possession of less than ½ ounce (CGS § 21a-279a):</td>
</tr>
<tr>
<td>• First offense: $150 fine</td>
</tr>
<tr>
<td>• Subsequent offenses: $200 to $500 fine (third-time violators must attend drug education, at their own expense)</td>
</tr>
<tr>
<td>• Violators follow the procedures the law sets for infractions (e.g., they can pay the fine by mail) (CGS § 51-164n)</td>
</tr>
<tr>
<td>• 60-day suspension of the driver’s license or nonresident operating privileges of anyone under age 21 who is convicted of a violation (if the person does not have a license, he or she is ineligible for one for 150 days) (CGS § 14-111e)</td>
</tr>
<tr>
<td>• Burden of proof is preponderance of the evidence (rather than beyond a reasonable doubt) (CGS § 51-164n(i))</td>
</tr>
<tr>
<td>Possession of ½ ounce or more (CGS § 21a-279(a)):</td>
</tr>
<tr>
<td>• Class A misdemeanor, punishable by up to one-year prison term, up to a $2,000 fine, or both</td>
</tr>
<tr>
<td>• Second offense: court must evaluate the defendant and may suspend prosecution and order substance abuse treatment if the court determines that the person is drug dependent</td>
</tr>
</tbody>
</table>
• Subsequent offenses: court may find the person to be a persistent offender for controlled substance possession and impose the prison term that applies to class E felonies (i.e., up to three years)

Possession of ½ oz. or more within 1,500 feet of the property comprising (1) an elementary or secondary school by someone who is not attending the school or (2) a licensed child care center as identified by a sign posted in a conspicuous place (CGS § 21a-279(b)):
  • Class A misdemeanor
  • Court must sentence the person to a term of imprisonment and probation.
    The conditions of probation must include community service

While the bill sets a possession limit as described above, it does not establish penalties for people age 21 or older who possess more than the allowed amount. It is also unclear how the bill’s six-ounce possession limit interacts with another provision in the bill that provides that anyone age 21 or older cannot be arrested or otherwise penalized for any cannabis from plants the person cultivated at his or her primary residence (see § 14 above).

**Penalties for Possession by Underage Individuals (§ 47)**

For people under age 21, the bill establishes penalties for possessing less than (1) 2.5 ounces of cannabis plant material, (2) an equivalent amount of cannabis product, or (3) an equivalent combined amount. (The bill does not establish penalties for people under age 21 possessing larger amounts.)

The bill’s penalties are similar in some respects to current penalties for people of any age who possess up to ½ ounce.

Under the bill, someone under age 21 who possesses up to the 2.5-ounce limit is subject to a $150 fine for a first offense and a $200 to $500 fine for a subsequent offense. For any second or subsequent offense, the court (1) must evaluate the person and (2) if it determines that the person is drug dependent, may suspend prosecution and order the person to undergo a treatment program.

The bill requires referral to a drug education program for anyone under age 21 who for a third time enters a plea of nolo contendere to,
or is found guilty after trial of, possessing less than 2.5 ounces of cannabis. The person must pay for the program.

The bill exempts from these penalties people who possess more than the bill’s possession limit as part of a bona fide business activity or occupation, and who are (1) acting under a cannabis-related license issued by DCP, the Cannabis Control Commission, or any state or municipal agency or (2) providing bona fide services to a business operating under a cannabis-related license.

EFFECTIVE DATE: January 1, 2022

§ 48 — SEARCHES AND MOTOR VEHICLE STOPS

Limits when cannabis odor or possession can justify a search or motor vehicle stop

The bill generally provides that the following do not constitute (in whole or part) probable cause or reasonable suspicion, and must not be used as a basis to support any stop or search of a person or motor vehicle:

1. the odor of cannabis or burnt cannabis; or

2. the possession or suspected possession of six ounces or less of cannabis or cannabis product.

Additionally, the bill prohibits law enforcement officials from conducting a test for impairment based on this odor unless the official has probable cause to believe the vehicle is being operated in an unsafe manner.

Under the bill, any evidence discovered through a stop or search that violates these provisions is not admissible in evidence in any trial, hearing, or other court proceeding.

EFFECTIVE DATE: January 1, 2022

§ 49 — DOMESTICATED ANIMALS

Establishes penalties for feeding cannabis to domesticated animals in some circumstances

The bill generally makes it a class C misdemeanor to knowingly feed or recklessly provide cannabis or cannabis products to a
domesticated animal. The ban does not apply to (1) veterinarians or (2) people acting under a veterinarian’s supervision, instruction, or recommendation.

By law, a class C misdemeanor is punishable by up to three months in prison, a fine of up to $500, or both.

EFFECTIVE DATE: October 1, 2021

§ 50 — CONTRACT ENFORCEABILITY AND LAW ENFORCEMENT RESOURCES

Prohibits the state or political subdivisions from taking adverse actions substantially based on cannabis-related federal law violations; makes it the state’s public policy that contracts by cannabis establishments are enforceable; and prohibits law enforcement from spending time or resources on cannabis-related federal violations.

The bill prohibits state agencies or political subdivisions from relying on a cannabis-related violation of federal law as a significant or substantial basis for taking an adverse action against a person.

The bill provides that it is the state’s public policy that contracts related to operating licensed cannabis establishments are enforceable. Under the bill, this may not be limited by any contractual waiver, provision on choice of law or conflicts of law, or other contractual provision or other agreement.

The bill further provides that it is the state’s public policy that certain contracts are not unenforceable on the basis that federal law prohibits various cannabis-related actions (e.g., cultivation, manufacture, sale, possession, or use). This applies to contracts by (1) licensed cannabis establishments or their authorized agents or (2) those who allow property to be used by a cannabis establishment, its employees, or its authorized agents. This also may not be limited by any contractual waiver or other contractual provision or agreement.

The bill prohibits law enforcement officers from spending state or local resources, including the officers’ time, to make an arrest or seize cannabis, or conduct any investigation, for activity that the officer believes complies with the bill but violates federal law. This applies to law enforcement agencies that receive state or local government
funding.

The bill additionally prohibits officers from spending state or local resources, including their time, to provide any information or logistical support related to such activity to any federal law enforcement authority, prosecuting entity, or immigration authority.

EFFECTIVE DATE: July 1, 2021

§ 51 — RETURN OF SEIZED PROPERTY

Requires the return of drug paraphernalia or other cannabis-related products seized from a consumer for a suspected violation of the law on cannabis possession.

The bill generally requires the return of drug paraphernalia or other cannabis-related products that were seized from a consumer before January 1, 2022, in connection with suspected possession of cannabis in violation of law. This applies to these products held by DCP, law enforcement agencies, or courts. The bill requires them to return these products by June 30, 2022.

This does not apply if the cannabis or cannabis products exceeds six ounces.

EFFECTIVE DATE: January 1, 2022

§ 52 — CANNABIS PARAPHERNALIA

Allows consumers to manufacture, possess, or purchase cannabis-related paraphernalia or gift, distribute, or sell it to other consumers.

The bill allows consumers (people age 21 or older) to manufacture, possess, or purchase cannabis-related paraphernalia or gift, distribute, or sell this paraphernalia to other consumers.

These provisions apply despite existing drug laws. Among other things, existing law generally prohibits the use, possession with intent to use, or manufacture of drug paraphernalia (CGS § 21a-267). In general, these actions are infractions if they relate to less than ½ ounce of cannabis or misdemeanors if they relate to larger amounts.

EFFECTIVE DATE: January 1, 2022
§ 54 — PAROLE, SPECIAL PAROLE, OR PROBATION

Limits when (1) cannabis possession or use can be grounds to revoke parole, special parole, or probation and (2) conditions of parole, special parole, or probation can prohibit employment in a cannabis-related business

The bill generally prohibits cannabis (or cannabis product) possession or use from being grounds for revoking someone’s parole, special parole, or probation, unless that use or possession violates the bill’s requirements (e.g., possession over the six-ounce limit). But it allows for cannabis possession or use to be grounds for revocation if a person’s conditions of parole, special parole, or probation (1) include a finding that the person is drug dependent and (2) require the person to refrain from this use or possession.

The bill limits when conditions of parole, special parole, or probation may prohibit someone from working in a cannabis establishment or cannabis-related business. It allows these conditions only if there is a finding, based on clear and convincing evidence, that this employment poses to the person a substantial risk of reoffending or substantial obstacle to recovery from drug dependency.

EFFECTIVE DATE: January 1, 2022

§ 55 — PENALTIES FOR SALES TO UNDERAGE PERSONS

Establishes penalties for cannabis establishments and employees who sell to people under age 21

Under the bill, cannabis establishment licensees, or their servants or agents, who sell or deliver cannabis or cannabis products to people under age 21 are subject to a fine of up to $1,000, up to one year in prison, or both.

EFFECTIVE DATE: July 1, 2022

§ 56 — PHOTO IDENTIFICATION

Allows cannabis establishments and employees to require customers to have their photos taken or show IDs to prove their age and provides an affirmative defense for relying on these documents; otherwise limits the use of these photos or information; allows DCP to require cannabis establishments to use an online age verification system

Under the bill, licensed cannabis establishments, or their agents or employees (see below), may require identification as a condition of sale
for people whose age is in question. Specifically, they may (1) require these people to have their photographs taken or (2) make a copy of the driver’s license or non-driver identification (ID) card.

They are prohibited from using these photographs or photocopies for any other purpose. This includes selling or otherwise distributing these photographs, copies, or information from these copies to third parties for any purpose, including marketing, advertising, or promotional activities. But they may release these items or information pursuant to a court order.

**Affirmative Defense**

The bill provides an affirmative defense for cannabis establishment licensees, or their agents or employees, if they are prosecuted for selling to underage individuals.

This defense applies if (1) they sold or delivered cannabis or cannabis products to a minor (presumably, under age 21) in good faith and in reasonable reliance on the identification presented and (2) photographed the person and made a copy of the identification. To support their defense, they may introduce evidence of the photograph and ID copy.

**Online System**

The bill also allows the DCP commissioner to require cannabis establishments to use an online age verification system.

**Definitions**

For these purposes, an “employee” is generally:

1. someone employed by a cannabis establishment or who otherwise has access to it, or the vehicles used to transport cannabis or cannabis products, including an independent contractor with routine access to the premises or to the establishment’s cannabis or cannabis products; or

2. a board member of a company with an ownership interest in a cannabis establishment.
The bill provides that a “key employee” or “backer” is not considered an employee for these purposes. Generally, a “key employee” is a cannabis establishment’s president or chief officer, financial manager, compliance manager, or someone with an equivalent title.

A “backer” is someone with a direct or indirect financial interest in a cannabis establishment. It does not include someone who (1) has an investment interest of up to 5% of the total ownership or interest rights (alone or with coworkers, employees, or a spouse, parent, or child) and (2) does not participate in the establishment’s control, management, or operation.

EFFECTIVE DATE: January 1, 2022

§ 57 — PENALTIES FOR INDUCING UNDERAGE PERSONS TO BUY CANNABIS

Establishes penalties for inducing someone under age 21 to buy cannabis

Under the bill, anyone who induces someone under age 21 to buy cannabis or cannabis products from a licensed seller is subject to a fine of up to $1,000, up to one year in prison, or both.

These penalties do not apply to an inducement that furthers a law enforcement agency’s official investigation or enforcement activity.

EFFECTIVE DATE: January 1, 2022

§ 58 — IDENTIFICATION USE AND PENALTIES FOR ATTEMPTED PURCHASES BY UNDERAGE PERSONS

Allows driver’s licenses and non-driver ID cards to be used to prove age for buying cannabis; establishes penalties for underage persons who misrepresent their age or use someone else’s license in an attempt to buy cannabis

The bill authorizes (1) anyone who is at least age 21 and has a driver’s license or non-driver ID card with a full-face photograph to use it to prove their age when buying cannabis or cannabis products and (2) a cannabis retailer to accept it as legal proof of age.

The bill subjects anyone who misrepresents his or her age, or uses another person’s license, to obtain cannabis or cannabis products to a
fine of up to $250 for a first offense. A subsequent offense is a class D misdemeanor, punishable by up to 30 days in prison, a fine of up to $250, or both.

These penalties do not apply to someone who works for or on behalf of a state agency to buy these products to test retailers’ age verification and product controls.

EFFECTIVE DATE: January 1, 2022

§ 59 — PROHIBITION ON ALLOWING UNDERAGE PERSONS TO LOITER AT CANNABIS RETAILERS

Establishes penalties for cannabis retailers or their agents or employees who allow individuals under age 21 to loiter at the premises

The bill generally prohibits cannabis retailers or their agents or employees (as defined in § 56 above) from allowing individuals under age 21 to loiter with the intent to buy or consume cannabis or cannabis products unlawfully on the premises where these items are kept for sale. This provision does not apply to cannabis establishment employees who are age 18 to 20.

Under the bill, a first violation is an infraction, punishable by up to a $1,000 fine. A subsequent violation is a class B misdemeanor, punishable by up to six months in prison, a fine of up to $1,000, or both.

EFFECTIVE DATE: January 1, 2022

COMMENT

Limit on School Suspensions Conflicts With Existing Law (§ 29)

The bill prohibits using out-of-school suspension for more than 10 days to discipline a student found to illegally possess cannabis on school premises or while engaged in school activities. This provision appears to conflict with the state school expulsion law that requires expulsion if a student offers for sale or distribution a controlled substance as defined in state law (CGS § 10-233d(a)). Cannabis is defined in law as a controlled substance (CGS § 21a-240). Generally, expulsions are for 12 months.
BACKGROUND

Contracts Clause

The contracts clause of the U.S. Constitution bars states from passing any law that impairs the obligation of contracts. However, the U.S. Supreme Court has held that claims of a contract clause violation must undergo a three-step analysis to be found unconstitutional. Courts must determine whether (1) there is a contractual relationship, (2) a change in a law has impaired that relationship, and (3) the impairment is substantial (General Motors Corp. v. Romein, 503 U.S. 181 (1992)).

If the court determines that the contract has been substantially impaired, it must then determine whether the law at issue has a legitimate and important public purpose and whether the adjustment of the rights of the parties to the contractual relationship was reasonable and appropriate in light of that purpose. A challenged law will not be held to impair the contract clause if the impairment, although substantial, is reasonable and necessary to fulfill an important public purpose (Energy Reserves Group v. Kansas Power & Light, 459 U.S. 400, 411-412 (1983)).

Penalties for DUI

A person convicted of DUI is subject to the criminal penalties listed in Table 4. The law considers a subsequent conviction one that occurs within 10 years after a prior conviction for the same offense (CGS § 14-227a(g)). Higher penalties apply for DUI (1) with a child passenger (CGS § 14-227m) or (2) while operating a school bus, student transportation vehicle, or other vehicle specifically designed to carry children (CGS § 14-227n).

Table 4: General DUI Penalties

<table>
<thead>
<tr>
<th>Conviction</th>
<th>Prison Sentence</th>
<th>Fine</th>
<th>License Suspension</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>Either (1) up to six months with a mandatory minimum of two days or (2) up to six months suspended with probation requiring 100 hours of community service</td>
<td>$500-$1,000</td>
<td>45 days, followed by one year driving only a vehicle equipped with an ignition interlock</td>
</tr>
</tbody>
</table>
License suspension for conviction of a criminal DUI charge is in addition to any previously imposed administrative license suspension under the implied consent law. In addition to these penalties, the court can order a driver to participate in an alcohol education and treatment program (CGS § 14-227a (j)).

**DRE 12-Step Drug Influence Evaluation**

The twelve steps of a drug influence evaluation conducted by a DRE are:

1. breath alcohol test, to determine BAC;
2. interview of the arresting officer, to determine what he or she saw or heard that could indicate drug use;
3. preliminary examination, to determine whether to continue the evaluation;
4. eye examination for evidence of involuntary eye jerking and other effects;
5. divided attention tests, such as finger-to-nose tests and one leg stands;
6. vital sign examinations;
7. dark room examinations, for changes in the pupils with changes in light;
8. muscle tone examination, to see if muscles are markedly tense or flaccid;
9. examination for injection sites;
10. interview of the subject and logging other observations;
11. recording the evaluator’s opinion, based on the above tests; and
12. toxicological examination.

Admissibility of Evidence for Uninjured Drivers

By law, in order for chemical test results of an uninjured driver to be admissible in court the following criteria must have been met:

1. the driver consented to taking the test and had a reasonable chance to call a lawyer before taking it;
2. a copy of the test result was mailed or personally delivered to the defendant within 24 hours or at the end of the next business day after the results are known, whichever is later;
3. a police officer administered the test, or had it done at his or her direction, using methods and equipment approved by DESPP and according to DESPP regulations;
4. the test equipment was checked for accuracy according to DESPP regulations;
5. generally, a second test of the same type was administered at least 10 minutes after the first test (unless the second test is to detect drugs, in which case it can be a different type and does not have to be administered within that timeframe); and
6. the test began within two hours after operation (CGS § 14-
227a(b)).

**IID Penalties**

IIDPs are installed in motor vehicles to prevent people from driving under the influence of alcohol. They require the driver to breathe into them to operate the vehicle. If the device detects a BAC above a certain threshold, it prevents the vehicle from starting. IIDPs also require the driver to submit periodic breath samples while driving. Offenders must pay DMV a $100 fee before the device is installed; DMV uses this money to administer the interlock program. Offenders also must pay the costs of installing and maintaining the devices (CGS § 14-227a(i)).

**Boating Under the Influence Penalties**

Table 5 shows the law’s penalties for boating under the influence. A subsequent conviction is one that occurs within 10 years after a prior conviction for the same offense (CGS § 15-133(h)).

<table>
<thead>
<tr>
<th>Offense</th>
<th>Fine</th>
<th>Prison/Community Service</th>
<th>Suspension</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>$500-$1,000</td>
<td>(1) Up to six months, with a mandatory minimum of 48 consecutive hours and (2) probation and 100 hours community service</td>
<td>One year</td>
</tr>
<tr>
<td>Second</td>
<td>$1,000-$4,000</td>
<td>(1) Up to two years, with a mandatory minimum of 120 consecutive days and (2) probation and 100 hours community service</td>
<td>Three years, or until age 21, whichever is longer</td>
</tr>
<tr>
<td>Third</td>
<td>$2,000-$8,000</td>
<td>(1) Up to three years, with a mandatory minimum of one year and (2) probation and 100 hours community service</td>
<td>Permanent revocation</td>
</tr>
</tbody>
</table>

**Related Bill**

sSB 888, favorably reported by the Judiciary Committee, addresses many of the same areas such as legalizing adult use and possession of cannabis, creating licensure and oversight for commercial cannabis
businesses, and creating a process to erase records of certain cannabis convictions.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9  Nay 4  (03/25/2021)