

SIMULATED OLR-STYLE BILL ANALYSIS — NOT AN OFFICIAL OLR DOCUMENT

AN ACT CONCERNING THE CRIMINAL TREATMENT OF CANNABIS

Working draft · August 15, 2026 · Not introduced, no sponsor, no official status

SUMMARY

This bill makes several changes to the criminal treatment of cannabis.

It (1) excludes cannabis from the drug factory offense and bars using cannabis or cannabis-related equipment as the basis for that charge; (2) eliminates the mandatory minimum sentence for one kilogram or more of cannabis; (3) bars sentence enhancements for cannabis-only offenses; (4) creates graduated penalties for cultivating more plants than the law allows; (5) provides that cannabis harvested from over-limit plants does not create a separate possession offense; (6) establishes a presumption against incarceration for these offenses unless an aggravating circumstance is proven; and (7) excludes cannabis-only cases from the forfeiture of moneys.

The bill does not change cultivation limits, licensing requirements, or the civil penalties for unlicensed cannabis sales.

EFFECTIVE DATE: October 1, 2027, except the legislative findings, which are effective on passage.

§§ 1 & 2 — DRUG FACTORY OFFENSE

Existing law. It is a crime to knowingly possess drug paraphernalia in a “drug factory situation” for unlawfully preparing a controlled substance (CGS § 21a-277(c)). A “factory” includes any building, rooms, or location containing equipment or paraphernalia used for growing, harvesting, packaging, storing, or containing a controlled substance (CGS § 21a-240(20)(B)). Cannabis is a schedule II controlled substance (CGS § 21a-243(e)).

Cannabis is excluded from the related paraphernalia offense (CGS § 21a-267) and from CGS § 21a-277(b)(1), but not from subsection (c).

Section 21a-277 states penalties for subsections (a) and (b) only. For a violation of subsection (c), the general penalty provision applies: a fine of up to \$3,500, imprisonment of up to two years, or both, for a first offense, and a class C felony for any subsequent offense (CGS § 21a-255(c)).

The bill. The bill excludes cannabis from CGS § 21a-277(c) and provides that cannabis takes its meaning from CGS § 21a-240, matching subsection (b)(3). It further bars arresting, charging, or convicting a person under subsection (c) based on cannabis, cannabis plant material, ordinary cannabis equipment, currency found with those items, or any combination. It provides that no location or vehicle is a factory by reason of those items’ presence, and makes evidence of them inadmissible in a subsection (c) prosecution. The bill expressly preserves the offense for all other controlled substances and expressly provides that the evidentiary bar does not make evidence inadmissible in any other proceeding.

§ 3 — CANNABIS MANDATORY MINIMUM

Existing law. A person who manufactures, sells, or possesses with intent to sell one kilogram or more of a cannabis-type substance is subject to a term of at least five years, the execution of which may not be suspended, unless pounds. The same conduct involving less than 2.2 pounds is a misdemeanor under CGS § 21a-278b, which is flat and contains no felony classification at any quantity.

The bill. The bill deletes subparagraph (D). Cannabis quantity alone no longer triggers a mandatory term. Conduct previously charged under CGS § 21a-278(b)(1)(D) would be charged under CGS § 21a-278b. The drug-dependent-person exception and the treatment of narcotic, hallucinogenic, and amphetamine-type substances are unchanged.

§ 4 — SENTENCE ENHANCEMENTS

Existing law. A person who violates CGS § 21a-277 or § 21a-278 while not drug-dependent is subject to an additional two-year non-suspendable consecutive term for a first offense and three years for a subsequent offense (CGS § 21a-278a(a) and (b)).

The bill. The bill bars imposition of either term where cannabis is the only controlled substance involved. The enhancement remains fully available for all other controlled substances.

§ 5 — UNLICENSED SALE PENALTIES

Existing law. CGS § 21a-278b(b) makes unlicensed manufacture, sale, or possession with intent to sell of cannabis a class B misdemeanor for a first offense and a class A misdemeanor for any subsequent offense, without regard to quantity. Subsection (c) reduces this to a \$500 fine, or a class C misdemeanor on a subsequent offense, below eight ounces. The section contains no felony classification.

The bill. The bill replaces subsection (b) with three quantity tiers: eight ounces to under two pounds, class B then class A misdemeanor; two pounds to under ten pounds, class A misdemeanor then class D felony; ten pounds or more, class D then class C felony. This creates felony exposure that does not exist under current law. It also adds subsection (e), which removes any mandatory minimum term for the section and establishes a presumption against incarceration.

§ 6 — CULTIVATION ABOVE AUTHORIZED LIMITS

Existing law. Connecticut law sets limits on the number of cannabis plants a person may cultivate at the person's primary residence, together with a per-household maximum. Exceeding the applicable limit removes the conduct from the authorization entirely; there is no graduated treatment of a small excess.

Cannabis derived from plants grown in accordance with CGS § 21a-278c is excluded from a person's personal possession limit (CGS § 21a-279a(a)). A person who exceeds the cultivation limit loses that exclusion for the entire harvest, and possession above five ounces of plant material (or eight ounces in a locked container at the residence) is subject to a \$500 fine for a first offense and a class C misdemeanor for a subsequent offense (CGS § 21a-279a(e)).

The bill. The bill establishes a five-tier penalty structure keyed to the number of plants above the applicable limit: a civil penalty of \$250 to \$1,000 for up to six excess plants; \$1,000 to \$2,000 for seven to 12; a class C misdemeanor for 13 to 24; a class B misdemeanor for 25 to 48; and a class A misdemeanor for more than 48. No plant count carries felony exposure.

It supplies counting rules: mature and immature plants are measured against their respective limits and the excesses summed; seedlings and clones count as immature plants; and harvested cannabis is not counted as a plant. The applicable limit is defined by reference to whatever number the person is lawfully authorized to cultivate at the time of the conduct under any provision of the general statutes, rather than by naming a particular section. Where more than one authorized cultivator resides at a residence, the household limit applies. The tiers apply only where the plants are kept secure from access by anyone other than the cultivator, a resident, or any other individual permitted access by the provision under which the person is authorized to cultivate.

A civil penalty is not a criminal conviction, is not reported as one, and does not support an arrest. A person attesting to indigency may perform community service instead. Subsection (d) bars charging the same plants under CGS §§ 21a-277, 21a-278, 21a-278b or subsection (d) or (e) of section 21a-279a by reason of the plant count alone, while

expressly preserving any charge supported by independent evidence of manufacture, sale, or intent to sell, and any charge involving another controlled substance; it states that it creates no rule of evidence. Subsection (g) provides, notwithstanding CGS § 21a-279a(a), that material derived from those plants is not counted toward the personal possession limit. The bill does not amend CGS § 21a-279a, does not change any cultivation limit, and does not authorize cultivation at any other location.

§ 7 — AGGRAVATING CIRCUMSTANCES AND SENTENCING

Existing law. Sentences for felonies and misdemeanors are set by CGS §§ 53a-35a and 53a-36, each of which yields where the section defining the crime provides otherwise. Under CGS § 53a-28(a), Title 53a sentencing provisions yield to chapter 420b where inconsistent.

Under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Blakely v. Washington*, 542 U.S. 296 (2004), any fact other than a prior conviction that increases the penalty beyond the maximum a judge may impose on the verdict alone must be found by a jury beyond a reasonable doubt. In *State v. Bell*, 283 Conn. 748 (2007), the Connecticut Supreme Court held CGS § 53a-40(h) unconstitutional insofar as it required the court, rather than the jury, to make a finding that was a precondition to an enhanced sentence, and directed that the jury make the finding, except where the defendant waives a jury or admits the fact.

The bill. The bill establishes a presumption against incarceration for offenses under CGS § 21a-278b and under section 6. The presumption is defeated only where one of six aggravating circumstances is present: a firearm or dangerous instrument; the use or threatened use of physical force; another controlled substance under circumstances violating CGS § 21a-277 or § 21a-278; sale or transfer to a person under 21; or use or coercion of a person under 18; or ten pounds or more combined with a fixed location held out to the public, the direction or employment of two or more persons, continuation after service of a cease and desist order or injunction under CGS § 21a-420c or chapter 735a, or transport into or out of the state for sale. Quantity alone is expressly insufficient.

An aggravating circumstance must be alleged in a separate part of the information filed before trial and, if the defendant is convicted, proven to the jury beyond a reasonable doubt, unless the defendant has waived a jury or admits it. This mirrors the procedure used for persistent offender allegations under CGS § 53a-40. No separate determination is required where the fact was necessarily determined by the trier of fact in convicting on the underlying offense or a count tried with it. An aggravating circumstance does not change the offense class or the maximum term; it determines only whether a sentence of incarceration is available. The bill applies the same sentencing rules where a person is convicted of being an accessory to, conspiring to commit, or attempting to commit a covered offense (CGS §§ 53a-8, 53a-48, 53a-49).

§ 8 — FORFEITURE

Existing law. Moneys used or intended for use in the procurement, manufacture, processing, delivery, or distribution of any controlled substance are subject to forfeiture, without regard to whether a violation is charged (CGS § 54-36h(a)(1)). Other subdivisions of that subsection require a violation of CGS § 21a-277 or § 21a-278.

The bill. The bill excludes cases in which cannabis is the only controlled substance involved. The remaining subdivisions are unchanged.

WHAT THE BILL DOES NOT CHANGE

Unlicensed cannabis sales remain unlawful. CGS § 21a-420c is not amended. Its civil penalties — \$30,000 per violation per day; \$30,000 for owners and controlling shareholders who knowingly aid a violation; \$10,000 per day for landlords — and its ex parte municipal closure remedy remain in force, as does subsection (g), which preserves criminal penalties.

The bill is prospective. It does not authorize resentencing, expand erasure under CGS § 54-142v, or vacate any sentence enhancement.

COMMITTEE ACTION

Judiciary Committee — [pending]

Prepared August 15, 2026 by the Connecticut Cannabis Reform Project and published as a working draft. This is a proposal, not a bill. It has not been introduced in the General Assembly, has no sponsor, and has no official status. This document is advocacy and policy analysis, not legal advice, and its author is not an attorney. Statutory citations were verified against the Connecticut General Assembly at cga.ct.gov and against the enacted text of the 2026 public acts on August 15, 2026.