

WHO DECIDES?

Section 21a-421j lets the Department of Consumer Protection issue rules with the force of law while setting aside five safeguards the General Assembly wrote into the Uniform Administrative Procedure Act.

A briefing for members of the Connecticut General Assembly | Connecticut Cannabis Reform Project | August 2026

1. What the UAPA Normally Requires

Before any Connecticut agency regulation takes effect, chapter 54 requires all of the following:

Requirement	Authority
Public notice of intent, and a hearing or written comment period	§ 4-168
A fiscal note stating the cost to the state, to municipalities and to private persons	§ 4-168(a)
A regulatory flexibility analysis of the effect on small business	§ 4-168a
Approval by the Attorney General as to legal sufficiency	§ 4-169
Approval by the standing Legislative Regulation Review Committee	§ 4-170
Filing with the Secretary of the State and posting on the eRegulations System	§§ 4-172, 4-173b

Section 4-168(f) states the rule plainly: no regulation may be adopted, amended or repealed by any agency until it is approved by the Attorney General, approved by the regulation review committee, and posted by the Secretary of the State.

2. What Section 21a-421j Does

Section 21a-421j(b) directs the Commissioner of Consumer Protection to issue policies and procedures implementing the state's cannabis law. It provides that those policies are issued **“notwithstanding the requirements of sections 4-168 to 4-172, inclusive”**, that they **“shall have the force and effect of law”**, and that they take effect once posted for fifteen days.

WHAT THAT PHRASE SETS ASIDE

Sections 4-168 to 4-172 are not a formality. That span contains the public comment period, the fiscal note, the small business analysis, the Attorney General's review for legal sufficiency, and this legislature's own Regulation Review Committee. A rule issued under § 21a-421j has the force of law without any of them, fifteen days after it is posted.

3. A Concrete Instance

Connecticut law permits medical cannabis patients to cultivate a limited number of plants at their primary residence. Here is the operative language of the parallel adult-use provision, quoted in full:

Conn. Gen. Stat. § 21a-278c. “Notwithstanding the provisions of section 21a-278b, any consumer may cultivate up to three mature cannabis plants and three immature cannabis plants in the consumer's primary residence, provided such plants are secure from access by any individual other than the consumer and no more than twelve cannabis plants may be grown at any given time per household.”

That is the entire section. The medical provision, § 21a-408d(b), is structured the same way. **Neither contains the word “indoors.” Neither contains a visibility requirement.** The requirement that plants be grown indoors and out of public view appears in Department guidance, which directs readers to the Department's policies and procedures.

The practical effect is a cost test. A patient who can afford to build and power an indoor grow room may exercise the right the statute grants. A patient who cannot, cannot. That distinction does not appear anywhere in the statute this legislature passed.

4. This Is Not an Accusation

The Department did not exceed its authority. It used the authority this legislature delegated, in the section this legislature wrote. Section 21a-421j says what it says.

The question is not whether the Department acted lawfully. It is whether a delegation this broad should continue to govern decisions of this kind — and whether the location of a patient's plants is the sort of question that ought to be settled by a policy posted for fifteen days, or by a vote.

5. What the Bill Does About It

Provision	Effect
Section 3	Removes “the location of such plants” from the authority delegated to the Commissioner under § 21a-408m(b)(4), and provides that no regulation, policy or procedure may prohibit cultivation solely because it occurs outside the walls of a dwelling unit.
Section 11	Provides that the rights and limits established by the bill may not be narrowed, conditioned or suspended by any policy or procedure issued under §§ 21a-421j, 21a-421k or 21a-420z, while preserving the Commissioner's authority to adopt requirements consistent with the act.

Neither provision repeals § 21a-421j or disturbs the Department's authority over the rest of the cannabis program. Both are confined to this bill.

6. Questions You Can Ask

Each of these can be put to the Department in writing and answered in a sentence.

- Which statute or adopted regulation requires medical cannabis to be cultivated indoors and out of public view?
- If that requirement rests on a policy issued under § 21a-421j, was a fiscal note prepared, and was a regulatory flexibility analysis conducted?

- How many cannabis policies and procedures currently in force were issued under § 21a-421j rather than adopted as regulations under chapter 54?
- Has any of them been submitted to the Legislative Regulation Review Committee?

7. What This Document Does Not Claim

- It does not claim the Department acted unlawfully. It acted within a delegation this legislature enacted.
- It does not claim § 21a-421j should be repealed. Rapid implementation authority had a purpose during the launch of a new regulatory program.
- It does not claim every policy issued under that section is objectionable. The argument concerns one requirement, which the bill addresses directly.
- Whether the indoor requirement now sits in a formally adopted regulation rather than in policies and procedures is a question the Department can answer definitively, and the answer does not change what § 21a-421j permits going forward.

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Statutory text quoted from the current General Statutes and verified August 9, 2026, against §§ 4-168, 4-168a, 4-169, 4-170, 4-172 and 21a-421j. This document is advocacy and policy analysis. It is not legal advice and its author is not an attorney. Statutory citations were verified against the current General Statutes on August 9, 2026.