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# A GUIDE TO STATE CONTROLLED SUBSTANCES ACTS

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### **Disclaimer**

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## PREFACE

The National Criminal Justice Association (NCJA) is pleased to provide this revised edition of its publication, *A Guide to State Controlled Substances Acts*, for legislators, law enforcement officials, policymakers, researchers, and others interested in reviewing current state provisions relating to the possession, use, sale, distribution, and manufacture of drugs.

Controlled substances acts (CSA's), which regulate the possession, use, sale, distribution, and manufacture of specified drugs or categories of drugs and establish penalties for CSA violations, form the basis for much state and local drug laws enforcement activity. As concern about drug abuse has increased, state and local officials have begun to review these laws in an effort to determine how they can be applied more effectively or whether they should be modified to help officials achieve specific enforcement objectives. In the course of any legislative review, officials are likely to attempt to compare a given state's statute with those of other states to determine whether or what types of changes in statutory language, approach, comprehensiveness, or other elements would help the state's officials achieve their objectives.

Prior to publication of the original *Guide* edition in February 1988, however, officials' efforts to draw such comparisons have been hampered by the lack of a single compilation or summary of CSA's that permitted a ready comparison of statutory elements. The *Guide* was created to fill that information gap by describing the purposes and development of CSA's, identifying common elements of CSA's, tracking recent developments in amendments to or applications of CSA's, summarizing major elements of each state CSA, and providing charts for ready comparison of these elements. The information contained in the original edition generally was derived from published state codes and the most recent code supplements available as of mid-1987. Information was included on the drug control statutes of all 50 states and the District of Columbia.

This revised edition is the result of the NCJA's efforts to update the *Guide* to reflect changes in federal or state CSA provisions since 1987; the information included generally is current through December 1990. In addition, the NCJA sought to expand the *Guide's* scope to include coverage on types of CSA provisions recently developed or subject to increasing attention, as well as discussion of provisions not found in CSA's per se, but nevertheless addressing drug control concerns.

Revision of the *Guide* was carried out in cooperation with and under a contract with the National District Attorneys Association's American Prosecutors Research Institute (APRI). The contract was supported by a grant from the U. S. Department of Justice's Bureau of Justice Assistance (BJA). The BJA was established under the Justice Assistance Act of 1984 (Chapter VI, Part D, of the Comprehensive Crime Control Act of 1984, P. L. 98-473). Using block and discretionary grant programs as vehicles to allocate federal funding, the BJA assists state and local governments in improving the functioning of their respective criminal justice systems and law enforcement agencies, particularly in dealing with violent crime and serious offenders. In addition, under the State and Local Narcotics Control Assistance Act of 1986 (Subtitle K, Title I of the Anti-Drug Abuse Act of 1986, P. L. 99-570), the BJA is charged with the distribution of funds to augment state and local drug laws enforcement efforts.

The NCJA would like to thank BJA Prosecution Branch Chief Charles M. Hollis for his support of the project, and APRI Director James C. Shine and APRI Staff Attorney Sherry Green-de la Garza for their cooperation and assistance with the project. The NCJA also would like to acknowledge particularly the diligent work of NCJA Staff Associate Richard J. Rogers and Legal Researchers Michelle L. Lehmann and Andrew J. Waghorn in researching and compiling the information for the *Guide* revision. The work of NCJA Associate General Counsel Penny Wakefield in coordinating and directing the project and the efforts of NCJA Research Assistants Debra E. Barnett, Michael D. Cecil, Mark P. Hines, and Elizabeth Lee in providing research support for the project also are much appreciated.

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## INTRODUCTION

State and federal controlled substances acts (CSA's) are designed primarily to govern the possession, use, sale, distribution, and manufacture of drugs that have a potential for abuse that may lead to dependence or other undesirable consequences. The CSA's provide government agencies with a means for controlling drug abuse and illegal trade in drugs through systems that classify drugs according to set criteria and that establish penalties, including monetary fines and terms of incarceration, for activities involving the use, sale, distribution, and manufacture of controlled substances. In addition, CSA's may include provisions requiring harsher and minimum mandatory penalties for specific or repeat offenses; authorizing forfeiture of assets associated with drug offenses; and specifically targeting illegal drug activity occurring near schools or involving minors, drug paraphernalia, safehouses, and analogs or imitation drugs.

The first edition of *A Guide to State Controlled Substances Acts*, published in February 1988 by the National Criminal Justice Association (NCJA) in cooperation with the National Governors' Association (NGA) under a grant from the U. S. Department of Justice's Bureau of Justice Assistance (BJA), summarized and compared major provisions of state and federal CSA's as of the end of 1987 legislative sessions. This revised edition of the *Guide*, produced under a subcontract with the National District Attorneys Association's American Prosecutors Research Institute (APRI) pursuant to a BJA grant to the APRI, provides an updated analysis of CSA's through the end of 1990 legislative sessions. The *Guide's* scope has been expanded to include increased detail on schoolyard provisions; coverage of such previously uncovered topics as anabolic steroids, drug testing, precursor chemicals, and safehouses; and discussion of provisions not included in CSA's per se, but nevertheless addressing drug control concerns. Among these provisions are drug stamp tax and currency transaction reporting statutes, as well as statutes authorizing the denial of professional occupation licenses to individuals convicted of drug offenses.

Although most state CSA's contain regulatory mechanisms, terminology, and provisions similar to those contained in the federal CSA, there are significant differences between federal provisions and states' provisions generally, as well as variations in statutes from state to state. The growing public demand in recent years for governments to address the drug abuse problem has resulted in numerous additions or modifications to CSA's that have created further variations among the statutes. As a consequence of such activity, CSA's, in addition to providing the bases for state or federal law enforcement strategies, activity, and criminal sentencing decisions, also reflect the major concerns and drug control priorities of the respective jurisdictions to which they apply.

Most state CSA's have been amended in numerous ways since the publication of the original *Guide*, in part because of an increasing national focus on drug control, with a resultant increase in the amount of effort dedicated to research, training, and communication among states regarding respective law enforcement and other drug control strategies. To a large degree, recent changes in state CSA's reflect states' effort to replicate legislation and approaches used by other states with similar drug control priorities and problems. By contrast, most state CSA's, as originally enacted, were based on early federal drug control provisions or on the Uniform Controlled Substances Act (UCSA), model legislation drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) to promote nationwide consistency among drug control laws.

With the exceptions noted above, this *Guide* is a compilation of CSA statutes only; therefore, it may not fully reflect either other pertinent statutes or drug control practices in each state. For example, a state's CSA may provide for a range of penalties, including lengthy terms of incarceration and large fines, but actual prosecutorial and sentencing decisions, which are shaped in part by such factors as limitations on

enforcement and correctional resources, may actually result in some offenders' receiving terms of incarceration significantly lower than the maximum penalties authorized. On the other hand, recent amendments to CSA's, especially those providing for increases in penalties for trafficking in specific substances, may reflect states' current experiences and priorities in the area of drug control.

The following discussion provides an overview of the development of state and federal CSA's and describes the regulatory approach established in CSA's to control illegal use of, or dealing in, drugs. Subsequent sections of this *Guide* discuss the contents and applications of CSA's.

## Background

The first major federal legislation regulating dangerous substances (21 U.S.C. §§ 191-193 (1982)) was enacted in 1887 in an effort to curb opium trafficking between the United States and China. The Congress subsequently enacted a number of additional statutes regulating dangerous drugs, including the Harrison Narcotic Drug Act of 1914 (I.R.C. §§ 4701-4736 (1954)); the Narcotic Drugs Import and Export Act of 1922 (21 U.S.C. §§ 171-185 (1982)) (original version at 35 Stat. 614 (1909)); the Marijuana Tax Act of 1937 (I.R.C. §§ 4741-4762 (1954)); the Opium Poppy Control Act of 1942 (21 U.S.C. §§ 188-188n (1982)); and the Narcotics Manufacturing Act of 1960 (21 U.S.C. §§ 501-517 (1982)). In 1970, in order to improve administration of the various federal statutes that regulated controlled substances, the Congress repealed most of this legislation and brought regulation of all drugs under the Controlled Substances Act of 1970 (Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§ 801-970). Major legislation amending the federal CSA has included the Comprehensive Crime Control Act of 1984 (Pub. L. 98-473), the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570), the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), and the Comprehensive Crime Control Act of 1990 (Pub. L. 101-647). The CSA also establishes controls and sanctions, in addition to those provided under the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301-382 (1982)), to regulate commerce in all therapeutic drugs. The justice department's Drug Enforcement Administration (DEA) and the U. S. Department of the Treasury's Customs Service have primary responsibility for enforcing the CSA. The DEA, which replaced the Bureau of Narcotics and Dangerous Drugs in 1973, has the specific responsibilities of administering drug control-related licensing and registration requirements under the CSA, enforcing the CSA within the United States, and suppressing international illicit drug trafficking.

Following enactment of the federal CSA, the National Conference of Commissioners on Uniform State Laws (NCCUSL), an organization of individuals appointed by their respective states' governors to develop models for consistency in legislation among states, drafted a Uniform Controlled Substances Act (UCSA) as a prototype for states to consider when updating and revising their own drug control laws. The purpose of the UCSA was to promote uniformity among states' laws, as well as between the federal statute and state statutes, as a means of achieving consistent and more effective control of the possession, use, sale, distribution, and manufacture of regulated substances. Today, Vermont and Maine are the only states that have not adopted the UCSA in major part; however, the Vermont code does include a chapter entitled, "Possession and Control of Regulated Drugs," while Maine has a drug control statute that includes some UCSA elements. Although they shared many elements originally, state statutes have undergone numerous modifications in the last 15 years that make the statutes quite diverse. Some changes were made to bring state legislation into conformity with changes made in the federal law. In addition, some states have adopted provisions of model legislation developed by the DEA to assist states in addressing specific drug control problems not covered in either the federal act or the UCSA; notable among these DEA models are the Model Drug Paraphernalia Act of 1979, the Model Forfeiture of Drug Profits Act of 1981, and the Model Imitation Controlled Substances Act of 1981. Finally, although the original UCSA contained many elements

complementary or identical to those of the federal statute, the UCSA did not include some kinds of provisions, such as those setting out fines or terms of incarceration. In 1990, the process came full circle, as the NCCUSL approved revisions to the UCSA that reflect many of the types of provisions adopted previously in numerous states.

In this *Guide*, the term, "CSA" encompasses and refers to the primary drug control statute in each of the 50 states and the District of Columbia, regardless of the statute's origins.

### Variations in CSA's

One of the major differences among states' CSA's is the amount of fines and lengths of terms of incarceration assigned for specific CSA violations. Although the range of possible drug offenses does not differ significantly from state to state, the penalties for such offenses often vary substantially, depending upon individual states' perceptions of the type and severity of their respective drug control problems, as well as the states' chosen responses to those problems.

Many states have based penalties on the type and amount of drug involved. Instead of prescribing flat penalties for manufacturing or delivery offenses, for example, states have tailored such penalties to reflect offense seriousness, assigning progressively harsher penalties for offenses involving larger amounts of drugs sold, delivered, or possessed with intent to sell or deliver, or for offenses involving narcotic, as opposed to non-narcotic, substances. A number of states also have assigned greater, or enhanced, penalties than ordinarily would apply for offenses involving specific, targeted drugs considered to be particular problems in those states.

Other variations among state CSA's are the result of statutory modifications made in response to specific drug control concerns. For example, one category of offense that has been added in recent years to numerous state statutes, as well as the federal law, involves the use of minors in the distribution, manufacture, or sale of controlled substances. A related type of amendment in a number of statutes is a provision that either adds an offense and penalty specifically to cover distribution of controlled substances within a specified radius of schools or enhances existing penalties for distribution if the offense occurs within such a "school zone." These provisions vary considerably among jurisdictions with regard to the ages of offenders and victims involved in such offenses, the size of zones within which the additional penalties are triggered, the types of schools encompassed by such provisions, and exceptions for offenses not involving youths or occurring within private residences.

State legislatures' increased focus on CSA's and resulting changes in these statutes in recent years prompted the NCCUSL to review the model CSA. In 1990, the NCCUSL revised the UCSA in a number of significant ways, some of which have been under consideration since 1987, in order to respond to issues identified and acted upon by some states and the federal government over the past few years. Generally, the amendments are designed to provide states with mechanisms for regulating newly developed controlled substance analogs, or "designer drugs"; targeting drug traffickers with enhanced penalties; facilitating the seizure of drug trafficking profits and channeling them into drug laws enforcement efforts; protecting children from drug sales and abuse; promoting "user accountability," or punishment of drug users, to deter future use; and providing more funding for drug abuse education and treatment services.

The amendment addressing designer drugs adds a new element to the UCSA. Previously, the UCSA had not provided for regulation of the possession, use, manufacture, sale, or distribution of substances that produce effects similar to, although often more powerful than, those of scheduled drugs, but that have

chemical compositions different from those of the regulated drugs they resemble. Such substances often have been altered chemically in a purposeful effort to avoid their coverage by CSA provisions that define regulated drugs according to specific chemical composition. An amendment to the UCSA, however, provides for granting a state regulatory agency with emergency scheduling authority to place a drug in schedule I on a temporary basis pending investigation of the drug's potential for abuse and completion of formal scheduling procedures. Temporary placements expire automatically after one year. The provision is intended to establish a means of controlling the quickly changing drug market without inhibiting legitimate medical research; results of scientific experimentation and "accidental" creations are exempted from UCSA application for penalty purposes.

Other recent UCSA amendments focus on attacking the drug trade at the wholesale level, where large-volume drug transactions take place. New provisions provide for establishment of enhanced penalties, including mandatory minimum prison terms for drug traffickers, for offenses involving specific quantities of drugs. Proposed amendments to UCSA forfeiture provisions, currently scheduled for NCCUSL consideration in 1991, would target large-scale drug trafficking operations to deprive drug kingpins, who usually insulate themselves from the risks of actual trafficking operations, of the profit gained from their illegal activity. For example, under one new UCSA provision, similar to the federal Racketeer Influenced and Corrupt Organizations (RICO) statute, an individual convicted of heading a "continuing criminal enterprise" may be fined up to triple the total amount of proceeds cumulatively acquired by all persons participating in the scheme. New UCSA money laundering provisions are designed to reduce drug trade profitability by denying traffickers legitimate means of channeling illegal cash proceeds into other assets.

There has been an increased emphasis nationwide on protecting children from drug dealers who exploit youths' vulnerability by pressuring them to use drugs or to sell drugs to make money. As amended, the UCSA now provides that a buyer need be only two years, rather than three years, younger than a seller in order to trigger application of the penalties for distribution of drugs by persons over 18 years old to persons under 18 years old. In addition, the UCSA provides for enhanced penalties in cases involving persons over 18 years old who employ individuals under 18 years old in drug distribution activities. The UCSA also now contains a drug-free school provision that establishes enhanced penalties for cases involving the manufacture or distribution of controlled substances within 1,000 feet of public or private elementary, secondary, and vocational schools, as well as colleges and universities.

In addressing user accountability, the NCCUSL has eliminated former UCSA language that provided for the decriminalization of possession offenses involving small amounts of marijuana for personal use. In addition, to accommodate projected increases in the number of arrests for minor drug possession offenses, the amendments provide alternatives to incarceration, such as conditional discharge and mandatory enrollment in drug treatment programs, for first-time offenders. Other offenses covered by recent UCSA amendments include entering into conspiracies to commit drug law violations, soliciting others to purchase or use illicit drugs, or keeping and maintaining any structure or dwelling as a "safehouse" for illegal drug distribution and use. Another UCSA amendment provides for a special surcharge, or "user's fee," to be levied against drug offenders along with other fines, with revenues from the surcharge to be used as additional resources for drug education and treatment.

## Guide Overview

The *Guide* is divided into five sections. The first, this section, briefly reviews the history of federal efforts to regulate drugs, the development of the UCSA, and general variations among state CSA's. The

second section describes major provisions of the federal CSA as amended by the Anti-Drug Abuse Act of 1986, the Anti-Drug Abuse Act of 1988, and the Comprehensive Crime Control Act of 1990.

The third section includes a general overview and comparative analysis of state CSA provisions, as well as some drug-related provisions located outside of CSA's, and discusses recent trends in state drug law development. The next section consists of state-by-state summaries of CSA's. These summaries are in chart form for ready comparison of states' provisions. Each summary provides information regarding scheduling, offenses, statutorily authorized sentences, substances targeted for enhanced penalties, paraphernalia and imitation drug provisions, scope and types of forfeiture provisions, provisions concerning offenses involving minors, schoolyard provisions, safehouse provisions, and provisions concerning drug testing of offenders. Each summary also includes a brief narrative description of the state statute and a "notes" section highlighting unique or otherwise noteworthy provisions.

The final part of the *Guide* contains a number of appendices. Tables of code citations to all state CSA's and to relevant federal statutes are included. In addition, reference charts are provided that indicate, for each state, the types of provisions contained in the CSA; the penalties, or penalty ranges, for first-time use, possession, and sale offenses; any targeting of certain substances for enhanced penalties; types of property forfeitable under the CSA; any state currency transaction reporting (CTR) statutes designed to aid in the identification and investigation of money laundering activities; and statutes providing for taxation of illegal drugs. Also included as an appendix are the U. S. attorney general's most recent guidelines, issued in July 1990, on sharing of seized and forfeited assets among agencies that work cooperatively with the federal government in cases that result in such forfeitures. The final appendix is a glossary of selected terms used in this *Guide*.

## THE FEDERAL CONTROLLED SUBSTANCES ACT

### Scheduling

The regulatory scheme of the federal controlled substances act classifies substances into five categories, or schedules. The categories are based upon such characteristics of drugs as potential for abuse, accepted medical use, and propensity to create a psychological or physiological dependency for users. Classification of drugs and periodic updating and re-publication of lists of drugs included in each category are the responsibility of the DEA.

Drugs in the most strictly controlled category, listed in schedule I of the classification scheme, have a high potential for abuse, no officially accepted medical use in the United States, and no acceptable safe level of use under medical supervision. Many narcotics, such as heroin and other opiates and opium derivatives, fall into this category. In addition, many hallucinogenic drugs that have no officially recognized medicinal value in this country are listed in schedule I; included are such substances as marijuana, mescaline, peyote, psilocybin, and lysergic acid diethylamide (LSD).

Schedule II drugs have a high potential for abuse, and their use may lead to severe psychological or physiological dependencies; however, they have some recognized medicinal value. Drugs in this category include cocaine, morphine, methamphetamine, and phencyclidine (PCP). Dronabinol, the synthetic equivalent of the principal active ingredient in marijuana, recently was moved from schedule I to schedule II in recognition of its growing medical uses in treating glaucoma and chemotherapy patients. Similarly, in response to petitions by advocates of similar medical uses of marijuana, a DEA administrative law judge ruled in 1988 that marijuana should itself be moved to schedule II. However, the DEA administrator, concluding that the evidence was insufficient to prove marijuana's medical value, subsequently overruled the judge's decision.

Schedule III controlled substances have less potential for abuse than schedule I or II drugs and may lead to moderate or low physical dependence or high psychological dependence, but they have some accepted medical use. Substances listed in schedule III include limited quantities of some narcotic drugs, amphetamines, and derivatives of barbituric acid.

Schedule IV controlled substances have a low potential for abuse compared to substances in schedule III, and, although they may lead to limited physical or psychological dependence, they have a currently accepted medical use. Substances in schedule IV include phenobarbital, chlorthalidone hydrochloride (librium), diazepam (valium), and propoxyphene hydrochloride (darvon).

Schedule V controlled substances have a low potential for abuse compared to substances in schedule IV and a currently accepted medical use; use may lead to limited physical or psychological dependence relative to schedule IV substances. Substances in schedule V are narcotic compounds containing a limited quantity of narcotic drugs together with one or more non-narcotic active medicinal ingredients.

### Penalty Provisions

The federal CSA separates violations of CSA provisions into two major categories of offenses: the possession of controlled substances and the manufacture, distribution, or dispensing of, or the possession with intent to manufacture, distribute, or dispense, controlled substances. (The second category is referred

to collectively in this *Guide* as "manufacture/delivery/sale" of controlled substances.) There is a flat penalty for possession offenses, but a graduated penalty structure for manufacture/delivery/sale offenses based on the type, amount, and purity of the substance involved in an offense. Penalties also differ depending upon whether the offense is committed by an "individual" or entities "other than individuals." Offenders in the latter category face much harsher fines than individuals.

Every possession offense carries a penalty of up to one year's incarceration and/or a minimum fine years' incarceration, and/or a minimum fine of \$2,500. Third or subsequent offenses are punishable by three months' to three years' incarceration and/or a minimum fine of \$5,000. There is an exception to the general scheme for possession of "crack" cocaine; a first offense carries a penalty of mandatory minimum term incarceration of five years, with a maximum of 20 years, as well as a minimum fine of \$1,000.

The basic penalty for the manufacture, delivery, or sale of any schedule I or schedule II drug, or between 50 kg. and 100 kg. of marijuana, is a sentence of up to 20 years' imprisonment and/or a fine of up to \$1 million for an individual; entities other than individuals could receive a fine of up to \$5 million. If death or serious bodily injury results from the use of the drugs, the possible term of imprisonment ranges from 20 years to life. Second or subsequent violations of manufacture/delivery/sale provisions are punishable by up to 30 years' imprisonment and/or up to \$2 million in fines for individuals; the maximum fine for other entities is \$10 million. If death or serious bodily injury results from a sale and the offender has a felony drug conviction, there is a mandatory sentence of life imprisonment. (See Table 1.)

Table 1		
Penalties for Manufacture/Delivery/Sale		
Schedules I and II		
	First Offense	Subsequent Offenses
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individuals		
No death/bodily injury	0-20; \$1 million	0-30; \$2 million
Death/bodily injury	20-life; \$1 million	life; \$2 million
Others	\$5 million	\$10 million

Offenses involving schedule III drugs or offenses involving less than 50 kg. of marijuana; 100 or more marijuana plants, regardless of weight; less than 10 kg. hashish; or less than one kg. of hash oil are punishable by up to five years' incarceration and/or a \$250,000 fine for individuals; the potential fine is

\$1 million for others. Second or subsequent offenses under this section are punishable by up to 10 years' incarceration and/or a \$500,000 fine for individuals; the maximum fine for others is \$2 million (See Table 2.)

<b>Table 2</b>		
<b>Penalties for Manufacture/Delivery/Sale</b>		
Schedule III		
	First Offense	Subsequent Offenses
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individuals	0-5; \$250,000	0-10; \$500,000
Others	\$1 million	\$2 million

Manufacture/delivery/sale offenses for schedule IV substances are punishable by up to three years' incarceration and/or a \$250,000 fine for individuals, \$1 million for others. Second or subsequent offenses under this section are punishable by up to six years' incarceration and/or a \$500,000 fine for individuals, \$2 million for others. (See Table 3.)

<b>Table 3</b>		
<b>Penalties for Manufacture/Delivery/Sale</b>		
Schedule IV		
	First Offense	Subsequent Offenses
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individuals	0-3; \$250,000	0-6; \$500,000
Others	\$1 million	\$2 million

The manufacture/delivery/sale of a schedule V substance is punishable by up to one year's incarceration and/or a \$100,000 fine for individuals, \$250,000 for others. Second or subsequent offenses

under this provision are punishable by up to two years' incarceration and/or a \$200,000 fine for individuals, \$500,000 for others. (See Table 4.)

<b>Table 4</b>		
<b>Penalties for Manufacture/Delivery/Sale</b>		
Schedule V		
	<u>First Offense</u>	<u>Subsequent Offenses</u>
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individuals	0-1; \$100,000	0-2; \$200,000
Others	\$250,000	\$500,000

Under a provision of the 1986 drug act, the CSA also includes a measure stipulating that an offense involving a controlled substance analog—a non-controlled chemical substance substantially similar to a controlled substance in chemical structure and psychotropic effects—shall trigger penalties as if it were a controlled substance listed in schedule I. This section is designed to combat the proliferation of "designer drugs." In addition, the Congress has delegated to the U. S. attorney general, who in turn has delegated to the DEA administrator, emergency scheduling powers, under which a substance not listed in the CSA schedules nevertheless may be treated as "controlled" for enforcement purposes for a period of one year, during which time hearings are conducted to determine whether listing the substance in the federal schedules is appropriate. However, because emergency scheduling takes effect without the procedural safeguards of hearing and review that are part of the regular scheduling process, the U. S. Court of Appeals for the 10th Circuit ruled in 1990 that emergency scheduling is unconstitutional. As of January 1991, an appeal of the decision was pending before the U. S. Supreme Court.

Recent amendments to the federal CSA also have increased penalties for violations involving specific amounts or more of heroin, cocaine, PCP, LSD, marijuana, and methamphetamine. A mandatory sentence of 10 years' to life imprisonment and a fine of up to \$4 million for individuals, or up to \$10 million for entities other than individuals, applies in any case where the manufacture/delivery/sale offense involves at least the following quantities of drugs: one kg. of a mixture containing heroin, five kg. of a mixture containing cocaine, 50 g. of a mixture containing cocaine base, one kg. of a mixture containing PCP, 100 g. of PCP, 10 g. of a mixture containing LSD, 1,000 kg. of a mixture containing marijuana, and 11 kg. of methamphetamine. Second and subsequent offenses under this section are punishable by sentences of 20 years to life in prison and fines of up to \$8 million for individuals, \$20 million for others. If death or serious bodily injury results from a first offense, there is a mandatory sentence of 20 years to life in prison; if the offender has a previous felony drug conviction, the mandatory sentence is life imprisonment.

A second tier of enhanced penalties provides that offenders who manufacture/deliver/sell less than the quantities enumerated above, but more than the following amounts, receive sentences of five to 40 years' imprisonment and a fine of up to \$2 million for individuals, \$5 million for others: 100 g. of a mixture

containing heroin, 500 g. of a mixture containing cocaine, five grams of a substance containing cocaine base, 10 g. of a mixture containing PCP, one gram of a substance containing LSD, 100 kg. of marijuana, and 10 g. of a mixture containing methamphetamine. Second or subsequent violations are punishable by 10 years to life in prison and a \$4 million to \$10 million fine. If death or serious bodily injury results from a first offense, the mandatory sentence is 20 years' to life imprisonment (See Table 5).

Table 5

### Penalties for Manufacture/Delivery/Sale Targeted Drugs

	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offense</u>
<b>Penalty Group One</b>	<b>Base Penalty</b>	<b>Base Penalty</b>	
Heroin $\geq 1$ kg.	10-life	20-life	life
Cocaine $\geq 5$ kg.	\$4 million (individual)	\$8 million (individual)	\$8 million (individual)
"Crack" $\geq 50$ g.	\$10 million (other)	\$20 million (other)	\$20 million (other)
PCP $\geq 100$ g.			
LSD $\geq 10$ g.	<b>Death/Serious Injury</b>	<b>Death/Serious Injury</b>	
Marijuana $\geq 1,000$ kg.	20-life	life	
Methamphetamine $\geq 1$ kg.			
<b>Penalty Group Two</b>	<b>Base Penalty</b>	<b>Base Penalty</b>	
Heroin $\geq 100$ g.	5-40	10-life	life
Cocaine $\geq 500$ g.	\$2 million (individual)	\$4 million (individual)	\$8 million (individual)
"Crack" $\geq 5$ g.	\$5 million (other)	\$10 million (other)	\$20 million (other)
PCP $\geq 10$ g.			
LSD $\geq 1$ g.	<b>Death/Serious Injury</b>	<b>Death/Serious Injury</b>	
Marijuana $\geq 100$ kg.	20-life	life	
Methamphetamine $\geq 10$ g.			

In addition, the Crime Control Act of 1990 amends § 841 of the federal CSA to require the U. S. Sentencing Commission to revise current sentencing guidelines to enhance by two offense levels the penalties for offenses involving smokable crystal methamphetamine.

#### Forfeiture Provisions

In addition to progressively harsher sentences for initial and repeat drug laws offenses, the federal CSA provides for other sanctions against offenders who have profited from their illegal activity. Specifically, the statute permits the government to bring civil forfeiture actions against drug trafficking proceeds and other property used to facilitate CSA violations. Forfeiture deprives criminals of the proceeds of their illegal activities and generates revenues that can support drugs laws enforcement activity. Under § 881 of the CSA, the following items are forfeitable: all controlled substances manufactured, distributed, or possessed in violation of the CSA; raw materials or equipment used to manufacture, import, or export controlled substances; any property used as a container for controlled substances; all conveyances, including aircraft, vehicles, or vessels, used or intended for use to transport controlled substances; all books, records, and research used to violate the CSA; all moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished in exchange for controlled substances, or all such property traceable to

such an exchange; and all real property used to facilitate violations of the CSA. The Crime Control Act of 1990 amended § 881 to provide for the forfeiture of drug paraphernalia and any firearm used to facilitate a drug offense.

Federal agencies may forfeit through administrative processes monetary instruments and conveyances of any value, as well as any non-real property of up to \$500,000 in value. Any other property valued at more than \$500,000 and any real property must be forfeited through judicial processes.

Forfeited assets or proceeds from their sale are deposited into the U. S. Department of Justice's Assets Forfeiture Fund, administered by the U. S. Marshals Service, and may be used to buy equipment, refurbish seized conveyances for official use, and pay awards for information, among other purposes. Monies deposited into the fund also may be shared with foreign, state, and local law enforcement agencies that participate in cooperative investigations with federal agencies. (See, "U. S. Attorney General's Guidelines for Seized and Forfeited Property," Appendix C.)

### Recently Created Offenses

In response to drug dealers' increased use of minors to sell drugs to other minors, particularly in or around schools, or to deliver drugs to other distributors, the federal CSA also has been amended to provide for special penalties for offenses involving minors. First, any person 18 years of age or older who distributes a controlled substance to a person under 21 years old is subject to a sentence of up to twice the term and fine otherwise authorized. In addition, the statute provides that any person who distributes a controlled substance in, on, or within 1,000 feet of real property of a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university shall receive a sentence of one year to life in prison or up to twice the fine and term of incarceration otherwise authorized, whichever is greater. The same enhanced penalty is applicable to persons convicted of distributing controlled substances within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility. Finally, any person at least 18 years of age who hires, employs, coerces, or uses anyone under 18 years old to violate any part of the CSA or to assist in avoiding apprehension by law enforcement officials faces up to twice the term and fine otherwise authorized for the offense, with a minimum sentence of one year's incarceration. The amendments also provide for similar sanctions against any person who knowingly distributes controlled substances to a pregnant woman.

Other recently added CSA provisions are intended to address the distribution and use of drug paraphernalia. Provisions of the 1986 anti-drug abuse act make it unlawful to use the U. S. Postal Service or other interstate shippers to sell, offer for sale, import, or export drug paraphernalia. The 1990 crime control act bars any sale, offer for sale, import, or export of paraphernalia. Violations of the provisions are punishable by up to three years' incarceration and/or a \$100,000 fine.

Another recent measure, a so-called "safehouse" provision, provides that anyone who maintains, rents, or leases any building, room, or other enclosure for the purpose of manufacturing, distributing, or using controlled substances faces up to 20 years' imprisonment and/or a \$500,000 fine.

Moreover, recent changes to the federal CSA reflect an effort to decrease the prevalence of controlled substances by regulating the manufacture and distribution of immediate precursors, the chemical compounds used in the manufacture of controlled substances. Targeted precursor chemicals are listed in the definitions section of the federal CSA. The basic penalty provision concerning precursor chemicals authorizes sentence of up to 10 years' incarceration and/or a fine of up to \$250,000 on a person who possesses a listed precursor chemical with the intent to manufacture a controlled substance or who possesses

or distributes a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance. In addition, precursors to PCP, amphetamines, and methamphetamines are enumerated specifically in schedule II, making them subject to regulation in the same manner as other schedule II substances.

Because of the dangerous side effects and addictive attributes of anabolic steroids, the use of these substances for enhancement of athletic performance or other nonmedical purposes also has come under federal CSA regulation. Distribution of anabolic steroids for human use, other than pursuant to a physician's order for the treatment of disease, is punishable by a sentence of up to five years' incarceration and/or a fine of up to \$250,000. Any person who distributes, or possesses with the intent to distribute, anabolic steroids to an individual under the age of 18 may be sentenced to up to 10 years' incarceration and/or a fine of up to \$250,000.

## STATE CONTROLLED SUBSTANCE ACTS

### Scheduling

Most states have adopted CSA schedules identical or similar to the federal schedules. In some instances, however, states have incorporated the federal scheduling mechanism into CSA statutes for regulation of pharmaceuticals, but have adopted different mechanisms for the assignment of criminal penalties for illicit drug use, possession, and distribution. Those state CSA's that differ from the federal scheduling scheme and from other state CSA's do so primarily in the way they group drugs together for determining penalties.

States' penalty grouping approaches, which have not changed significantly since the publication of the original *Guide*, fall broadly into four categories: five-schedule systems; subdivided five-schedule systems; five-schedule with exceptions systems; and unique penalty grouping systems. States using the five-schedule system have adopted the federal scheduling method, including the incorporation of the same five schedules and the same criteria for determining a substance's classification, as well as graduated penalties based directly on the schedules, with the heaviest penalties for offenses involving schedule I drugs; another, less severe set of penalties for offenses involving schedule II drugs; and so forth. In addition, many of these CSA's include language that provides for the automatic addition, deletion, or re-classification of substances whenever such changes occur in the federal schedule.

Like the CSA's using five-schedule penalty grouping, CSA's with the subdivided five-schedule system have scheduling schemes similar to that of the federal CSA, and most contain provisions for "automatic conformity" with federal scheduling actions. Unlike the first category, however, CSA's in the second group have subdivisions of schedule categories that reflect according to some other distinguishing factor; in most of these instances, schedules I and II are divided into narcotics and non-narcotics for purposes of establishing penalties. In Oklahoma, for example, schedules are set up as shown in Table 6.

**Table 6--Subdivided Five-Schedule Penalty Grouping**

**Oklahoma Penalties for Manufacturing/Delivery/Sale Offenses**

	First Offense	Second Offense	Subsequent Offenses
I/II narcotics	5-life; \$100,000		
I/II non-narcotics	2-life; \$20,000		
III	2-life; \$20,000		
IV	2-life; \$20,000		
V	0-5; \$1,000		
		penalties and fines for second and subsequent offenses are twice those otherwise authorized.	

States using the "five-schedule with exceptions" method of penalty grouping retain the federal CSA's five-schedule system in their respective state statutes, but deviate from the federal system in their classification of specific drugs, generally in order to provide for more or less severe penalties for offenses

involving those substances. For example, Louisiana has placed phencyclidine (PCP), which is under schedule II in the federal system, in schedule I, thus making use, possession, and manufacture/delivery/sale of PCP illegal under all circumstances. It should be noted that this approach, involving initial classification of drugs, differs from the approach of assigning enhanced penalties for activity involving specific drugs, the latter approach, under which the offense triggers a penalty higher than would other violations involving other substances similarly scheduled, targets misuse of the drug, but does not change the circumstances in which use of the drug is illegal.

On the other hand, some states place drugs in schedules carrying lower penalties than the drug placement would trigger under the federal scheme in recognition of cost and administrative constraints that can become considerations in a state's prosecution of frequently committed offenses, such as use or possession of small amounts of marijuana. In fact, some states using this approach may create a special category, outside of the schedules, in order to assign offenses involving particular drugs a lower penalty than other offenses involving other similarly scheduled drugs. For example, in Michigan, dimethyltryptamine, lysergic acid diethylamide (LSD), marijuana, mescaline, peyote, psilocin, and psilocybin, found in schedule I, are listed separately from other schedule I substances for penalty purposes. The penalty for use of marijuana is up to 90 days' incarceration and/or a \$100 fine and for use of the other separately listed drugs, is up to six months' incarceration and/or a \$1,000 fine, whereas the penalty otherwise would be up to one year's incarceration and/or a \$1,000 fine for these offenses (See Table 7).

**Table 7--Five-Schedule with Exceptions Penalty Grouping**

<b>Michigan Penalties for Use Offenses</b>			
	<b>First Offense</b>	<b>Second Offense</b>	<b>Subsequent Offenses</b>
I/II narcotics	0-1; \$2,000	—	—
I/II non-narcotics	0-1; \$1,000	—	—
III/IV	0-1; \$1,000	—	—
V	0-6 mo.; \$500	—	—
marijuana	0-90 days; \$100	—	—
other: Mescaline, peyote, LSD, dimethyltryptamine, psilocin, psilocybin	0-6 mo.; \$1,000	—	—

This special scheme for penalty purposes applies only to use and possession offenses; manufacturing, delivery, and sale offenses involving the above drugs trigger the same penalties as do other substances in the same schedule.

Like Michigan, several other states, list marijuana separately from other schedule I substances to specify lesser penalties for offenses involving marijuana than the offenses would trigger under the penalty scheme for offenses involving schedule I substances generally. Under these systems, states include marijuana under schedule I but establish a lower penalty for marijuana offenses than for other schedule I substance offenses, or the states create a schedule VI specifically for marijuana offenses that includes the desired lower

penalties. North Carolina, for example, has adopted the latter method, assigning marijuana offense penalties as shown in Table 8.

**Table 8--Five-Schedule with Exceptions Penalty Grouping**

**North Carolina Penalties for Possession Offenses**

	First Offense	Second Offense	Subsequent Offenses
I	0-5; \$5,000	—	—
II	0-2; \$2,000	0-5	same
III	0-2; \$2,000	0-5	same
IV	0-2; \$2,000	0-5	same
V	0-6 mo.; \$500	0-2; \$2,000	same
VI marijuana	< 1/2 oz.: 0-30 days; \$100	0-6; \$500	—
	1/2 oz.-1 1/2 oz.: 0-2; \$2,000	same	—
	> 1 1/2 oz.: 0-5; \$5,000	—	—

Finally, states operating under unique penalty grouping systems have developed schemes that differ considerably from the federal approach. One approach of this type is to classify drugs by type, or by characteristic, such as potential for harm; Hawaii, for example, classifies drugs as "dangerous," "harmful," or "detrimental," and establishes a separate category for marijuana (see Table 9). In addition, Hawaii provides for graduated penalties for each penalty group based on the amount of the drug involved in the offense, an approach employed by some states using other penalty grouping methods.

**Table 9--Unique Penalty Grouping**

**Hawaii Penalties for Possession Offenses**

	First Offense	Second Offense	Third Offense	Subsequent Offenses
dangerous drugs	< 1/4 oz.: 0-5; \$10,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
	≥ 1/4 oz.-1 1/2 oz.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$25,000
	≥ 1 1/2 oz.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000
harmful drugs	< 1/8 oz.: 0-1; \$2,000	same	same	same
	≥ 1/8 oz.-1 oz.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$50,000
	≥ 1 oz.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000
detrimental drugs	< 1/8 oz.: 0-30 days; \$1,000	same	same	same
	≥ 1/8 oz.-1 oz.: 0-1; \$2,000	same	same	same
	≥ 1 oz.: 0-5; \$10,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
marijuana	< 1 oz.: 0-30 days; \$1,000	same	same	same
	≥ 1 oz.-1 lb.: 0-1; \$2,000	same	same	same
	≥ 1 lb.-2 lbs.: 0-5; \$5,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
	≥ 2 lbs.-25 lbs.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$25,000
	≥ 25 lbs.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000

Another state using this kind of approach to penalty grouping is Arizona. The Arizona CSA, however, contains seven scheduling categories, including dangerous drugs, narcotic drugs, prescription-only drugs, marijuana, peyote, vapor-releasing substances, and precursor chemicals.

Another variation of unique penalty grouping is to include some aspects of the federal scheduling scheme. For example, Kansas has three schedules. The first includes narcotics, opiates, and methamphetamines; the second includes depressants, stimulants, hallucinogens, and federal schedule IV drugs; and the third includes federal schedule V controlled substances.

Other states retain a scheduling system for classifying drugs that includes some aspects of the federal schedules, but that assigns drugs to schedules according to different criteria. Maine and Massachusetts, for example, have followed this method by establishing alternatives to the usual I through V scheduling system and assigning names or letters to delineate the different penalty groups. In Maine, the highest schedule (W) includes amphetamine, methamphetamine, phencyclidine (PCP), barbituric acid and its derivatives, cocaine, and opiates and their derivatives. The second schedule (X) includes other depressants, such as methaqualone and chlorhexadol, and many hallucinogens that are schedule I substances in other systems. Schedule Y consists of some lower level depressants such as codeine and diazepam (valium). The last schedule (Z) includes marijuana and prescription drugs not listed in the other schedules.

Massachusetts has adopted a similar formula, under which schedule A includes narcotics that would be schedule I substances in other systems, while schedule B includes amphetamines, LSD, PCP, and methaqualone. Many other hallucinogens, including peyote, mescaline, psilocybin, and tetrahydrocannabinol (THC), all of which are classified in schedule I under the federal and some states' CSA's, are placed in schedule C in Massachusetts.

The adoption by many states of five-schedule penalty groupings similar to the federal CSA scheduling scheme highlights some advantages of using the federal scheduling approach. Many states have chosen to rely on the federal government's perceived ability to analyze and classify substances more effectively or efficiently than those states by adopting statutory provisions requiring "automatic conformity" between state schedules and any scheduling changes made on the federal level. This type of provision permits states to control new substances, such as analogs, that otherwise would fall outside the CSA regulatory scheme without having to approve a regulatory or statutory change in each instance. The state of Arkansas, in fact, repealed its own CSA scheduling lists in 1979 and now updates its schedules in accordance with annual updates received from the DEA.

On the other hand, some states' variations upon the five-schedule penalty grouping method and use of unique penalty grouping schemes demonstrates how federal provisions may not satisfy fully states' own drug control priorities or administrative policies. Moreover, there is some concern that the "automatic conformity" provisions in some state statutes may raise constitutional issues regarding delegation of state authority to the federal government. The NCCUSL, which has considered this problem in revising its UCSA, has proposed an alternative to the "automatic conformity" clause that would establish a 30-day grace period within which a state scheduling agency may hear interested parties' objections to the placement of a substance in a given schedule.

While some states use "automatic conformity" to effect expeditious scheduling of newly developed analogs as described above, other states have addressed analog scheduling while maintaining their own administrative control over scheduling matters by enacting provisions that either authorize emergency scheduling by the appropriate state regulatory agency or provide that unscheduled analogs be treated as if in the same schedule as the scheduled drugs they imitate, pending completion of formal scheduling procedures.

## Penalty Provisions

Generally, most states' legislatures have responded to the recent increase in concern over drug abuse and related crime by stiffening penalties for drug offenses and expanding CSA's to provide special penalties for specific offenses perceived to be especially dangerous or growing in number. At least 14 jurisdictions increased penalties for some possession offenses, and at least 15 jurisdictions increased penalties for some basic manufacturing, delivery, and sale offenses. Many states have added new provisions addressing offenses such as distribution near schools, high-volume drug trafficking, and operation of safehouses. However, a few states also have reduced sentences of incarceration for some offenses in order to adjust for the realities of strained resources in correctional systems. Delaware, for example, under its 1989 Truth in Sentencing Act, slightly reduced sentences of incarceration for some offenses in order to ensure that laws reflect the sentences actually being served by offenders and to encourage sentencing judges to use community alternatives to incarceration in lieu of or in addition to incarceration for appropriate offenders.

Almost all states have adopted the mechanism used in the federal CSA to establish two general categories of offenses—"possession" offenses and "manufacturing/delivery/sale" offenses—for penalty purposes. However, state CSA's also contain a number of additional provisions establishing specific types of offenses not included in the federal CSA or in all other state CSA's. For example, many states have adopted separate provisions to distinguish offenses involving possession of controlled substances with intent to distribute from ordinary possession offenses. Under such provisions, a person is charged with intent to distribute if he possesses an amount equal to or greater than the statutorily specified minimum. Arkansas, for example, has designated floor amounts of heroin, cocaine, morphine, marijuana, and LSD that constitute an "intent to distribute" offense; the charge against a person who has less than the floor amount is possession of a controlled substance. An "intent" offense usually carries a penalty similar or identical to those for manufacturing, distributing, creating, or dispensing controlled substances.

Another category of offense included in at least 11 state CSA's is that created by so-called "use provisions," which make it a crime to use or be under the influence of a controlled substance. In some states--Nebraska, for example--a prosecutor need not prove that the offender was under the influence of a specific controlled substance in order to obtain a conviction under such a provision; he need only establish that the person manifested the behavioral and physiological symptoms or reactions caused by use of any controlled substance. Drugs included in use provisions vary among states; Connecticut, for example, generally prohibits any intoxication by an illegal drug, while Alaska penalizes only public use of marijuana, and California specifically penalizes use of narcotics, mecloqualone, methaqualone, cocaine base, mescaline, peyote, PCP and its analogues, methamphetamines, and amphetamines. Scope of use provisions also varies; Louisiana's use provision, for example, covers only drug use by any person over 17 years of age in the presence of any person under 17 years of age and at least two years the user's junior.

A state CSA also may create degrees of severity of offenses based on the purity of controlled substances involved. For example, New Jersey's CSA provides that a person who manufactures a substance with less than 3.5 g. of a pure free base schedule I or II narcotic drug is subject to a sentence of imprisonment for not more than 12 years, a fine of \$25,000, or both. A person who manufactures a substance that contains 3.5 g. or more of a pure schedule I or II narcotic drug is subject to imprisonment for life, a fine of \$25,000, or both. Similarly, under the federal CSA, the penalty for delivery of 500 g. of a mixture containing cocaine is the same as it is for delivery of a substance containing five grams or more of cocaine "base," the pure, unadulterated form of cocaine, and the recently developed, powerful form popularly known as "crack."

In addition to delineating specific penalties for certain offenses, several states' CSA's, like the federal CSA, provide enhanced penalties for offenses involving particular drugs that are "targets" for enforcement

activity. Since the publication of the original *Guide*, 13 states have enacted such provisions, bringing the total number to 37. Of those jurisdictions, 35 have targeted specific drugs that will trigger enhanced penalties for offenses involving specified amounts or more of those drugs.

Tennessee, for example, has adopted a two-tier scheme of enhanced penalties for offenses involving the manufacture, delivery, or possession with intent to manufacture or deliver targeted drugs. Under this scheme, the penalties for manufacture of at least 26 g. of cocaine are eight to 30 years' imprisonment and/or a fine of up to \$200,000; the penalties for manufacture of more than 300 g. of cocaine are 15 to 60 years' imprisonment and/or a fine of up to \$500,000 (See Table 10). By contrast, the penalties for manufacture of non-targeted schedule II narcotic drugs or for manufacture of less than 26 g. of cocaine are three to 15 years' imprisonment and/or a fine of up to \$100,000.

**Table 10--Targeted Substances Under Tennessee CSA**

Targeted Substance	Trigger Amount		Trigger Amount	
Heroin	≥15 g.		≥150 g.	
Morphine	≥15 g.		≥150 g.	
Hydromorphone	≥5 g.	Penalty for all offenses is 8-30 years' imprisonment and up to \$200,000 fine.	≥50 g.	Penalty for all offenses is 15-60 years' imprisonment and up to \$300,000 fine.
Lysergic Acid Diethylamide (LSD)	≥5 g.		≥50 g.	
Cocaine	≥26 g.		≥300 g.	
Pentazocine/Tripeleminamine	≥5 g.		≥50 g.	
Phencyclidine(PCP)	≥30 g.		≥300 g.	
Barbituric Acid	≥100 g.		≥1,000 g.	
Phenmetrazine	≥50 g.		≥500 g.	
Amphetamine/Methamphetamine	≥100 g.		≥1,000 g.	
Peyote	≥1,000 g.		≥10,000 g.	
Marijuana	≥70 lbs.		≥700 lbs.	

At least 13 states' CSA's provide for enhanced penalties for any amount of certain targeted substances. In Kentucky, for example, the penalty for possession of any amount of PCP or lysergic acid diethylamide (LSD) is one to five years' imprisonment and/or a fine of \$3,000 to \$5,000; the penalty for possession of other schedule I and II non-narcotics is up to one year's imprisonment and a fine of up to \$500.

In the 37 jurisdictions providing for enhanced penalties for offenses involving specified controlled substances, the drugs most frequently targeted are cocaine, marijuana, heroin, PCP, LSD, and meth/amphetamines (See Appendix B).

The CSA's of 10 states contain provisions that specifically address drug offenses involving "crack," the potent and highly addictive derivative of cocaine. Most refer to the substance as "cocaine base;" only Nebraska and South Carolina actually use the term, "crack," in their CSA's. Crack provisions fall into two categories. Louisiana, Minnesota, Missouri, Nebraska, and Oklahoma established enhanced penalties for offenses involving crack or cocaine base, while California and Wisconsin list cocaine base as a schedule I substance, in contrast to the schedule II classification for cocaine.

## Drug Paraphernalia Provisions

Provisions to counter the sale and distribution of drug paraphernalia also have been a significant part of recent changes in state CSA's. Since the DEA drafted the Model Drug Paraphernalia Act in 1979, 50 of the 51 jurisdictions covered in this *Guide* have passed some type of paraphernalia provision, almost all following the language of the model act, and the Congress passed a federal paraphernalia law as part of the 1986 anti-drug abuse and the 1990 crime control acts. These acts typically prohibit the manufacture, sale, possession, distribution, or advertisement of drug paraphernalia, but few prohibit only distribution.

Although similar in many respects, states' provisions vary in the assessment of penalties for violations of the law. In Idaho, for example, distribution of paraphernalia is punishable by up to nine years' incarceration and/or a fine of up to \$30,000, while a similar offense in Kentucky is punishable by up to 90 days' incarceration and/or a fine of up to \$250, and in Maryland and South Carolina, by a fine of up to \$500.

In the 32 states that have adopted enhanced penalties for offenses involving distribution of drug paraphernalia to minors, such penalties also vary widely. In the state of Ohio, for example, the distribution of marijuana paraphernalia to a person under 18 is punishable by up to six months' incarceration and/or a fine of up to a \$1,000; while in Tennessee, a similar offense is punishable by one to six years' incarceration and/or a fine of up to \$3,000.

## Imitation Controlled Substances Provisions

Imitation controlled substances are uncontrolled substances that are sold or otherwise distributed as under representation that they are controlled substances. Often the uncontrolled substance is caffeine or ephedrine, found in diet pills and sold over the counter in drugstores. The imitation controlled substances often look like legitimate controlled substances, with shapes, sizes, colors, and markings similar or identical to those found on the legitimate product.

All but two states have provisions addressing imitation controlled substances, and in developing these provisions, most states have followed the DEA's Model Imitation Controlled Substances Act. Although a few states have treated imitation and counterfeit controlled substances similarly for definition and penalty purposes, an important distinction between imitation and counterfeit controlled substances is that an imitation controlled substance is not a controlled substance at all, while a counterfeit controlled substance is a controlled, but illegally manufactured, substance. A prime example of a counterfeit controlled substance is illegally manufactured methaqualone (quaaludes) distributed in the form of tablets stamped with the legitimate manufacturer's markings.

Penalties generally are less severe for offenses involving imitation controlled substances than for those involving counterfeit controlled substances. In both Delaware and North Carolina, however, the penalty for delivery of imitation controlled substances is the same as it is for whatever controlled substance the seller represented the product to be. At least 30 states that have imitation controlled substance provisions have enhanced penalties for distribution of these substances to minors. For example, Rhode Island provides that any person at least 18 years of age who distributes an imitation controlled substance to a person at least three years his junior is subject to a term of incarceration twice that otherwise provided for in the statute.

## Forfeiture Provisions

In addition to seeking enhanced penalties to punish major drug laws violators, many state and local enforcement officials, like their federal counterparts, increasingly are looking to forfeiture as a means of depriving drug laws offenders of the profits of their illegal activity. Forfeiture provisions vary widely from state to state, but most states' CSA's have incorporated some forfeiture provisions similar to those of the federal statute. Most states' CSA forfeiture proceedings are civil "in rem" actions, in which the forfeiture is an action against the property. In such actions, the state proves by a preponderance of the evidence that the property facilitated a CSA violation or that the owner obtained the property as a result of illegal activity. A few states have criminal forfeiture provisions, which require that a prosecutor prove his case beyond a reasonable doubt or that the property owner be found guilty of the underlying offense leading to the forfeiture before forfeiture can proceed. In most states, forfeiture is a judicial proceeding; however, some state CSA's, like the federal statute, authorize administrative forfeiture of property under a certain value if no interested party contests the proceedings.

In most state CSA's, the list of forfeitable assets, similar to that in the federal CSA, includes such items as drug containers, paraphernalia, conveyances, drug records, real estate, money and valuables, and proceeds traceable to violations of the CSA. In addition, 26 states' CSA's provide for forfeiture of imitation controlled substances, items not forfeitable under the federal CSA.

At the time of the original *Guide's* publication, lists of items forfeitable under each state's CSA varied considerably. However, in recent years, most states that had not authorized forfeiture of all of the types of property listed above have expanded their forfeiture statutes to include most or all of these types of properties. Most notably, 26 states have added real property forfeiture to their forfeiture statutes since 1988, bringing to 43 the total number authorizing forfeiture of real property.

Many states have adopted forfeiture provisions different from those of the federal statute to address specific state concerns. For example, several states authorize the forfeiture of a conveyance only in a case where the underlying offense is a felony or involves more than a designated amount of a controlled substance. In California, no vehicle that is the defendant's immediate family's sole means of transportation is forfeitable. In addition, no conveyance may be forfeited if the offense involved less than one-half ounce of heroin, one ounce or less of any other schedule I or II controlled substance, or one pound or less of marijuana, peyote, or psilocybin. Under federal law, by contrast, a conveyance may be forfeited in any case where any usable amount of a controlled substance is involved.

State forfeiture laws also vary significantly in the formulas that establish distribution of forfeited assets or their proceeds. Generally, states that provide for forfeiture require that proceeds first be used to pay for costs of activity associated with forfeiture proceedings, such as the seizure of forfeitable assets, the storage and maintenance of such property, and the advertising and sale of seized items. States differ, however, in the ways they allocate the funds remaining after coverage of administrative costs. At least 17 states, however, specifically limit application of forfeiture proceeds to drug laws enforcement activities. On the other hand, 10 jurisdictions specifically direct that a certain percentage of forfeiture proceeds go to fund drug treatment and/or drug education programs. Recently, 13 states have altered their forfeiture distribution formulas to divert proceeds away from other programs and into law enforcement-related activity. Of these 13 states, four have chosen to discontinue previous funding, through asset forfeiture, of drug treatment and drug education programs. Five states, on the other hand, have made recent changes to their forfeiture provisions to free up monies for drug treatment and drug education. In no case, however, did a state choose to divert funds previously earmarked for drug laws enforcement activities into drug treatment and drug education programs. Many states distribute proceeds among several accounts, including various segments of

the criminal justice system and non-criminal justice programs. A few states have no provisions addressing distribution of drug-related assets forfeiture proceeds.

### Provisions Relating to Minors

In addition to forfeiture, a major focus of state CSA amendments in recent years has been offenses involving minors. All of the 51 jurisdictions's CSA's in this *Guide* provide for increased or additional penalties for offenses involving distribution to minors of some controlled substance or other contraband, such as imitation controlled substances or drug paraphernalia.

Penalty provisions for distribution to minors vary considerably from state to state. Many states employ the former UCSA penalty formula, under which increased penalties for sales to minors apply only when an offender is 18 years old or older and the buyer is under 18 and is at least three years the seller's junior. In 1990, however, the UCSA was amended to reduce the age difference criteria to make the distribution to minors provision applicable where the buyer is "at least two years the seller's junior"; a few jurisdictions have altered their CSA's in similar fashion. Others have made such provisions applicable to offenders over age 18 where the buyer is under 21, regardless of the age difference between buyer and seller.

Schemes for determining penalties also vary significantly among jurisdictions. Many states have differing penalties for offenders who distribute narcotics and those who distribute non-narcotics; others base penalties on the schedule placement of the drug involved in the offense, often authorizing a lesser sentence for offenses involving marijuana. Determining the applicability of such provisions can be complex. In Delaware, for example, the recommended statutory penalty for distribution of any schedule I or II narcotic to a person who is under 18 years old is a sentence of up to 30 years' incarceration; for other controlled substances, the maximum sentence is 15 years' incarceration. In addition, where the buyer is under 16 years old, the CSA provides minimum sentences of one year for distribution of schedule I or II narcotics and six months for other substances. However, the statute also provides that if the seller is under 21, the buyer is over 15, the seller was not making a profit or assisting another to make a profit, and the buyer had been acquainted with the seller for at least one year prior to the incident, there is no mandatory minimum term of incarceration, and the maximum sentence is two years' incarceration and up to a \$1,000 fine. Other states, like the federal government, double the term of incarceration and fine that otherwise would be applicable in cases involving distribution of the substance; some establish set terms with stiff mandatory minimum terms and fines.

A number of states also have taken the extra step of providing increased penalties for offenses involving distribution of imitation controlled substances and drug paraphernalia to minors. At least 18 states have provided for increased penalties for distribution of imitation controlled substances to minors, and 27 jurisdictions have done the same for distribution of drug paraphernalia to minors.

Recently, states also have begun to address the problem of drug dealers' use of minors to distribute controlled substances. Knowing that minors generally receive less severe sentences than adults for CSA violations and thus are unlikely to implicate suppliers in exchange for lighter sentences, an increasing number of drug traffickers are employing minors to sell and distribute their drugs. Although provisions of the federal anti-drug abuse act enacted in 1986 make it unlawful for any person 18 or older to hire or use any person under 18 to violate any part of the CSA or to assist in avoiding detection of any CSA offense, only three other jurisdictions specifically had prohibited the use of minors for distributing controlled substances, at the time of the original *Guide's* publication in 1988. Since then, 23 more jurisdictions have enacted such provisions. These provisions vary in scope of offenses covered and severity of penalties established. For

example, although a number of states specifically prohibit the use of minors for any drug distribution, California's law applies only in a case where an adult encourages or intimidates a minor to violate any part of the controlled substances act regarding all narcotics, methaqualone or mecloqualone, mescaline, peyote, marijuana, or tetrahydrocannabinols (THC). The District of Columbia's law applies to offenders who enlist, hire, or encourage anyone under age 18 to sell or distribute controlled substances, and it calls for penalties equivalent to those applicable if the adult himself had sold the drugs, plus up to an additional 10 years' incarceration. Maryland's provision is similar to that of the District of Columbia, but the maximum permissible penalty under Maryland law is 20 years' imprisonment and a \$10,000 fine.

### Schoolyard Provisions

Provisions creating additional or enhanced penalties for distribution of drugs in or near schools—so-called "schoolyard" or "drug free schools" provisions—have become increasingly popular in recent years. Whereas only 16 states had adopted some type of schoolyard provision at the time of the original *Guide's* publication, 43 jurisdictions had enacted such provisions as of the end of 1990. Although based on the federal or UCSA models, the states' provisions vary regarding the types of schools, the extent of the area near schools covered by the provisions, the drugs targeted, and the age groups involved.

In 35 states, schoolyard provisions are applicable to elementary and secondary schools. Only Alaska and North Carolina specifically cover preschools in their statutes. Utah's definition of "school" encompasses any place where a school-sponsored event takes place. In addition, 16 states' schoolyard provisions include vocational schools, while seven other states include colleges and universities; statutes of the 10 states that do not specify the types of schools presumably cover all or any type of school. Kentucky uses a unique phrase to describe school property: any building used primarily for classroom instruction. Twelve states include school buses in their definitions of school property.

Following the guidance of the federal CSA and the UCSA, 31 states have limited the applicability of schoolyard provisions to an area within a 1,000-foot radius from school property. However, areas covered by schoolyard provisions range from school property only in Alaska, Rhode Island, Tennessee, and Vermont to a radius of three miles from school property in Alabama. Delaware, Louisiana, Maryland, New Jersey and Washington make exceptions for any offense occurring within the designated distance if the offense occurs entirely within a private residence with no person under 18 years of age present. Similarly, in Virginia, the offense must occur on public property to fall within the purview of the statute.

Under other provisions similar to schoolyard provisions, five states—California, Illinois, Minnesota, Nevada, and Wisconsin—prohibit the sale or delivery of controlled substances to minors in or near public parks. Wisconsin specifically includes public swimming pools, youth centers, and community centers, while Nevada includes public pools, youth centers, and video arcades.

### Safehouse Provisions

States, like the federal government, also have had to contend with illegal drug manufacturers' and distributors' increased use of "safehouses" (especially "crack houses")—rented or abandoned dwellings or other structures used primarily as havens for drug sales and use. At least 43 jurisdictions have adopted some type of safehouse provision, usually to conform to federal law in the scope of activities covered; some states, for example, prohibit an individual's "presence" at a place where controlled substances are stored, manufactured, or used. California and Washington, on the other hand, go one step further than federal law by establishing

enhanced penalties for anyone who operates any such place and purposely fortifies the building, room, or house against law enforcement entry.

Maximum penalties for safehouse offenses include terms of incarceration ranging from six months' to 20 years' and fines ranging from \$1,000 to \$50,000; most states' maximum penalties entail between one and five years' incarceration and a fine of up to \$1,000. In addition to criminal penalties, CSA's in six states have public nuisance provisions that allow authorities to take action to enjoin or abate the illegal use of the premises. Five other states have similar nuisance provisions outside of their CSA's. Of the 11 states with drug-related public nuisance abatement provisions, five—Maine, Maryland, Missouri, Utah, and Wisconsin—also have the types of criminal penalties cited above for violations of safehouse provisions.

Under most safehouse provisions, an innocent owner who did not know that his property was being used as a safehouse is not subject to sanctions. However, 14 states' provisions do not specify whether a person must knowingly "keep or maintain" a safehouse to be subject to prosecution for violation of safehouse provisions. Potentially, these states' provisions may permit punishment of negligent property owners who are unaware of the illegal use of their premises.

### **Anabolic Steroid Provisions**

Awareness of the nonmedical use of anabolic steroids, especially by young people seeking to increase their muscle mass or athletic performance, has risen in recent years. Because of anabolic steroids' potential side effects, such as high blood pressure, sterility, increased aggressiveness, and addiction, 26 states have enacted provisions to address the use and distribution of anabolic steroids for nonmedical purposes. Of the 26 states that have steroid provisions, 12 include them in their CSA's schedules: New York lists steroids in schedule II; California, North Carolina, and Utah, in schedule III; Arizona, Florida, Idaho, Kansas, Minnesota, and Oklahoma, in schedule IV; and Alabama and Rhode Island in schedule V.

Of those states that schedule steroids, seven do not differentiate between steroids and other similarly scheduled substances for penalty purposes. Sixteen states establish specific penalties for the manufacture, prescription, sale and possession of anabolic steroids; seven of those states have enacted such provisions outside of their CSA's. Penalties for anabolic steroid offenses vary from state to state. The potential terms of incarceration for violations of steroid provisions range from zero to 10 years, with corresponding fines of \$1,000 to \$20,000. Only two states—Georgia and Kansas—impose mandatory minimum terms of incarceration—one and three years, respectively—on persons convicted of unlawfully distributing anabolic steroids.

### **Immediate Precursor Provisions**

Precursors are compounds used as a primary ingredient or chemical intermediary in the manufacture of a controlled substance. Generally, precursors may have a variety of legitimate uses, such as the legal manufacture by authorized pharmaceutical companies of controlled substances that may be used for medical purposes only, with a doctor's prescription and under medical supervision. However, supplies of precursor compounds often are diverted into the manufacture of controlled substances for illegal sale or use.

At least 37 states specifically address control of the distribution and use of precursors to prevent their use in illegal drug manufacturing. In 32 of those states, certain compounds recognized as precursors are placed in schedules II or III, thereby prohibiting non-medical use of the substances. Presumably, penalties for the illegal possession, manufacture, delivery, or sale of precursors would be the same as those

for other similarly scheduled substances. The most commonly regulated precursors are phenylacetone, which is an immediate precursor to amphetamine and methamphetamine, and 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, which are immediate precursors to phencyclidine (PCP). Most states regulating those precursors place them in schedule II, as does the federal government; Wisconsin lists the PCP precursors under schedule I.

At least nine states—Arizona, California, Louisiana, Minnesota, Montana, New Mexico, Oregon, Utah, and Washington—have provisions specifically addressing the control of precursors in addition to or instead of scheduling. For example, in Arizona, precursor chemicals comprise one of the seven illegal substance categories of illegal substances established under the CSA for penalty purposes. Under the Arizona scheme, the possession, manufacture, sale, transfer, or transport of precursor chemicals carries a penalty of zero to 14 years' imprisonment for the first offense,  $4\frac{2}{3}$  to 21 years' imprisonment for the second offense, or 25 years' to life imprisonment for subsequent offenses. Several other states have enacted provisions within their CSA's or in other pharmaceutical control-related statutes that create stringent regulation of the use and flow of precursors by legal industries and manufacturers in order to minimize the diversion of precursors into illegal drug manufacturing. Under such provisions, manufacturers, transporters, and sellers of precursor chemicals generally are required to obtain licenses from a state law enforcement agency or a pharmaceutical control board responsible for control of precursors. A manufacturer, transporter, or seller may be required to submit to the appropriate state agency detailed reports of transactions involving precursors, or keep records of those transactions for examination by the state agency. In some states, a handler of precursors may be required to report any inventory shortages, losses, or thefts to a specified agency.

#### **Offender Drug Testing Provisions**

A majority of the drug testing authorized by state CSA's occurs within state correctional institutions. Typically, the persons targeted by CSA drug testing provisions include probationers, parolees, prison inmates, juvenile defendants, and persons committed to community rehabilitation centers.

In 18 states, CSA's authorize administration of drug tests to determine some offenders' eligibility for probation and require those probationers to pass periodic drug tests as a condition of continued probation. Some of these states restrict drug testing to specific classes of probationers. For example, CSA's in six states—Alabama, Arizona, California, Louisiana, New Jersey, and Texas—permit testing specifically of probationers with histories of drug laws violations. Louisiana, New Jersey, and Texas broaden this category to include probationers suspected by the court of drug use. At least one state—Virginia—authorizes the testing of first-time drug offenders who have been granted probation. Persons participating in intensive probation programs, in which the terms and conditions of the supervised release are more stringent than those for regular probation, also are tested for drug use with some frequency. Other classes of probationers required to submit to periodic drug tests include those who have committed felonies or certain misdemeanors and those in the medical field who are charged with professional misconduct. Four states—Colorado, Florida, Kansas, and Nebraska—authorize the testing of all probationers, regardless of the nature of their criminal histories.

Parolees are less frequently subjected to periodic drug testing as a condition of release than are probationers. Only eight states—Alaska, Colorado, Florida, Kansas, Illinois, Indiana, Texas, and Wisconsin—presently authorize the routine testing of parolees. Four of these states—Colorado, Florida, Kansas, and Indiana—provide for testing of all parolees, regardless of the type of crime for which they were convicted. The remaining states require testing only if the parolee has a history of drug use or has committed a drug-related offense.

Juveniles, like adults, are most likely to be tested for drugs as a condition of probation. And, like adult probationers, juveniles who have committed drug offenses or have histories of drug use are a likely class of probationers to be tested. Three states—California, Connecticut, and Kansas—permit the testing of juvenile probationers with drug histories, while only one state—Arizona—requires all juvenile probationers to submit to testing, regardless of criminal history. In some states where testing is not mandatory, juveniles can be asked to submit voluntarily to drug testing—a practice used less frequently with adult offenders. In California, for example, juveniles in temporary custody are asked to submit to drug testing voluntarily, and in Virginia juveniles may submit to drug testing in order to help the court determine release conditions.

At least 11 states offer alternatives to incarceration in the form of commitment to state or private community restitution centers, drug rehabilitation and diversion programs, or special detainee programs. Participants in these programs stand a greater chance of being tested for drugs than do inmates, regular probationers, or parolees. The states of Colorado, Florida, Maine, Oklahoma, and Wyoming, which all authorize the use of government or privately run community restitution centers as incarceration alternatives, also provide for the drug testing of program participants. Likewise, the states of Alabama, California, Delaware, New Jersey, New York, and Oregon, which offer drug rehabilitation and diversion programs require the testing of all participants.

The CSA's of Alabama, California, Kansas, New York, Tennessee, and Wisconsin specifically authorize the testing of prison inmates for drug and alcohol use. The scope and purpose of prisoner drug testing, however, varies from state to state. Kansas allows correctional authorities to test all inmates, but only to identify drug users for offender "management" purposes, not for the purpose of imposing penalties on inmates who test positive. Similarly, in Tennessee, statutes authorize the random testing of 25 inmates at each correctional facility each month to help identify correctional employees who might be introducing drugs into the prison system. Other states, including Indiana, New York, and Wisconsin, permit the testing of all inmates, or a random sample of inmates, even if prison employees have no reason to suspect drug use. Still other states select special classes of inmates to test. For example, Alabama requires defendants convicted under the state Criminal Psychopath Release Restriction Act to be tested for the use of prescription and illegal drugs. California, on the other hand, grants judges discretion to order the drug testing of defendants suspected of being drug users.

Several jurisdictions, including Arizona, Louisiana, Texas, Virginia, and the District of Columbia, authorize courts to use the results of drug tests as a factor in pretrial bail, bond, and release determinations on the premise that the presence of drugs may indicate that a defendant is likely to flee, or poses a greater risk to society, if released on his or her own recognizance. Such a finding would weigh against pretrial release of the defendant on low bail. As discussed above, states also may authorize courts to consider the results of a drug test in deciding whether to suspend a defendant's sentence or to place a defendant on probation.

Some state CSA's authorize law enforcement officials to conduct drug tests of arrestees while they are in police custody, but they do so in circumspect fashion. In Delaware and Indiana, for example, police officers may take an individual they believe to be intoxicated to a detoxification center, as a condition of admittance, requires detainees to submit to drug testing. Maine allows a police officer who suspects that a person in criminal possession of a firearm is intoxicated to test that person for alcohol or drugs.

### **Triplicate Prescription Form Provisions**

At least six states—California, Idaho, Michigan, New York, Texas, and Washington—have included in their CSA's provisions that require medical practitioners to write prescriptions for controlled substances in

triplicate form. Under this procedure, designed to provide a means of tracking distribution of controlled substances and thereby deterring the illegal sales of such drugs, the physician retains one copy and delivers the other two forms to his patient for submission to an authorized pharmacist. The pharmacist, in turn, fills the prescription, retains the second copy, and transfers copy three to the state's regulatory authority. The prescription orders are stored in an automated information system maintained by the regulatory authority and expunged after the statutory holding period has elapsed. Several other states have adopted similar regulatory mechanisms for prescription drugs; some require prescription forms to be "in conformity with" or "consistent with" federal reporting requirements, while others require triplicate "order forms."

### **Education and Treatment Provisions**

Prevention education for potential drug users and treatment for drug abusers have been a major focus of state legislators in recent years. In this area, many states have adopted the language of the UCSA, which provides for educational programs designed to prevent and deter misuse and abuse of controlled substances. The majority of the provisions also encourage research on drug misuse and abuse.

A number of states have established even more specific treatment provisions in attempts to stop drug abuse in its early stages. Under the CSA's of both Colorado and Delaware, for example, if a court finds that a person convicted of drug use is physically or psychologically dependent on the substance, the court is required to place him in a rehabilitation program. Under North Carolina law, a first-time offender convicted of possession may be placed in a drug education program as part of probation. In most instances, an offender who completes such a program successfully may have the record of his drug offense expunged.

In order to help defray costs, some state CSA's provide for use of monies from state forfeiture funds to administer education and rehabilitation/prevention programs. Generally, however, states fund drug education, rehabilitation, and prevention programs through state budgetary outlays and reliance on federal grants.

### **Miscellaneous Provisions**

Many jurisdictions have gone beyond the federal law or other models for controlling drug trafficking and drug-related activity and have adopted their own innovative provisions to address specific drug control concerns in their jurisdictions.

Among miscellaneous CSA provisions of note is one in several states that provides that a first offender may avoid harsh mandatory minimum penalties if he assists in the apprehension of any of his accomplices.

Maine recently enacted legislation requiring that anyone convicted of any drug offense be fined, in addition to the fine otherwise authorized or required, an amount equal to the value of the drug.

Nevada provides that if a death results from the sale of a controlled substance, the seller is to be prosecuted for murder, in addition to any drug-related offenses. Similarly, Washington provides that the seller of drugs is guilty of controlled substances homicide and is subject to a sentence of up to 10 years' incarceration and up to a \$20,000 fine, if the buyer dies as a result of the drug use.

Rhode Island provides that any person who accepts a plea bargain in relation to an offense involving the sale of drugs is to be assessed an additional \$1,000 fine, to be deposited into the state's forfeited property account.

Washington and Illinois authorize parents of a minor to whom a controlled substance is sold to bring a cause of action against the seller of such drug to recover damages to the minor. Damages include the cost of treatment and rehabilitation of the minor's drug dependency, the proceeds received from the sale of the substance, and reasonable attorney fees. Under the Illinois statute, parents may recover up to triple the amount of damages caused.

### **Money Laundering/Currency Transaction Reporting Provisions**

Money laundering and currency transaction reporting provisions are among the types of statutory drug control mechanisms that generally are not in a state's CSA but frequently operate in conjunction with CSA enforcement. Therefore, such provisions are relevant to consideration of the scope state statutory authority to control drug-related activity. For this reason, discussion of these types of provisions is included in this *Guide*. Money laundering statutes attempt to limit persons' ability to disguise illegitimately gained cash as legitimate business proceeds and thereby deny drug traffickers of the profit gained from their illegal activities. Two states—Louisiana and Oklahoma—have enacted money-laundering provisions within their state CSA's. These provisions are tied to CSA's in that they establish penalties for persons who knowingly or intentionally conduct a financial transaction involving proceeds derived from a violation of the state's CSA when the transaction is designed to either conceal or disguise the nature, location, source, or ownership of such proceeds or to avoid a transaction reporting requirement under state or federal law. A person convicted of violating Louisiana's money laundering statute is subject to a term of incarceration of up to ten years and/or a fine not to exceed \$10,000. Oklahoma, on the other hand, imposes a mandatory minimum sentence of two years' incarceration and a fine of up to \$50,000 for violations of its money laundering provision.

Although not within their CSA's, at least 12 additional states—Arizona, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Maryland, New York, North Carolina, Utah, and Virginia—have enacted similar money laundering provisions. The money laundering provisions in these states are couched in broad language and codified in general penal, tax, or banking sections of state codes, presumably to apply to the laundering of proceeds derived from all types of criminal activity, not just drug-related offenses.

In a related effort to thwart traffickers' efforts to conceal their illegal activity and proceeds, at least seven states—California, Florida, Georgia, Maryland, Nebraska, North Carolina and Utah—have enacted currency transaction reporting (CTR) statutes that require banks and other financial institutions to report all cash transactions in excess of \$10,000 to state banking or revenue authorities. The CTR statutes generally are found in state banking codes rather than in CSA's.

Like the federal Bank Secrecy Act, state CTR requirements are designed to identify the source, volume, and movement of United States currency on deposit at financial institutions and to aid law enforcement officials in the detection and investigation of drug trafficking and money laundering activities. The states of Florida, Maryland, and Utah extend their CTR requirements to cover the types of trades and businesses frequently used by drug traffickers to launder illicit drug proceeds, such as jewelry stores, car dealerships, and real estate firms. In addition to requiring CTR's, California, Georgia, and Florida compel financial institutions to report "suspicious transactions," regardless of the dollar figures involved. Presently,

only Georgia and California specifically enumerate penalties for "structuring," or separating, transactions to avoid the \$10,000 CTR trigger.

State CTR statutes were adopted primarily to decrease state dependence on federal CTR reporting. In enacting their own statutes, the states of Florida, Georgia, Nebraska, North Carolina, and Utah sought to institute a dual federal-state reporting mechanism whereby financial institutions would file one CTR report with both federal and state authorities. The benefits of such an approach were thought to include a shorter response time between the filing of a CTR and the initiation of a state CTR investigation, more accurate CTR reporting, and a greater emphasis on the investigation of smaller cash transactions, which federal authorities were unlikely to pursue. Dual reporting also promised to be inexpensive, imposing on financial institutions only the slight additional cost of mailing a copy of federal CTR's to state authorities. In these states, federal and state authorities act independently of one another to investigate financial transactions and to ensure compliance with CTR reporting requirements.

California and, most recently, Maryland take a different approach to CTR's. These two states do not require financial institutions to file duplicate federal forms with state officials. Rather, both California and Maryland have entered into an information-sharing agreement with the federal Internal Revenue Service (IRS), under which the IRS provides a state repository with tapes imbedded with CTR information, and the state loads this information into its data banks. In return, the state must agree to certain conditions. First, it must enact a CTR reporting statute or other formal procedures to combat money laundering activities. Second, it must notify the IRS within three days after commencing an investigation based on CTR information and must divulge to the IRS certain information about the target of the investigation. Finally, the state must pay for access to the IRS data banks. California incurred a cost of approximately \$16,000 for access to IRS files in the first year of its CTR reporting program and approximately a \$10,000 yearly expense thereafter. California and Maryland are completely dependent on federal authorities to ensure compliance with CTR reporting requirements.

To avoid a deluge of CTR reports on routine and legitimate transactions, all CTR statutes exempt from the reporting requirements customers and transactions that present little risk of illegal activity. These provisions range from the type found in California, granting broad exemption power to state regulatory authorities, to the type found in Nebraska, which permits only the exemptions authorized under federal law.

States generally restrict access to CTR reports to law enforcement agencies solely for purposes of investigation and prosecution of the subject of the report. For example, Utah provides access to any law enforcement agency or county attorney or to the attorney general, but only upon a showing that the person seeking the reports need them for investigatory purposes. Florida has enacted a similar provision under which a law enforcement agency may gain access to CTR reports upon the issuance of a court order or pursuant to a subpoena issued by a prosecuting attorney or grand jury.

Because the primary objective of CTR reporting requirements is to prevent the laundering of drug-trafficking proceeds, most CTR statutes contain provisions that impose stiff penalties on persons who wilfully violate reporting provisions as part of a pattern of illegal activity. For example, North Carolina classifies such action as a class I felony if the transactions involved exceed \$10,000 in any 12-month period and imposes a term of imprisonment of up to five years and a fine not to exceed \$500,000 for any violations. Penalties are doubled for second and subsequent offenses. Florida and Utah have enacted largely similar provisions. Perhaps the most stringent criminal penalty provision, however, is found in the state of Georgia, where a person attempting to conduct a currency transaction knowing that the monies involved are proceeds of unlawful activity or that the transaction is designed to conceal the illegal nature of the proceeds is subject to a fine of twice the value of the illegal proceeds, up to a maximum of \$500,000, and a prison term of up to 20 years.

## Controlled Substance Tax Provisions

Controlled substance tax provisions are another non-CSA drug control tool considered in recent years by almost half the states. To provide an additional monetary punishment for drug offenders and, in some cases, to generate revenue, at least 21 states require stamp, sales, or excise taxes on the manufacture, sale, acquisition, or possession of illicit drugs within their borders. Tax rates vary considerably among the states. For example, Nevada imposes a tax of \$100/g. on marijuana and \$1,000/g. on any other controlled substance. Arizona, by contrast, taxes marijuana at a rate of \$10/oz. (approximately 35 cents/g.) and any other controlled substance at a rate of \$125/oz. (approximately \$4.50/g.). Florida assess taxes of 50 percent of the estimated market value of the drugs involved in the transaction and a surcharge equal to 25 percent of the value of the drugs. Another 11 states use the most common scheme of placing a tax of \$3.50/g. on marijuana and \$200/g. or \$2,000/50 doses on any other controlled substances.

Most drug tax provisions serve to emphasize accountability of drug traffickers and users. These states direct law enforcement agencies to report drug offenders to the state tax assessor. The extra tax liability in such states serves as an additional penalty. Most states specifically exempt from stamp tax liability registered pharmaceutical dealers and other persons lawfully in possession of controlled substances.

Anyone who fails to pay the taxes as required is subject to civil and criminal penalties. Eleven states impose on violators a civil fine equal to 100 percent of the tax due, in effect doubling the tax assessment. Colorado imposes the most stringent civil penalty, fining offenders 10 times the amount of unpaid taxes for failure to file a stamp tax return. Criminal penalties for drug violations range from zero to 10 years' imprisonment and from \$10,000 to \$14,000 in fines. Under the most common penalty scheme, adopted in five states, a violation carries a sentence of zero to five years' incarceration and a fine of up to \$10,000.

Some states, acknowledging the lucrative nature of the illicit drug trade, appear to have enacted stamp taxes with the additional intent of raising revenues, usually to help fund law enforcement, education, or treatment programs. To that end, or out of concern over the constitutionality of requiring individuals to incriminate themselves, most states that have drug taxes have acted to facilitate tax payment by permitting individuals to file stamp tax returns anonymously and guaranteeing the confidentiality of information contained in such returns. Individuals who pay the taxes, however, are not granted immunity from criminal prosecution for drug offenses; the stamp tax provisions do not serve to validate or legalize the distribution or possession of controlled substances.

## Driver's License Revocation

A recently developed user accountability measure also generally found outside of state CSA's is the suspension, revocation, or denial of driver's licenses for individuals convicted of specific CSA offenses. To date, at least eight states have enacted such measures, generally by amending state motor vehicle codes. Driver's license provisions in Maine, South Dakota, Utah, and Washington apply only to minors, and Nevada's applies to anyone under 21 years of age, but Georgia's, New Hampshire's, and New Jersey's provisions apply to all license holders. Offenses triggering license suspension or revocation include drug possession (Georgia); marijuana possession (Maine and Nevada); possession with intent to sell (New Hampshire); possession while operating a motor vehicle (New Hampshire and New Jersey); possession while occupying a motor vehicle (South Dakota); and illegal possession of steroids (Washington).

### **Disqualification From Employment**

Another group of drug-related statutory provisions located outside of CSA's includes measures designed to hold drug users accountable for their actions by providing for disqualification from employment of drug users and offenders. Generally, in most states, occupations that are subject to licensing by state authorities long have been subject to disciplinary action for drug abuse, principally because of those professions' direct effect on the public welfare. Under most states' professional and occupational codes, licensing boards may revoke or suspend the professional licenses of persons who engage in habitual drug use or any drug use that might impair the ability to perform professional functions safely and effectively. However, at least eight states have taken the additional step of providing for professional license revocation, suspension, or refusal in cases where individuals have been convicted of some offense under those states' CSA's. Of those states, Colorado, Georgia, New Jersey, Oregon, and South Carolina provide for disqualification in education, child care, and other professions providing services for youths, while Pennsylvania, Rhode Island, and Tennessee provide for disqualification of individuals in health care professions. The disqualification provisions generally require either prosecuting attorneys or court clerks to report the CSA offense convictions of currently licensed professionals to the appropriate licensing boards for institution of license revocation or suspension procedures.

## STATE-BY-STATE SUMMARIES OF CSA PROVISIONS

### Introduction

This section of the Guide contains state-by-state summaries of major provisions of states' CSA's. Each summary begins with a brief narrative description of the CSA and concludes with comments highlighting or clarifying unique or otherwise noteworthy CSA provisions or other drug-related statutes. Specific information concerning major law enforcement provisions contained in all or most CSA's is divided into categories and set out in chart form; similar categories are covered in each chart, and they are outlined in the same order in every chart to facilitate cross-state comparisons of provisions. The opening narratives generally describe CSA characteristics of recent interest, such as anabolic steroid or precursor chemical provisions, that are not outlined in the charts.

Most charts contain 10 sections outlining provisions. The first section describes state CSA provisions regarding penalties for use, possession, and manufacturing, delivery, and sale of controlled substances. The charts reflect the fact that most states have divided penalty categories into "possession" and "manufacturing, delivery, and sale;" in most instances, penalties for possession with intent to deliver, are the same as for manufacturing, delivery, and sale. However, in the charts for states that have provisions specifically addressing use of substances, penalty provisions regarding use are set out before any possession penalties. In every chart, the sections covering penalties reflect the scheduling system used by the state to classify drugs and consequently to classify offenses involving those drugs.

In the penalty sections of the state summaries, chart entries indicate first the range of terms of incarceration and corresponding fines authorized by statute. Generally, an offender may be given a sentence for a term of incarceration, a fine, or both. Unless otherwise indicated, the term of incarceration is given in years, and the minimum and maximum range of a term of incarceration is provided. The listing of a single time period, rather than a range, indicates a mandatory minimum term of incarceration. In summaries for states using presumptive sentencing schemes, the penalty entries reflect the range into which presumptive sentences fall or, in other instances, the maximum possible fine. In states employing non-statutory sentencing guidelines, the penalty entries reflect a base range upon which judicial sentencing decisions are made after taking into account the guidelines. The listing of a single figure, rather than a range, for a fine indicates a maximum fine with no specified minimum. Some states have adopted schemes for determining specific fine amounts under which a fine is, for example, two or three times the dollar value of the controlled substance involved in the offense or two or three times the fine otherwise authorized. Although these types of alternative fines are not specifically enumerated in the state summaries, their limits are reflected in the listed ranges of fines.

In some instances, penalties for an offense are the same regardless of the particular substance involved, in which case the penalty is listed under the heading, "flat penalty." The penalties for second and subsequent offenses, where specified by statute, also are included. The word "same" under second and subsequent offenses indicates that the penalty is the same as for previous offenses. A dash in any chart indicates that the statute does not stipulate a specific penalty for the corresponding category or schedule. For those CSA's in which marijuana offenses are penalized differently from those involving other similarly-scheduled substances, an additional category has been included to demonstrate that different treatment.

The section entitled "targeted substances" identifies both penalty criteria and the drugs that are targeted for harsher penalties through use of an enhanced penalty formula. As used in this Guide, "targeted" means that a CSA provides for higher penalties for offenses involving a particular drug than they would be if

the offense involved other substances similarly scheduled. The more severe penalties triggered by offenses involving schedule I and II narcotics, in contrast as a group to non-narcotics, are taken into account in the preceding penalty sections of each chart and are not considered enhanced penalties. "Higher base penalty" signifies that stiffer penalties exist for offenses involving base amounts (zero weight and up) of targeted substances, while "based on amount" indicates that penalties are increased for offenses involving specified threshold amounts of targeted substances. Some states provide for both types of targeted substance provisions—one increasing the base penalty for certain drugs and one establishing a hierarchy of penalties based on the amount of the controlled substance involved in the offense.

The next two sections of the chart outline provisions concerning drug paraphernalia and imitation drugs. Each chart indicates whether the CSA addresses "use," "delivery," "possession," "advertisement", and "manufacture" of paraphernalia or imitation controlled substances; the term, "delivery" refers to the sale or delivery of items, while "advertisement" refers to placement of advertisements concerning paraphernalia or imitation controlled substances in newspapers, magazines, handbills, or posters for public display.

Various elements of state forfeiture provisions are also outlined in the chart, including which property is forfeitable under state law; whether the forfeiture process involves criminal, civil, or administrative proceedings; and how the state distributes forfeited assets or their proceeds. Some states do not have specific drug-related forfeiture provisions in their CSA's; instead, those states refer to general penal code forfeiture provisions. However, considering the significance of the connection between forfeiture and drug laws enforcement, forfeiture provisions are outlined in each state's chart whether they are located in the state's CSA or elsewhere in the state's statutes.

Offenses involving sale to minors or use of minors in drug distribution activities are detailed in the next section of each chart. The section first indicates age groups stipulated in specific state provisions; in some charts, there may be more than one age group checked because different age ranges may apply in provisions dealing with specific controlled substances, use of minors to sell, and imitation substances. The section also indicates the types of substances and specific offenses involving minors that trigger penalties. Users of this Guide are referred to the statutes for specific penalties.

Three new sections have been added to the state summaries. The first of these new sections, entitled "schoolyard provisions," reflects the enhanced penalties states prescribe for specified drug offenses committed on or near school grounds. Drug-free school zone legislation of this sort varies from state to state as to the types of schools covered, the predicate offenses triggering enhanced penalties, the scope of school-related physical areas covered, and the requisite age of the drug offender and victim.

Another new section, labelled "safehouse provisions," depicts state legislation designed to eradicate the use of "crack houses" and other abandoned structures that have been converted into drug havens for drug pushers and drug users. The box labelled "public nuisances" indicates whether each state has statutes specifically empowering authorities to abate illegal use of structures under procedures established by state nuisance law (note: some states also refer to safehouses as public nuisances in provisions setting out criminal penalties rather than abatement for safehouse violations). Also outlined in the chart is the conduct proscribed by each state's safehouse provision. The box labelled "visit" indicates whether each state establishes a penalty for persons who are present at a place where illicit drugs are used or sold. Similarly, the box labelled "fortify" indicates whether the state has enacted a penalty provision covering those who fortify a safehouse against detection by law enforcement authorities. Additional boxes indicate whether a state punishes only knowing violations of the safehouse provision or whether it further establishes penalties for unwitting safehouse violations.

A final addition to the state summaries details state offender drug testing provisions. This section deals exclusively with state statutes that authorize drug testing of certain categories of criminal offenders. The absence of specific statutory authority, however, should not be interpreted to mean that a given state does not permit or conduct drug testing of offenders. Rather, many states conduct offender drug testing pursuant to administrative or court order. For more specific information, state criminal justice system officials should be consulted.

# ALABAMA

Rev. 1/91

Ala. Code §§ 20-21-1 to 20-2-93, 20-2-140 to 20-2-144, 13A-12-201 to 13A-12-220

In Alabama, the state board of pharmacy has responsibility for scheduling drugs. Any additions, deletions, or reschedulings made in the federal schedules automatically become part of the state schedule within 30 days, unless the state board of health objects. The state's CSA places anabolic steroids in schedule V and precursor chemicals in schedule II. Alabama's statute provides for enhanced penalties for possession, manufacture, sale, or delivery of controlled substances in amounts over specified minimums. All penalties for possession of controlled substances, except marijuana, are the same. They are listed under "flat penalty" in the chart. Penalties for manufacture of all controlled substances are the same. They also are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>				
flat penalty	1-10; \$5,000	2-20; \$10,000	10-99; \$20,000	15-99
marijuana	0-1; \$2,000	1-10; \$5,000	10-99; \$20,000	15-99
<b>Manufacturing, Delivery, Sale Offenses</b>				
flat penalty	2-20; \$10,000	10-99; \$20,000	15-99	life

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, cocaine base, hydromorphone, LSD, marijuana, MDA, methaqualone, MMDA, morphine, opium, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil  
 criminal  
 administrative       all controlled substances  
 raw materials, equipment, products  
 books, data, research materials       conveyances (cars, boats, airplanes used in violation of the law)  
 drug paraphernalia  
 money, securities, etc.       containers  
 real property  
 imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Distributed to municipal, county, or state governments whose law enforcement officials participated in the investigation leading to the seizure, based on the proportion of their contribution to the investigation.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell        |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs |
|   | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|   |   | <input checked="" type="checkbox"/> others        |   |
- 

### "SCHOOLYARD" PROVISIONS

- |   |   |   |   |  |
|---|---|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input type="checkbox"/> radius of 1,000 feet             | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 5 years' incarceration. |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary               | <input checked="" type="checkbox"/> other radius: 3 miles | <input type="checkbox"/> over 18 to under 18                      |  |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> secondary                | <input type="checkbox"/> school grounds only              | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational               | <input type="checkbox"/> buses                            | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input type="checkbox"/> colleges:universities    |   |   |  |
|   | <input checked="" type="checkbox"/> not specified |   |   |  |
- 

### SAFEHOUSE PROVISIONS

- |   |  |  |                         |
|---|--|--|-------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 2-20; \$10,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                         |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                         |
- 

### OFFENDER DRUG TESTING PROVISIONS

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                             | <input checked="" type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input checked="" type="checkbox"/> prison inmates  | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers                         | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers                          |  |   |
- 

### NOTES

- Under the state CSA, teachers who report minors' drug use to parents, law enforcement officials, or health care providers are immune from civil liability for any result of such reporting.
  - The Alabama Drug Trafficking Enterprise Act, passed in 1990, provides stiff penalties for individuals convicted of managing a drug trafficking organization consisting of five or more people.
-

# ALASKA

Rev. 1/91

Alaska Stat. §§ 11.71.010 to 11.71.900, 17.30.010 to 17.30.900, 11.73.010 to 11.73.099

Alaska's schedules differ significantly from the federal schedules. Alaska does not use the separate criterion of "accepted medical use" in determining a drug's schedule placement; the state's CSA focuses on the relationship between a drug and other criminal activity. Alaska has six schedules, IA to VIA; schedule IA consists of narcotics only, and schedule IIA consists of non-narcotics. The substances contained in these two schedules correspond to those classified in the federal law's schedule I. Marijuana is placed in schedule VIA and precursor chemicals are placed in schedule IIA under the Alaska statute. Use provisions are limited to offenses involving schedule VIA substances.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

Use Offenses	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
VIA	0-90 days; \$1,000	—	—
<b>Possession Offenses</b>			
IA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
IIA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
IIIA	<25 tablets or <3g.: 0-1; \$5,000 ≥25 tablets or ≥3g.: 0-5; \$50,000	— 2-5; \$50,000	— 3-5; \$50,000
IVA	<25 tablets or <3g.: 0-1; \$5,000 ≥25 tablets or ≥3g.: 0-5; \$50,000	— 2-5; \$50,000	— 3-5; \$50,000
VA	<50 tablets or <6g.: 0-1; \$5,000 ≥50 tablets or ≥6g.: 0-5; \$50,000	— 2-5; \$50,000	— 3-5; \$50,000
VIA	<1 oz.: \$100 ≥1 oz.- $\frac{1}{2}$ lb.: 0-90 days; \$1,000 ≥ $\frac{1}{2}$ lb.-1 lb.: 0-1; \$5,000 ≥1 lb.: 0-5; \$50,000	— — — 2-5; \$50,000	— — — 3-5; \$50,000
<b>Manufacturing, Delivery, Sale Offenses</b>			
IA	5-20; \$50,000	10-20; \$50,000	15-20; \$50,000
IIA	0-10; \$50,000	4-10; \$50,000	6-10; \$50,000
IIIA	0-10; \$50,000	4-10; \$50,000	6-10; \$50,000
IVA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
VA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
VIA	≥ $\frac{1}{2}$ oz.-1 oz.: 0-1; \$5,000 ≥1 oz.: 0-5; \$50,000	— 2-5; \$50,000	— 3-5; \$50,000

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> civil          | <input type="checkbox"/> all controlled substances          | <input type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal       | <input type="checkbox"/> raw materials, equipment, products | <input type="checkbox"/> drug paraphernalia  | <input type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative | <input type="checkbox"/> books, data, research materials    | <input type="checkbox"/> money, securities, etc.   | <input type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Retained by the local agency charged with enforcement of the CSA, or deposited in the state's general fund.

---

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> not addressed specifically                  | <input type="checkbox"/> over 18 to under 18                                  | <input type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21                                  | <input type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group: under 19 to at least 3 years junior | <input type="checkbox"/> marijuana     |  |
|  |   | <input type="checkbox"/> others        |  |

---

## "SCHOOLYARD" PROVISIONS

- |   |  |   |   |                         |
|---|--|---|---|-------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: 0-10; \$50,000 |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary            | <input type="checkbox"/> other radius         | <input type="checkbox"/> over 18 to under 18                      |                         |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only  | <input type="checkbox"/> other age group                          |                         |
| <input type="checkbox"/> distribution               | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                | <input type="checkbox"/> not addressed                            |                         |
|   | <input type="checkbox"/> colleges:universities |   |   |                         |
|   | <input type="checkbox"/> not specified         |   |   |                         |

---

## SAFEHOUSE PROVISIONS

- |   |                                       |   |                        |
|---|---------------------------------------|---|------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty: 0-5; \$50,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession   | <input type="checkbox"/> fortify                                  |                        |
|   | <input type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                        |

---

## OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |   |   |

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## NOTES

- In 1975, the Alaska Supreme Court held that possession of up to four ounces of marijuana by adults at home for their own personal use is constitutionally protected. However, in 1990 general elections, voters approved a referendum to recriminalize possession for personal use.
-

# ARIZONA

Rev. 1/91

Ariz. Rev. Stat. Ann. §§ 13-3401 to 13-3415, 36-2501 to 36-2553

The scheduling scheme and offense categories of the Arizona CSA vary substantially from those of the federal CSA and other states' CSA's. Under the Arizona statute, controlled substances are grouped into seven categories: dangerous drugs, narcotic drugs, prescription-only drugs, marijuana, peyote, vapor-releasing substances containing a toxic substance, and precursor chemicals. Dangerous drugs include hallucinogens, such as lysergic acid diethylamide (LSD) and mescaline, as well as many stimulants and depressants. Narcotic drugs include opiates, cocaine, and cannabis extracts. Prescription-only drugs encompass a range of controlled substances not covered under dangerous or narcotic drugs. Offenses are divided into the major categories of possession, use, sale, manufacture or production, and transfer or transportation. CSA amendments enacted in 1990 penalize the delivery of anabolic steroids for non-medical use by humans.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Use, Possession Offenses</b>			
dangerous drugs	0-5; \$1,000-\$150,000	2-8; \$1,000-\$150,000	25-life; \$1,000-\$150,000
narcotic drugs	0-5; \$2,000-\$150,000	2-8; \$2,000-\$150,000	25-life; \$2,000-\$150,000
prescription-only drugs	0-6 mos.; \$1,000	0-1½; \$1,000	same
marijuana	<1lb.:0-1½; \$750-\$150,000 ≥1lb.-8lbs.:0-2½; \$750-\$150,000 ≥8lb.:0-5; \$750-\$150,000	¾-3; \$750-\$150,000 1-4; \$750-\$150,000 2-8; \$750-\$150,000	2-4½; \$750-\$150,000 2½-6; \$750-\$150,000 25-life; \$750-\$150,000
peyote	0-1¾; \$150,000	¾-3; \$150,000	2-4½; \$150,000
vapor-releasing substances	0-2½; \$150,000	1-4; \$150,000	2½-6; \$150,000
precursor chemicals	0-14; \$150,000	4¾-21; \$150,000	25-life; \$150,000
<b>Manufacturing, Production, Sale, Transferring, Transporting Offenses</b>			
dangerous drugs -			
manufacture	2½-10; \$1,000-\$150,000	3½-15; \$1,000-\$150,000	25-life; \$1,000-\$150,000
sell, transfer, transport	5½-14; \$1,000-\$150,000	7-21; \$1,000-\$150,000	25-life; \$1,000-\$150,000
narcotic drugs	5¼-14; \$2,000-\$150,000	7-21; \$2,000-\$150,000	25-life; \$1,000-\$150,000
prescription-only drugs			
manufacture	0-6 mos.; \$1,000	0-½; \$1,000	0-1½; \$1,000
sell, transfer, transport	0-1¾; \$1,000	0-½; \$1,000	0-½; \$1,000
marijuana			
possess for sale	<1 lb.: 0-5; \$750-\$150,000 ≥1 lb.-8 lbs.: 0-10; \$750-\$150,000 ≥8 lbs.: 2½-10; \$750-\$150,000	2-8; \$750-\$150,000 3½-15; \$750-\$150,000 3½-15; \$750-\$150,000	8-12; \$750-\$150,000 6½-20; \$750-\$150,000 25-life; \$750-\$150,000
produce	<1 lb.; 0-2½; \$750-\$150,000 ≥1 lb.-8 lbs.: 0-10; \$750-\$150,000 ≥8 lbs.: 2½-10; \$750-\$150,000	1-4; \$750-\$150,000 3½-15; \$750-\$150,000 3½-15; \$750-\$150,000	2½-6; \$750-\$150,000 6½-6; \$750-\$150,000 25-life; \$750-\$150,000
sell, transfer, transport	<1 lb.; 0-10; \$750-\$150,000 ≥1 lb.-8 lbs.: 0-14; \$750-\$150,000 ≥8 lbs.: 3½-14; \$750-\$150,000	4¾-21; \$750-\$150,000 4¾-21; \$750-\$150,000 4¾-21; \$750-\$150,000	6½-20; \$750-\$150,000 9½-28; \$750-\$150,000 25-life; \$750-\$150,000
peyote	0-1¾; \$150,000	¾-3; \$15,000	2-4½; \$750-\$150,000
vapor-releasing substances	0-2½; \$150,000	1-4; \$150,000	2½-6; \$150,000
precursor chemicals	0-14; \$150,000	4¾-21; \$150,000	25-life; \$150,000

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

## IMITATION DRUG PROVISIONS

not addressed specifically

use  
 delivery

possession

advertisement  
 manufacture

## FORFEITURE PROVISIONS

civil  
 criminal  
 administrative

all controlled substances  
 raw materials, equipment, products  
 books, data, research materials

conveyances (cars, boats, airplanes used in violation of the law)  
 drug paraphernalia  
 money, securities, etc.

containers  
 real property  
 imitation controlled substances

### Method of distribution of proceeds after payment of seizure costs:

Deposited into the anti-racketeering fund of the state or political subdivision responsible for the seizure; if no such fund exists, proceeds are deposited into the general fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

not addressed specifically  
 over 18 to under 18 at least 3 years junior

over 18 to under 18  
 over 18 to under 21  
 other age group

narcotics  
 non-narcotics  
 marijuana  
 others

using minor to sell  
 imitation drugs

## "SCHOOLYARD" PROVISIONS

not addressed specifically

preschool  
 elementary  
 secondary  
 vocational  
 colleges: universities  
 not specified

radius of 1,000 feet  
 other radius: 300'  
 school grounds only  
 buses

inapplicable if school is not in session  
 over 18 to under 18  
 other age group  
 not addressed

penalty: mandatory minimum sentence of  $\frac{1}{2}$  maximum term of incarceration ordinarily authorized and \$2,000.

## SAFEHOUSE PROVISIONS

not addressed specifically  
 public nuisance

use  
 possession  
 distribution  
 storage

keep or maintain  
 fortify  
 knowingly permit illegal use of premises  
 visit

penalty

## DRUG TESTING PROVISIONS

not addressed specifically  
 prison inmates

adult probationers  
 adult probationers w/drug histories  
 intensive probationers  
 juvenile probationers

parolees  
 parolees w/drug histories  
 participants in drug rehabilitation programs

by courts to determine pretrial release conditions  
 by courts to determine sentencing conditions

## NOTES

- An individual convicted of transporting dangerous drugs or of selling, manufacturing, administering, or transporting a narcotic drug is ineligible for sentence suspension, sentence commutation, probation, parole, work release, or early release.
- Generally, drug offenders placed on probation or release prior to expiration of the sentence imposed must perform from 24 to 360 hours of community service, depending upon the nature of the drug laws violation, and must submit to regular drug testing.
- The CSA provides for enhanced sentences of persons convicted of organizing or participating in a continuing enterprise that commits felony drug laws violations.

# ARKANSAS

Rev. 1/91

Ark. Stat. Ann. §§ 5-64-10 to 5-64-906

Arkansas has created a sixth schedule for marijuana and tetrahydrocannabinol (THC), the active ingredient in marijuana. For manufacturing, delivery, or sale offenses, the state's penalty scheme differentiates between offenses involving schedule I and II narcotics and those involving schedule I and II non-narcotics. The CSA creates a rebuttable presumption that a person in possession of a listed "floor" amount of a specified drug possesses that drug with intent to distribute.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I	3-10; \$10,000	—	—
II	3-10; \$10,000	—	—
III	0-1; \$1,000	0-6; \$10,000	3-10; \$10,000
IV	0-1; \$1,000	0-6; \$10,000	3-10; \$10,000
V	0-1; \$1,000	0-6; \$10,000	3-10; \$10,000
VI	0-1; \$1,000	0-6; \$10,000	3-10; \$10,000
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	<28g.: 10-40; \$25,000 ≥28g.-200g.: 15-40; \$50,000 ≥200g.-400g.: 20-40; \$100,000 ≥400g.: 40; \$250,000		
I/II non-narcotics and III	<28g.: 5-20; \$15,000 ≥28g.-400g.: 10-40; \$15,000 ≥400g.: 15-40		For second and subsequent offenses, fines and penalties are twice those otherwise authorized.
IV and V	<200g.: 3-10; \$10,000 ≥200g.-400g.: 10-40; \$50,000 ≥400g.: 15-40; \$50,000		
VI	1 oz.-10 lbs.: 4-10; \$25,000 10-100 lbs.: 5-20; \$15,000-\$50,000 ≥100 lbs.; 6-30; \$15,000-\$100,000		

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Of real property proceeds, 40 percent to the state treasury, 40 percent to the agency perfecting the arrest, and 20 percent to the county responsible for the prosecution. Proceeds from property other than real estate are deposited into the general county fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically                             | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group     | <input type="checkbox"/> marijuana                |  |
|   |  | <input type="checkbox"/> others                   |  |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                        | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: sentence enhanced by 2 years above that ordinarily authorized; mandatory minimum fine of \$1,000 |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary            | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input checked="" type="checkbox"/> colleges:universities |  |   |   |
|   | <input type="checkbox"/> not specified                    |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |   |  |                        |
|---|---|--|------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use     | <input type="checkbox"/> keep or maintain                                    | penalty: 0-5; \$10,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession         | <input type="checkbox"/> fortify   |                        |
|   | <input type="checkbox"/> distribution       | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input checked="" type="checkbox"/> storage | <input type="checkbox"/> visit   |                        |

## DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- Conveyances and real property are not subject to forfeiture in cases involving possession offenses.
- Under the CSA, school personnel who report suspicion of minors' drug use to parents, law enforcement officials, or health care providers are immune from civil liability for such reporting.
- Statutory provisions outside of the CSA provide for up to six years' imprisonment and a fine of up to \$10,000 for distributing anabolic steroids for non-medical purposes.

# CALIFORNIA

Rev. 1/91

West's Cal. Health & Safety Code §§ 11000 to 11651

California's CSA schedules substantially conform to the federal schedules. However, for the assignment of penalties, California groups the schedules into five divisions: I/II narcotics, I/II non-narcotics, III/IV/V narcotics, III/IV/V non-narcotics, and marijuana. Anabolic steroids are listed as a schedule III substance; unlawful possession is a misdemeanor. The California CSA also lists precursor chemicals as schedule III substances, requires reporting of transactions involving precursors, and provides penalties for those who transfer precursor chemicals with knowledge that they will be used for the manufacture of illegal drugs.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Use Offenses</b>			
narcotics, meclo-/metha-qualone, cocaine base, mescaline, peyote, meth/amphetamine, PCP	90 days-1yr.	—	—
<b>Possession Offenses</b>			
I/II narcotics	16 mos.-3; \$20,000	additional three-year term	same
I/II non-narcotics	0-1	for each prior conviction	same
III/IV/V narcotics	16 mos.-3; \$20,000	—	—
III/IV/V non-narcotics	0-1	—	—
marijuana	≤28.5 g.; \$100 >28.5g.: 0-6 mos.; \$500	—	—
<b>Transporting, Manufacturing, Delivery, Sale Offenses</b>			
manufacturing: flat penalty	3-7; \$50,000	additional three-year term for each prior conviction	same
I/II narcotics	3-5; \$20,000 possession for sale: 2-4; \$20,000	additional three-year term for each prior conviction	same
I/II non-narcotics	2-4 possession for sale: 16 mos.-3	additional three-year term for each prior conviction	same
III/IV/V narcotics	3-5; \$20,000 possession for sale: 2-4; \$20,000	additional three-year term for each prior conviction	same
III/IV/V non-narcotics	2-4 possession for sale: 16 mos.-3	—	—
marijuana	≤28.5 g.: \$100 >28.5g.: 2-4; \$20,000 possession for sale: 16 mos.-3; \$20,000	—	—

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, cocaine base, heroin  
methamphetamine, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> civil          | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input checked="" type="checkbox"/> criminal       | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property                   |
| <input checked="" type="checkbox"/> administrative | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

65 percent to state and local entities participating in the seizure; 20 percent to the department of mental health; 10 percent to the prosecutorial agency; and five percent to non-profit groups that provide information leading to seizures.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18   | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21  | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|  | <input checked="" type="checkbox"/> other age group: over 18 to under 18, at least 4 years junior | <input checked="" type="checkbox"/> marijuana     | <input type="checkbox"/> others                         |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool              | <input checked="" type="checkbox"/> radius of 1,000 feet | <input checked="" type="checkbox"/> inapplicable if school is not in session                      | penalty: mandatory minimum sentence of 5 years' incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary  | <input type="checkbox"/> other radius                    | <input checked="" type="checkbox"/> over 18 to under 18   |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary   | <input type="checkbox"/> school grounds only             | <input checked="" type="checkbox"/> other age group: over 18 to under 18, at least 4 years junior |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational  | <input type="checkbox"/> buses                           |   |   |
|   | <input type="checkbox"/> colleges: universities |  |   |   |
|   | <input type="checkbox"/> not specified          |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain                         | penalty: distribution (2-4); use (0-1); visit (unlawful); fortify (3-5). |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input checked="" type="checkbox"/> fortify                                  |  |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |  |
|   | <input checked="" type="checkbox"/> storage      | <input checked="" type="checkbox"/> visit                                    |  |

## OFFENDER DRUG TESTING PROVISIONS

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                             | <input type="checkbox"/> parolees  | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input checked="" type="checkbox"/> prison inmates  | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers                         | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input checked="" type="checkbox"/> juvenile probationers               |  |   |

## NOTES

- For second and subsequent drug convictions for possession of schedule I-V narcotics, no term of probation or suspended sentence may be granted.
- California prohibits the forfeiture of conveyances in cases involving less than 7.125 grams of heroin or involving 14.25 grams or less of any other schedule I or II substance; except that for marijuana, peyote, or psilocybin, at least five pounds must be involved for a forfeiture action to take place. In addition, no vehicle may be forfeited if it is the defendant's immediate family's sole means of transportation.
- California exempts from forfeiture up to \$100,000 interest in real property used as a family residence and owned partially by at least one person who did not know of the unlawful use of the property.
- Sentences of imprisonment for CSA offenses may be increased by one year if the value of the controlled substances involved exceeds \$1.5 million, by two years if the value exceeds \$2 million, and three years if the value exceeds \$5 million.
- Adults who violate the schoolyard provision by distributing to a minor at least four years their junior are subject to terms of incarceration of five to nine years.
- California's schoolyard provision extends to public playgrounds, parks, youth centers, churches and synagogues, and swimming pools.

# COLORADO

Rev. 1/91

Colo. Rev. Stat. §§ 12-22-301 to 12-22-322

Colorado's scheduling system is substantially similar to the federal system, except that the state places marijuana in a separate category. Precursor chemicals are listed as schedule II substances under the Colorado CSA. Colorado's penalty system divides violators into users, possessors, and manufacturers/distributors/sellers. The state emphasizes rehabilitation programs for drug-dependent offenders.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

Use Offenses	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
I	1-4; \$1,000-\$100,000	—	—
II	1-4; \$1,000-\$100,000	—	—
III	0-2; \$5,000	—	—
IV	0-2; \$5,000	—	—
V	0-2; \$5,000	—	—

#### Comments:

These penalties are conditional upon a court determination that the user is physically or psychologically dependent and in need of treatment for drug abuse. In such a case the court may place an individual in a rehabilitation program rather than impose a prison term; if an offender successfully completes the program, the court discharges him and dismisses any further proceedings against him.

### Possession Offenses

I	4-16; \$3,000-\$750,000	8-24; \$5,000-1,000,000	8-24; \$5,000-1,000,000
II	4-16; \$3,000-\$750,000	8-24; \$5,000-1,000,000	8-24; \$5,000-1,000,000
III	2-8; \$2,000-\$500,000	4-16; \$3,000-\$750,000	4-16; \$3,000-\$750,000
IV	1-4; \$1,000-\$100,000	2-8; \$2,000-\$500,000	2-8; \$2,000-\$500,000
V	0-2; \$5,000	1-4; \$1,000-\$100,000	1-4; \$1,000-\$100,000
marijuana	≤1 oz.: 15 days; \$100 >1 oz.-<8 oz.: 0-2; \$5,000 ≥8 oz.: 1-4; \$1,000-\$100,000	— 1-4; \$1,000-\$100,000 2-8; \$2,000-\$500,000	— 1-4; \$1,000-\$100,000 2-8; \$2,000-\$500,000

### Manufacturing, Delivery, Sale Offenses

I/II narcotics	4-16; \$3,000-\$750,000	8-24; \$5,000-\$1,000,000	24-48
I/II non-narcotics	4-16; \$3,000-\$750,000	8-24; \$5,000-\$1,000,000	24-48
III	2-8; \$2,000-\$500,000	4-16; \$3,000-\$750,000	24-48
IV	1-4; \$1,000-\$100,000	2-8; \$2,000-\$500,000	24-48
V	0-2; \$500	1-4; \$1,000-\$100,000	—
marijuana	2-8; \$2,000-\$500,000	4-16; \$3,000-\$750,000	—

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount: cocaine, marijuana

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input type="checkbox"/> real property                              |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

10 percent to the state general fund for law enforcement purposes; one to five percent to the district attorney; and any remaining amounts divided among the seizing agency and any victims of the act resulting in the forfeiture.

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## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics            | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input type="checkbox"/> non-narcotics        | <input checked="" type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana |   |
|   |   | <input type="checkbox"/> others               |   |

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## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool              | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum fine of twice the minimum fine otherwise authorized. |
| <input checked="" type="checkbox"/> use             | <input checked="" type="checkbox"/> elementary  | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary   | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational             | <input checked="" type="checkbox"/> buses                | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges; universities |  |   |   |
|   | <input type="checkbox"/> not specified          |  |   |   |

---

## SAFEHOUSE PROVISIONS

- |   |  |   |         |
|---|--|---|---------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use                     | <input type="checkbox"/> keep or maintain                         | penalty |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |         |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |
|   |  |   |         |

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## OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> adult probationers       | <input checked="" type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input checked="" type="checkbox"/> prison inmates  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |  |   |

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## NOTES

- Colorado precludes forfeiture in possession offenses involving less than eight ounces of marijuana.
  - Statutory provisions outside the CSA provide penalties for the non-medical dispensing, distribution, or use of anabolic steroids.
  - In 1990, the CSA was expanded to include sections requiring licensing of manufacturers, transferors, and possessors of precursor chemicals, and reporting of transactions involving precursor chemicals. In addition, the act prohibits the manufacture, sale, or use of precursors to produce illegal drugs.
  - Colorado has enacted provisions establishing drug-free park and playground zones in addition to drug-free school zones.
-

# CONNECTICUT

Rev. 1/91

Conn. Gen. Stat. Ann §§ 21a-240 to 21a-308

Connecticut's scheduling system completely conforms to the federal schedules by providing that federal provisions prevail over Connecticut law unless the state has placed a substance in a higher schedule than the federal system does.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

Use Offenses	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-30 days; \$25		

#### Comment:

Upon a user's third conviction within six months or fifth conviction within one year, the court has discretion to commit the user to treatment for up to one year.

### Possession Offenses

I/II narcotics	0-7; \$50,000	0-15; \$100,000	0-25; \$250,000
I/II non-narcotics	0-1; \$1,000	0-5; \$3,000	same
III	0-1; \$1,000	0-5; \$3,000	same
IV	0-1; \$1,000	0-5; \$3,000	same
V	0-1; \$1,000	0-5; \$3,000	same
marijuana	<4 oz.: 0-1; \$1,000 ≥4 oz.: 0-5; \$2,000	0-5; \$3,000 0-10; \$5,000	same same
other: hallucinogens	0-5; \$2,000	0-10; \$5,000	same

### Manufacturing, Delivery, Sale Offenses

I/II narcotics	0-15; \$50,000	0-30; \$100,000	same
I/II non-narcotics	0-7; \$25,000	0-15; \$100,000	same
III	0-7; \$25,000	0-15; \$100,000	same
IV	0-7; \$25,000	0-15; \$100,000	same
V	0-7; \$25,000	0-15; \$100,000	same
marijuana	0-7; \$25,000	0-15; \$100,000	same
other: hallucinogens	0-15; \$50,000	0-30; \$100,000	same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, LSD, marijuana, methadone

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Deposited into Drug Assets Forfeiture Revolving Fund. 10 percent of the funds go to the department of public safety and local police for drug education programs and drug enforcement; 20 percent to the alcohol and drug abuse commission for treatment and education programs; and 10 percent to the division of criminal justice for use in prosecution.

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## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics                  | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input type="checkbox"/> non-narcotics              | <input type="checkbox"/> imitation drugs                |
|  | <input type="checkbox"/> other age group                | <input type="checkbox"/> marijuana                  |   |
|  |   | <input checked="" type="checkbox"/> others: "crack" |   |

---

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |  |
|---|--|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of two years' incarceration. |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |  |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input type="checkbox"/> colleges:universities |  |   |  |
|   | <input type="checkbox"/> not specified         |  |   |  |

---

## SAFEHOUSE PROVISIONS

- |   |  |   |         |
|---|--|---|---------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |         |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

---

## OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input checked="" type="checkbox"/> intensive probationers   | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input checked="" type="checkbox"/> juvenile probationers    |   |   |

# DELAWARE

Rev. 1/91

Del. Code Ann. tit. 16, §§ 4701 to 4796

Delaware's schedules, which parallel the federal schedules, are administered by the secretary of the state's department of health and social services. Controlled substances are added, deleted, or rescheduled in accordance with similar actions at the federal level. Precursor chemicals are placed in schedule II. The state CSA establishes substantial mandatory minimum sentences for trafficking in various drugs.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

Use, Possession Offenses	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
I/II narcotics	0-1; \$3,000	0-3; \$3,000	same
I/II non-narcotics	0-6 mos.; \$1,000	0-2; \$500	same
III	0-6 mos.; \$1,000	0-2; \$500	same
IV	0-6 mos.; \$1,000	0-2; \$500	same
V	0-6 mos.; \$1,000	0-2; \$500	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	by addict: 0-10; \$5,000-\$50,000 by non-addict: 6-10; \$25,000-\$50,000	10-99; \$5,000-\$50,000 30-99; \$25,000-\$100,000	life life
I/II non-narcotics	0-5; \$1,000-\$10,000	3-5; \$1,000-\$10,000	life
III	0-5; \$1,000-\$10,000	3-5; \$1,000-\$10,000	life
IV	0-5; \$1,000-\$10,000	3-5; \$1,000-\$10,000	life
V	0-5; \$1,000-\$10,000	3-5; \$1,000-\$10,000	life

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, "designer" drugs, heroin  
LSD, marijuana, methamphetamine, opium, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited in the Special Law Enforcement Assistance Fund, to be used for law enforcement purposes.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell        |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |                          |
|---|--|--|---|--------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: 0-30; \$250,000 |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    |   |                          |
| <input checked="" type="checkbox"/> possession      | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input checked="" type="checkbox"/> over 18 to under 18           |                          |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input type="checkbox"/> other age group                          |                          |
|   | <input type="checkbox"/> colleges:universities |  | <input type="checkbox"/> not addressed                            |                          |
|   | <input type="checkbox"/> not specified         |  |   |                          |

## SAFEHOUSE PROVISIONS

- |   |  |   |                        |
|---|--|---|------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain              | penalty: 0-10; \$3,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |                        |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                        |

## OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees  | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |  |   |

## NOTES

- If death results from the sale of narcotics, the seller, if a non-addict, is subject to 12 to 20 years' imprisonment; for an addict, the penalty is two to 20 years' imprisonment.
- The mandatory minimum sentences for offenses involving marijuana, cocaine, methamphetamine, amphetamine, PCP, heroin, morphine, and opium may not be suspended. In addition, no one convicted under the trafficking provisions is eligible for parole. However, in instances where a convicted person provides assistance to investigation and prosecution of his accomplices, accessories, or co-conspirators, the state attorney general may move that the sentencing court reduce or suspend the sentence.
- Penalties for delivery of imitation controlled substances are the same as for the delivery of the substance that the seller represented the imitations to be.
- CSA forfeiture provisions allow law enforcement officials to seize non drug-related property of the defendant in substitution for forfeitable property placed beyond their reach.
- Conveyances are not subject to forfeiture for use or possession offenses.
- School personnel who report students' possession of drugs are immune from civil liability for such reporting.
- It is an affirmative defense to allegations of a schoolyard offense that the offense occurred within a private residence, that no person under the age of 18 was present, and that the offense was not committed for profit.

# DISTRICT OF COLUMBIA

Rev. 1/91

D. C. Code Ann. §§ 33-501 to 33-567

Under the District of Columbia's CSA, scheduling of controlled substances differs from scheduling under most states' CSA's. The District's mayor has the authority to add, delete, or re-schedule substances, subject to the city council's approval. Also, the District has placed hashish and tetrahydrocannabinol (THC), the active ingredient in marijuana, in schedule II and has placed marijuana in schedule V, whereas the federal schedule places these drugs in schedule I. Precursor chemicals are placed in schedule II. A 1990 amendment classifies cocaine as a narcotic drug. All penalties for possession of any controlled substance are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-1; \$1,000	0-2; \$2,000	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	<500 g.: 4-30; \$500,000 ≥500 g.: 5-30; \$500,000	7-60; \$1,000,000 10-60; \$1,000,000	10-60; \$1,000,000 same
I/II non-narcotics	20 mos.-5; \$50,000	For second and subsequent offenses	
III	20 mos.-5; \$50,000	penalties are twice	
IV	0-3; \$25,000	those otherwise authorized	
V	0-1; \$10,000		

### TARGETED SUBSTANCE PROVISIONS

none

higher base penalty:  
methamphetamine, PCP,  
PCP precursors, phenmetrazine

based on amount: cocaine base,  
methamphetamine, PCP,  
phenmetrazine

### PARAPHERNALIA PROVISIONS

not addressed  
specifically

use  
 delivery

possession  
 delivery to minors

advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed  
specifically

use  
 delivery

possession

advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil  
 criminal  
 administrative

all controlled substances  
 raw materials, equipment,  
products  
 books, data, research  
materials

conveyances (cars, boats,  
airplanes used in violation  
of the law)  
 drug paraphernalia  
 money, securities, etc.

containers  
 real property  
 imitation controlled  
substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into the Drug Interdiction and Demand Reduction Fund. Of these funds, no more than 49 percent may be used for law enforcement purposes; the remainder may be used to fund community based drug education, prevention, and demand reduction programs.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> not addressed specifically<br><input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 18<br><input type="checkbox"/> over 18 to under 21<br><input checked="" type="checkbox"/> other age group: over 21 to under 18 | <input checked="" type="checkbox"/> narcotics<br><input checked="" type="checkbox"/> non-narcotics<br><input checked="" type="checkbox"/> marijuana<br><input checked="" type="checkbox"/> others: PCP, PCP precursors | <input checked="" type="checkbox"/> using minor to sell<br><input type="checkbox"/> imitation drugs |
|--|--|--|---|

### "SCHOOLYARD" PROVISIONS

- |  |   |  |   |         |
|--|---|--|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> use<br><input type="checkbox"/> possession<br><input type="checkbox"/> distribution | <input type="checkbox"/> preschool<br><input type="checkbox"/> elementary<br><input type="checkbox"/> secondary<br><input type="checkbox"/> vocational<br><input type="checkbox"/> colleges: universities<br><input type="checkbox"/> not specified | <input type="checkbox"/> radius of 1,000 feet<br><input type="checkbox"/> other radius<br><input type="checkbox"/> school grounds only<br><input type="checkbox"/> buses | <input type="checkbox"/> inapplicable if school is not in session<br><br><input type="checkbox"/> over 18 to under 18<br><input type="checkbox"/> other age group<br><input type="checkbox"/> not addressed | penalty |
|--|---|--|---|---------|

### SAFEHOUSE PROVISIONS

- |  |   |   |                   |
|--|---|---|-------------------|
| <input type="checkbox"/> not addressed specifically<br><br><input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution<br><input checked="" type="checkbox"/> storage | <input checked="" type="checkbox"/> keep or maintain<br><input type="checkbox"/> fortify<br><input type="checkbox"/> knowingly permit illegal use of premises<br><input type="checkbox"/> visit | penalty: unlawful |
|--|---|---|-------------------|

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> prison inmates | <input type="checkbox"/> adult probationers<br><input type="checkbox"/> adult probationers w/drug histories<br><input type="checkbox"/> intensive probationers<br><input type="checkbox"/> juvenile probationers | <input type="checkbox"/> parolees<br><input type="checkbox"/> parolees w/drug histories<br><br><input type="checkbox"/> participants in drug rehabilitation programs | <input checked="" type="checkbox"/> by courts to determine pretrial release conditions<br><input type="checkbox"/> by courts to determine sentencing conditions |
|--|--|--|---|

### NOTES

- A person being convicted of possession for the first time may have judgment deferred pending completion of a probationary period of up to one year. If the person does not violate the conditions of probation, the court may dismiss the case.
- A court may waive mandatory minimum penalties for manufacture and distribution if the violator is a first offender and an addict and if the sale and manufacture of the drugs was to facilitate his personal use of the drugs.
- Conveyances are not subject to forfeiture in cases involving possession offenses.
- A 1990 amendment prescribes an enhanced penalty of 5-25 years incarceration and/or a \$500,000 fine for persons who knowingly open or maintain any "place" for the purpose of manufacturing or distributing a narcotic or abusive drug. "Abusive drug" is defined to include: PCP, methamphetamine, and phenmetrazine.
- Because of the District's unique jurisdictional status, law enforcement authorities often refer more serious drug offenses for prosecution under federal statutes, which provide stiffer penalties than the District's CSA provisions.

# FLORIDA

Rev. 1/91

West's Fla. Stat. Ann. §§ 893.01 to 893.15

Florida maintains schedules virtually identical to the federal schedules. Acknowledging the difficulty of staying abreast of the creation of new, so called "designer drugs", the legislature has vested the power of rescheduling new controlled substances with the state attorney general. The attorney general also may add, delete, or reschedule other substances subject to a scientific evaluation by the state's departments of professional regulation and of law enforcement. Precursor chemicals are placed in schedule II and anabolic steroids are placed in schedule IV. The CSA contains trafficking penalties for offenses involving specified amounts of cocaine, heroin, marijuana, methaqualone, morphine, opium, and phencyclidine (PCP). All penalties for possession and manufacturing of controlled substances, except for 20 grams or less of marijuana or more than 10 grams of schedule I narcotics, are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-5; \$5,000	0-5; \$5,000	0-10; \$5,000
I narcotics	>10g.: 0-30; \$10,000	same	life; \$10,000
marijuana	≤20g.: 0-1; \$1,000	same	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I narcotics	≤10g.: 0-15; \$10,000 >10g.: 0-30; \$10,000	0-30; \$10,000 life; \$15,000	same same
II narcotics	0-15; \$10,000	0-30; \$10,000	same
I/II non-narcotics	0-5; \$5,000	0-10; \$5,000	same
III	0-5; \$5,000	0-10; \$5,000	same
IV	0-5; \$5,000	0-10; \$5,000	same
V	0-1; \$1,000	same	same
marijuana	0-5; \$5,000	0-10; \$5,000	same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, marijuana, methaqualone, morphine, opium, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |   |  |   |  |
|---|--|---|--|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers           |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property        |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Deposited into a special law enforcement fund established by the board of county commissioners or the governing body of the municipality where the property was seized. If the seizing agency is the state department of law enforcement or another statutorily designated state agency, proceeds are deposited into the agency's specialized trust fund. If seizure is made by any other state agency, proceeds are deposited into the general reserve fund. Proceeds may be used for specific law enforcement activities or for drug abuse and crime prevention activities.

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## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others                   |   |

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## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                        | <input checked="" type="checkbox"/> radius of 1,000 feet                             | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of three years' incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary            | <input checked="" type="checkbox"/> other radius: 200 feet for colleges/universities | <input type="checkbox"/> over 18 to under 18                      |   |
| <input checked="" type="checkbox"/> possession      | <input type="checkbox"/> vocational                       | <input type="checkbox"/> school grounds only   | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> colleges/universities | <input type="checkbox"/> buses   | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> not specified                    |  |   |   |

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## SAFEHOUSE PROVISIONS

- |   |  |   |                       |
|---|--|---|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain              | penalty: 0-1; \$1,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |                       |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                       |

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## OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> adult probationers       | <input checked="" type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |  |   |

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## NOTES

- In 1987, the state added the term, "purchase," to the other offenses of "selling, manufacturing, delivering, or possessing with intent to distribute" controlled substances.
  - Florida has included in its CSA, a provision stating that any drug whose effects are similar to those of any drugs listed in schedules I and II, but whose chemical structure has been altered so that it is not a scheduled drug, shall carry penalties as if listed in the same schedule as the drug which it imitates.
  - A person managing an organization of five or more people that commits three or more CSA felonies is punishable by 25 years' to life imprisonment and a maximum fine of \$500,000.
  - Florida's drug-free schoolyard provisions also cover public parks and public housing.
-

# GEORGIA

Rev. 1/91

Ga. Code Ann. §§ 16-13-20 to 16-13-79

The state board of pharmacy, in conjunction with the state general assembly, administers scheduling of controlled substances. Although the state CSA schedules conform to the federal schedules in many respects, one factor that makes the state's scheduling different from the federal schedules is that the Georgia system places phencyclidine (PCP) in schedule I, whereas this drug is placed in schedule II under the federal system. The Georgia system also treats marijuana separately, whereas this drug is part of schedule I under the federal system. In addition, a 1989 amendment to the CSA penalizes the distribution of anabolic steroids for non-medical use by humans.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Purchase, Possession Offenses</b>			
I	2-15	5-30	same
II	2-15	5-30	same
III	1-5	1-10	same
IV	1-5	1-10	same
V	1-5	1-10	same
marijuana	<1oz.: 0-1; \$1,000 ≥1 oz.: 1-10	same same	same same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I	5-30	life	—
II	5-30	life	—
III	1-10	—	—
IV	1-10	—	—
V	1-10	—	—
marijuana	1-10	—	—

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, marijuana, methaqualone, morphine, opium

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input type="checkbox"/> real property                              |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Distributed to the local political subdivision where the property was seized or, if a state agency, the county in which the property was forfeited. Upon an ex parte application by the district attorney, the court may order an award, not to exceed 25 percent of the net proceeds, to the person furnishing information that lead to the seizure. No part of the proceeds may be used to pay the salary of a law enforcement officer.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group                | <input type="checkbox"/> marijuana     |  |
|  |   | <input type="checkbox"/> others        |  |

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |                         |
|---|--|--|---|-------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: 0-20; \$20,000 |
|   | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    |   |                         |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> over 18 to under 18                      |                         |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input type="checkbox"/> other age group                          |                         |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> colleges:universities |  | <input checked="" type="checkbox"/> not addressed                 |                         |
|   | <input type="checkbox"/> not specified         |  |   |                         |

## SAFEHOUSE PROVISIONS

- |   |  |   |                        |
|---|--|---|------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain              | penalty: 0-5; \$25,000 |
|   | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |                        |
| <input type="checkbox"/> public nuisance            | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                        |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
|  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    |   |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- The district attorney may reduce or suspend a mandatory minimum sentence for an offense involving specific targeted amounts of substances only if the defendant provides substantial assistance in the identification, arrest, and conviction of his accomplices.
- No conveyance is subject to forfeiture in any case involving four ounces or less of marijuana and no other controlled substances.
- Under 1990 legislation, persons convicted of possession offenses may have their driver's license suspended.
- Other 1990 acts disqualify CSA offenders from participating in the Georgia Residential Finance Authority Single Family Home Loan program; restrict pension benefits of public employees convicted of certain drug offenses; authorize the suspension of public post-secondary school students convicted of felony CSA offenses; and deny state funds to post-secondary students convicted of felony CSA offenses.

# HAWAII

Rev. 1/91

Haw. Rev. Stat. §§ 329-1 to 329-58, 329C-1 to 329C-3, 712-1240 to 712-1255

In Hawaii, the department of public safety has the responsibility for proposing amendments to the drug schedules, subject to approval by the state legislature. For penalty purposes, however, the state classifies drugs into three categories. "Dangerous drugs" consist of federal schedule I and II substances; "harmful drugs" consist of federal schedule III and IV substances; and "detrimental drugs" include federal schedule V substances and marijuana. Precursors to PCP are listed in schedule II. The state CSA also prohibits possession and distribution of anabolic steroids for non-medical use in humans.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>				
dangerous drugs	< 1/4 oz.: 0-5; \$10,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
	≥ 1/4 oz.-1 1/2 oz.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$25,000
	≥ 1 1/2 oz.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000
harmful drugs	< 1/8 oz.: 0-1; \$2,000	same	same	same
	≥ 1/8 oz.-1 oz.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$50,000
	≥ 1 oz.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000
detrimental drugs	< 1/8 oz.: 0-30 days; \$1,000	same	same	same
	≥ 1/8 oz.-1 oz.: 0-1; \$2,000	same	same	same
	≥ 1 oz.: 0-5; \$10,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
marijuana	< 1 oz.: 0-30 days; \$1,000	same	same	same
	≥ 1 oz.-1 lb.: 0-1; \$2,000	same	same	same
	≥ 1 lb.-2 lbs.: 0-5; \$5,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
	≥ 2 lbs.-25 lbs.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$25,000
	≥ 25 lbs.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000
<b>Manufacturing, Delivery, Sale Offenses</b>				
dangerous drugs	< 3/8 oz.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$25,000
	≥ 3/8 oz.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000
harmful drugs	< 1/8 oz.: 0-10; \$25,000	3 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$25,000
	≥ 1/8 oz.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	20-life; \$50,000
detrimental drugs	< 1/8 oz.: 0-1; \$2,000	same	same	same
	≥ 1/8 oz.: 0-5; \$10,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
marijuana	< 1 oz.: 0-1; \$2,000	same	same	same
	≥ 1 oz.-1 lb.: 0-5; \$10,000	1 2/3-5; \$10,000	3 1/3-10; \$10,000	5-10; \$10,000
	≥ 1 lb.-5 lbs.: 0-10; \$25,000	2 1/3-10; \$25,000	6 2/3-20; \$25,000	10-20; \$25,000
	≥ 5 lbs.: 0-20; \$50,000	6 2/3-20; \$50,000	13 1/3-life; \$50,000	10-20; \$25,000

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, methamphetamine, morphine

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input type="checkbox"/> drug paraphernalia   | <input checked="" type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

25 percent to the seizing law enforcement agency; 25 percent to the state prosecutor; and the remaining 50 percent to the state forfeiture fund administered by the attorney general for law enforcement purposes.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell        |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |  |
|---|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool              | <input type="checkbox"/> radius of 1,000 feet          | <input type="checkbox"/> inapplicable if school is not in session | penalty: 0-5; \$10,000 for a first offense; 2-10 for second and subsequent offenses. |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary  | <input checked="" type="checkbox"/> other radius: 750' | <input type="checkbox"/> over 18 to under 18                      |  |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary   | <input type="checkbox"/> school grounds only           | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational             | <input type="checkbox"/> buses                         | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input type="checkbox"/> colleges: universities |  |   |  |
|   | <input type="checkbox"/> not specified          |  |   |  |

## SAFEHOUSE PROVISIONS

- |   |  |  |                       |
|---|--|--|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-5; \$5,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                       |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                       |

## OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> adult probationers       | <input checked="" type="checkbox"/> parolees                          | <input checked="" type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions                  |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |  |
|   | <input type="checkbox"/> juvenile probationers               |   |  |

### Comments:

State law permits but does not mandate drug testing as a condition of pretrial release, probation, and parole of adults. These provisions may also apply to minors.

## NOTES

- Real property is subject to forfeiture only in cases in which the offense is a felony.

# IDAHO

Rev. 1/91

Idaho Code §§ 37-2701 to 37-2751

In Idaho, the state board of pharmacy has responsibility for scheduling drugs. A significant difference between the state's schedules and the federal schedule is that the Idaho system includes phencyclidine (PCP) and its analogues in schedule I, whereas these drugs are listed in schedule II under federal law. In addition, Idaho has a schedule VI containing volatile nitrites. Precursor chemicals are listed as schedule II substances and anabolic steroids are placed in schedule IV under the state statute. Idaho is one of the few states that differentiates among schedules II, IV, and V controlled substances for manufacturing offenses and penalties. Also, the Idaho system groups schedule I narcotics with all schedule II drugs for penalty purposes for both possession and manufacturing offenses.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I narcotics	0-3; \$5,000	0-6; \$10,000	—
I non-narcotics	0-1; \$1,000	0-2; \$2,000	—
II	0-3; \$5,000	0-6; \$10,000	—
III	0-1; \$1,000	0-2; \$2,000	—
IV	0-1; \$1,000	0-2; \$2,000	—
V	0-1; \$1,000	0-2; \$2,000	—
VI	0-1; \$1,000	0-2; \$2,000	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I narcotics	0-life; \$25,000	5-life; \$50,000	—
I non-narcotics	0-5; \$15,000	3-life; \$50,000	—
II	0-life; \$25,000	5-life	—
III	0-5; \$15,000	3-life	—
IV	0-3; \$10,000	3-life	—
V	0-1; \$5,000	0-2; \$10,000	—
VI	0-1; \$5,000	0-2; \$10,000	—

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty: LSD       based on amount: marijuana

### PARAPHERNALIA PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

Method of distribution of proceeds after payment of seizure costs:  
Deposited into the Drug Enforcement Donation Account.

---

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |  |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |  |
|   |   | <input type="checkbox"/> others                   |  |

---

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |                           |
|---|--|--|---|---------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: 5-life; \$50,000 |
|   | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    |   |                           |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> over 18 to under 18                      |                           |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input type="checkbox"/> other age group                          |                           |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> colleges:universities |  | <input type="checkbox"/> not addressed                            |                           |
|   | <input type="checkbox"/> not specified         |  |   |                           |

---

## SAFEHOUSE PROVISIONS

- |   |  |  |                        |
|---|--|--|------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-1; \$25,000 |
|   | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                        |
| <input type="checkbox"/> public nuisance            | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                        |

---

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
|  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    |   |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

---

## NOTES

- A person's mere presence at a place where, with his knowledge, controlled substances are being used, manufactured, or held for distribution is a misdemeanor punishable by up to 90 days' imprisonment and a \$300 fine.
  - Conveyances are not subject to forfeiture in cases involving possession offenses.
  - In 1990, Idaho enacted legislation that permits adult trials of persons between 14 and 18 years of age who distribute drugs within 1,000 feet of school premises.
  - Idaho's schoolyard provision applies only to the delivery or attempted delivery of a schedule I narcotic or a schedule II substance.
-

# ILLINOIS

Rev. 1/91

Ill. Ann. Stat. ch. 56<sup>1/2</sup>, para. 1100 to 1702.04

The state's department of alcoholism and substance abuse administers Illinois' schedules, which conform substantially to the federal schedules. The state's CSA differs from the federal scheduling system in that it does not include marijuana in any CSA schedule.; marijuana penalties are part of the state's Cannabis Control Act. The state penalty system for other drugs eliminates all "blanket" penalties for possession and manufacturing offenses and instead sets penalties according to the type and amount of the controlled substance involved.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II narcotics	<200g.: 1-3; \$15,000 ≥200g.: 4-15; \$200,000	1-6; \$30,000 4-30; \$400,000	same same
I/II non-narcotics	1-3; \$15,000	1-6; \$30,000	same
III/IV/V	1-3; \$15,000	1-6; \$30,000	same
marijuana	<2.5g.: 30 days; \$500 2.5g.-10g.: 6 mos.; \$500 10g.-30g.: 1; \$1,000 30g.-500g.: 1-3; \$10,000 >500g.: 2-5; \$10,000	— — 1-3; \$10,000 2-5; \$10,000 —	— — same same —
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	<50 g.: 3-7; \$200,000	3-14; \$400,000	same
I/II non-narcotics	<50 g.: 2-5; \$150,000	2-10; \$300,000	same
I/II all	50-200 g.: 4-15; \$250,000 >200 g.: 6-30; \$500,000	4-30; \$500,000 6-60; \$1,000,000	same same
III	2-5; \$125,000	2-10; \$250,000	same
IV	2-5; \$100,000	2-10; \$200,000	same
V	2-5; \$75,000	2-10; \$150,000	same
marijuana	<2.5g.: 6 mos.; \$500 2.5g.-10g.: 1; \$1,000 10g.-30g.: 1-3; \$10,000 30g.-500g.: 2-5; \$50,000 >500g.: 3-7; \$100,000	— — — — —	— — — — —

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, LSD, marijuana, methamphetamine, metha-/meclo-qualone, PCP, pentazocine, peyote

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> civil          | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal                  | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property                   |
| <input checked="" type="checkbox"/> administrative | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

65 percent to the local law enforcement agencies participating in the investigation; 10 percent to the state police; 12.5 percent to the state's attorney and 12.5 percent to the appellate prosecutor, except in Cook County. In Cook County, 25 percent to the state's attorney.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|   |   | <input type="checkbox"/> others                   |   |

### Comment:

The "three years junior" age requirement applies only to sale of cannabis, for which the seller may receive up to twice the normal term of imprisonment.

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: up to twice the sentence ordinarily authorized |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary               | <input type="checkbox"/> other radius                    | <input checked="" type="checkbox"/> over 18 to under 18           |   |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> secondary                | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational               | <input type="checkbox"/> buses                           | <input type="checkbox"/> not addressed                            |   |
|   | <input type="checkbox"/> colleges: universities   |  |   |   |
|   | <input checked="" type="checkbox"/> not specified |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |  |  |              |
|---|--|--|--------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use                     | <input type="checkbox"/> keep or maintain                                    | penalty: 1-8 |
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> possession   | <input checked="" type="checkbox"/> fortify                                  |              |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |              |
|   | <input type="checkbox"/> storage                 | <input type="checkbox"/> visit   |              |

## OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input checked="" type="checkbox"/> parolees w/drug histories         | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- Additional forfeiture provisions exist in the Illinois Narcotics Forfeiture Act. Under that statute, any interest in any property or enterprise acquired or maintained as a result of narcotics racketeering is forfeitable. Proceeds from the sale of property along with any forfeited monies are to be distributed as follows: 50 percent to the investigating unit of local government; 12.5 percent to the county of the prosecuting state's attorney; 12.5 percent to the office of the state's attorney's appellate prosecutor; and 25 percent to the Illinois state police.
- Under the Illinois Parental Right of Recovery Act, those who distribute drugs to a minor are civilly liable to the minor's parents or guardians for up to triple the amount of damages caused by the distribution.
- The Drug Asset Forfeiture Procedure Act of 1990 authorizes administrative forfeiture of personal property worth less than \$20,000 and vehicles in cases where no claim to the property is filed.
- Illinois has enacted a drug-free park provision in addition to a drug-free school provision.
- The state's steroid control act provides penalties for manufacturing or distributing steroids for non-medical use and possession without a prescription.

# INDIANA

Rev. 1/91

West's Ind. Code Ann. §§ 35-48-1-1 to 35-48-1-14

A state board of pharmacy administers Indiana's CSA schedules, which are similar to the federal schedules. The state CSA establishes fixed terms of incarceration for both possession and manufacture/delivery/sale offenses.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II narcotics	<3g.: 1.5; \$10,000 ≥3g.: 4; \$10,000	same same	10; \$10,000 34; \$10,000
I/II non-narcotics	1.5; \$10,000	same	10; \$10,000
III	1.5; \$10,000	same	10; \$10,000
IV	1.5; \$10,000	same	10; \$10,000
V	1.5; \$10,000	same	10; \$10,000
marijuana	≤30g.: 0-1; \$5,000 >30g.: 1.5; \$10,000	1.5; \$10,000 same	5; \$10,000 10; \$10,000
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	<3g.: 10; \$10,000 ≥3g.: 30; \$10,000	same same	40; \$10,000 60; \$10,000
I/II non-narcotics	10; \$10,000	same	40; \$10,000
III	10; \$10,000	same	40; \$10,000
IV	4; \$10,000	same	34; \$10,000
V	1.5; \$10,000	same	10; \$10,000
marijuana	≤30g.: 0-1; \$5,000 >30g.-10 lbs.: 1.5; \$10,000 ≥10 lbs.: 4; \$10,000	1.5; \$10,000 same same	5; \$10,000 10; \$10,000 34; \$10,000

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:  
Deposited in the common school fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> not addressed specifically                  | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group     | <input checked="" type="checkbox"/> marijuana     |  |
|  |  | <input type="checkbox"/> others                   |  |

---

### "SCHOOLYARD" PROVISIONS

- |   |   |  |   |  |
|---|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 20 years' incarceration |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary               | <input type="checkbox"/> other radius                    | <input checked="" type="checkbox"/> over 18 to under 18           |  |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> secondary                | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational               | <input checked="" type="checkbox"/> buses                | <input type="checkbox"/> not addressed                            |  |
|   | <input type="checkbox"/> colleges:universities    |  |   |  |
|   | <input checked="" type="checkbox"/> not specified |  |   |  |

---

### SAFEHOUSE PROVISIONS

- |   |  |  |         |
|---|--|--|---------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |         |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input checked="" type="checkbox"/> storage      | <input checked="" type="checkbox"/> visit                                    |         |

---

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input checked="" type="checkbox"/> parolees                          | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |   |   |

---

### NOTES

- Conveyances are not subject to forfeiture in cases involving simple possession of drugs other than cocaine or a narcotic drug.
  - 1990 legislation added the offense of financing the manufacture or delivery of drugs to the category of manufacture, sale, or delivery offenses.
  - Statutory provisions outside of the state's CSA provide penalties for the manufacture, sale, delivery, or prescription of anabolic steroids for non-medical use by humans.
  - Indiana's schoolyard provision is limited to the sale or distribution of schedule I-II cocaine or narcotics.
-

# IOWA

Rev. 1/91

Iowa Code Ann. §§ 204.101 to 204.602

The state's schedules are almost identical to the federal schedules because the state board of pharmacy, which has the responsibility for recommending scheduling changes, uses the same criteria that the federal government does. Unless the board objects, any additions, deletions, or rescheduling made in the federal schedules automatically become part of the state schedules. All penalties for possession of controlled substances, except marijuana, are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-1; \$1,000	0-1; \$3,000	same
marijuana	0-6 mos.; \$1,000	same	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	0-10; \$1,000-\$50,000	10-30; \$15,000	same
I/II non-narcotics	0-10; \$1,000-\$50,000	5-15; \$3,000	same
III	0-10; \$1,000-\$50,000	5-15; \$3,000	same
IV	0-2; \$5,000	0-3; \$3,000	same
V	0-2; \$5,000	0-3; \$3,000	same
marijuana	<50 kg.: 0-5; \$1,000-\$5,000 ≥50 kg.: 0-10; \$1,000-\$5,000	same 10-30; \$15,000	same same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine  
heroin, LSD, marijuana, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

**Method of distribution of proceeds after payment of seizure costs:**  
Not addressed specifically in the statute.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell        |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs |
|   | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|   |   | <input checked="" type="checkbox"/> others        |   |

---

### "SCHOOLYARD" PROVISIONS

- |   |  |  |   |  |
|---|--|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 10 years' incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input checked="" type="checkbox"/> over 18 to under 18           |  |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input type="checkbox"/> not addressed                            |  |
|   | <input type="checkbox"/> colleges:universities |  |   |  |
|   | <input type="checkbox"/> not specified         |  |   |  |

---

### SAFEHOUSE PROVISIONS

- |   |  |  |                       |
|---|--|--|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-2; \$5,000 |
| <input type="checkbox"/> public nuisance            | <input checked="" type="checkbox"/> possession   | <input type="checkbox"/> fortify   |                       |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                       |

---

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

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### NOTES

- Penalties for distribution of imitation controlled substances to a minor are the same as for distribution of the actual substance the imitation is represented to be.
  - Iowa's schoolyard provision is limited to the distribution or sale of schedule I-II cocaine or narcotics.
-

# KANSAS

Rev. 1/91

Kan. Stat. Ann. §§ 65-4101 to 65-4140

The state board of pharmacy generally administers Kansas' schedules, which conform to the federal schedules. For penalty purposes, however, Kansas distinguishes narcotics and methamphetamines from non-narcotic drugs. Precursor chemicals are placed in schedule II and anabolic steroids are placed in schedule IV.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
narcotics, opiates, methamphetamines	3-20; \$300,000	5-life; \$300,000	life; \$500,000
depressants, stimulants, hallucinogens, and IV	0-1; \$2,500	1-10; \$100,000	same
V	0-1; \$2,500	same	same
<b>Delivery, Sale Offenses</b>			
narcotics, opiates, methamphetamines	3-20; \$300,000	5-life; \$300,000	life; \$500,000
depressants, stimulants, hallucinogens, and IV	3-20; \$300,000	3-40; \$300,000	5-60; \$300,000
V	0-1; \$2,500	same	same
<b>Manufacturing Offenses</b>	5-life; \$300,000	same	same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: barbituric acid, cocaine, heroin, LSD, marijuana, MDMA, mescaline, meth/amphetamine, metha-/meco-qualone, PCP, psilocybin

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

If seized by a state law enforcement agency, into state's law enforcement trust fund; if seized by a county or local law enforcement agency, into that political subdivision's law enforcement trust fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18  | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21   | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|  | <input checked="" type="checkbox"/> other age group: delivery to persons under 18 years of age | <input checked="" type="checkbox"/> marijuana     |   |
|  |  | <input type="checkbox"/> others                   |   |

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### "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 5 years' incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input checked="" type="checkbox"/> over 18 to under 18           |   |
| <input checked="" type="checkbox"/> possession      | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input type="checkbox"/> not addressed                            |   |
|   | <input type="checkbox"/> colleges:universities |  |   |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

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### SAFEHOUSE PROVISIONS

- |   |                                       |   |                      |
|---|---------------------------------------|---|----------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty: 1; \$25,000 |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession   | <input type="checkbox"/> fortify                                  |                      |
|   | <input type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                      |
|   | <input type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                      |

---

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> adult probationers       | <input checked="" type="checkbox"/> parolees                          | <input checked="" type="checkbox"/> by courts to determine pretrial release conditions |
| <input checked="" type="checkbox"/> prison inmates  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions                  |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |  |
|   | <input checked="" type="checkbox"/> juvenile probationers    |   |  |

---

### NOTES

- The state subjects real property to forfeiture when it is used in the commission of a CSA violation, except in cases where the offense is not a felony or the owner of the real property had no knowledge of its illegal use.
  - Schoolyard violations only extend to the distribution of drugs or possession of drugs with intent to sell them.
-

# KENTUCKY

Rev. 1/91

Ky. Rev. Stat. Ann. §§ 218A.010 to 218A.991

Kentucky's schedules, based largely on the federal scheme, are administered by the state's cabinet for human resources. The state's schedules differ from the federal schedules in that the state classifies lysergic acid diethylamide (LSD) and phencyclidine (PCP) in schedule I, whereas the federal scheme places these drugs in schedule II. Although PCP and LSD are non-narcotics, they are treated as narcotics for possession penalties. Kentucky's CSA places anabolic steroids in schedule III, and provides special penalties for the prescription, distribution, or possession of anabolic steroids for non-medical use by humans.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II narcotics	1-5; \$3,000-\$5,000	5-10; \$5,000-\$10,000	same
I/II non-narcotics	0-1; \$500	same	same
III	0-1; \$500	same	same
IV	0-1; \$500	same	same
V	0-1; \$500	same	same
marijuana	<8 oz.: 0-90 days; \$200 ≥8 oz.: 0-1; \$500	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	5-10; \$5,000-\$10,000	10-20; \$10,000-\$20,000	same
I/II non-narcotics	1-5; \$3,000-\$5,000	5-10; \$5,000-\$10,000	—
III	1-5; \$3,000-\$5,000	5-10; \$5,000-\$10,000	—
IV	1-3; \$1,000-\$3,000	1-5; \$3,000-\$5,000	—
V	1-3; \$1,000-\$3,000	1-5; \$3,000-\$5,000	—
marijuana	<8 oz.: 0-1; \$500 ≥8 oz.-5 lbs.: 1-5; \$10,000 ≥5 lbs.: 5-10; \$5,000-\$10,000	—	—
hashish	1-5; \$10,000	—	—

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty: LSD, PCP       based on amount:

**Comments:**

Although PCP and LSD are non-narcotics, for possession penalties they are treated as I-II narcotics.

### PARAPHERNALIA PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> civil               | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers           |
| <input checked="" type="checkbox"/> criminal | <input checked="" type="checkbox"/> raw materials, equipment, products | <input type="checkbox"/> drug paraphernalia   | <input checked="" type="checkbox"/> real property        |
| <input type="checkbox"/> administrative      | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Of the first \$50,000: 90 percent goes to the seizing agency and 10 percent goes to the prosecuting agency; of the rest, 45 percent goes to the seizing agency and 55 percent is deposited in the state asset forfeiture trust fund, to be distributed as follows: 18 percent to prosecuting agencies; 36 percent to the cabinet for human resources for education, prevention, and treatment programs; 36 percent to the corrections cabinet for drug-related incarceration programs; and 10 percent to the justice cabinet for drug enforcement programs.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |  |
|--|---|---|--|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics            | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input type="checkbox"/> non-narcotics        | <input type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana |  |
|  |   | <input type="checkbox"/> others               |  |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |  |
|---|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 1 year incarceration and a \$3,000 fine |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary               | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |  |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> secondary                | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational               | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input type="checkbox"/> colleges: universities   |  |   |  |
|   | <input checked="" type="checkbox"/> not specified |  |   |  |

## SAFEHOUSE PROVISIONS

- |  |                                       |   |         |
|--|---------------------------------------|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
| <input type="checkbox"/> public nuisance                       | <input type="checkbox"/> possession   | <input type="checkbox"/> fortify                                  |         |
|  | <input type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|  | <input type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- The penalty for cultivating or harvesting marijuana for sale (possession of more than 254 plants is presumed to be possession for sale) is one to five years' incarceration and a fine of \$3,000 to \$5,000.
- The forfeiture provisions do not apply in misdemeanor cases involving marijuana.

# LOUISIANA

Rev. 1/91

La. Rev. Stat. Ann. §§ 40:961 to 40:995

In Louisiana, the state's health and human services department has the responsibility for scheduling drugs. The state's CSA schedules substantially conform to the federal schedules, except that Louisiana places phencyclidine (PCP) in schedule I, whereas the substance appears in schedule II of the federal CSA. Louisiana places pentazocine in schedule II whereas the substance appears in schedule IV in the federal schedules. Precursor chemicals are placed in schedule II. Except for certain offenses involving small amounts of certain substances, all drug offenses carry penalties of prison terms at hard labor.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I narcotics	4-10; \$5,000	8-20; \$10,000	same
I non-narcotics	0-10; \$5,000	0-20; \$10,000	same
II	0-5; \$5,000	0-10; \$10,000	same
III	0-5; \$5,000	0-10; \$10,000	same
IV	0-5; \$5,000	0-10; \$10,000	same
V	0-5; \$5,000	0-10; \$10,000	same
marijuana	< 60 lbs.: 0-6 mos.; \$500 ≥ 60 lbs.: targeted substance	0-5; \$2,000	0-20
<b>Manufacturing, Delivery, Sale Offenses</b>			
I narcotics	life; \$15,000	life; \$30,000	same
I non-narcotics	5-30; \$15,000	10-60; \$30,000	same
II narcotics	5-30; \$15,000	10-60; \$30,000	same
II non-narcotics	0-10; \$15,000	0-20; \$30,000	same
III	0-10; \$15,000	0-20; \$15,000	same
IV	0-10; \$15,000	0-20; \$30,000	same
V	0-5; \$5,000	0-10; \$10,000	same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty: cocaine base, meth/amphetamine (production), PCP, pentazocine       based on amount: cocaine, marijuana, meth/amphetamine (possession)

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |   |  |   |  |
|---|--|---|--|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers           |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property        |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

60 percent to seizing agencies; 20 percent to the criminal court fund; 20 percent to prosecuting agencies.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18                  | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21                             | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|  | <input checked="" type="checkbox"/> other age group: over 25 to under 18 | <input checked="" type="checkbox"/> marijuana     |   |
|  |  | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |  |
|---|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                        | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 1/2 maximum term of incarceration ordinarily authorized |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary            | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |  |
| <input checked="" type="checkbox"/> possession      | <input checked="" type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational            | <input checked="" type="checkbox"/> buses                | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input checked="" type="checkbox"/> colleges/universities |  |   |  |
|   | <input type="checkbox"/> not specified                    |  |   |  |

## SAFEHOUSE PROVISIONS

- |   |  |   |                     |
|---|--|---|---------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain              | penalty: 0-6; \$500 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |                     |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                     |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                     |

## OFFENDER DRUG TESTING PROVISIONS

- |   |   |   |  |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                             | <input type="checkbox"/> parolees                                     | <input checked="" type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input checked="" type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers                         | <input type="checkbox"/> participants in drug rehabilitation programs |  |
|   | <input type="checkbox"/> juvenile probationers                          |   |  |

## NOTES

- For cocaine trafficking, an offender is ineligible for parole until he has served at least the minimum sentence imposed. The district attorney, however, may move for a reduction in the sentence if a defendant cooperates in identifying, arresting, and convicting any accomplices. Similar provisions also exist for offenses involving more than 100 pounds of marijuana.
- No probationary term or suspension of sentence is permitted for offenses involving manufacture/distribution of schedule I narcotics.
- 1989 legislation authorizes the eviction, from public housing, of any person who engages in drug-related activity on the grounds of a public housing project.
- Louisiana exempts from its schoolyard provision drug offenses that occur entirely within a private residence, wherein no person under the age of 18 is present.
- Persons, at least 18 years old, who use, possess, or distribute controlled substances in the presence of a minor under the age of 17 are subject to enhanced penalties.

# MAINE

Rev. 1/91

Me. Rev. Stat. Ann. tit. 17-A, §§ 1101 to 1116; tit. 22, §§ 2383 to 2383B; and tit. 32, §§ 13722 and 13731

Maine's schedules are substantially different from the federal schedules. The state arranges controlled substances into groups W, X, Y, and Z. Schedule W consists of amphetamine, methamphetamine, barbituric acid, cocaine, opium, phencyclidine (PCP), lysergic acid diethylamide (LSD), and any of their derivatives. Schedule X consists of some other depressants and hallucinogens, such as mescaline, peyote, and hashish. Schedule Y includes lower-level depressants such as codeine and valium. Finally, schedule Z consists of marijuana and prescription drugs not listed in other schedules. A person in possession of more than 1.25 ounces of marijuana is presumed to be unlawfully furnishing marijuana. Possession of more than two pounds of marijuana automatically triggers enhanced penalties for unlawfully trafficking in marijuana.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
W	0-1; \$1,000	—	—
X	0-1; \$1,000	—	—
Y	0-6 mos.; \$500	—	—
Z	0-6 mos.; \$500	—	—
marijuana	< 1.25 oz.: \$200-\$400	\$400	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
W	furnishing: 0-5; \$2,500 trafficking: 0-10; \$10,000	—	—
X	furnishing: 0-1; \$1,000 trafficking: 0-5; \$2,500	—	—
Y	0-1; \$1,000	—	—
Z	0-1; \$1,000	—	—
marijuana	furnishing: >1.25 oz.-2 lbs.: 0-1; \$1,000	—	—

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount: cocaine, heroin, LSD, marijuana

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

### Method of distribution of proceeds after payment of seizure costs:

Deposited in state's general fund, unless the court and the attorney general deem it appropriate to grant portions of the proceeds to law enforcement agencies that made substantial contributions to the investigation leading to the seizure.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others                   |   |

### "SCHOOLYARD" PROVISIONS

- |   |  |  |   |  |
|---|--|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: enhanced by one class over that ordinarily authorized |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |  |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input checked="" type="checkbox"/> buses                | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input type="checkbox"/> colleges:universities |  |   |  |
|   | <input type="checkbox"/> not specified         |  |   |  |

### SAFEHOUSE PROVISIONS

- |   |  |   |                     |
|---|--|---|---------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use                     | <input checked="" type="checkbox"/> keep or maintain              | penalty: \$100 fine |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |                     |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                     |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                     |

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees  | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input checked="" type="checkbox"/> intensive probationers   | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |  |   |

### NOTES

- The state CSA stipulates that anyone convicted of unlawful trafficking, aggravated trafficking, unlawful furnishing, or possession of any controlled substance may be required to pay a fine equal to the value of the controlled substance involved.
- A 1990 amendment to the state CSA authorizes courts to suspend, for six months, the driver's license of any minor convicted of marijuana possession.

# MARYLAND

Rev. 1/91

Md. Ann. Code art. 27 §§ 276 to 302

In Maryland, the department of health and mental hygiene is responsible for scheduling drugs. The state's CSA schedules conform substantially to the federal schedules. A significant exception is Maryland's placement in schedule I of phencyclidine (PCP), which is a schedule II drug under the federal schedules. All penalties for possession of controlled substances, except marijuana, are the same under the state's CSA. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>				
flat penalty	0-4; \$25,000	0-8; \$50,000	—	—
marijuana	0-1; \$1,000	0-2; \$2,000	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>				
I/II narcotics	0-20; \$25,000	10-20; \$25,000	25 yrs. minimum	40 yrs. minimum
I/II non-narcotics	0-5; \$15,000	2-5; \$15,000	same	same
III	0-5; \$15,000	2-5; \$15,000	same	same
IV	0-5; \$15,000	2-5; \$15,000	same	same
V	0-5; \$15,000	2-5; \$15,000	same	same

### TARGETED SUBSTANCE PROVISIONS

- none
- higher base penalty: PCP and its precursors (enhanced maximum penalty)
- based on amount: (for mandatory minimums and "kingpin" penalties) cocaine, heroin, LSD, marijuana, methamphetamine, methaqualone, morphine, opium

### PARAPHERNALIA PROVISIONS

- not addressed specifically
- use
- possession
- advertisement
- delivery
- delivery to minors
- manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically
- use
- possession
- advertisement
- delivery
- manufacture

### FORFEITURE PROVISIONS

- civil
- all controlled substances
- conveyances (cars, boats, airplanes used in violation of the law)
- criminal
- raw materials, equipment, products
- drug paraphernalia
- administrative
- books, data, research materials
- money, securities, etc.
- containers
- real property
- imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into the general fund of the state or political subdivision that seized the property.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|   | <input type="checkbox"/> other age group                | <input type="checkbox"/> marijuana     |   |
|   |   | <input type="checkbox"/> others        |   |

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 5 years' incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input checked="" type="checkbox"/> buses                | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges:universities |  |   |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |  |   |                         |
|---|--|---|-------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain              | penalty: 0-20; \$20,000 |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |                         |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                         |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- It is an affirmative defense to an alleged schoolyard violation that the prohibited conduct occurred entirely within a private residence, that no person under the age of 18 was present, and that the offense was not committed for profit.

# MASSACHUSETTS

Rev. 1/91

Mass. Gen. Laws Ann. ch. 94C, §§ 1 to 48

Massachusetts' CSA schedules, administered by the state's commissioner of public health, vary significantly from the federal schedules. The state CSA categorizes substances in classes A through E. Generally speaking, class A includes federal schedule I opiates and opiate derivatives; class B includes opium, cocaine, federal schedule II opiates, stimulants, depressants, lysergic acid diethylamide (LSD), and phencyclidine (PCP); class C includes derivatives of barbituric acid, federal schedule III narcotics, and federal schedule I hallucinogens; class D includes federal schedule IV drugs and marijuana; and class E includes federal schedule V drugs, as well as other prescription drugs not included in classes A through D.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
A	0-2; \$2,000	0-5; \$5,000	same
B	0-1; \$1,000	0-2; \$2,000	same
C	0-1; \$1,000	0-2; \$2,000	same
D	0-1; \$1,000	0-2; \$2,000	same
E	0-6 mos.; \$500	0-2; \$2,000	same
marijuana	0-6 mos.; \$500	0-2; \$2,000	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
A	0-10; \$1,000-\$10,000	5-15; \$2,500-\$25,000	same
B	0-10; \$1,000-\$10,000	3-10; \$2,500-\$25,000	same
C	0-5; \$500-\$5,000	2½-10; \$1,000-\$10,000	same
D	0-2; \$500-\$5,000	1-2½; \$1,000-\$10,000	same
E	0-9 mos.; \$250-\$2,500	0-1½; \$500-\$5,000	same

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty: heroin, PCP       based on amount: cocaine, heroin, marijuana

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Distributed equally between the office of the prosecutor and the law enforcement agency responsible for the forfeiture.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 2 years' incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges/universities |  |   |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

## SAFEHOUSE PROVISIONS

- |  |                                       |   |         |
|--|---------------------------------------|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
| <input type="checkbox"/> public nuisance                       | <input type="checkbox"/> possession   | <input type="checkbox"/> fortify                                  |         |
|  | <input type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|  | <input type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- Any person convicted for possession of marijuana or a class E substance who has not been convicted previously of any other drug offense is to be placed on probation.
- Real estate proven to be used in furtherance of illegal drug activity may be forfeited, provided that such real estate is not the principal domicile of the immediate family of the person convicted of the CSA offense.
- Conveyances are not subject to forfeiture in cases involving possession of less than ten pounds of marijuana.
- Massachusetts defines a counterfeit substance as a "substance that is represented to be a particular controlled drug or substance but which is not in fact that drug or substance"; the definition is similar to that for imitation substances in other state CSA's.
- Any person who is knowingly at a place where heroin is kept, or in the company of a person possessing heroin, faces up to a one year term of incarceration and a \$1,000 fine.

# MICHIGAN

Rev. 1/91

Mich. Comp. Laws Ann. §§ 333.7101 to 333.7545

In Michigan, the state board of pharmacy has responsibility for scheduling drugs in accordance with the federal schedule, unless the board objects and the legislature does not overturn the objections. The state authorizes the use of marijuana in the treatment of glaucoma and chemotherapy patients.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Use Offenses</b>			
I/II narcotics	0-1; \$2,000	—	—
I/II non-narcotics	0-1; \$1,000	—	—
III/IV	0-1; \$1,000	—	—
V	0-6 mo.; \$500	—	—
marijuana	0-90 days; \$100	—	—
other: dimethyltryptamine, LSD, mescaline, peyote, psilocin, psilocybin	0-6 mo.; \$1,000	—	—
<b>Possession Offenses</b>			
I/II narcotics	<25g.: 0-4; \$25,000 ≥25g.-50g.: 1-4; \$25,000 ≥50g.-225g.: 10-20 ≥225g.-650g.: 20-30 ≥650g.: life	— 0-8; \$4,000 life life same	— same same same same
I/II non-narcotics	0-2; \$2,000	0-4; \$4,000	same
III/IV/V	0-2; \$2,000	0-4; \$4,000	same
other: LSD, marijuana, mescaline, peyote, psilocin, psilocybin	0-1; \$1,000	0-2; \$2,000	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	<50g.: 0-20; \$25,000 ≥50g.-225g.: 10-20 ≥225g.-650g.: 20-30 ≥650g.: life	0-40; \$50,000 life life same	same same same same
I/II non-narcotics	0-7; \$5,000	0-14; \$10,000	same
III	0-7; \$5,000	0-14; \$10,000	same
IV	0-4; \$2,000	0-8; \$4,000	same
V	0-2; \$2,000	0-4; \$4,000	same

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> civil          | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal                  | <input checked="" type="checkbox"/> raw materials, equipment, products | <input type="checkbox"/> drug paraphernalia   | <input checked="" type="checkbox"/> real property                   |
| <input checked="" type="checkbox"/> administrative | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Distributed to the entity having budgetary authority over the seizing agency, to be used for drug laws enforcement.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> not addressed specifically                  | <input type="checkbox"/> over 18 to under 18   | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21   | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input checked="" type="checkbox"/> other age group: over 18 to under 18 at least 5 years junior | <input checked="" type="checkbox"/> marijuana     |  |
|  |  | <input type="checkbox"/> others                   |  |

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet          | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 2 years' incarceration |
|   | <input checked="" type="checkbox"/> elementary | <input checked="" type="checkbox"/> other radius: 500' |   |   |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only           | <input checked="" type="checkbox"/> over 18 to under 18           |   |
| <input checked="" type="checkbox"/> possession      | <input type="checkbox"/> vocational            | <input checked="" type="checkbox"/> buses              | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> colleges:universities |  | <input type="checkbox"/> not addressed                            |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |  |  |                        |
|---|--|--|------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-2; \$25,000 |
|   | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                        |
| <input type="checkbox"/> public nuisance            | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                        |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
|  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    |   |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- No conveyances involved in use offenses or other offenses involving lysergic acid diethylamide (LSD), peyote, mescaline, psilocin, psilocybin, marijuana, schedule V drugs, or imitation drugs are subject to forfeiture.
- A 1990 enactment creates penalties for non-medical use, possession, or delivery of anabolic steroids and subjects property used in connection with such offenses to forfeiture.
- Schoolyard violations not committed for profit are punishable by a term of incarceration not to exceed one year and a \$1,000 fine.
- Although the CSA does not specifically identify real property as forfeitable, authorities interpret language authorizing forfeiture of "anything of value used to facilitate" drug violations as permitting real property forfeiture.

# MINNESOTA

Rev. 1/91

Minn. Stat. Ann. §§ 152.01 to 152.20

Minnesota's CSA schedules, administered by the state board of pharmacy, are amended as necessary to achieve automatic conformity with federal schedules within 30 days of any modifications to the federal schedules. Anabolic steroids are placed in schedule IV and precursor chemicals in schedule II. For penalty purposes, Minnesota employs a complex scheme of five degrees of controlled substances offenses, along with some miscellaneous offenses. Within each degree, offenses are divided into sale crimes and possession crimes. Degree classification varies with the type and amount of the substance involved and with the participation of minors in the offense. Listed penalties are the minimum authorized; the state's CSA should be consulted for specific penalties.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I	0-5; \$10,000	6 mos.-10; \$20,000	same
II	0-5; \$10,000	6 mos.-10; \$20,000	same
III	0-5; \$10,000	6 mos.-10; \$20,000	same
IV	0-5; \$10,000	6 mos.-10; \$20,000	same
V	0-1; \$3,000	0-2; \$10,000	same
<b>Sale Offenses</b>			
I/II narcotics	0-20; \$250,000	2-30; \$250,000	same
I/II non-narcotics	0-15; \$100,000	1-30; \$100,000	same
III	0-15; \$100,000	1-30; \$100,000	same
IV	0-5; \$10,000	6 mos.-10; \$20,000	same
V	0-1; \$3,000	—	—
marijuana	0-5; \$10,000	6 mos.-10; \$20,000	—

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, cocaine base, hallucinogens, marijuana, meth/amphetamine, narcotics, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

70 percent to the seizing agency, 20 percent to the prosecuting agency, and 10 percent to the state's general fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input type="checkbox"/> over 18 to under 18                     | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21                     | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|   | <input checked="" type="checkbox"/> other age group: to under 18 | <input checked="" type="checkbox"/> marijuana     |   |
|   |  | <input type="checkbox"/> others                   |   |

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### "SCHOOLYARD" PROVISIONS

- |   |   |  |   |                          |
|---|---|--|---|--------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool              | <input type="checkbox"/> radius of 1,000 feet          | <input type="checkbox"/> inapplicable if school is not in session | penalty: 0-20; \$500,000 |
|   | <input checked="" type="checkbox"/> elementary  | <input checked="" type="checkbox"/> other radius: 300' |   |                          |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> secondary   | <input type="checkbox"/> school grounds only           | <input type="checkbox"/> over 18 to under 18                      |                          |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> vocational  | <input type="checkbox"/> buses                         | <input type="checkbox"/> other age group                          |                          |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> colleges: universities |  | <input checked="" type="checkbox"/> not addressed                 |                          |
|   | <input type="checkbox"/> not specified          |  |   |                          |

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### SAFEHOUSE PROVISIONS

- |  |                                       |   |         |
|--|---------------------------------------|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
|  | <input type="checkbox"/> possession   | <input type="checkbox"/> fortify                                  |         |
| <input type="checkbox"/> public nuisance                       | <input type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|  | <input type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

---

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
|  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    |   |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

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### NOTES

- Possession or sale for no remuneration of a small amount of marijuana is a petty misdemeanor punishable by a fine of up to \$200 and mandatory enrollment in a drug education program.
  - Possession of more than 1.4 grams of marijuana in a motor vehicle is punishable by up to one year in prison and a \$1,000 fine.
  - Certain property may be subject to administrative forfeiture if the owner fails to demand judicial review of the seizure within 60 days of receiving notice of the forfeiture.
  - Minnesota has enacted a drug-free park provision to complement its drug-free school provision.
-

# MISSISSIPPI

Rev. 1/91

Miss. Code Ann. §§ 41-29-101 to 41-29-175

In Mississippi, the bureau of narcotics, which operates under the supervision of the department of public safety, has responsibility for scheduling drugs. The state's CSA schedules substantially conform to the federal schedules. Precursor chemicals are listed in schedule II.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I	0-3; \$1,000-\$30,000	—	—
II	0-3; \$1,000-\$30,000	—	—
III	0-1; \$5,000	—	—
IV	0-1; \$5,000	—	—
V	0-1; \$5,000	—	—
marijuana	≤1 oz.: \$100-\$250 > 1 oz.-1 kg.: 0-1; \$1,000	5-60 days; \$250	5 days-6 mos.; \$250-\$500
<b>Manufacturing, Delivery, Sale Offenses</b>			
I	0-30; \$1,000-\$1,000,000	0-60; \$1,000-\$2,000,000	same
II	0-30; \$1,000-\$1,000,000	0-60; \$1,000-\$1,000,000	same
III	0-20; \$1,000-\$250,000	0-40; \$5,000-\$100,000	same
IV	0-20; \$1,000-\$250,000	0-40; \$5,000-\$100,000	same
V	0-10; \$1,000-\$50,000	0-20; \$2,000-\$100,000	same
marijuana	≤1 oz.: 0-3; \$3,000 > 1 oz.-1 kilo.: 0-20; \$30,000 ≥1 kilo.: 0-30; \$1,000-\$1,000,000	— 0-40; \$1,000-\$100,000 0-60; \$1,000-\$2,000,000	— — same

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount: marijuana

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

50 percent of the proceeds to the state treasurer and 50 percent to the law enforcement agencies participating in the seizure.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically                             | <input type="checkbox"/> over 18 to under 18                             | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21                             | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|   | <input checked="" type="checkbox"/> other age group: over 21 to under 21 | <input checked="" type="checkbox"/> marijuana     |  |
|   |  | <input type="checkbox"/> others                   |  |

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### "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: sentence of up to twice that ordinarily authorized |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges:universities |  |   |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

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### SAFEHOUSE PROVISIONS

- |   |  |  |                       |
|---|--|--|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-1; \$1,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                       |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                       |

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### OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

---

### NOTES

- Conveyances are not subject to forfeiture in cases involving possession of less than one kilogram of marijuana.
  - Administrative forfeiture procedures are available for forfeitures worth less than \$5,000.
-

# MISSOURI

Rev. 1/91

Vernon's Mo. Ann. Stat. §§ 195.010 to 195.320

The division of health administers Missouri's schedules, which substantially conform to the federal schedules. Any additions, deletions, or reschedulings made in the federal schedules automatically become part of the state's schedules. All penalties for possession of controlled substances, except marijuana, are the same. They are listed under "flat penalty" in the chart. All penalties for manufacture, delivery, and sale of controlled substances, except marijuana, also are the same. They also are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-7; \$5,000	5-15; \$5,000	6-30 or life; \$5,000
marijuana	≤35g.: 0-1; \$1,000	0-5; \$1,000	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
flat penalty	5-15; \$5,000	10-30 or life; \$5,000	10-30 or life w/o parole or probation
marijuana	≤5g.: 0-7; \$5,000	—	—

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, cocaine base, heroin, LSD, marijuana, meth/amphetamine, methylphenidate, PCP, phenmetrazine

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

**Method of distribution of proceeds after payment of seizure costs:**  
Deposited into the state general fund.

### PROVISIONS FOR OFFENSES INVOLVING MINORS

- not addressed specifically       over 18 to under 18       narcotics       using minor to sell  
 over 18 to under 18 at least 3 years junior       over 18 to under 21       non-narcotics       imitation drugs  
 over 18 to under 18 at least 3 years junior       other age group: to under 17 at least 2 years junior       marijuana  
 others

### "SCHOOLYARD" PROVISIONS

- |   |  |   |  |  |
|---|--|---|--|--|
| <input type="checkbox"/> not addressed specifically   | <input type="checkbox"/> preschool<br><input checked="" type="checkbox"/> elementary<br><input checked="" type="checkbox"/> secondary<br><input checked="" type="checkbox"/> vocational<br><input checked="" type="checkbox"/> colleges:universities<br><input type="checkbox"/> not specified | <input checked="" type="checkbox"/> radius of 1,000 feet<br><input type="checkbox"/> other radius<br><input type="checkbox"/> school grounds only<br><input type="checkbox"/> buses | <input type="checkbox"/> inapplicable if school is not in session<br><input type="checkbox"/> over 18 to under 18<br><input type="checkbox"/> other age group<br><input checked="" type="checkbox"/> not addressed | penalty: mandatory minimum sentence of 10 years' incarceration |
| <input type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution |  |   |  |  |
- 

### SAFEHOUSE PROVISIONS

- |   |   |   |                       |
|---|---|---|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution<br><input checked="" type="checkbox"/> storage | <input checked="" type="checkbox"/> keep or maintain<br><input type="checkbox"/> fortify<br><input type="checkbox"/> knowingly permit illegal use of premises<br><input type="checkbox"/> visit | penalty: 0-7; \$5,000 |
| <input checked="" type="checkbox"/> public nuisance |   |   |                       |
- 

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |  |  |
|--|--|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers<br><input type="checkbox"/> adult probationers w/drug histories<br><input type="checkbox"/> intensive probationers<br><input type="checkbox"/> juvenile probationers | <input type="checkbox"/> parolees<br><input type="checkbox"/> parolees w/drug histories<br><input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine pretrial release conditions<br><input type="checkbox"/> by courts to determine sentencing conditions |
| <input type="checkbox"/> prison inmates                        |  |  |  |
- 

### NOTES

- Delivery of less than 25 grams of marijuana for no remuneration is punishable by one year in the county jail and/or a \$1,000 fine.
  - In addition to penalizing distribution to a minor, the state's CSA provides stiff penalties for knowingly allowing a minor to purchase or transport drugs or be in a place where illegal drug activity is occurring.
-

# MONTANA

Rev. 1/91

Mont. Code Ann. §§ 50-32-101 to 50-32-405, 45-9-101 to 45-9-121

The state board of pharmacy administers Montana's schedules, which conform to the federal schedules. The state's CSA contains separate penalties for possession with intent to sell controlled substances. All penalties for possession of controlled substances, except marijuana, are the same. They are listed under "flat penalty" in the chart. All penalties for sale offenses, except those involving opiates and cocaine, are the same. They are listed under "flat penalty" in the chart. However, Montana does have separate penalties for second and subsequent offenses involving the sale of schedule I or II narcotics. The state's CSA also has a separate penalty of two to 20 years' imprisonment and a fine of up to \$50,000 for criminal possession of precursor chemicals.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-5; \$50,000	—	—
marijuana	≤60g.: 0-6 mos.; \$100-\$500 >60g.: 0-5; \$50,000	0-1; \$1,000	—
<b>Sale Offenses</b>			
flat penalty	1-life; \$50,000	—	—
I/II		10-life; \$50,000	20-life; \$50,000

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty: cocaine, opiates       based on amount:

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into the seizing agency's drug forfeiture account for the enforcement of drug laws and drug education.

### PROVISIONS FOR OFFENSES INVOLVING MINORS

- not addressed specifically       over 18 to under 18       narcotics       using minor to sell  
 over 18 to under 18 at least 3 years junior       over 18 to under 21       non-narcotics       imitation drugs  
 other age group       marijuana       others

## "SCHOOLYARD" PROVISIONS

- |  |  |   |   |         |
|--|--|---|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty |
| <input type="checkbox"/> use                                   | <input type="checkbox"/> elementary            | <input type="checkbox"/> other radius         |   |         |
| <input type="checkbox"/> possession                            | <input type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only  | <input type="checkbox"/> over 18 to under 18                      |         |
| <input type="checkbox"/> distribution                          | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                | <input type="checkbox"/> other age group                          |         |
|  | <input type="checkbox"/> colleges:universities |   | <input type="checkbox"/> not addressed                            |         |
|  | <input type="checkbox"/> not specified         |   |   |         |

---

## SAFEHOUSE PROVISIONS

- |  |                                       |   |         |
|--|---------------------------------------|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
| <input type="checkbox"/> public nuisance                       | <input type="checkbox"/> possession   | <input type="checkbox"/> fortify                                  |         |
|  | <input type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|  | <input type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

---

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

---

## NOTES

- The penalty for possession with intent to sell opiates is two to 20 years' imprisonment and up to a \$50,000 fine. For other controlled substances, the penalty is zero to 20 years' imprisonment and/or a fine of up to \$50,000. A minimum of more than one kilogram must be involved for a conviction of possession with intent to sell.
  - No conveyance or container used to transport less than 60 grams of marijuana is subject to forfeiture.
-

# NEBRASKA

Rev. 1/91

Nebraska Rev. Stat. §§ 28-401 to 28-445

Nebraska's CSA schedules substantially conform to the federal schedules. For penalty purposes, however, the state's CSA divides controlled substances into groups of "exceptionally hazardous" schedule I, II, or III substances; other schedule I, II, or III substances; and schedule IV or V substances. All penalties for possession of controlled substances, except marijuana, are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Use Offenses</b>			
flat penalty	3 mos.; \$500	—	—
<b>Comment:</b>			
For conviction, the state does not need to prove that a person was under the influence of a specific controlled substance; rather, the state must establish that the person manifested the physical and physiological symptoms or reactions caused by use of any controlled substance.			
<b>Possession Offenses</b>			
flat penalty	0-5; \$10,000	—	—
marijuana	<1 oz.: \$100 >1 oz.-1 lb.: 0-7 days; \$500 ≥1 lb.: 0-5; \$10,000	0-5 days; \$200 — —	0-7 days; \$300 — —
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II/III	exceptionally hazardous: 1-50 other: 0-20; \$25,000	— —	— —
IV	0-5; \$10,000	—	—
V	0-5; \$10,000	—	—

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount: cocaine, crack

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

50 percent to the treasurer of the county where the seizure occurred and 50 percent to the county drug law enforcement fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |  |  |
|--|--|--|--|
| <input checked="" type="checkbox"/> not addressed specifically       | <input type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group     | <input type="checkbox"/> marijuana     |  |
|  |  | <input type="checkbox"/> others        |  |

## "SCHOOLYARD" PROVISIONS

- |  |  |   |   |         |
|--|--|---|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty |
| <input type="checkbox"/> use                                   | <input type="checkbox"/> elementary            | <input type="checkbox"/> other radius         | <input type="checkbox"/> over 18 to under 18                      |         |
| <input type="checkbox"/> possession                            | <input type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only  | <input type="checkbox"/> other age group                          |         |
| <input type="checkbox"/> distribution                          | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                | <input type="checkbox"/> not addressed                            |         |
|  | <input type="checkbox"/> colleges:universities |   |   |         |
|  | <input type="checkbox"/> not specified         |   |   |         |

## SAFEHOUSE PROVISIONS

- |   |  |  |                          |
|---|--|--|--------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-3 mos.; \$500 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                          |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                          |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                          |

## OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> adult probationers       | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- Enacted 1990 legislation prohibits the prescribing or dispensing for non-medical use in humans of any amount of anabolic steroids and possession for non-medical use of at least 250 tablets or eight two-cubic centimeter bottles of anabolic steroids. Penalties for adults are 0-1; \$1,000 for the first offense and 0-5; \$10,000 for subsequent offenses, while minors may receive 0-3 months; \$500 for the first offense and 0-1; \$1,000 for subsequent offenses.

# NEVADA

Rev. 1/91

Nev. Rev. Stat. §§ 453.011 to 453.575

Nevada's schedules, administered by the board of pharmacy, are continually updated in the state's administrative code. The CSA provides for automatic rescheduling, scheduling, or deletion of substances within 60 days to bring state provisions into conformity with any changes in federal CSA provisions. Offenses are divided into the categories of use/possession and manufacturing/delivery/sale offenses. The state's CSA defines anabolic steroids as a controlled substance.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Use Offenses</b>			
I/II	1-6; \$5,000	—	—
III/IV	1-6; \$5,000	—	—
V	0-1; \$1,000	—	—
<b>Possession Offenses</b>			
I/II	1-6; \$5,000	1-10; \$10,000	1-20; \$20,000
III/IV	1-6; \$5,000	1-10; \$10,000	1-20; \$20,000
V	0-1; \$1,000	1-6; \$5,000	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II	1-20 or life; \$20,000	5-20 or life; \$20,000	15-life; \$20,000
III/IV	1-10 or life; \$10,000	2-15 or life; \$15,000	5-20 or life; \$20,000
V	1-10 or life; \$10,000	2-15 or life; \$15,000	5-20 or life; \$20,000

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into seizing agency's special forfeiture account to be used for drug laws enforcement.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> not addressed specifically<br><input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input checked="" type="checkbox"/> over 18 to under 18<br><input type="checkbox"/> over 18 to under 21<br><input type="checkbox"/> other age group | <input type="checkbox"/> narcotics<br><input type="checkbox"/> non-narcotics<br><input type="checkbox"/> marijuana<br><input checked="" type="checkbox"/> others | <input checked="" type="checkbox"/> using minor to sell<br><input checked="" type="checkbox"/> imitation drugs |
|---|---|--|--|

### "SCHOOLYARD" PROVISIONS

- |  |   |  |  |   |
|--|---|--|--|---|
| <input type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution | <input type="checkbox"/> preschool<br><input type="checkbox"/> elementary<br><input type="checkbox"/> secondary<br><input type="checkbox"/> vocational<br><input type="checkbox"/> colleges:universities<br><input checked="" type="checkbox"/> not specified | <input checked="" type="checkbox"/> radius of 1,000 feet<br><input type="checkbox"/> other radius<br><input type="checkbox"/> school grounds only<br><input checked="" type="checkbox"/> buses | <input type="checkbox"/> inapplicable if school is not in session<br><br><input type="checkbox"/> over 18 to under 18<br><input type="checkbox"/> other age group<br><input checked="" type="checkbox"/> not addressed | penalty: sentence of up to twice that ordinarily authorized |
|--|---|--|--|---|

### SAFEHOUSE PROVISIONS

- |   |   |   |                       |
|---|---|---|-----------------------|
| <input type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution<br><input checked="" type="checkbox"/> storage | <input type="checkbox"/> keep or maintain<br><input type="checkbox"/> fortify<br><input checked="" type="checkbox"/> knowingly permit illegal use of premises<br><input type="checkbox"/> visit | penalty: 1-6; \$5,000 |
|---|---|---|-----------------------|

### OFFENDER DRUG TESTING PROVISIONS

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> prison inmates | <input type="checkbox"/> adult probationers<br><input type="checkbox"/> adult probationers w/drug histories<br><input checked="" type="checkbox"/> intensive probationers<br><input type="checkbox"/> juvenile probationers | <input type="checkbox"/> parolees<br><input type="checkbox"/> parolees w/drug histories<br><br><input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine pretrial release conditions<br><input type="checkbox"/> by courts to determine sentencing conditions |
|--|---|--|--|

## NOTES

- Any person under the age of 21 who is convicted of possession of less than one ounce of marijuana may be sentenced to one to six years' incarceration and up to a \$20,000 fine; or up to one year's imprisonment, a fine of up to \$1,000, and driver's license revocation for not more than six months.
- The CSA includes specific provisions for possession with intent to sell substances listed in schedules I through V. The penalty for a first violation of this section with regard to schedule I and II substances is one to 15 years and a \$5,000 fine. The penalty for a first offense with regard to substances listed in schedules III through IV is one to 16 years and a \$5,000 fine.
- In addition to criminal penalties, civil penalties also may apply in offenses involving manufacturing, selling, or distributing marijuana or schedule I or II controlled substances.
- More than \$300 cash found in the possession of a person charged with distribution is assumed to be intended for purchase of controlled substances and is subject to forfeiture.
- A conveyance is not subject to forfeiture in any case where the offense involves less than one kilogram of marijuana and no other drugs.
- The state CSA includes penalties for being under the influence of a controlled substance, unless a medical practitioner has authorized use of such substance.
- If the death of a person is proximately caused by a controlled substance that has been sold to him by another person in violation of provisions of the CSA, the seller is guilty of murder.
- Nevada includes within its schoolyard provision other areas where youth congregate, such as public playgrounds, swimming pools, recreational centers, and video arcades.

# NEW HAMPSHIRE

Rev. 1/91

N.H. Rev. Stat. Ann. §§ 318B:1 to 318B:30

New Hampshire's CSA schedules, administered by the director of the state's public health division and subject to the approval of the state's pharmacy board, substantially conform to the federal schedules. Any addition, deletion, or rescheduling made in the federal schedules automatically becomes part of the state schedule. Precursor chemicals are placed in schedule II.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I-IV	0-7; \$25,000	0-15; \$50,000	same
V	0-3; \$15,000	0-7; \$25,000	same
marijuana	0-1; \$1,000	—	—
hashish	≤5 g.: 0-1; \$1,000 >5 g.: 0-1; \$5,000	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I-IV	0-7; \$100,000	0-15; \$200,000	same
V	0-3; \$25,000	0-6; \$50,000	same
marijuana	0-3; \$25,000	0-6; \$50,000	same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty: LSD, PCP       based on amount: cocaine, heroin, LSD, marijuana, meth/amphetamine, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Of the first \$200,000: 45 percent to drug enforcement fund of seizing agency, 45 percent to state forfeiture fund, and 10 percent to state alcohol and drug abuse prevention fund. Of the remaining; 90 percent to state forfeiture fund (not to exceed \$1,000,000) and 10 percent to state alcohol and drug abuse prevention fund (not to exceed \$400,000.) Any excess is deposited in state's general fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|  | <input type="checkbox"/> other age group                | <input type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others        |   |

---

### "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: sentence of up to twice that ordinarily authorized |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    |   |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> over 18 to under 18                      |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational | <input type="checkbox"/> buses                           | <input type="checkbox"/> other age group                          |   |
|   | <input type="checkbox"/> colleges:universities |  | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

---

### SAFEHOUSE PROVISIONS

- |   |  |  |         |
|---|--|--|---------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |         |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |         |

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### OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

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### NOTES

- Legislation passed in 1987 establishes penalties for attempts or conspiracies to violate the CSA and for the possession or sale of controlled substances that result in death or serious bodily injury.
  - 1990 legislation authorizes driver's license revocation for one to five years for minors and any period for adults convicted of possession with intent to sell. Any person's license may be revoked for 60 days to two years for possession while operating a motor vehicle.
  - Legislation enacted in the same year permits imposition of the death penalty for murders committed in connection with the manufacture, delivery, or sale of specific amounts of controlled substances.
  - A seller of methamphetamine, LSD, PCP, or other schedule I or II drugs may face life imprisonment if the buyer dies as a result of using the drug sold.
-

# NEW JERSEY

Rev. 1/91

N. J. Stat. Ann. §§ 24:21-1 to 24:21-53

New Jersey's CSA schedules, administered by the state commissioner of health, substantially conform to the federal schedules. Precursor chemicals are placed in schedule II. New Jersey has established penalties for the use of controlled substances. Penalties are determined according to the purity of the substance involved.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Use, Possession Offenses</b>			
I	3-5; \$25,000	—	—
II	3-5; \$25,000	—	—
III	3-5; \$25,000	—	—
IV	3-5; \$25,000	—	—
V	0-18 mo.; \$15,000	—	—
marijuana	≤50 g.: 0-6 mo.; \$1,000 >50 g.: 0-18 mo.; \$15,000	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	<1 oz.: 3-5; \$50,000 ≥1 oz.: 5-10; \$100,000		
I/II non-narcotics	3-5; \$15,000		
III	3-5; \$15,000		
IV	3-5; \$15,000		
V	0-18 mo.; \$15,000		
marijuana	<1 oz.: 0-18 mo.; \$7,500 1 oz.-5 lbs.: 3-5; \$15,000		

For second and subsequent offenses,  
prison terms are  
twice those otherwise authorized.

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, LSD, marijuana, methamphetamine, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession       advertisement  
 delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers                      |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Distributed to the entity funding the prosecuting agency and shared with the arresting agency in proportion to its contribution to the investigation. Proceeds must be used for law enforcement purposes.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: For distribution, mandatory minimum sentence of three years' incarceration.<br>For use or possession, 100 hrs. of community service. |
| <input checked="" type="checkbox"/> use             | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input checked="" type="checkbox"/> possession      | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input checked="" type="checkbox"/> buses                | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges/universities |  |   |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain                         | penalty: 0-20; \$500,000 or five times value of drugs involved |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |  |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |  |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |  |

## OFFENDER DRUG TESTING PROVISIONS

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                             | <input type="checkbox"/> parolees  | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers                         | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers                          |  |   |

## NOTES

- It is an affirmative defense to an alleged schoolyard violation that the offense occurred entirely within a private residence, that no person under the age of 18 was present, and that the offense was not committed for profit.
- New Jersey has enacted a provision that provides stiff penalties for persons convicted of distributing controlled substances to a pregnant woman.
- Persons convicted of any drug offense automatically are subject to six months' to two years' revocation of their driver's licenses.
- Under state laws, a prosecutor may aggregate amounts involved in separate drug transactions committed by one person to charge that person with a higher-level distribution offense. In addition, only prosecutors may waive mandatory prison terms.

# NEW MEXICO

Rev. 1/91

N. M. Stat. Ann. §§ 30-31-1 to 30-31B-18

New Mexico's CSA schedules generally conform to the federal schedules. The CSA provides for automatic addition, deletion, or rescheduling of any controlled substances to conform to changes made in the federal schedules. The state board of pharmacy, which administers the schedules, is responsible only for schedules I through IV; the legislature alone has the authority to change the classification of schedule V substances. The state's CSA provides penalties for the non-medical use of anabolic steroids by humans. Possession and distribution of anabolic steroids also is prohibited. In addition, the state's CSA includes a Precursor Chemicals Act that regulates the use and trade of precursor chemicals and requires reports of any transactions involving precursor chemicals.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II narcotics	1-5; \$5,000	—	—
I/II non-narcotics	0-1; \$500-\$1,000	—	—
III	0-1; \$500-\$1,000	—	—
IV	0-1; \$500-\$1,000	—	—
V	—	—	—
marijuana	≤1 oz.: 0-15 days; \$50-\$100 >1 oz.-8 oz.: 0-1; \$100-\$1,000	0-1; \$100-\$1,000	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	0-9; \$10,000	18; \$15,000	same
I/II non-narcotics	0-3; \$5,000	9; \$10,000	same
III/IV—delivery, sale	0-3; \$5,000	9; \$10,000	same
V—delivery, sale	6 mo.-1 yr.: \$100-\$500	—	same
marijuana	≤100 lbs.: 0-18 mos.; \$5,000 >100 lbs.: 0-3; \$5,000	0-3; \$5,000 0-9; \$10,000	

#### Comment:

Manufacturing of schedule I/II non-narcotics and schedule III/IV/V drugs carries the same penalty as I/II narcotics (0-9; \$10,000.)

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty: meth/amphetamine,  based on amount: marijuana  
PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- civil
- criminal
- administrative

- all controlled substances
- raw materials, equipment, products
- books, data, research materials

- conveyances (cars, boats, airplanes used in violation of the law)
- drug paraphernalia
- money, securities, etc.

- containers
- real property
- imitation controlled substances

### Method of distribution of proceeds after payment of seizure costs:

Deposited in the general fund of the county or municipality of the seizing agency, or, if seizure is by state police, to the state narcotics bureau.

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## PROVISIONS FOR OFFENSES INVOLVING MINORS

- not addressed specifically
- over 18 to under 18 at least 3 years junior

- over 18 to under 18
- over 18 to under 21
- other age group

- narcotics
- non-narcotics
- marijuana
- others

- using minor to sell
- imitation drugs

---

## "SCHOOLYARD" PROVISIONS

- not addressed specifically

- preschool
- elementary
- secondary
- vocational
- colleges:universities
- not specified

- radius of 1,000 feet
- other radius
- school grounds only
- buses

- inapplicable if school is not in session
- over 18 to under 18
- other age group
- not addressed

penalty: 0-18; \$15,000

---

## SAFEHOUSE PROVISIONS

- not addressed specifically
- public nuisance

- use
- possession
- distribution
- storage

- keep or maintain
- fortify
- knowingly permit illegal use of premises
- visit

penalty

---

## OFFENDER DRUG TESTING PROVISIONS

- not addressed specifically
- prison inmates

- adult probationers
- adult probationers w/drug histories
- intensive probationers
- juvenile probationers

- parolees
- parolees w/drug histories
- participants in drug rehabilitation programs

- by courts to determine pretrial release conditions
- by courts to determine sentencing conditions

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## NOTES

- Conveyances are not subject to forfeiture in misdemeanor cases.
-

# NEW YORK

Rev. 1/91

N. Y. Public Health Law §§ 3300 to 3396

New York's CSA contains a complex set of penalty provisions that are based on the amount and type of the controlled substance involved in a given drug offense. The penalty provisions listed on this chart represent the minimum imprisonment and fine for violations of the act; specific penalties may be increased up to life imprisonment. The statute should be consulted for determining the appropriate penalty for a violation involving a specific amount of a given drug. Anabolic steroids and precursor chemicals are placed in schedule II under the New York CSA.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I	0-1; \$1,000	—	—
II	0-1; \$1,000	—	—
III	0-1; \$1,000	—	—
IV	0-1; \$1,000	—	—
V	0-1; \$1,000	—	—
marijuana	\$100	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I	0-7; \$5,000	—	—
II	0-7; \$5,000	—	—
III	0-7; \$5,000	—	—
IV	0-7; \$5,000	—	—
V	0-7; \$5,000	—	—

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Of the gross proceeds, 15 percent to the prosecuting agency and five percent to the seizing law enforcement agency; of the remaining (adjusted gross) proceeds, 40 percent to the state substance abuse service fund; of the net proceeds then remaining, 75 percent to the seizing law enforcement agency and 25 percent to the prosecuting agency.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |  |
|--|---|---|--|
| <input type="checkbox"/> not addressed specifically                  | <input type="checkbox"/> over 18 to under 18                              | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21                              | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input checked="" type="checkbox"/> other age group: to a person under 19 | <input checked="" type="checkbox"/> marijuana     |  |
|  |   | <input type="checkbox"/> others                   |  |

---

### "SCHOOLYARD" PROVISIONS

- |   |   |   |   |   |
|---|---|---|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input type="checkbox"/> radius of 1,000 feet           | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of six years' incarceration |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary               | <input type="checkbox"/> other radius                   | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> secondary                | <input checked="" type="checkbox"/> school grounds only | <input checked="" type="checkbox"/> other age group               |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational               | <input type="checkbox"/> buses                          | <input type="checkbox"/> not addressed                            |   |
|   | <input type="checkbox"/> colleges:universities    |   |   |   |
|   | <input checked="" type="checkbox"/> not specified |   |   |   |

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### SAFEHOUSE PROVISIONS

- |   |  |  |                       |
|---|--|--|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use                     | <input type="checkbox"/> keep or maintain                                    | penalty: 0-4; \$5,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                       |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input type="checkbox"/> storage                 | <input type="checkbox"/> visit   |                       |

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### OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees  | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input checked="" type="checkbox"/> prison inmates  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |  |   |

---

### NOTES

- Possession of any combination of the precursors to phencyclidine (PCP) or methamphetamine is punishable by up to 15 years' incarceration.
  - Property is not subject to forfeiture in misdemeanor drug cases.
  - New York prohibits the use or sale of nitrous oxide for the purpose of intoxication.
  - Paraphernalia use provisions cover only the use of cutting agents, scales, capsules, and packaging materials for the purpose of manufacturing, packaging, or distributing controlled substances.
-

# NORTH CAROLINA

Rev. 1/91

N. C. Gen. Stat. §§ 90-86 to 90-113.8

North Carolina's schedules, administered by the state drug commission, substantially conform to the federal schedules, except that the state has created a schedule VI for marijuana. Precursor chemicals are placed in schedule II and anabolic steroids are placed in schedule III.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I	0-5; \$5,000	—	—
II	0-2; \$2,000	0-5	same
III	0-2; \$2,000	0-5	same
IV	0-2; \$2,000	0-5	same
V	0-6 mo.; \$500	0-2; \$2,000	same
VI marijuana	< 1/2 oz.: 0-30 days; \$100 1/2 oz.-1 1/2 oz.: 0-2; \$2,000 > 1 1/2 oz.: 0-5; \$5,000	0-6; \$500 same —	— — —
<b>Manufacturing, Delivery, Sale Offenses</b>			
I	0-10; fine	—	—
II	0-10; fine	—	—
III	0-5; fine	—	—
IV	0-5; fine	—	—
V	0-5; fine	—	—
VI marijuana	<5 g.: see note ≥5 g.: 0-5; fine	— —	— —

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, LSD, marijuana, meth/amphetamine, methaqualone, opiates

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

Distributed to the school fund of the county where the forfeiture took place.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18                      | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21                                 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|  | <input checked="" type="checkbox"/> other age group: 18 and over to under 16 | <input checked="" type="checkbox"/> marijuana     |   |
|  |  | <input type="checkbox"/> others                   |   |

### "SCHOOLYARD" PROVISIONS

- |   |   |  |  |  |
|---|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> preschool   | <input type="checkbox"/> radius of 1,000 feet              | <input type="checkbox"/> inapplicable if school is not in session        | penalty: mandatory minimum sentence of two years incarceration |
| <input checked="" type="checkbox"/> use             | <input checked="" type="checkbox"/> elementary  | <input checked="" type="checkbox"/> other radius: 300 feet | <input type="checkbox"/> over 18 to under 18                             |  |
| <input checked="" type="checkbox"/> possession      | <input checked="" type="checkbox"/> secondary   | <input type="checkbox"/> school grounds only               | <input checked="" type="checkbox"/> other age group: over 21 to under 18 |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational             | <input type="checkbox"/> buses                             | <input type="checkbox"/> not addressed                                   |  |
|   | <input type="checkbox"/> colleges: universities |  |  |  |
|   | <input type="checkbox"/> not specified          |  |  |  |

### SAFEHOUSE PROVISIONS

- |   |  |  |                       |
|---|--|--|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-5; \$5,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                       |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                       |

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

### NOTES

- The transfer of less than five grams of marijuana for no remuneration does not constitute delivery for penalty purposes.
- North Carolina's CSA provides for penalties for continuing criminal enterprises; a person convicted under this provision faces up to 50 years' or life imprisonment and forfeits all profits obtained through such an enterprise.
- Conveyances are not forfeitable in misdemeanor drug cases.
- A minor may be granted immunity from prosecution for possession if he discloses the identity of the person(s) from whom he obtained the controlled substance.

# NORTH DAKOTA

Rev. 1/91

N. D. Cent. Code §§ 19-03.1-01 to 19-03.2-03, 12.1-21.1-01 to 12.1-31.1-06

The state's schedules are administered by a controlled substances board comprised of the state attorney general, the director of the department of state laboratories, the executive secretary of the state board of medical examiners, and the chairman of the state board of pharmacy, or their designees. The CSA provides for automatic addition, deletion, or rescheduling of substances to conform to any changes in the federal schedules. Precursors are placed in schedule II. The state's CSA provides for graduated penalties for offenses involving marijuana and narcotics. All penalties for possession of any controlled substance, except marijuana, are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-5; \$5,000	—	—
marijuana	½ oz.-1 oz.: 0-1; \$1,000 ≥1 oz.: 0-5; \$5,000	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	0-20; \$10,000	—	—
I/II non-narcotics	0-10; \$10,000	—	—
III	0-10; \$10,000	—	—
IV	0-5; \$5,000	—	—
V	0-1; \$1,000	—	—
marijuana	<100 lbs.: 0-10; \$10,000 ≥100 lbs.: 0-20; \$10,000	—	—

### TARGETED SUBSTANCE PROVISIONS

- none                     
  higher base penalty:                     
  based on amount: cocaine, cocaine base, heroin, LSD, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically                     
  use                     
  possession                     
  advertisement  
 delivery                     
  delivery to minors                     
  manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically                     
  use                     
  possession                     
  advertisement  
 delivery                     
  manufacture

### FORFEITURE PROVISIONS

- civil                     
  all controlled substances                     
  conveyances (cars, boats, airplanes used in violation of the law)                     
  containers  
 criminal                     
  raw materials, equipment, products                     
  drug paraphernalia                     
  real property  
 administrative                     
  books, data, research materials                     
  money, securities, etc.                     
  imitation controlled substances

**Method of distribution of proceeds after payment of seizure costs:**

Up to \$500,00 is deposited in the assets forfeiture fund, administered by the state attorney general; the remainder is deposited in the general fund of the state, county, or city of the seizing agency.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |  |  |
|--|--|--|--|
| <input checked="" type="checkbox"/> not addressed specifically       | <input type="checkbox"/> over 18 to under 18 | <input type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group     | <input type="checkbox"/> marijuana     |  |
|  |  | <input type="checkbox"/> others        |  |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |  |
|---|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                        | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: sentence is enhanced by one class over that ordinarily authorized |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary            | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |  |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input checked="" type="checkbox"/> colleges:universities |  |   |  |
|   | <input type="checkbox"/> not specified                    |  |   |  |

## SAFEHOUSE PROVISIONS

- |   |  |   |         |
|---|--|---|---------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |         |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- A seized conveyance is forfeitable upon a guilty plea, upon conviction at trial, or one month after the property has been seized and the owner has not been located.
- Statutory provisions outside of the CSA establish a penalty of up to 10 years' incarceration and a \$10,000 fine for the distribution of anabolic steroids for non-medical use by humans.
- Possession of up to one half ounce of marijuana by a person operating a motor vehicle carries a penalty of up to one year's imprisonment and a \$1,000 fine.

# OHIO

Rev. 1/91

Ohio Rev. Code §§ 3719.01 to 3719.99, 2925.01 to 2925.51

Ohio's CSA schedules substantially conform to the federal schedules. Any additions, deletions, or reschedulings made in the federal schedules automatically become part of the state schedule. Ohio places precursor chemicals in schedule II. Penalties for possession and sale offenses are based on a table of "bulk amounts", which vary depending on the substance. For example, "bulk amounts" include 200 grams of marijuana; 30 grams or 10 unit doses of any schedule I hallucinogen; or 120 grams of schedule III or IV substances. Offenses are classified as follows: (1) cultivation, manufacture, transport, delivery, or distribution; (2) use or possession of less than the bulk amount (drug abuse); (3) possession of greater than the bulk amount but less than three times the bulk amount; (4) sale of greater than the bulk amount but less than three times the bulk amount; (5) possession of greater than three times the bulk amount but less than 100 times the bulk amount; (6) sale of greater than three times the bulk amount but less than 100 times the bulk amount; (7) possession of greater than 100 times the bulk amount; (8) sale of greater than 100 times the bulk amount; and (9) provision of funds to another to acquire greater than the bulk amount. Within each of these categories, penalties are assigned according to the type of substance involved. Penalties listed below are for offenses involving less than the bulk amounts.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II	1½-5; \$2,500	1-10; \$5,000	same
III/IV/V	0-60 days; \$500	0-90 days; \$750	same
marijuana	<100 g.: \$100	—	—
<b>Delivery, Sale Offenses</b>			
I/II	1-10; \$2,000	2-15; \$5,000	same
III/IV/V	6 mo.-5; \$2,500	1-10; \$5,000	same
marijuana	<100 g.: \$100	—	—
<b>Manufacturing Offenses</b>			
I/II	3-15; \$7,500	5-25; \$15,000	same
III/IV/V	1-10; \$5,000	2-15; \$7,500	same
marijuana	1½-5; \$2,500	2-10; \$5,000	same

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |  |  |   |  |
|--|--|---|--|
| <input checked="" type="checkbox"/> civil    | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers           |
| <input checked="" type="checkbox"/> criminal | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property        |
| <input type="checkbox"/> administrative      | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Deposited in the law enforcement trust fund of the seizing agency's political subdivision.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input type="checkbox"/> over 18 to under 18   | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell        |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21   | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs |
|  | <input checked="" type="checkbox"/> other age group: over 18 to under 18 at least 2 years junior | <input checked="" type="checkbox"/> marijuana     |   |
|  |  | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |  |
|---|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of 1-20 years' incarceration, depending on the type of drug involved in the offense. |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary               | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |  |
| <input checked="" type="checkbox"/> possession      | <input type="checkbox"/> secondary                | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational               | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input type="checkbox"/> colleges:universities    |  |   |  |
|   | <input checked="" type="checkbox"/> not specified |  |   |  |

## SAFEHOUSE PROVISIONS

- |   |  |   |         |
|---|--|---|---------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |         |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |
|   |  |   |         |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- Mandatory fines imposed for drug trafficking are to be paid to the agencies responsible for the arrest and prosecution of the offenders.
- It is an offense for any person to allow any vehicle he owns to be used in the commission of a felony offense or to allow any real estate he owns to be used in the commission of a felony drug offense. The offense is punishable by up to six months' imprisonment and a fine of up to \$1,000 for the first violation and by six months' to five years' confinement and a fine of up to \$2,500 for subsequent violations.
- The state CSA also includes penalties for the offense of "corrupting another with drugs". This offense includes forcing a person to use a controlled substance; providing a person with drugs upon which he becomes dependent; inducing a person to use a controlled substance resulting in serious physical harm; or furnishing a controlled substance to a person under 18 who is at least four years the offender's junior.

# OKLAHOMA

Rev. 1/91

Okl. Stat. Ann. tit. 63, §§ 2-101 to 2-608

The Oklahoma CSA has five schedules, but for possession offenses, marijuana is treated separately. A significant difference between the state's schedules and the federal schedules is that the Oklahoma system includes phencyclidine (PCP) in schedule I, whereas this drug is listed under schedule II in the federal CSA. The Oklahoma system also includes amphetamines, methamphetamine, methaqualone, amobarbital, pentobarbital and secobarbital in schedule II, whereas these drugs fall under schedules III, IV, and V in the federal scheme. Precursor chemicals are placed under schedule III and anabolic steroids under schedule IV.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II	2-10	4-20	—
III	0-1	2-10	—
IV	0-1	2-10	—
V	0-1	2-10	—
marijuana	0-1	2-10	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	5-life; \$100,000		
I/II non-narcotics	2-life; \$20,000		
III	2-life; \$20,000		
IV	2-life; \$20,000		
V	0-5; \$1,000		

For second and subsequent offenses penalties and fines are twice those otherwise authorized.

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, cocaine base, heroin, LSD, marijuana, meth/amphetamine, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited in the revolving fund of the county where the property was seized, to be used for drug laws enforcement, drug abuse prevention, and drug education. If the seizure is made by a state agency, proceeds are deposited into that agency's revolving fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- not addressed specifically  
 over 18 to under 18 at least 3 years junior

- over 18 to under 18  
 over 18 to under 21  
 other age group

- narcotics  
 non-narcotics  
 marijuana  
 others

- using minor to sell  
 imitation drugs

### "SCHOOLYARD" PROVISIONS

- not addressed specifically  
 use  
 possession  
 distribution

- preschool  
 elementary  
 secondary  
 vocational  
 colleges:universities  
 not specified

- radius of 1,000 feet  
 other radius  
 school grounds only  
 buses

- inapplicable if school is not in session  
 over 18 to under 18  
 other age group  
 not addressed

penalty: mandatory minimum sentence of  $\frac{1}{2}$  term of incarceration actually imposed

### SAFEHOUSE PROVISIONS

- not addressed specifically  
 public nuisance

- use  
 possession  
 distribution  
 storage

- keep or maintain  
 fortify  
 knowingly permit illegal use of premises  
 visit

penalty: \$1,000 civil fine; but if done knowingly 0-5; \$10,000

### OFFENDER DRUG TESTING PROVISIONS

- not addressed specifically  
 prison inmates

- adult probationers  
 adult probationers w/drug histories  
 intensive probationers  
 juvenile probationers

- parolees  
 parolees w/drug histories  
 participants in drug rehabilitation programs

- by courts to determine pretrial release conditions  
 by courts to determine sentencing conditions

### NOTES

- Penalties of up to one year's imprisonment and/or a \$2,500 fine may be imposed on persons who permit anyone under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is conducted, or who sell to a person under 18 years of age any device designed to introduce tobacco, marijuana, or cocaine into the body.
- Legislation passed in 1990 requires that transactions involving controlled substance precursors be reported to the state police; failure to report may result in a maximum penalty of one year's imprisonment and a \$2,500 fine.
- A person convicted of unlawfully manufacturing or attempting to manufacture any controlled dangerous substance is punishable by imprisonment for not less than 20 years and not more than \$50,000.
- Fines collected for drug trafficking offenses are divided equally among a revolving drug laws enforcement fund, the municipality conducting the investigation, a drug abuse education fund, and a court fund.
- In addition to being placed in schedule IV, anabolic steroids are regulated by a provision outside of the CSA that provides a penalty of up to three years' imprisonment and a fine of up to \$10,000 for the dispensing of anabolic steroids for non-medical use by humans.

# OREGON

Rev. 1/91

Or. Rev. Stat. §§ 475.005 to 475.285, 475.992 to 475.995

Oregon's CSA schedules substantially conform to the federal schedules. The state CSA provides for automatic addition, deletion, or rescheduling of any controlled substance within 30 days of any change in the federal schedules. Special CSA provisions require manufacturers and dealers to report to the state police all transactions involving precursor chemicals, including any loss or theft of precursor chemicals.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I	0-10; \$100,000	—	—
II	0-5; \$100,000	—	—
III	0-1; \$2,500	—	—
IV	9-30 days; \$500	—	—
V	\$250	—	—
marijuana	<1 oz.: \$500- \$1,000 ≥1 oz.: 0-10; \$100,000	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I	0-20; \$100,000	—	—
II	0-10; \$100,000	—	—
III	0-5; \$100,000	—	—
IV	0-6 mo.; \$1,000	—	—
V	0-30 days; \$500	—	—
marijuana	0-10; \$100,000	—	—

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:  
Deposited into the common school fund.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |  |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |  |
|   |   | <input type="checkbox"/> others                   |  |
- 

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |                          |
|---|--|--|---|--------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: 0-20; \$100,000 |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |                          |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input checked="" type="checkbox"/> other age group               |                          |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational | <input type="checkbox"/> buses                           | <input type="checkbox"/> not addressed                            |                          |
|   | <input type="checkbox"/> colleges:universities |  |   |                          |
|   | <input type="checkbox"/> not specified         |  |   |                          |
- 

## SAFEHOUSE PROVISIONS

- |   |  |  |                                  |
|---|--|--|----------------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain                         | penalty: Based on drug schedules |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                                  |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                                  |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                                  |
- 

## OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> adult probationers       | <input type="checkbox"/> parolees  | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |  |   |
-

# PENNSYLVANIA

Rev. 1/91

Pa. Stat. Ann. tit. 35, §§ 780-101 to 780-144

Pennsylvania's schedules conform substantially to the federal schedules; the state's secretary of health uses the same criteria as the U.S. Drug Enforcement Agency in classifying substances. All penalties for possession of a controlled substance are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-1; \$5,000	0-3; \$25,000	same
marijuana	≤30 g.: 0-30 days; \$500 >30 g.: 0-1; \$5,000	0-3; \$25,000	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	0-15; \$250,000	0-30; \$500,000	same
I/II non-narcotics	0-5; \$15,000	0-10; \$30,000	same
III	0-5; \$15,000	0-10; \$30,000	same
IV	0-3; \$10,000	0-6; \$20,000	same
V	0-1; \$5,000	0-2; \$10,000	same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty: cocaine, methamphetamine, PCP       based on amount: marijuana

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into the general fund of the state or political subdivision that effected the seizure.

### PROVISIONS FOR OFFENSES INVOLVING MINORS

- not addressed specifically       over 18 to under 18       narcotics       using minor to sell  
 over 18 to under 18 at least 3 years junior       over 18 to under 21       non-narcotics       imitation drugs  
 over 18 to under 18 at least 3 years junior       other age group: over 21 to under 18, at least 4 years junior       marijuana       others

**"SCHOOLYARD" PROVISIONS**

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                        | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of two years' incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary            | <input type="checkbox"/> other radius                    | <input checked="" type="checkbox"/> over 18 to under 18           |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational            | <input type="checkbox"/> buses                           | <input type="checkbox"/> not addressed                            |   |
|   | <input checked="" type="checkbox"/> colleges:universities |  |   |   |
|   | <input type="checkbox"/> not specified                    |  |   |   |

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**SAFEHOUSE PROVISIONS**

- |  |                                       |   |         |
|--|---------------------------------------|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                         | penalty |
| <input type="checkbox"/> public nuisance                       | <input type="checkbox"/> possession   | <input type="checkbox"/> fortify                                  |         |
|  | <input type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|  | <input type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

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**OFFENDER DRUG TESTING PROVISIONS**

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

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**NOTES**

- Pennsylvania's schoolyard provision applies to all public, private or parochial schools and to colleges and universities within the state.
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# RHODE ISLAND

Rev. 1/91

R. I. Gen. Laws §§ 21-28-1.01 to 21-28-6.02, 21-28.5-1 to 21-28.5-4

Rhode Island's CSA schedules substantially conform to the federal schedules. The state CSA provides for automatic addition, deletion, or rescheduling of any controlled substances to conform to changes made to the federal schedules. Rhode Island places anabolic steroids in schedule V and prohibits practitioners from dispensing steroids without medical necessity. In addition, precursor chemicals are placed in schedule II. The state CSA provides different penalties for drug dependent and non-drug dependent offenders who manufacture, deliver, or sell schedule I or II controlled substances.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-3; \$5,000	0-6; \$10,000	0-18; \$30,000
marijuana	0-1; \$500	1-2; \$1,000	0-6; \$3,000
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II drug-dependent	0-30; \$100,000		
I/II non-drug dependent	0-life; \$500,000		
III	0-20; \$40,000		
IV	0-20; \$40,000		
V	0-1; \$10,000		
marijuana	0-30; \$100,000		

For second offenses, fines and penalties are twice those otherwise authorized. For third and subsequent offenses, fines and penalties are tripled.

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, LSD, marijuana, PCP

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Of the first \$200,000, 20 percent to the attorney general for drug-related law enforcement activities, 70 percent to the seizing agency, and 10 percent to state treatment programs. Of the remaining proceeds, 50 percent to the police officers training account (not to exceed \$200,000.)

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group     | <input checked="" type="checkbox"/> marijuana     |   |
|   |  | <input type="checkbox"/> others                   |   |

---

### "SCHOOLYARD" PROVISIONS

- |   |  |   |   |   |
|---|--|---|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet           | <input type="checkbox"/> inapplicable if school is not in session | penalty: sentence of up to twice that ordinarily authorized |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                   | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input checked="" type="checkbox"/> school grounds only | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> vocational | <input type="checkbox"/> buses                          | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges:universities |   |   |   |
|   | <input type="checkbox"/> not specified         |   |   |   |

---

### SAFEHOUSE PROVISIONS

- |   |  |  |                       |
|---|--|--|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-5; \$5,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                       |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                       |

---

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> adult probationers       | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |   |   |

---

### NOTES

- The state legislature in 1990 enacted a statute, effective Jan. 1, 1991, requiring drug testing of every person placed on probation for a schedule I or II drug offense.
  - Persons convicted of possession but not sentenced to imprisonment are required to perform 100 hours of community service and pay a \$400 fine which is deposited into the state's Drug Education Assessment and Treatment Account; those individuals also are subject to mandatory referral to drug counseling.
  - Personal property valued at less than \$20,000 is subject to administrative forfeiture.
-

# SOUTH CAROLINA

Rev. 1/91

S. C. Code Ann. §§ 44-53-110 to 44-53-580

The state department of health and environmental control administers South Carolina's drug schedules. The state's CSA contains schedules substantially similar to the federal schedules and provides for automatic conformity of the state schedules with any changes made to the federal schedules. Precursor chemicals are placed in schedule II under the South Carolina statute.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II narcotics	0-2; \$5,000	0-3; \$5,000	0-4; \$10,000
I/II non-narcotics	0-6 mo.: \$1,000	0-1; \$2,000	same
III A	0-6 mo.: \$1,000	0-1; \$2,000	same
IV	0-6 mo.: \$1,000	0-1; \$2,000	same
V	0-6 mo.: \$1,000	0-1; \$2,000	same
marijuana	<1 oz.: 0-30 days; \$100-\$200 ≥1 oz.: targeted substance	0-1; \$200-\$1,000	same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	0-5; \$25,000	5-30; \$50,000	5-30; \$50,000
I/II non-narcotics	0-5; \$5,000	0-10; \$10,000	5-20; \$20,000
III	0-5; \$5,000	0-10; \$10,000	5-20; \$20,000
IV	0-3; \$3,000	0-6; \$6,000	same
V	0-1; \$1,000	0-2; \$2,000	same

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, crack, heroin, marijuana, methaqualone, morphine, opium

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

75 percent to the law enforcement agency involved in the seizure, 20 percent to the prosecuting agency, and five percent to the state general fund. The first \$1,000 of any cash seized and forfeited remains with the law enforcement agency that effected the seizure.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |  |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically<br><input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input checked="" type="checkbox"/> over 18 to under 18<br><input type="checkbox"/> over 18 to under 21<br><input type="checkbox"/> other age group | <input checked="" type="checkbox"/> narcotics<br><input checked="" type="checkbox"/> non-narcotics<br><input type="checkbox"/> marijuana<br><input checked="" type="checkbox"/> others: crack | <input type="checkbox"/> using minor to sell<br><input type="checkbox"/> imitation drugs |
|---|---|---|--|

### "SCHOOLYARD" PROVISIONS

- |  |  |   |  |  |
|--|--|---|--|--|
| <input type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution | <input type="checkbox"/> preschool<br><input checked="" type="checkbox"/> elementary<br><input checked="" type="checkbox"/> secondary<br><input type="checkbox"/> vocational<br><input type="checkbox"/> colleges:universities<br><input type="checkbox"/> not specified | <input type="checkbox"/> radius of 1,000 feet<br><input checked="" type="checkbox"/> other radius: 1/2 mile<br><input type="checkbox"/> school grounds only<br><input type="checkbox"/> buses | <input type="checkbox"/> inapplicable if school is not in session<br><br><input type="checkbox"/> over 18 to under 18<br><input type="checkbox"/> other age group<br><input checked="" type="checkbox"/> not addressed | penalty: 0-10; \$10,000, but for crack offenses, there is a mandatory minimum sentence of ten years' incarceration and a \$10,000 fine |
|--|--|---|--|--|

### SAFEHOUSE PROVISIONS

- |   |   |  |         |
|---|---|--|---------|
| <input type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution<br><input checked="" type="checkbox"/> storage | <input type="checkbox"/> keep or maintain<br><input type="checkbox"/> fortify<br><input type="checkbox"/> knowingly permit illegal use of premises<br><input type="checkbox"/> visit | penalty |
|---|---|--|---------|

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |  |
|---|--|--|--|
| <input checked="" type="checkbox"/> not addressed specifically<br><br><input type="checkbox"/> prison inmates | <input type="checkbox"/> adult probationers<br><input type="checkbox"/> adult probationers w/drug histories<br><input type="checkbox"/> intensive probationers<br><input type="checkbox"/> juvenile probationers | <input type="checkbox"/> parolees<br><input type="checkbox"/> parolees w/drug histories<br><br><input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine pretrial release conditions<br><input type="checkbox"/> by courts to determine sentencing conditions |
|---|--|--|--|

### NOTES

- Possession of more than 10 grams of cocaine, 100 milligrams of alpha or beta eucaine, 4 grams of opium or morphine, 2 grams of heroin, 1 ounce of marijuana, 10 grams of hashish, 50 micrograms of lysergic acid diethylamide (LSD) or 1 gram of "crack" is prima facie evidence that the offender had the intent to distribute a controlled substance.
- No motor vehicle is subject to forfeiture if it was used to transport or conceal less than one pound of marijuana or hashish, four grams of opium or morphine, two grams of heroin, 10 grams of cocaine, or 50 micrograms of lysergic acid diethylamide (LSD).
- Under statutory provisions outside of the CSA, delivery of steroids for non-medical use in humans is punishable by up to five years' imprisonment and a fine of up to \$5,000. Penalties for unlawful possession vary according to the amount of anabolic steroids involved.
- South Carolina has enacted drug free playground and park zone provisions to complement its drug free school zone provision.

# SOUTH DAKOTA

Rev. 1/91

S. D. Codified Laws Ann. §§ 34-208-1 to 34-208-114, 22-42-1 to 22-42-16

South Dakota has only four schedules, whereas the federal CSA has five schedules. The state places federal schedule V substances in schedule IV. All penalties for possession of any controlled substance, except marijuana, are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-5; \$5,000	—	—
marijuana	≤1 oz.: 0-30 days; \$100	—	—
	>1 oz.-<½ lb.: 0-1; \$1,000	—	—
	≥½ lb.-<1 lb.: 0-2; \$2,000	—	—
	≥1 lb.-≤10 lbs.: 0-5; \$5,000	—	—
	>10 lbs.: 0-10; \$10,000	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I	1-10; \$10,000	10; \$10,000	same
II	1-10; \$10,000	10; \$10,000	same
III	30 days-5; \$5,000	1-5; \$5,000	same
IV	30 days-2; \$2,000	1-2; \$2,000	same
marijuana	≤1 oz.: 15 days-1; \$1,000	—	—
	>1 oz.-<½ lb.: 30 days-2; \$2,000	1-2; \$2,000	—
	≥½ lb.-<1 lb.: 30 days-5; \$5,000	1-5; \$5,000	—
	≥1 lb.: 30 days-10; \$10,000	1-10; \$10,000	—

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into the state drug control fund to be used specifically for drug laws enforcement purposes.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |  |
|--|---|---|--|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |  |
|  |   | <input type="checkbox"/> others                   |  |

### "SCHOOLYARD" PROVISIONS

- |  |  |   |   |         |
|--|--|---|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty |
| <input type="checkbox"/> use                                   | <input type="checkbox"/> elementary            | <input type="checkbox"/> other radius         | <input type="checkbox"/> over 18 to under 18                      |         |
| <input type="checkbox"/> possession                            | <input type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only  | <input type="checkbox"/> other age group                          |         |
| <input type="checkbox"/> distribution                          | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                | <input type="checkbox"/> not addressed                            |         |
|  | <input type="checkbox"/> colleges/universities |   |   |         |
|  | <input type="checkbox"/> not specified         |   |   |         |

### SAFEHOUSE PROVISIONS

- |   |  |   |                       |
|---|--|---|-----------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain              | penalty: 0-5; \$5,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |                       |
|   | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |                       |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |                       |

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- Conveyances are not subject to forfeiture in cases involving less than one-half pound of marijuana.
- In addition to criminal penalties, a civil fine of up to \$10,000 may be imposed for marijuana possession and offenses involving the manufacture/delivery/sale of schedule I/II controlled substances.
- 1990 legislation authorizes revocation of a minor's driver's license for 90 days for a first offense involving possession of drugs or drug paraphernalia while in a motor vehicle. For a second offense, an individual's license may be revoked for one year or until the minor's 17th birthday, whichever is longer.
- Other 1990 legislation makes manufacture/delivery/sale of schedule I or II drugs an aggravating circumstance for a judge or jury to consider in cases where the death penalty may apply.
- Offenses involving the unlawful delivery or sale of schedule I/II controlled substances to minors carry a mandatory minimum sentence of five years' incarceration for a first offense and 10 years' incarceration for second and subsequent offenses.
- A 1989 law authorizes courts to consider mitigating factors in determining whether to impose less than the mandatory minimum sentence for manufacture/delivery/sale of schedule I/II drugs.

# TENNESSEE

Rev. 1/91

Tenn. Code Ann. §§ 39-17-401 to 39-17-427; 53-11-201 to 53-11-214

Tennessee's schedules generally conform to the federal schedules. However, the state CSA also includes a sixth schedule that covers marijuana and tetrahydrocannabinols and a seventh schedule that covers only butyl nitrate. Precursor chemicals are placed in schedule II. The CSA provides for automatic addition, deletion, or rescheduling of substances to conform to changes in the federal schedules. All penalties for possession of controlled substances are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-1; \$2,500	same	1-6; \$3,000
<b>Manufacturing, Delivery, Sale Offenses</b>			
I	8-30; \$100,000	—	—
II	3-15; \$100,000	—	—
III	2-12; \$50,000	—	—
IV	2-12; \$50,000	—	—
V	1-6; \$5,000	—	—
VI	<.5 oz.: 0-1, \$2,500 .5 oz.-10 lbs.: 1-5; \$3,000 ≥10 lbs.-70 lbs.: 4-10; \$10,000	—	—
VII	1-6; \$1,000	—	—

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount: cocaine, heroin, hydromorphone, LSD, marijuana, meth/amphetamine, morphine, pentazocine, PCP, triple enamine

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into the account of the state, county, or municipal government whose agency instituted the seizure, or into the state motor vehicle account if seized by state motor carrier officers.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically                             | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group     | <input type="checkbox"/> marijuana                |  |
|   |  | <input type="checkbox"/> others                   |  |

---

### "SCHOOLYARD" PROVISIONS

- |  |  |   |   |         |
|--|--|---|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty |
| <input type="checkbox"/> use                                   | <input type="checkbox"/> elementary            | <input type="checkbox"/> other radius         | <input type="checkbox"/> over 18 to under 18                      |         |
| <input type="checkbox"/> possession                            | <input type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only  | <input type="checkbox"/> other age group                          |         |
| <input type="checkbox"/> distribution                          | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                | <input type="checkbox"/> not addressed                            |         |
|  | <input type="checkbox"/> colleges:universities |   |   |         |
|  | <input type="checkbox"/> not specified         |   |   |         |

---

### SAFEHOUSE PROVISIONS

- |   |  |  |                         |
|---|--|--|-------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 2-10; \$20,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                         |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                         |

---

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input checked="" type="checkbox"/> prison inmates  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |   |   |

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### NOTES

- Conveyances are subject to forfeiture in cases involving possession offenses.
-

# TEXAS

Rev. 1/91

Tex. Health and Safety Code Ann. §§ 481.001 to 481.205

The state's CSA classifies controlled substances into four groups for penalty purposes. Otherwise, the state's schedules, administered by the commissioner of health and subject to approval by the legislature, substantially conform to the federal schedules. Group one includes those drugs in federal schedules I and II narcotics, lysergic acid diethylamide (LSD), methamphetamine, phencyclidine (PCP) and phenylacetone and methylamine (if possessed together with the intent to manufacture amphetamine). Group two includes those drugs in the federal schedule I non-narcotics, plus the PCP analogs amphetamine, meclo- and methaqualone, tetrahydrocannabinols other than marijuana, and precursor chemicals. Group three consists of the federal schedule III substances and most federal schedule IV substances, including valium, peyote, and phenobarbital. Finally, group four contains those drugs found in federal schedule V and anabolic steroids. Penalties for offenses involving each group are based on the amount of the substance involved. Penalties listed in the chart for marijuana encompass the broad range of possible penalties for either possession or manufacturing/delivery/ sale offenses involving 2,000 lbs. or less of marijuana. Penalties for possession of more than 2,000 lbs. of marijuana are listed under "targeted substances" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

Possession Offenses	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
group 1	<28 g.: 2-20; \$10,000 28 g.-400 g.: 5-99, life; \$50,000 ≥400 g.: 10-99, life; \$100,000	— 10-99, life; \$100,000 15-99, life; \$250,000	— same same
group 2	<28 g.: 2-10; \$10,000 28 g.-400 g.: 5-99, life; \$50,000 ≥400 g.: 10-99, life; \$100,000	— 10-99, life; \$100,000 15-99, life; \$250,000	— same same
group 3	<200 g.: 0-1; \$2,000 200 g.-400 g.: 5-99, life; \$50,000 ≥400 g.: 10-99, life; \$100,000	— 10-99, life; \$100,000 15-99, life; \$250,000	— same same
group 4	<200 g.: 0-180 days; \$1,000 200 g.-400 g.: 5-99, life; \$50,000 ≥400 g.: 10-99, life; \$100,000	— 10-99, life; \$100,000 15-99, life; \$250,000	— same same
marijuana	0-99, life; \$1,000-\$100,000	0-99, life; \$250,000	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
group 1	<28 g.: 5-99, life; \$20,000 28 g.-200 g.: 5-99, life; \$50,000 200 g.-400 g.: 10-99, life; \$100,000 ≥400 g.: 15-99, life; \$250,000	— 10-99, life; \$100,000 15-99, life; \$250,000 20-99, life; \$500,000	— same same same
group 2	<28 g.: 2-20; \$10,000 28 g.-400 g.: 5-99, life; \$50,000 ≥400 g.: 10-99, life; \$100,000	— 10-99, life; \$100,000 15-99, life; \$250,000	— same same
group 3 and 4	<200 g.: 2-10; \$10,000 200 g.-400 g.: 5-99, life; \$50,000 ≥400 g.: 10-99, life; \$100,000	— 10-99, life; \$100,000 15-99, life; \$250,000	— same same
marijuana	0-99, life; \$1,000-\$100,000	0-99, life; \$250,000	same

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount: marijuana

### PARAPHERNALIA PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

## IMITATION DRUG PROVISIONS

not addressed specifically

use  
 delivery

possession

advertisement  
 manufacture

## FORFEITURE PROVISIONS

civil  
 criminal  
 administrative

all controlled substances  
 raw materials, equipment, products  
 books, data, research materials

conveyances (cars, boats, airplanes used in violation of the law)  
 drug paraphernalia  
 money, securities, etc.

containers  
 real property  
 imitation controlled substances

### Method of distribution of proceeds after payment of seizure costs:

Deposited into the state treasury general revenue fund. If an agreement exists between the state and the seizing law enforcement agency, proceeds go to one or more of the following: the county treasury for use by state prosecutors; the municipal treasury for local law enforcement uses; the county treasury for county law enforcement uses; or the state agency for law enforcement purposes.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

not addressed specifically  
 over 18 to under 18 at least 3 years junior

over 18 to under 18  
 over 18 to under 21  
 other age group: over 18 to under 17

narcotics  
 non-narcotics  
 marijuana  
 others

using minor to sell  
 imitation drugs

## "SCHOOLYARD" PROVISIONS

not addressed specifically

preschool  
 elementary  
 secondary  
 vocational  
 colleges/universities  
 not specified

radius of 1,000 feet  
 other radius  
 school grounds only  
 buses

inapplicable if school is not in session  
 over 18 to under 18  
 other age group  
 not addressed

penalty

use  
 possession  
 distribution

## SAFEHOUSE PROVISIONS

not addressed specifically  
 public nuisance

use  
 possession  
 distribution  
 storage

keep or maintain  
 fortify  
 knowingly permit illegal use of premises  
 visit

penalty

## OFFENDER DRUG TESTING PROVISIONS

not addressed specifically  
 prison inmates

adult probationers  
 adult probationers w/drug histories  
 intensive probationers  
 juvenile probationers

parolees  
 parolees w/drug histories  
 participants in drug rehabilitation programs

by courts to determine pretrial release conditions  
 by courts to determine sentencing conditions

## NOTES

- Spending funds derived from the sale of more than 28 grams of substances in group one or two, or more than 50 pounds of marijuana, is itself a crime punishable by five years to life in prison or 99 years and a fine of \$50,000 to \$1 million.

# UTAH

Rev. 1/91

Utah Code Ann. §§ 58-37-1 to 58-37-19

The Utah CSA provides that all substances controlled under federal law automatically shall be controlled under state law. Therefore, the state's schedules are similar to the federal schedules. Anabolic steroids are placed in schedule III and precursor chemicals in schedule II. All penalties for possession of any controlled substance are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II	0-5; \$5,000	1-15; \$10,000	same
III	0-6 mo.; \$1,000	0-1; \$2,500	0-5; \$500
IV	0-6 mo.; \$1,000	0-1; \$2,500	0-5; \$500
V	0-6 mo.; \$1,000	0-1; \$2,500	0-5; \$500
marijuana	<1 oz.; 0-6 mo.: \$1,000 ≥1 oz.-16 oz.: 0-1; \$2,500 ≥16 oz.-100 lbs.: 0-5; \$5,000	0-1; \$2,500 0-5; \$5,000 1-15; \$10,000	same same same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II	1-15; \$15,000	7 $\frac{1}{2}$ -15; \$15,000	same
III	0-5; \$10,000	1-15; \$15,000	same
IV	0-5; \$10,000	1-15; \$15,000	same
V	0-1; \$7,500	0-5; \$10,000	same
marijuana	0-5; \$10,000	1-15; \$15,000	same

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount: marijuana

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

Deposited into the custody of the division of finance, which may distribute proceeds to the seizing agency or any other agency showing need of the property for drug enforcement activities. If no agency receives the property, it is disposed of by public sale or destruction.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> not addressed specifically                  | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|  | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|  |   | <input type="checkbox"/> others                   |   |

---

### "SCHOOLYARD" PROVISIONS

- |   |   |  |   |  |
|---|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool              | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of five years' incarceration |
| <input checked="" type="checkbox"/> use             | <input checked="" type="checkbox"/> elementary  | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |  |
| <input checked="" type="checkbox"/> possession      | <input checked="" type="checkbox"/> secondary   | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |  |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational             | <input type="checkbox"/> buses                           | <input checked="" type="checkbox"/> not addressed                 |  |
|   | <input type="checkbox"/> colleges; universities |  |   |  |
|   | <input type="checkbox"/> not specified          |  |   |  |

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### SAFEHOUSE PROVISIONS

- |   |  |  |                     |
|---|--|--|---------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-6 months |
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> possession   | <input type="checkbox"/> fortify   |                     |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                     |
|   | <input type="checkbox"/> storage                 | <input checked="" type="checkbox"/> visit                                    |                     |

---

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

---

### NOTES

- Utah statutes authorize suspension of a minor's driver's license for CSA violations.
  - Provisions outside of the CSA punish the illegal distribution of precursor chemicals by a sentence of up to five years' incarceration and a fine of up to \$5,000. Illegal possession of precursor chemicals is punishable by a sentence of up to one year's imprisonment and a fine of up to \$2,500.
-

# VERMONT

Rev. 1/91

Vt. Stat. Ann. tit. 18, §§ 4201 to 4248

For penalty purposes, the state has classified controlled substances into depressants, stimulants, narcotics, and hallucinogens, with separate penalties for cocaine, heroin, marijuana, and lysergic acid diethylamide (LSD). Exact penalties are based on amounts involved in the offense. Penalties listed below represent the full range of penalties possible for each group. The state's CSA should be checked for specific penalties.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
hallucinogens	0-15; \$500,000		
depressants, stimulants, narcotics	0-20; \$500,000		
cocaine	0-20; \$1,000,000		For second and subsequent offenses, fines and penalties are twice those otherwise authorized
heroin	0-20; \$1,000,000		
marijuana	0-15; \$500,000		
LSD	0-20; \$500,000		
<b>Delivery, Sale Offenses</b>			
hallucinogens	0-15; \$500,000		
depressants, stimulants, narcotics	0-20; \$500,000		
cocaine	0-20; \$1,000,000		For second and subsequent offenses, fines and penalties are twice those otherwise authorized
heroin	0-20; \$1,000,000		
marijuana	0-15; \$500,000		
LSD	0-20; \$500,000		
<b>Manufacturing, Cultivation Offenses</b>			
flat penalty	0-20; \$1,000,000		
marijuana	>3-10 plants: 0-3; \$10,000 >10-25 plants: 0-5; \$100,000 >25 plants: 0-15; \$500,000		

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

## FORFEITURE PROVISIONS

- |   |  |   |  |
|---|--|---|--|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input checked="" type="checkbox"/> containers           |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative   | <input checked="" type="checkbox"/> books, data, research materials    | <input checked="" type="checkbox"/> money, securities, etc.   | <input type="checkbox"/> imitation controlled substances |

Method of distribution of proceeds after payment of seizure costs:  
Deposited into state treasury.

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## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically                                       | <input checked="" type="checkbox"/> over 18 to under 18: sale | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell        |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior: delivery | <input type="checkbox"/> over 18 to under 21                  | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs |
|   | <input type="checkbox"/> other age group:                     | <input checked="" type="checkbox"/> marijuana     |   |
|   |   | <input type="checkbox"/> others                   |   |

---

## "SCHOOLYARD" PROVISIONS

- |   |  |   |   |                         |
|---|--|---|---|-------------------------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet           | <input type="checkbox"/> inapplicable if school is not in session | penalty: 0-20; \$50,000 |
|   | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                   |   |                         |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> secondary  | <input checked="" type="checkbox"/> school grounds only | <input type="checkbox"/> over 18 to under 18                      |                         |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> vocational | <input checked="" type="checkbox"/> buses               | <input type="checkbox"/> other age group:                         |                         |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> colleges:universities |   | <input checked="" type="checkbox"/> not addressed                 |                         |
|   | <input type="checkbox"/> not specified         |   |   |                         |

---

## SAFEHOUSE PROVISIONS

- |   |  |   |         |
|---|--|---|---------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input checked="" type="checkbox"/> keep or maintain              | penalty |
|   | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify                                  |         |
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> distribution | <input type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit                                    |         |

---

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
|  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    |   |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

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## NOTES

- No property may be forfeited in cases where the offense involves less than two ounces of marijuana and no other drug.
  - Real estate may not be forfeited if it is the primary residence of any of the violator's family members.
-

# VIRGINIA

Rev. 1/91

Va. Code Ann. §§ 18.2-247 to 18.2-265.5, 54.1-3400 to 54.1-3472

In Virginia, the state board of pharmacy has the responsibility for scheduling drugs. Virginia's CSA schedules substantially conform to the federal schedules. A significant exception to automatic conformity involves the drug phencyclidine (PCP); while it is a schedule II drug under the federal schedules, it is a schedule I drug under the Virginia classification scheme. In addition, Virginia has a schedule VI for certain stimulants and depressants that have been excepted from schedules III, IV, and V and unscheduled drugs that are recognized by experts to be unsafe for use without medical supervision. In Virginia, precursor chemicals are schedule II substances. The state's CSA also prohibits the manufacture, sale, or distribution of anabolic steroids for non-medical use by humans. For penalty purposes, Virginia does not distinguish between narcotics and non-narcotics.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II	1-10; \$1,000	—	—
III	0-1; \$1,000	—	—
IV	0-6 mos.; \$500	—	—
V	\$500	—	—
VI	\$100	—	—
marijuana	<5 lbs.: 0-30 days; \$500 ≥5 lbs.: 1-10; \$1,000	0-12 mos.; \$1,000	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II	5-40; \$100,000	—	—
III	0-1; \$1,000	—	—
IV	0-1; \$1,000	—	—
V	0-1; \$1,000	—	—
VI	—	—	—
marijuana	sale: ≤ <sup>1</sup> / <sub>2</sub> oz.: 0-1; \$1,000 <sup>1</sup> / <sub>2</sub> oz.-5 lbs.: 1-10; \$1,000 > 5 lbs.: 5-30; \$10,000 manufacture: 5-30; \$10,000	—	—

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       delivery to minors       manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use       possession       advertisement  
 delivery       manufacture

## FORFEITURE PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input checked="" type="checkbox"/> civil | <input checked="" type="checkbox"/> all controlled substances          | <input checked="" type="checkbox"/> conveyances (cars, boats, airplanes used in violation of the law) | <input type="checkbox"/> containers                                 |
| <input type="checkbox"/> criminal         | <input checked="" type="checkbox"/> raw materials, equipment, products | <input checked="" type="checkbox"/> drug paraphernalia  | <input checked="" type="checkbox"/> real property                   |
| <input type="checkbox"/> administrative   | <input type="checkbox"/> books, data, research materials               | <input checked="" type="checkbox"/> money, securities, etc.   | <input checked="" type="checkbox"/> imitation controlled substances |

### Method of distribution of proceeds after payment of seizure costs:

Under the state constitution, proceeds are deposited into the state literary (school) fund. However, in 1990 general elections, voters approved a constitutional amendment that takes effect Jan. 1, 1991, authorizing the legislature to redirect drug-related forfeiture proceeds into law enforcement activities.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group     | <input checked="" type="checkbox"/> marijuana     |   |
|   |  | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |  |  |   |   |
|---|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: mandatory minimum sentence of one year incarceration |
| <input type="checkbox"/> use                        | <input checked="" type="checkbox"/> elementary | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> possession                 | <input checked="" type="checkbox"/> secondary  | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational            | <input checked="" type="checkbox"/> buses                | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges:universities |  |   |   |
|   | <input type="checkbox"/> not specified         |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |  |  |         |
|---|--|--|---------|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use                     | <input type="checkbox"/> keep or maintain                                    | penalty |
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> possession   | <input type="checkbox"/> fortify   |         |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |         |
|   | <input type="checkbox"/> storage                 | <input type="checkbox"/> visit   |         |

## OFFENDER DRUG TESTING PROVISIONS

- |   |   |   |  |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                             | <input type="checkbox"/> parolees                                     | <input checked="" type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    | <input type="checkbox"/> by courts to determine sentencing conditions                  |
|   | <input type="checkbox"/> intensive probationers                         | <input type="checkbox"/> participants in drug rehabilitation programs |  |
|   | <input type="checkbox"/> juvenile probationers                          |   |  |

## NOTES

- If an offender can prove that he furnished a schedule I or II controlled substance only as an accommodation and not to make a profit, he may be eligible for a reduced sentence of up to 10 years' imprisonment and/or a fine of up to \$1,000.
- A party in interest to any forfeiture proceeding shall be entitled to reasonable attorney's fees and costs if the forfeiture proceeding is decided in his favor.
- 1990 legislation authorized the death penalty or life imprisonment for murders committed to further the manufacture, delivery, or sale of a schedule I or II drug.
- Virginia imposes a lighter sentence for schoolyard violations committed without a profit motive or the intent to induce the recipient to become addicted to illicit drugs.

# WASHINGTON

Rev. 1/91

Wa. Rev. Code Ann. §§ 69.50.101 to 69.50.608

Washington's CSA schedules generally conform to the federal schedules. The state CSA provides for automatic addition, deletion, or rescheduling of controlled substances to conform to changes in the federal schedules. Precursors to PCP and methamphetamine are schedule II substances. All penalties for possession of any controlled substance, except marijuana, are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	0-5; \$10,000	0-10; \$20,000	same
marijuana	< 40 g.: 0-90 days; \$1,000 ≥ 40 g.: 0-5; \$10,000	0-180 days; \$2,000 0-10; \$20,000	same same
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	< 2 kg.: 0-10; \$25,000 ≥ 2 kg.: 0-10; \$100,000 + \$50/g over 2 kg.		
I/II non-narcotics	0-5; \$10,000	For second and subsequent offenses, penalties are twice those otherwise authorized	
III	0-5; \$10,000		
IV	0-5; \$10,000		
V	0-5; \$10,000		

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty: cocaine, heroin       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

75 percent to the general fund of the local or state government of the seizing agency for use in drug laws enforcement activities and 25 percent to the state public safety and education account.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18: I/II narcotics | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21                            | <input checked="" type="checkbox"/> non-narcotics | <input checked="" type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group                                | <input checked="" type="checkbox"/> marijuana     |   |
|   |   | <input type="checkbox"/> others                   |   |

## "SCHOOLYARD" PROVISIONS

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: sentence of up to twice that ordinarily authorized |
|   | <input type="checkbox"/> elementary               | <input type="checkbox"/> other radius                    |   |   |
|   | <input type="checkbox"/> secondary                | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> over 18 to under 18                      |   |
| <input type="checkbox"/> use                        | <input type="checkbox"/> vocational               | <input checked="" type="checkbox"/> buses                | <input type="checkbox"/> other age group                          |   |
| <input type="checkbox"/> possession                 | <input type="checkbox"/> colleges:universities    |  | <input checked="" type="checkbox"/> not addressed                 |   |
| <input checked="" type="checkbox"/> distribution    | <input checked="" type="checkbox"/> not specified |  |   |   |

## SAFEHOUSE PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use                     | <input type="checkbox"/> keep or maintain                                    | penalty: knowing violations: 0-2; \$2,000; fortify: 0-5; \$10,000 |
|   | <input type="checkbox"/> possession              | <input checked="" type="checkbox"/> fortify                                  |   |
| <input type="checkbox"/> public nuisance            | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |   |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |   |

## OFFENDER DRUG TESTING PROVISIONS

- |  |  |   |   |
|--|--|---|---|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
|  | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                    |   |
| <input type="checkbox"/> prison inmates                        | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine sentencing conditions       |
|  | <input type="checkbox"/> juvenile probationers               |   |   |

## NOTES

- A person convicted of selling a schedule I substance for profit is subject to a fine calculated to eliminate any profits gained from the sale, up to \$500,000.
- A parent or legal guardian of a minor to whom a controlled substance has been sold may sue the seller for damages, including drug treatment expenses.
- Pursuant to provisions outside the CSA, persons who illegally possess steroids and practitioners who prescribe or administer steroids for non-medical use by humans may face up to one year's imprisonment and a maximum fine of \$5,000. Juveniles who violate steroid provisions are subject to driver's license revocation for 90 days for a first offense and one year for a second offense.
- The state's Drug Precursor Act requires reporting of transactions involving precursor chemicals. The act also provides penalties for knowingly selling precursors for use in production of illegal drugs and for purchasing precursors for use in illegal drug production.
- 1990 legislation authorizes doubling of prison sentences and fines for manufacture/delivery/sale of drugs in public parks or in public transit systems.
- Conveyances are not subject to forfeiture in cases involving misdemeanor marijuana possession.
- It is an affirmative defense to an alleged schoolyard violation that the prohibited conduct occurred entirely within a private residence, that no person under the age of 18 was present, and that the offense was not committed for profit.
- A person who delivers an illegal substance the use of which results in death is guilty of controlled substance homicide and may face up to 10 years' imprisonment and a fine of up to \$20,000.
- A CSA provision separate from those authorizing standard fines for manufacture/delivery/sale offenses establishes an additional \$1,000 fine for first manufacturing/delivery sale offenses and a \$2,000 fine for second offenses.
- Addicts voluntarily participating in drug treatment programs prior to indictment for sale offenses are granted immunity from prosecution.

# WEST VIRGINIA

Rev. 1/91

W. Va. Code §§ 60A-1-101 to 60A-7-207

West Virginia's schedules, administered by the state's board of pharmacy, substantially conform to the federal schedules. The state CSA provides for automatic addition, deletion, or rescheduling of controlled substances to conform to changes made in the federal schedules. Precursor chemicals are placed in schedule II. All penalties for possession of any controlled substance are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
flat penalty	90 days- 6 mos.; \$1,000	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	1-15; \$25,000		
I/II non-narcotics	1-5; \$15,000	For second and subsequent offenses fines and penalties are twice those otherwise authorized.	
III	1-5; \$15,000		
IV	1-3; \$10,000		
V	6 mos.-1; \$5,000		

### TARGETED SUBSTANCE PROVISIONS

- none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically       use  
 delivery       possession  
 advertisement  
 manufacture

### FORFEITURE PROVISIONS

- civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

10 percent to prosecuting attorney's office and the remaining proceeds into a special law enforcement investigative fund.

### PROVISIONS FOR OFFENSES INVOLVING MINORS

- not addressed specifically       over 18 to under 18       narcotics       using minor to sell  
 over 18 to under 21       over 18 to under 21       non-narcotics       imitation drugs  
 over 18 to under 18 at least 3 years junior       other age group: over 21 to under 18       marijuana       others  
 others

### "SCHOOLYARD" PROVISIONS

- |   |  |   |   |  |
|---|--|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool<br><input checked="" type="checkbox"/> elementary<br><input checked="" type="checkbox"/> secondary<br><input checked="" type="checkbox"/> vocational<br><input checked="" type="checkbox"/> colleges:universities<br><input type="checkbox"/> not specified | <input checked="" type="checkbox"/> radius of 1,000 feet<br><input type="checkbox"/> other radius<br><input type="checkbox"/> school grounds only<br><input type="checkbox"/> buses | <input type="checkbox"/> inapplicable if school is not in session<br><br><input type="checkbox"/> over 18 to under 18<br><input checked="" type="checkbox"/> other age group: over 18 to anyone<br><input type="checkbox"/> not addressed | penalty: first two years of any sentence imposed must be spent in prison |
|---|--|---|---|--|

---

### SAFEHOUSE PROVISIONS

- |   |   |   |                             |
|---|---|---|-----------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use<br><input type="checkbox"/> possession<br><input checked="" type="checkbox"/> distribution<br><input checked="" type="checkbox"/> storage | <input type="checkbox"/> keep or maintain<br><input type="checkbox"/> fortify<br><input checked="" type="checkbox"/> knowingly permit illegal use of premises<br><input type="checkbox"/> visit | penalty: 6 mos.-1; \$25,000 |
|---|---|---|-----------------------------|

---

### OFFENDER DRUG TESTING PROVISIONS

- |  |  |  |  |
|--|--|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers<br><input type="checkbox"/> adult probationers w/drug histories<br><input type="checkbox"/> intensive probationers<br><input type="checkbox"/> juvenile probationers | <input type="checkbox"/> parolees<br><input type="checkbox"/> parolees w/drug histories<br><br><input type="checkbox"/> participants in drug rehabilitation programs | <input type="checkbox"/> by courts to determine pretrial release conditions<br><input type="checkbox"/> by courts to determine sentencing conditions |
|--|--|--|--|

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### NOTES

- Whenever a person is convicted of possession of a controlled substance and has no other drug-related convictions, the court, without entering a judgment of guilty and with the consent of the offender, may defer further proceedings and place the offender on probation. This disposition is mandatory for a first possession offense involving less than 15 grams of marijuana.
  - Conveyances are not subject to forfeiture in cases involving possession offenses.
-

# WISCONSIN

Rev. 1/91

Wisc. Stat. Ann. §§ 161.001 to 161.62

In Wisconsin, the state board of pharmacy has the responsibility for scheduling drugs. The state's CSA schedules substantially conform to the federal schedules, except that Wisconsin places phencyclidine (PCP) in schedule I, whereas the federal CSA places this drug in schedule II. PCP precursors also are placed in schedule I; methamphetamine precursors are schedule II substances.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Possession Offenses</b>			
I/II narcotic	0-1; \$5,000	0-2; \$10,000	0-2; \$10,000
I/II non-narcotic	0-30 days; \$500	—	—
III	0-30 days; \$500	—	—
IV	0-30 days; \$500	—	—
V	0-30 days; \$500	—	—
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotic	0-15; \$25,000		
I/II non-narcotic	0-5; \$15,000		
III	0-5; \$15,000		
IV	0-3; \$10,000		
V	0-1; \$5,000		

For second and subsequent offenses, fines and penalties are twice those otherwise authorized.

### TARGETED SUBSTANCE PROVISIONS

- none
- higher base penalty: cocaine, counterfeit substances, heroin, LSD, meth/amphetamine, PCP, psilocybin
- based on amount: cocaine, counterfeit substances, heroin, LSD, meth/amphetamine, PCP, psilocybin

### PARAPHERNALIA PROVISIONS

- not addressed specifically
- use
- possession
- advertisement
- delivery
- delivery to minors
- manufacture

### IMITATION DRUG PROVISIONS

- not addressed specifically
- use
- possession
- advertisement
- delivery
- manufacture

### FORFEITURE PROVISIONS

- civil
- all controlled substances
- conveyances (cars, boats, airplanes used in violation of the law)
- containers
- criminal
- raw materials, equipment, products
- drug paraphernalia
- real property
- administrative
- books, data, research materials
- money, securities, etc.
- imitation controlled substances

#### Method of distribution of proceeds after payment of seizure costs:

At least 50 percent to the school fund, unless the forfeited property is money, in which case all the money is to be deposited in the school fund. The seizing agency may claim up to 50 percent to cover expenses of the seizure.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically                             | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input checked="" type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21            | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs                |
|   | <input type="checkbox"/> other age group                | <input checked="" type="checkbox"/> marijuana     |   |
|   |   | <input type="checkbox"/> others                   |   |

### "SCHOOLYARD" PROVISIONS

- |   |   |  |   |   |
|---|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool                | <input checked="" type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty: first three years of sentence imposed must be served in prison; 100 hrs. community service; 6 mos. license revocation. |
| <input type="checkbox"/> use                        | <input type="checkbox"/> elementary               | <input type="checkbox"/> other radius                    | <input type="checkbox"/> over 18 to under 18                      |   |
| <input checked="" type="checkbox"/> possession      | <input type="checkbox"/> secondary                | <input type="checkbox"/> school grounds only             | <input type="checkbox"/> other age group                          |   |
| <input checked="" type="checkbox"/> distribution    | <input type="checkbox"/> vocational               | <input checked="" type="checkbox"/> buses                | <input checked="" type="checkbox"/> not addressed                 |   |
|   | <input type="checkbox"/> colleges:universities    |  |   |   |
|   | <input checked="" type="checkbox"/> not specified |  |   |   |

### SAFEHOUSE PROVISIONS

- |   |  |  |                        |
|---|--|--|------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-1; \$25,000 |
| <input checked="" type="checkbox"/> public nuisance | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                        |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                        |

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees                                     | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input checked="" type="checkbox"/> prison inmates  | <input type="checkbox"/> adult probationers w/drug histories | <input checked="" type="checkbox"/> parolees w/drug histories         | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |   |   |

### NOTES

- The state has separate provisions for possession with intent to manufacture or deliver a controlled substance.
- A vehicle is not subject to forfeiture in cases involving possession offenses, unless the substance involved is a schedule I or II narcotic.
- Under Wisconsin law, use of real property to facilitate drug law violations is not grounds for forfeiture; however, real property that is proceeds from drug law violations is forfeitable.
- An additional five years may be added to the sentence of a person convicted of committing a CSA offense on a public transit vehicle.
- Use or possession of electronic paging or two-way communication devices by students on school premises is prohibited.
- Wisconsin's drug-free school provision includes within its scope public parks, swimming pools, and youth and community centers.

# WYOMING

Rev. 1/91

Wyo. Stat. §§ 35-7-1001 to 35-7-1057

Wyoming's schedules, administered by the state attorney general, substantially conform to the federal schedules. The CSA provides for the automatic addition, deletion, or rescheduling of controlled substances to conform to changes made in the federal schedules. Precursor chemicals are listed in schedule II. Offenses are divided into categories of use; possession; and manufacture, delivery, sale offenses. All penalties for possession of any controlled substances are the same. They are listed under "flat penalty" in the chart.

## MAJOR PROVISIONS OF CSA

### PENALTY PROVISIONS

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
<b>Use Offenses</b>			
I	0-90 days; \$100		
II	0-90 days; \$100	For second and subsequent offenses, fines and penalties are twice those otherwise authorized.	
III	0-90 days; \$100		
IV	—		
V	—		
<b>Possession Offenses</b>			
flat penalty	0-6 mo.; \$750	same	0-5; \$5,000
<b>Manufacturing, Delivery, Sale Offenses</b>			
I/II narcotics	0-20; \$25,000		
I/II non-narcotics	0-10; \$10,000	For second and subsequent offenses, fines and penalties are twice those otherwise authorized.	
III	0-10; \$10,000		
IV	0-2; \$2,500		
V	0-1; \$1,000		
marijuana cultivation only	0-6 mo.; \$1,000		

### TARGETED SUBSTANCE PROVISIONS

none       higher base penalty:       based on amount:

### PARAPHERNALIA PROVISIONS

not addressed specifically       use  
 delivery       possession  
 delivery to minors       advertisement  
 manufacture

### IMITATION DRUG PROVISIONS

not addressed specifically       use  
 delivery       possession       advertisement  
 manufacture

### FORFEITURE PROVISIONS

civil       all controlled substances       conveyances (cars, boats, airplanes used in violation of the law)       containers  
 criminal       raw materials, equipment, products       drug paraphernalia       real property  
 administrative       books, data, research materials       money, securities, etc.       imitation controlled substances

**Method of distribution of proceeds after payment of seizure costs:**  
Not addressed specifically in the statute.

## PROVISIONS FOR OFFENSES INVOLVING MINORS

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically                             | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics     | <input type="checkbox"/> using minor to sell |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> imitation drugs     |
|   | <input type="checkbox"/> other age group     | <input checked="" type="checkbox"/> marijuana     |  |
|   |  | <input type="checkbox"/> others                   |  |

---

### "SCHOOLYARD" PROVISIONS

- |  |  |   |   |         |
|--|--|---|---|---------|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> preschool             | <input type="checkbox"/> radius of 1,000 feet | <input type="checkbox"/> inapplicable if school is not in session | penalty |
| <input type="checkbox"/> use                                   | <input type="checkbox"/> elementary            | <input type="checkbox"/> other radius         | <input type="checkbox"/> over 18 to under 18                      |         |
| <input type="checkbox"/> possession                            | <input type="checkbox"/> secondary             | <input type="checkbox"/> school grounds only  | <input type="checkbox"/> other age group                          |         |
| <input type="checkbox"/> distribution                          | <input type="checkbox"/> vocational            | <input type="checkbox"/> buses                | <input type="checkbox"/> not addressed                            |         |
|  | <input type="checkbox"/> colleges:universities |   |   |         |
|  | <input type="checkbox"/> not specified         |   |   |         |

---

### SAFEHOUSE PROVISIONS

- |   |  |  |                        |
|---|--|--|------------------------|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use          | <input type="checkbox"/> keep or maintain                                    | penalty: 0-1; \$10,000 |
| <input type="checkbox"/> public nuisance            | <input type="checkbox"/> possession              | <input type="checkbox"/> fortify   |                        |
|   | <input checked="" type="checkbox"/> distribution | <input checked="" type="checkbox"/> knowingly permit illegal use of premises |                        |
|   | <input checked="" type="checkbox"/> storage      | <input type="checkbox"/> visit   |                        |

---

### OFFENDER DRUG TESTING PROVISIONS

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> adult probationers                  | <input type="checkbox"/> parolees  | <input type="checkbox"/> by courts to determine pretrial release conditions |
| <input type="checkbox"/> prison inmates             | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories                               | <input type="checkbox"/> by courts to determine sentencing conditions       |
|   | <input type="checkbox"/> intensive probationers              | <input checked="" type="checkbox"/> participants in drug rehabilitation programs |   |
|   | <input type="checkbox"/> juvenile probationers               |  |   |

---

### NOTES

- Conveyances are not subject to forfeiture in cases involving possession offenses.
  - For forfeiture purposes, real property is defined as "those buildings knowingly used or intended for use to store, manufacture, or distribute" controlled substances.
-

**APPENDICES**

**APPENDIX A**

**TABLES OF CITATIONS:**

**FEDERAL DRUG CONTROL STATUTES**

**STATE CONTROLLED SUBSTANCES ACTS**

**TABLE OF CITATIONS**  
**FEDERAL DRUG CONTROL STATUTES**

- Act of February 23, 1887 (21 U.S.C. §§ 191-193 (1982))**
- The Harrison Narcotic Drug Act of 1914 (I.R.C. §§ 4701-4736 (1954))**
- The Narcotic Drugs Import and Export Act of 1922 (21 U.S.C. §§ 171-185 (1982))**
- The Marijuana Tax Act of 1937 (I.R.C. §§ 4741-4762 (1954))**
- The Opium Poppy Control Act of 1942 (21 U.S.C. §§ 181-188n (1982))**
- The Narcotics Manufacturing Act of 1960 (21 U.S.C. §§ 501-517 (1982))**
- The Controlled Substances Act of 1970 (Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§ 801-970)**
- The Comprehensive Crime Control Act of 1984 (Pub. L. No. 98-473)**
- The Anti-Drug Abuse Act of 1986 (Pub. L. No. 99-570)**
- The Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301-392 (1982))**
- The Anti-Drug Abuse Act of 1988 (Pub. L. 100-690)**
- The Comprehensive Crime Control Act of 1990 (Pub. L. 101-647)**

**DRUGS TARGETED FOR ENHANCED PENALTIES  
UNDER CONTROLLED SUBSTANCES ACTS**

Rev. 1/91

JURISDICTION \ DRUG	DRUG								OTHER
	None	Cocaine	Heroin	LSD	Marijuana	Meth/Amphetamine	Meth-/Meclo-qualone	Phencyclidine (PCP)	
ALABAMA		•		•	•		•	•	cocaine base, hydromorphone, MDA, MMDA, morphine
ALASKA	•								
ARIZONA	•								
ARKANSAS	•								
CALIFORNIA		•	•			•		•	cocaine base
COLORADO		•			•				
CONNECTICUT		•	•	•	•				methadone
DELAWARE		•	•	•	•	•		•	designer drugs, opium
DISTRICT OF COLUMBIA						•		•	cocaine base, PCP precursors, phenmetrazine
FLORIDA		•	•		•		•	•	morphine, opium
GEORGIA		•	•		•		•		morphine, opium
HAWAII		•	•			•			morphine
IDAHO				•	•				
ILLINOIS		•	•	•	•	•	•	•	pentazocine, peyote
INDIANA	•								
IOWA		•	•	•	•			•	
KANSAS		•	•	•	•	•	•	•	barbituric acid, MDMA, mesaline, psilocybin
KENTUCKY				•				•	
LOUISIANA		•			•	•		•	cocaine base, pentazocine
MAINE		•	•	•	•				
MARYLAND		•	•	•	•	•	•	•	morphine, opium, PCP precursors
MASSACHUSETTS		•	•		•			•	
MICHIGAN	•								
MINNESOTA		•			•	•		•	cocaine base, hallucinogens, narcotics
MISSISSIPPI					•				
MISSOURI		•	•	•	•	•		•	cocaine base, methylphenidate, phenmetrazine
MONTANA		•							opiates
NEBRASKA		•							crack
NEVADA	•								
NEW HAMPSHIRE		•	•	•	•	•		•	
NEW JERSEY		•	•	•	•	•		•	
NEW MEXICO						•		•	
NEW YORK	•								
NORTH CAROLINA		•	•	•	•	•	•		opiates
NORTH DAKOTA		•	•	•				•	cocaine base
OHIO	•								
OKLAHOMA		•	•	•	•	•		•	cocaine base
OREGON	•								
PENNSYLVANIA		•			•	•		•	
RHODE ISLAND		•	•	•	•			•	
SOUTH CAROLINA		•	•		•		•		crack, morphine, opium
SOUTH DAKOTA	•								
TENNESSEE		•	•	•	•	•		•	morphine, hydromorphone, pentazocine, triple enamine
TEXAS					•				
UTAH					•				
VERMONT	•								
VIRGINIA	•								
WASHINGTON		•	•						
WEST VIRGINIA	•								
WISCONSIN		•	•	•		•		•	counterfeit substances, psilocybin
WYOMING	•								
FEDERAL		•	•	•	•			•	

FORFEITABLE ASSETS UNDER CONTROLLED SUBSTANCES ACTS

Rev. 1/91

JURISDICTION	PROVISION
ALABAMA	Controlled Substances
ALASKA	Controlled Substances
ARIZONA	Controlled Substances
ARKANSAS	Controlled Substances
CALIFORNIA	Controlled Substances
COLORADO	Controlled Substances
CONNECTICUT	Controlled Substances
DELAWARE	Controlled Substances
DISTRICT OF COLUMBIA	Controlled Substances
FLORIDA	Controlled Substances
GEORGIA	Controlled Substances
HAWAII	Controlled Substances
IDAH0	Controlled Substances
ILLINOIS	Controlled Substances
INDIANA	Controlled Substances
IOWA	Controlled Substances
KANSAS	Controlled Substances
KENTUCKY	Controlled Substances
LOUISIANA	Controlled Substances
MAINE	Controlled Substances
MAINTLAND	Controlled Substances
MASSACHUSETTS	Controlled Substances
MICHIGAN	Controlled Substances
MINNESOTA	Controlled Substances
MISSISSIPPI	Controlled Substances
MISSOURI	Controlled Substances
MONTANA	Controlled Substances
NEBRASKA	Controlled Substances
NEVADA	Controlled Substances
NEW HAMPSHIRE	Controlled Substances
NEW JERSEY	Controlled Substances
NEW MEXICO	Controlled Substances
NEW YORK	Controlled Substances
NORTH CAROLINA	Controlled Substances
NORTH DAKOTA	Controlled Substances
OHIO	Controlled Substances
OKLAHOMA	Controlled Substances
OREGON	Controlled Substances
PENNSYLVANIA	Controlled Substances
RHODE ISLAND	Controlled Substances
SOUTH CAROLINA	Controlled Substances
SOUTH DAKOTA	Controlled Substances
TENNESSEE	Controlled Substances
TEXAS	Controlled Substances
UTAH	Controlled Substances
VERMONT	Controlled Substances
VIRGINIA	Controlled Substances
WASHINGTON	Controlled Substances
WEST VIRGINIA	Controlled Substances
WISCONSIN	Controlled Substances
WYOMING	Controlled Substances
FEDERAL	Controlled Substances
	Materials, products, equipment used for manufacturing, compounding, processing, delivering, dispensing, distributing, importing, or exporting any controlled substances
	Books, records, research, including formulas, microfilm, tapes, and data used or intended for use in the manufacture or distribution of a controlled substance
	Conveyances used to facilitate the manufacture, dispensing, or distribution of a controlled substance
	Drug paraphernalia
	Monies or things of value used or intended for use in the procurement, manufacture, compounding, processing, delivery, or distribution of any controlled substance; and/or proceeds from the manufacture, delivery, or sale of a controlled substance
	Containers
	Real estate used in the furtherance of illegal drug activity
	Imitation controlled substances

## CURRENCY TRANSACTION REPORTING STATUTES

	Provides Penalties for Structured Transactions	Requires Reports on all Suspicious Transactions	Requires Reports from Trades and Businesses	Filing <sup>1</sup>	Exemptions <sup>2</sup>	Access by Non-Criminal Justice Agencies	Penalties for Willful Failure to Report	Money-laundering Penalties
<b>CALIFORNIA</b> §14160 et. seq.	YES	YES	NO	FEDERAL	DUAL	NO	2X Proceeds or \$250,000	0-1; 2X Proceeds or \$250,000
<b>FLORIDA</b> §655.50 et. seq.	NO	YES	NO	DUAL	FEDERAL	NO	0-1; \$10,000	0-15; 2X Proceeds or \$250,000
<b>GEORGIA</b> §7-1-912 et. seq.	YES	YES	NO	DUAL	DUAL	NO	\$1,000	0-20; 2X Proceeds or \$250,000
<b>MARYLAND</b> §12-801 et. seq.	NO	NO	YES	FEDERAL	DUAL	NO	\$50/day up to \$1,000	0-5; 2X Proceeds up to \$250,000
<b>NEBRASKA</b> §27-504 et. seq.	NO	NO	NO	DUAL	FEDERAL	NO	\$100/day up to \$500	NONE
<b>NORTH CAROLINA</b> §105-251.1 et. seq.	NO	NO	NO	DUAL	DUAL	NO	0-2; \$1,000	0-5; \$500,000
<b>UTAH</b> §76-10-1906 et. seq.	NO	NO	YES	DUAL	FEDERAL	NO	0-90 days; \$10,000	1-15; \$10,000
<b>FEDERAL</b> 31 CFR 103	YES	YES	YES	FEDERAL	FEDERAL	YES	\$25,000 to \$100,000	0-10; \$500,000

<sup>1</sup>Through an information-sharing agreement with the federal Internal Revenue Service (IRS), some states receive computer tapes imbedded with all federal CTR information. Other states have set up a dual federal/state reporting mechanism, whereby financial institutions file duplicate forms with both federal and state officials.

<sup>2</sup>All CTR statutes incorporate federal filing exemptions. Some states' CTR statutes further authorize state regulatory agencies to create additional exemptions for customers and transactions that are clearly of a legitimate nature.

STATE CONTROLLED SUBSTANCE TAX PROVISIONS

Rev. 1/91

	Tax Rates	Confidential Returns	Discovery Tools	Exemptions	Penalties	Distribution of Proceeds
<b>ALABAMA</b> §40-17A-1 et. seq.	\$3.50/g marijuana \$200/g other \$2,000/50 dosage unit	YES	Inspect books and subpoena testimony	Those in lawful possession	100% tax; 1-10	Deposited in state's general treasury fund
<b>ARIZONA</b> §42-1201 et. seq.	\$10.00/oz marijuana \$250/oz other	NO	Inspect records	None	100% tax	5% deposited in state's general fund; remainder goes to seizing agency
<b>COLORADO</b> §39-28.7-101 et. seq.	\$100/oz marijuana \$1,000/oz other	NO	Not addressed	Those in lawful possession	10X tax	Not addressed
<b>FLORIDA</b> §121.0505 et. seq.	50% of estimated price of transactions involving medicinal drugs, marijuana and other controlled substances; plus surcharge of 25% of estimated price	YES	Not addressed	federal and state government agencies	late fee: 5% of tax per month up to 25%, plus 12% interest; willful non-payment: 50% of tax	50% deposited in drug enforcement fund; 50% deposited in drug education fund
<b>GEORGIA</b> §48-15-1 et. seq.	\$3.50/g marijuana \$200/g other \$400/10 dosage unit	YES	Not addressed	Those in lawful possession	Tax owed and fine at assessor's discretion	Not addressed
<b>IDAHO</b> §63-4201 et. seq.	\$3.50/g marijuana \$200/g other \$2,000/50 dosage unit	YES	Not addressed	Those in lawful possession	100% tax; 0-5; \$10,000	Deposited with state tax commission to pay stamp tax returns and to cover enforcement costs
<b>ILLINOIS</b> §120-2151 et. seq.	\$5.00/g marijuana \$250/g other \$2,000/50 dosage unit	YES	Not addressed	Those in lawful possession	4X tax 1-3; \$10,000	Not addressed

## STATE CONTROLLED SUBSTANCE TAX PROVISIONS (Cont'd)

Rev. 1/91

	Tax Rates	Confidential Returns	Discovery Tools	Exemptions	Penalties	Distribution of Proceeds
<b>KANSAS</b> §79-5201 et. seq.	\$3.50/g marijuana \$200/g other \$2,000/50 dosage unit	YES	Inspect books and subpoena testimony	Those in lawful possession	100% tax 0-5; \$10,000	Not addressed
<b>MAINE</b> §36-4433 et. seq.	\$3.50/g marijuana \$200/g other \$2,000/50 dosage unit	NO	D.A. offices furnish reports on convicted dealers	Applies only to convicted drug dealers	Tax owed and fine at assessor's discretion	Not addressed
<b>MARYLAND</b> §9-601	Permits counties to establish taxes	N/A	N/A	N/A	N/A	N/A
<b>MINNESOTA</b> §297D.01 et. seq.	\$3.50/g marijuana \$200/g other \$400/10 dosage unit	YES	Inspect books and subpoena testimony	Those in lawful possession	100% tax 0-7; \$14,000	Not addressed
<b>MONTANA</b> §12-25-101 et. seq.	10% assessed market value of drugs; or \$100/oz marijuana \$250/oz hashish \$200/g schedule I and II \$10/100 micrograms LSD \$100/oz immediate precursors	NO	Law enforcement personnel report persons subject to the tax to the department of revenue	Those in lawful possession	§15-53-111 §15-30-321	1/3 deposited with family services for youth chemical abuse programs; remaining 2/3 split between the department of justice for juvenile detention and seizing agency
<b>NEBRASKA</b> §77-3906 et. seq.	\$100/oz marijuana \$150/g other \$500/50 dosage unit	YES	Inspect books and subpoena testimony	Those in lawful possession	100% tax 0-5; \$10,000	Not addressed
<b>NEVADA</b> §372A.010 et. seq.	\$100/g marijuana \$1,000/g other \$2,000/50 dosage unit	YES	Not addressed	None	100% tax	Deposited in state's general fund to cover costs of drug asset seizure and forfeiture

## STATE CONTROLLED SUBSTANCE TAX PROVISIONS (Cont'd)

Rev. 1/91

	Tax Rates	Confidential Returns	Discovery Tools	Exemptions	Penalties	Distribution of Proceeds
<b>NEW MEXICO</b> §7-18A-1 et. seq.	\$300/g I-II Narcotics \$100/g cocaine \$100/g amphetamines \$150/g I-II Non-narcotics \$200/oz over 8 marijuana \$1/25 micrograms LSD \$50/g III-V \$300/g PCP	NO	Not addressed	federal, state and local government agents or employees if acting within their official capacity	unspecified interest and penalty	Not addressed
<b>NORTH DAKOTA</b> §57-36.1-01 et. seq.	\$3.50/g marijuana \$200/g other \$2,000/50 dosage unit	YES	Inspect books and subpoena testimony	Those in lawful possession	100% tax 12% interest 0-5; \$5,000	Not addressed
<b>OKLAHOMA</b>	\$3.50/g marijuana \$200/g other \$1,000/50 dosage unit	YES	Not addressed	None	100% tax; 0-5; \$10,000	Deposited in drug abuse education fund
<b>RHODE ISLAND</b> §44-49-1 et. seq.	\$3.50/g marijuana \$200/g other \$400/10 dosage unit	YES	Inspect books and subpoena testimony	Those in lawful possession	100% tax 0-5; \$10,000	Not addressed
<b>TEXAS</b> §159.001 et. seq.	\$3.50/g marijuana \$200/g other	YES	Not addressed	Those in lawful possession	100% tax 3rd degree felony	Deposited in state's general revenue fund
<b>UTAH</b> §59-19-101 et. seq.	\$3.50/g marijuana \$200/g other \$2,000/50 dosage unit	YES	Not addressed	None	100% tax 0-5; \$5,000	Deposited in Drug Stamp Tax fund; 40% used to cover costs of enforcement; 60% to investigating agency
<b>WISCONSIN</b> §139.87 et. seq.	\$3.50/g marijuana \$200/g other \$400/15mg dosage unit	YES	Inspect books and subpoena testimony	None	100% tax 0-5; \$10,000	Not addressed

**APPENDIX C**

**THE U. S. ATTORNEY GENERAL'S GUIDELINES ON  
SEIZED AND FORFEITED PROPERTY**

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# **The Attorney General's Guidelines on Seized and Forfeited Property**

*July 1990*

Prepared by the Executive Office for Asset Forfeiture,  
Office of the Deputy Attorney General

THE ATTORNEY GENERAL'S GUIDELINES  
ON  
SEIZED AND FORFEITED PROPERTY

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THE ATTORNEY GENERAL'S GUIDELINES  
ON  
SEIZED AND FORFEITED PROPERTY

I. STATEMENT OF GOALS AND PURPOSES

The Department of Justice asset forfeiture program has three primary goals: (1) to punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities; (2) to enhance cooperation among foreign, federal, state and local law enforcement agencies through the equitable sharing of assets recovered through this program; and, as a by-product, (3) to produce revenues to enhance forfeitures and strengthen law enforcement.

To meet these goals it is essential that the program be administered in a fiscally responsible manner which will minimize the costs incurred by the United States while maximizing the impact on criminal enterprises. Moreover, the integrity of the entire forfeiture program depends upon the faithful stewardship of forfeited property and the proceeds thereof.

The Law Enforcement Coordinating Committees shall promote and facilitate the Department of Justice forfeiture program with federal, state and local law enforcement agencies.

These Guidelines are not intended to create or confer any rights, privileges or benefits on prospective or actual claimants, defendants or petitioners. Likewise, they are not intended to have the force of law. See, United States v. Caceres, 440 U.S. §471 (1979).

II. DEFINITIONS

A. Adoptive Seizure refers to the federal adoption and forfeiture of property seized exclusively through the efforts of state or local agencies. Investigative bureaus empowered by statute or regulation may adopt such seized property for forfeiture where the conduct giving rise to the seizure is in violation of federal law. Forfeitures of seized property accepted in this manner have the same effect as if the property had originally been seized by the investigative bureau.

B. Appraised Value means the estimated fair market value at the time of seizure of the same or similar property. For vehicles, this will generally mean the average wholesale value in the N.A.D.A. Appraisal Guides. For personal property, this will generally mean estimated fair market value. For real property, businesses and certain personal property, the value shall be determined by experts qualified to make such determinations.

C. Cash means currency, negotiable instruments or securities.

D. Department component refers to agencies, divisions, offices, sections or units of the Department of Justice.

E. District refers to the federal judicial district.

F. The Fund refers to the Department of Justice Assets Forfeiture Fund as established by 28 U.S.C. §524(c)(1).

G. Investigative bureau refers to Department of Justice agencies authorized by federal statute to investigate and enforce forfeiture statutes. These agencies are: the Federal Bureau of Investigation, the Drug Enforcement Administration and the Immigration and Naturalization Service. It also refers to other federal agency investigative units whose forfeitures result in deposits into the Fund (e.g., U.S. Postal Inspection Service, Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms).

H. Joint investigation means cases in which one or more foreign, state or local agencies participates in an investigation with a federal law enforcement agency empowered to forfeit property.

I. Law enforcement means the investigation or prosecution of criminal activity and the execution of court orders arising from such activity.

J. Net proceeds means the forfeited cash or gross receipts from the sale of forfeited property less allowable asset management and case related expenses, third party interests and any award based on the value of the forfeiture.

K. Official use means utilization by a law enforcement agency in the direct performance of law enforcement activities.

L. Property means tangible personal and real property, other than cash, when used in the context of the equitable transfer of property.

M. Seized Asset Deposit Fund refers to the holding account administered by the U.S. Marshals Service for seized cash pending resolution of forfeiture cases.

N. Sharing means the transfer of cash, property or proceeds realized through federal forfeitures pursuant to these Guidelines.

O. State and local agencies refers to state and local law enforcement agencies.

P. Transfer and "sharing" are synonymous under these Guidelines.

### III. GENERAL PROVISIONS

A. Whenever reference is made to a specific Department official, such reference shall also be deemed to include any duly authorized person acting for that official by law, regulation or delegation. References to the Executive Office for Asset Forfeiture include any successor organization.

B. Whenever a statute, regulation or official form cited in these Guidelines is replaced by a substantially identical one, the citation shall be deemed to refer to the replacement.

C. The Deputy Attorney General or his designee may issue supplementary and interpretative guidance to address issues that arise under these Guidelines. The Executive Office for Asset Forfeiture, Office of the Deputy Attorney General, shall provide assistance to the Deputy Attorney General in the oversight and management of the Department's forfeiture program.

### IV. FEDERAL RETENTION AND USE OF FORFEITED PROPERTY

#### A. General Authorization

The Attorney General has the authority to retain any civilly or criminally forfeited property for official use by any federal agency. No seized property shall be placed into official use until a final determination of forfeiture has been made and the request to place the property into official use has been approved by the appropriate official.

#### B. Real Property

The Attorney General does not delegate his authority to place real property into official use. A department component may request authority to place real property into official use only if the proposed usage of that property would be and remain thereafter consistent with a law enforcement purpose. Transfers of real property to other federal components may be considered, if such transfers will serve a significant and continuing federal purpose.

C. Cash

No forfeited cash, nor any proceeds from the sale of forfeited property, may be transferred to or retained by any federal agency except as provided for in Chapter X or by statute.

D. Personal Property

The Attorney General delegates his authority to place personal property into official use in the order of priority set forth below. Written notice to the Director, Executive Office for Asset Forfeiture is required at the time property valued at \$50,000 or greater is placed into official use. The Director, Executive Office for Asset Forfeiture, shall determine which agency may place property into official use if more than one Department component seeks to retain the same forfeited property for official use. All property should be promptly turned over to the local U.S. Marshal after seizure, including property intended to be placed into official use, unless it is intended that such property will be used in an undercover capacity.

1. Seizing Investigative Bureau

The head of the seizing investigative bureau will determine whether to place forfeited property into official use.

2. Other Investigative Bureaus

If the property is not equitably transferred to a foreign, state or local agency, and the seizing investigative bureau chooses not to place the forfeited property into official use, then another investigative bureau or the U.S. Marshals Service may, by written request to the Director, U.S. Marshals Service, seek the transfer of the property for its use.

3. Other Department Components

If no investigative bureau chooses to place the property into official use and the property has not been equitably transferred, other Department components may, by written request to the Director, U.S. Marshals Service, seek the transfer of the forfeited property for its official use.

4. Transfer of Forfeited Property to Other Federal Agencies

All requests by other federal agencies shall be referred to the Director, U.S. Marshals Service. In exceptional circumstances, the U.S. Marshals Service may transfer personal property suitable for official use to a requesting federal agency which did not participate in the acts which led to a seizure or forfeiture.

In all such cases, the U.S. Marshals Service shall consult with the investigative bureau responsible for the investigation which led to the forfeiture. Careful consideration shall be given to the value of the property requested, its potential benefit to the United States for law enforcement purposes and its impact on the Fund.

A decision to grant a request for personal property with an aggregate value of less than \$25,000 shall be approved in writing by the Director, U.S. Marshals Service. The recipient agency shall pay expenses incurred by the Department of Justice in connection with the forfeiture and transfer of such property. A report on all such transfers shall be prepared by the U.S. Marshals Service on a quarterly basis and submitted to the Executive Office for Asset Forfeiture.

A decision to grant a request for any property valued at \$25,000 or more shall be approved in writing by the Director, Executive Office for Asset Forfeiture. The recipient agency shall pay expenses incurred by the Department of Justice in connection with the forfeiture and transfer of such property.

E. Investigative Bureau and Department Component Official Use Policies

Each investigative bureau and department component shall promulgate internal guidelines consistent with these Guidelines governing the placement of property into official use. Such guidelines and any subsequent supplements or revisions shall be filed with the Executive Office for Asset Forfeiture ten (10) days in advance of issuance.

All official use guidelines shall:

1. Prohibit the placement into official use of any seized property prior to the entry of a final determination of forfeiture and the appropriate approval of the request to place the property into official use;
2. Require that all seized property be recorded and tracked in an official inventory of seized property without regard to its intended disposition;
3. Require that a written justification be prepared in each instance detailing the reasons why the forfeited property was placed into official use and that these justifications be retained for three (3) years;
4. Require that a specific supervisory-level official be responsible and accountable for the decision to place each item of forfeited property into official use and for ensuring appropriate official use of such property following its transfer;
5. Require that property placed into official use shall be identified and tracked in an accountable property system; and
6. State that the property may not be transferred or retained if it is primarily for purposes of trade or sale, or home-to-work transportation or other uses not expressly authorized for property acquired through the expenditure of appropriated funds. There must be an intention to place the property into official use for two (2) years.

F. Competing Requests for Property for Official Use by Investigative Bureau and Other Federal, State or Local Agency

When the head of an investigative bureau seeks to place forfeited property into official use and a federal, state or local agency has filed a request for an equitable share of that property, the head of the investigative bureau shall consider the following factors in making a determination regarding the disposition of the property:

1. The relative need of the requesting agency and the investigative bureau for the particular property;

2. The uniqueness of the property and the likelihood of securing similar property through seizures in the near future;
3. The relative percentage of the requesting agency's participation in the cases in addition to the other factors pertinent to the determination of equitable transfer;
4. The likelihood that the requesting agency will be eligible for an equitable share of property from additional seizures arising from the same investigation or from seizures in other cases in the near future;
5. The impact that a decision to place the property into official use might have on federal, state and local relations in the district; and
6. The number and value of past equitable transfers to the federal, state or local agency.

G. Payment of Liens on Personal Property Placed Into Federal Official Use

Liens on personal property placed into official use by investigative bureaus and the U.S. Marshals Service may be paid from the Fund provided that:

1. There is an intent to place the property into official use for at least two (2) years;
2. The total amount to be paid from the Fund amounts to less than one-third the appraised value of the property; and,
3. The total amount to be paid from the Fund is less than \$25,000.

Requests for exceptions may be submitted in writing to the Director, Executive Office for Asset Forfeiture.

V. EQUITABLE TRANSFER OF FORFEITED PROPERTY TO PARTICIPATING STATE AND LOCAL AGENCIES

Pursuant to 21 U.S.C. §881(e)(1) and 19 U.S.C. §1616a, as made applicable by 21 U.S.C. §881(d) and other statutes, the Attorney General has the authority to equitably transfer forfeited property and cash to state and local agencies that directly participate in the law enforcement effort leading to the

seizure and forfeiture of the property. Requests for equitable transfers shall be filed in the form prescribed by the Director, Executive Office for Asset Forfeiture.

A. Equitable Transfers Generally

1. All equitable shares shall be based on the net proceeds of the forfeiture.
2. State and local investigative and prosecutive agencies may share in forfeited cash and property and the proceeds from the sale of forfeited property.
3. All property transferred to state and local agencies and any income generated by this property shall be used for the law enforcement purposes specified in the request.
4. A state or local agency may file a request for an equitable share of cash or property where it can demonstrate that it participated directly in the law enforcement effort that resulted in the forfeiture.
5. No request shall be considered if it is submitted after sixty (60) days following the seizure.
6. Cash and property shall be equitably shared with a state or local agency only where it will increase and not supplant law enforcement resources of the specific state or local agency that participated in the forfeiture.
7. The deciding official shall ensure that the share approved has a value that bears a reasonable relationship to the degree of direct participation of the state or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based.

B. Factors Governing the Amount of the Equitable Transfer

The amount of equitable transfer of proceeds from the sale of forfeited property shall be based upon the net proceeds realized from the sale of the property or liquidation of negotiable instruments. Equitable sharing amounts shall be

calculated after the determination of any award based upon the value of the forfeiture. Asset management expenses may be calculated on a pro rata basis where expenses cannot reasonably be determined for a specific asset.

In determining the amount of the equitable transfer for each participating agency, the following factors shall be considered:

1. Whether the seizure was adopted or was the result of a joint investigation;
2. The degree of direct participation in the law enforcement effort by the state or local agency resulting in the forfeiture, taking into account the total value of all property forfeited and total law enforcement effort, including any related criminal prosecution with respect to the violation of law on which the forfeiture is based (21 U.S.C. 881(e)(3));
3. Whether the state or local agency originated the information that led to the seizure and whether the agency obtained such information fortuitously or by use of its investigative resources;
4. Whether the state or local agency provided unique or indispensable assistance;
5. Whether the state or local agency initially identified the asset(s) for seizure;
6. Whether the state or local agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to state or local law; and,
7. Whether the state or local agency could have achieved forfeiture under state law, with favorable consideration given to an agency which could have forfeited the asset(s) on its own but joined forces with the United States to make a more effective investigation.

C. Sharing Percentages

1. In cases involving adoptive seizures that are forfeited administratively or in uncontested judicial proceedings, the determining official shall allocate to the United States fifteen (15)

percent of the total net proceeds realized through the disposition of forfeited property.

In cases involving adoptive seizures that are forfeited in contested judicial proceedings, the determining official shall allocate to the United States twenty (20) percent of the total net proceeds realized through the disposition of the forfeited property. These amounts represent the federal equitable share based upon its effort in forfeiting the property.

These sharing percentages shall be applicable to property seized on or after September 1, 1990.

2. In non-adoptive cases the determining official shall allocate to the United States at least the applicable percentages set forth in paragraph 1.
3. The United States' equitable share will normally be satisfied by the allocation of one or more of the items forfeited (or a portion of the proceeds thereof) to the United States.

In cases where only one asset or item is forfeited and a state or local agency requests that asset in lieu of proceeds from the disposition of the property, the determining official shall ensure that the United States receives its costs and equitable share to reflect total federal participation in the forfeiture effort. If the requesting agency is unable to pay the costs and federal share in such a one-asset forfeiture case, the property shall be sold by the U.S. Marshals Service and the proceeds distributed in accordance with these Guidelines.

Exceptions to this requirement may be granted by the deciding official upon assurances that (1) the requesting state or local agency lacks funds or authority to satisfy the United States' equitable share and costs; and (2) the forfeited item will fill a demonstrable need of the requesting agency. Such exceptions shall be liberally granted where the two above showings are made.

4. Nothing in this section shall alter the ability of the U.S. Marshals Service to pay appropriate expenses from the Fund or to recover costs directly from participating agencies.

D. Decision-Making Authority

Sharing decisions should be made during the period when forfeiture proceedings are being conducted. Decision-making authority shall be as follows:

1. Administrative Forfeitures Valued at Less than \$1,000,000

The head of the seizing investigative bureau shall determine the appropriate equitable transfer of assets forfeited in a single administrative proceeding where the appraised value of the asset(s) is less than \$1,000,000.

2. Judicial Forfeitures Valued Less Than \$1,000,000

The United States Attorney shall determine the appropriate equitable distribution of asset(s) forfeited in a single judicial proceeding in his or her district where the appraised value of the asset(s) is less than \$1,000,000.

3. Administrative and Judicial Forfeitures Valued at \$1,000,000 or Greater and Multi-District Cases

In the case of a single administrative or judicial proceeding where the appraised value of the asset(s) forfeited is \$1,000,000 or more and in multi-district cases, the United States Attorney(s) shall, after consultation with the investigative bureau(s), forward his (their) evaluation(s) and recommendation(s) to the Deputy Attorney General or his designee for determination.

4. Real Property Forfeitures

The Deputy Attorney General or his designee shall approve any equitable transfer of real property. Where appropriate, any such transfer shall include a provision for reversion of title to the United States if the property is not used for the agreed upon purposes.

VI. SALE OF SEIZED AND FORFEITED PROPERTY

A. Pre-Forfeiture Sale of Seized Property

1. Pre-forfeiture sale of property (i.e., interlocutory or stipulated sale) is favored as a means of preserving asset value and mitigating asset management expenses.
2. The United States Attorney shall consult with the investigative bureau and the U.S. Marshals Service to determine the status of any requests for equitable transfer or petitions for remission or mitigation prior to seeking a pre-forfeiture sale of property pending judicial forfeiture.
3. Proceeds from any pre-forfeiture sale shall be promptly deposited into the Seized Asset Deposit Fund unless otherwise ordered by the Court.

B. Sale of Forfeited Property

1. Upon the successful completion of the forfeiture action and if the property is not placed into official use or transferred to a federal, state, or local agency, it shall be promptly sold and the proceeds of sale promptly deposited in the Fund.
2. Investigative bureaus and the United States Attorneys' offices shall promptly notify the U.S. Marshals Service of all relevant facts affecting the forfeited property. Relevant facts include, but are not limited to:
  - a. Outstanding bills, invoices, orders of mitigation and remission of forfeiture;
  - b. Orders of transfers to federal, state and local agencies;
  - c. Orders of designation for official use by Department components if known; and,
  - d. Appraisals.

Based upon these and other relevant factors, the U.S. Marshals Service shall promptly and appropriately dispose of the property.

VII. THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND

A. Administration of the Fund

1. The Attorney General delegates the administration of the Fund to the Director, U.S. Marshals Service under the supervision of the Deputy Attorney General.
2. The U.S. Marshals Service shall prepare annual reports on the Fund in accordance with 28 U.S.C. §524(c)(6).
3. Pursuant to these Guidelines, federal agencies reimbursed by or contributing to the Fund, shall provide information necessary to prepare these reports as requested by the U.S. Marshals Service.
4. The U.S. Marshals Service shall submit a monthly financial statement reflecting the current status of the Fund to the Director, Executive Office for Asset Forfeiture.
5. The U.S. Marshals Service shall prepare annual budget estimates for the Fund based on information submitted by the requesting agencies.

B. Payments and Reimbursements

Payments and reimbursements are permitted in six (6) general categories. In any fiscal year, reimbursement for program management expenses and investigative expenses expressly identified in 28 U.S.C. §524(c)(1) shall not exceed the amount specified in the annual appropriation limitation on the Fund. The categories listed in order of priority are as follows:

1. Asset management expenses. Asset management expenses are those expenses that are incurred in connection with the seizure, inventory, appraisal, packaging, movement, storage, maintenance, security and disposition (including destruction) of the asset(s).

Asset management expenses include payments for contract services and the employment of outside contractors to operate and manage properties or provide other specialized services as necessary to dispose of such properties. If the asset is an on-going business, the normal and customary expenses of operating the business are asset

management expenses only to the extent they are not covered by the income of the business.

2. Case related expenses. Case related expenses are those expenses that are incurred in connection with normal proceedings undertaken to perfect the United States' interest in seized property through forfeiture. This includes fees and other costs of advertising, translation, court and deposition reporting, expert witness, courtroom exhibit services, employment of attorneys or other specialists in state real estate law by the U.S. Marshals Service, travel and subsistence related to a specific proceeding, and other related items as approved by the Director, Executive Office for Asset Forfeiture.

The Director, Executive Office for Asset Forfeiture, may approve the expenses incurred in connection with retention of foreign counsel to gain access to information needed to conduct pre-seizure planning on identified assets, to effect a seizure of assets or to perfect title of forfeited property in a foreign country.

3. Payment of qualified third party interests. Qualified third party interests are those expenses incurred in the payment of valid liens, secured mortgages and debts owed to qualified general creditors pursuant to court order or a favorable ruling on a petition for remission or mitigation of the forfeiture. This includes the restoration of the proceeds of sale pursuant to a court order or an administrative determination. Nothing in this section shall preclude a departmental component from seeking reimbursement from the state or local agency that received the property that is the basis of the claim.
4. Equitable sharing payments. Equitable sharing payments are those payments which represent amounts paid directly to foreign governments or agencies and state or local agencies. Pursuant to 21 U.S.C. §881(e)(3)(a), these amounts shall reflect the degree of participation in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based.

5. Program management expenses. Program management expenses are those expenses incurred in conducting program responsibilities that are not related to any specific asset or to any one specific seizure or forfeiture. Expenses included under this heading are:

a. Automatic Data Processing

- (1) Expenses for the purchase or lease of automatic data processing equipment which is utilized the majority of the time for asset forfeiture program related work;
- (2) Expenses for the development of computer software that will enhance the capability of the Department of Justice to identify, track, manage, process and dispose of forfeitable property may be approved by the Director, Executive Office for Asset Forfeiture.
- (3) Each investigative bureau and Department component receiving monies from the Fund for automatic data processing purposes shall develop internal guidelines consistent with these Guidelines governing the use of and accountability for automatic data processing resources acquired with monies from the Fund. Copies of such internal guidelines shall be filed with the Director, Executive Office for Asset Forfeiture.
- (4) The design of all systems to be developed in whole or in part with Fund monies shall be submitted to the Director, Executive Office for Asset Forfeiture, for approval. The design of such software shall be consistent with and advance the overall objective of the Department to implement and maintain an integrated asset seizure and forfeiture information system.

b. Contracting for services directly related to the processing, data entry and accounting for forfeiture cases.

- c. Printing and graphic services reasonably necessary to effectuate program goals.
  
- d. Training
  - (1) The Executive Office for Asset Forfeiture shall have responsibility for oversight of forfeiture training and will assist Department components in coordinating asset seizure and forfeiture training conferences. Goals of the Department's training program shall be to provide consistent treatment of identical topics, to take advantage of opportunities for joint training, and to foster cooperation and appreciation of the needs of all components.
  
  - (2) Any agency that anticipates requesting reimbursement for training personnel shall submit a justification indicating numbers of persons to be trained, the purpose and scope of training, the location and approximate cost of such training, an outline of topics in need of coverage, and the priority of training needs, as requested by the Director, Executive Office for Asset Forfeiture.
  
  - (3) A consolidated training calendar shall be maintained by the Executive Office for Asset Forfeiture for asset seizure and forfeiture training for Department components.
  
  - (4) The Assets Forfeiture Fund may be used to finance necessary training expenses directly related to the asset forfeiture program. Generally, this will include:
    - (a) any required training for employees or contractors dedicated to the asset forfeiture program (e.g., trial advocacy for asset forfeiture attorneys, training on agency computers for contract employees);

- (b) any exclusively asset forfeiture training program that is conducted for other personnel, for whom asset forfeiture is an ancillary duty, to enable them to be more effective in performing asset forfeiture program functions; and
- (c) that portion of a broader law enforcement training program that is directly related to the identification, tracking, evaluation, seizing, processing, accounting for, management or disposition of property subject to forfeiture (e.g., 25 percent of the expenses of a money laundering conference or a drug investigation conference if 25 percent of the conference program deals directly with the asset forfeiture program).

Exceptions may be granted on a case-by-case basis by the Director, Executive Office for Asset Forfeiture.

- e. Other types of general program management and operational costs as approved by the Director, Executive Office for Asset Forfeiture.
6. Investigative expenses. Investigative expenses are those expenses normally incurred in the identification, location and seizure of property subject to forfeiture. Investigative expenses statutorily eligible to be paid from the Fund include such items as:
- a. Awards for information concerning violations of the criminal drug laws;
  - b. Awards for information leading to the forfeiture of property under the Comprehensive Drug Abuse Prevention and Control Act of 1970 or the Racketeer Influenced and Corrupt Organizations (RICO) statute;

- c. Awards for information concerning the killing or kidnapping of a Federal drug law enforcement agent;
- d. Purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, RICO or 18 U.S.C. §§1956 and 1957;
- e. Contracting for services directly related to the identification of potentially forfeitable assets;
- f. Equipping of conveyances for drug law enforcement functions; and,
- g. The storage, protection and destruction of controlled substances.

C. Liens and Mortgages

- 1. Liens or mortgages on real property placed into federal official use or transferred to state or local agencies are not payable from the Fund unless expressly approved by the Director, Executive Office for Asset Forfeiture.
- 2. Liens and mortgages shall be satisfied after the sale of forfeited property pursuant to a determination to remit or mitigate the forfeiture or an order of the court, except under the following conditions where payments may be made from the Fund:
  - a. Where the payment prior to sale will improve the United States' ability to convey title to the property;
  - b. Where the United States has substantial equity in forfeited real property and payment prior to sale will not result in a net loss to the United States; or
  - c. Where the property is approved for placement into official use by an investigative bureau or the U.S. Marshals Service and all necessary approvals have been obtained.

D. Limitations on Use of the Fund

1. Items not payable from the Fund include:
  - a. Personnel expenses (e.g., salaries, overtime and benefits) for employees of the United States;
  - b. Expenses in connection with the seizure, detention and forfeiture of property where the seizure was effected by a U.S. Postal Inspection Service or a U.S. Customs Service officer and the proceeds of forfeiture, if any, are to be deposited into the Postal Fund or the Customs Forfeiture Fund, respectively;
  - c. Purchase of real property or any interest therein except to acquire full title to or to satisfy liens or mortgages on forfeited property;
  - d. Payments to equip property transferred to federal agencies (other than investigative bureaus or the U.S. Marshals Service) or state or local agencies;
  - e. Expenses in connection with the seizure, detention and disposition of property where the seizure was effected for debt collection or other non-forfeiture purposes; and
  - f. Reception and representation expenses (e.g., refreshments, meals, gifts or entertainment).
2. Claims of unsecured creditors generally may not be paid from the Fund, particularly if such payment may jeopardize the legitimate claims of existing lienholders.

Pursuant to 28 C.F.R. §9.6(b), claims of unsecured creditors for debts incurred within one hundred and twenty (120) days before seizure may be paid by the U.S. Marshals Service in order to preserve the continued operation of a seized business. Such payable expenses include the following:

- a. Payment of reasonable salaries and benefits of employees not believed to have been involved in the unlawful activities giving

rise to forfeiture and not having an ownership interest in the business entity;

- b. Payments to third party contractors for goods or services essential to carry on the business and who continue to provide those goods or services as in the regular course of business; and,
- c. Utilities.

3. Payment of Expenses

- a. Asset management expenses incurred by the U.S. Marshals Service, qualified third party interests and equitable sharing payments as set forth above will be obligated against and paid directly from the Fund in accordance with standard Departmental financial management and accounting policies and procedures.
- b. Pursuant to a properly executed Reimbursement Agreement Between Agencies (DOJ-216), all other obligations incurred under these Guidelines will be paid by the agency incurring the obligation and will be reimbursed from the Fund on a monthly basis where practicable by means of an Inter-Agency Fund Transfer (SF-1081).
- c. It is the responsibility of the agency incurring the obligation to prepare the DOJ-216 and SF-1081 forms and obtain the proper authorization from the Director, U.S. Marshals Service. Each DOJ-216 and SF-1081 shall identify the appropriation to be reimbursed from the Fund.
- d. Approved DOJ-216's and SF-1081's will be registered upon receipt by the U.S. Marshals Service. Properly authorized requests (SF-1081's) will be processed for payment in order of receipt. If sufficient funds are available, the U.S. Marshals Service shall approve the transfer of funds to the appropriation identified.
- e. All transfers from the Fund shall be based upon certification of actual expenditures by

the requesting agency. Transfers shall not be made based upon estimated obligations.

- f. If a payment requested is in excess of funds available, the U.S. Marshals Service shall not process the request and shall advise the requesting agency of the reason.
- g. If the U.S. Marshals Service and the requesting agency cannot agree on deferral or cancellation of the request, the parties shall seek in writing a determination from the Deputy Attorney General or his designee. The U.S. Marshals Service shall provide notice of the decision to the agency submitting the SF-1081.

E. Preparation of Estimates of Anticipated Expenses and Reimbursement Agreements

- 1. By June prior to the fiscal year in which the expenses are anticipated and as necessary during the fiscal year, any agency that anticipates requesting reimbursement for expenses from the Fund shall submit requests to the Director, Executive Office for Asset Forfeiture, based upon estimates of anticipated expenditures. Prior to submission to the Director, Executive Office for Asset Forfeiture, these requests shall be reviewed and approved in accordance with the agency's internal procedures for budget submissions.
- 2. Requests for anticipated reimbursements with accompanying justification shall be submitted in the format required by the Director, Executive Office for Asset Forfeiture. Information regarding appropriated resource levels shall be provided as part of the justification.

These requests shall include information regarding the effect that any reprogramming of appropriated resources had on the need for additional resources from the Fund.

- 3. In evaluating the requests and approving allocations, the Deputy Attorney General or his designee shall ensure that:

- a. Overall amounts recommended for authorization in a budget for any fiscal year do not exceed appropriation limitations for that year; and
  - b. Overall amounts recommended for authorization in a budget for any fiscal year do not exceed an agreed upon estimate of amounts available for obligation, to include current year income plus any carry-over from the prior year.
4. To the extent possible, the Deputy Attorney General or his designee shall approve a budget of expenses prior to the beginning of the fiscal year. This budget will form the basis for the establishment of reimbursement agreements between the U.S. Marshals Service as the administrator of the Fund and the participating agencies.
  5. An agency may change the distribution of its allocation among particular categories of reimbursable expenses during a fiscal year without approval of the Deputy Attorney General or his designee, subject to the following conditions:
    - a. A redistribution cannot increase the total amount allocated for expenses subject to appropriation (i.e., program management and investigative expenses).
    - b. A proposal for any redistribution shall be submitted with supporting justification to the Director, Executive Office for Asset Forfeiture, thirty (30) days in advance of the proposed effective date of the proposal. A copy of the proposed redistribution shall also be provided to the U.S. Marshals Service.

The Director, Executive Office for Asset Forfeiture, may deny such proposed redistribution with notice to the agency and U.S. Marshals Service.

6. Forfeiture funds allocated for specific purposes shall supplement and not supplant appropriated funds provided explicitly or implicitly for those purposes. The calculation of appropriated funds available for specific purposes shall take into account any completed reprogrammings.

F. Payment of Awards

Monies from the Fund may be used to pay awards for specific information or instances of assistance. These monies are not to be used to pay retainers or to pay cooperating informants in the expectation of future specific information or assistance.

1. Applications for awards will be accepted on behalf of any individual. (The term "individual" encompasses corporations and associations.)
2. Applications for awards shall be submitted in a format developed and approved by the Director, Executive Office for Asset Forfeiture.
3. Awards pursuant to 28 U.S.C. §524(c)(1)(C) shall be paid only after disposition of the forfeited property.
4. Awards will not be paid to individuals who are representatives of state or local agencies. Any information or assistance provided by an individual who represents a state or local agency will be compensated under rules governing transfers of forfeited property.
5. Any awards pursuant to 28 U.S.C. §524(c)(1)(B) shall not exceed \$250,000. Any award pursuant to 28 U.S.C. §524(c)(1)(B) or (C) shall preclude the recipient of such award from any additional award based on a forfeiture resulting in any way from the same information or assistance.

Any award pursuant to 28 U.S.C. §524(c)(1)(C) shall not exceed the lesser of \$250,000 or one-fourth the amount realized by the United States from the property forfeited.

- a. If forfeited property is sold; then the "amount realized by the United States from the property forfeited" is the net proceeds.
- b. If forfeited property is retained for official use, the "amount realized by the United States from the property forfeited" is the value of the property at the time of seizure minus expenses paid from the Fund under Section VII.B (1, 2 and 3).

6. All applications for awards shall be directed to the field office of the investigative bureau responsible for processing the forfeiture. Non-Department of Justice agencies (e.g., Organized Crime Drug Enforcement Task Force members such as Internal Revenue Service) should be instructed to direct any inquiries concerning these awards to the investigative bureau responsible for processing the forfeiture.
7. The investigative bureau field unit receiving or initiating an application for an award will prepare a written report that will evaluate the value of the information or assistance provided by the applicant and recommend an amount to be paid.
8. If more than one application for an award pursuant to 28 U.S.C. §524(c)(1)(C) is received in a single action for forfeiture, the applications should be handled in a consolidated manner. Decisions on all applications should be made at the same time, and should consider the comparative value of information or assistance provided by each applicant and the aggregate amount of award(s) to be made. In these cases, the limits discussed in paragraph VII. F (3 and 4) apply to the aggregate amount of the awards to be made.
9. Recommendations for payment of awards pursuant to 28 U.S.C. §524(c)(1)(B) shall:
  - a. Identify the investigation, including agency and/or federal district court case numbers;
  - b. Identify the recommended dollar amount of the award; and,
  - c. Include the recommendation of the amount of the award, the seriousness and scope of the criminal activity involved, the degree to which the information or assistance aided the investigation, and whether the information or assistance provided was unique or indispensable.
10. Recommendations for payment of awards pursuant to 28 U.S.C. §524(c)(1)(C) shall:

- a. Identify the property or properties regarding which information or assistance was provided, including agency and/or federal district court case numbers;
  - b. Identify which of those properties were forfeited and when;
  - c. Identify the recommended dollar amount of the award, the degree to which the information or assistance aided in the forfeiture and whether the information or assistance provided was unique or indispensable; and
  - d. Identify costs incurred under Section VII.B 1-3 with respect to the property forfeited. A report on those costs shall be obtained from the U.S. Marshals Service.
11. Approval of awards will be in accordance with 28 U.S.C. §524(c)(2) and any subsequent delegations of authority.

G. Purchase of Evidence

1. Pursuant to 28 U.S.C. §524(c)(1)(G) the Attorney General is authorized to utilize monies from the Fund for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, 18 U.S.C. Ch. 96 or 18 U.S.C. §§ 1956 and 1957.
2. Approval of amounts for the purchase of evidence will be in accordance with 28 U.S.C. §524(1)(G) and any subsequent delegations of authority.
3. Each investigative agency shall develop internal guidelines covering the use of monies from the Fund for the purchase of evidence. Such guidelines shall be filed with the Executive Office for Asset Forfeiture.
4. If a participating agency recovers part or all of the monies that are used to purchase evidence for which it has obtained reimbursement from the Fund, the recovered monies shall be returned to the Fund.

H. Payments to Equip Conveyances for Drug Law Enforcement Functions

1. Decisions to equip a government-owned or leased conveyance (vehicle, vessel, or aircraft) for drug law enforcement functions shall be made by the organizational component within the agency which is responsible for management of the conveyance.
2. Reimbursable payments may be made to equip conveyances which are used the majority of the time for activity relating to the investigation or apprehension of violators of the federal drug laws and the seizure and forfeiture of their assets.

Monies from the Fund may not be used for recurring expenses such as fuel, spare or replacement parts, maintenance, or replacement of equipment due to wear and tear by the agency using the conveyance.

3. Equipping should generally occur before the conveyance is placed into official use and only if it is intended to be in service for at least two (2) years.

Exceptions may be made to this guidance only under extraordinary circumstances and shall be documented.

4. Unreasonable amounts shall not be spent on equipping Government-owned or leased conveyances for drug law enforcement purposes. Purchased equipment must be affixed to the conveyance and used integrally with the conveyance.
5. Each agency shall establish internal guidelines which shall ensure the effective utilization of monies from the Fund budgeted for equipping forfeited, leased or owned conveyances for drug law enforcement purposes. These guidelines should consider the estimated useful life of the conveyance and the availability of similarly equipped conveyances. Such guidelines, and any subsequent revisions, are to be filed with the Executive Office for Asset Forfeiture. Agencies shall maintain records, by conveyance, of amounts from the Fund spent on equipping.

I. Cash Management

Seized cash, except where it is to be used as evidence, is to be deposited promptly in the Seized Asset Deposit Fund pending forfeiture. The Director, Executive Office for Asset Forfeiture, may grant exceptions to this policy in extraordinary circumstances. Transfer of cash to the United States Marshal should occur within sixty (60) days of seizure or ten (10) days of indictment.

VIII. TRANSFER OF FORFEITED PROPERTY TO FOREIGN COUNTRIES

A. The Attorney General may transfer any forfeited personal property or the proceeds from the sale of any forfeited personal or real property, as authorized by statute, to a foreign country which participated directly or indirectly in any acts which led to the seizure or forfeiture of the property, if such transfer:

1. Has been agreed to by the Secretary of State;
2. Is authorized in an international agreement between the United States and the foreign country; and,
3. Is made to a country which, where applicable, has been certified under §481(h) of the Foreign Assistance Act of 1961.

B. Requests by a foreign agency shall be in the form prescribed by the Director, Executive Office for Asset Forfeiture.

IX. DISCONTINUANCE OF FEDERAL FORFEITURE PROCEEDINGS

A. Federal Judicial Forfeiture Proceedings

1. A decision to discontinue a federal judicial forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the personal approval of the United States Attorney after review of the evaluation and recommendation of the presenting investigative bureau.
2. In making this decision, the United States Attorney shall consider the impact of such decision on the financial status of the Fund.

3. Decisions to discontinue judicial forfeitures in favor of state or local proceedings are to be documented.

B. Federal Administrative Forfeiture Proceedings

1. A decision to discontinue a federal administrative forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the approval of the head of the investigative bureau.
2. In making this decision, the head of the investigative bureau must consider the impact of such decision on the financial status of the Fund and where appropriate consult with the U.S. Marshals Service in that regard.
3. Investigative bureaus shall develop guidelines for recording these decisions and providing reports to the Director, Executive Office for Asset Forfeiture, as requested.

X. U.S. CUSTOMS SERVICE FORFEITURES

A. Pursuant to 28 U.S.C. §524(c), all proceeds from the forfeiture of property under any law enforced or administered by the Department are to be deposited in the Department of Justice Assets Forfeiture Fund, except as specified in 28 U.S.C. §524(c)(4) and except to the extent that the seizure was effected by a U.S. Customs Service officer or to the extent that custody was maintained by the Customs Service, in which case the provisions of 19 U.S.C. §1613b (Customs Forfeiture Fund) shall apply.

B. To the extent that the U.S. Marshals Service may have the authority and the capacity and pursuant to a Memorandum of Understanding between the Department of Treasury and the Department of Justice, the Marshals Service may store and maintain seized property for the U.S. Customs Service. The reimbursement for expenses incurred by either the U.S. Marshals Service or the U.S. Customs Service attendant to custody of seized property shall be in accordance with this agreement.

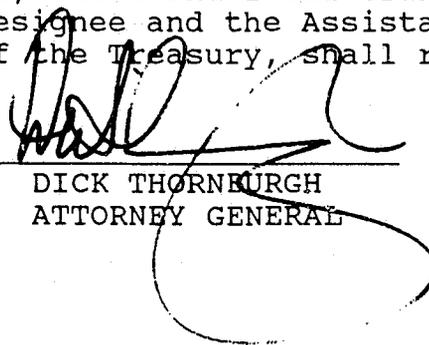
C. Pursuant to 19 U.S.C. §1616a, requests for transfers of forfeited property by federal agencies or by participating foreign, state and local agencies in forfeitures where the seizure was effected by a U.S. Customs Service officer or custody was maintained by the Customs Service shall be directed to the Customs Service for processing and disposition pursuant to

guidelines of the Department of Treasury. An information copy shall be sent to the United States Attorney in the district of seizure.

D. In the event of an unresolved dispute concerning whether a forfeiture constitutes a U.S. Customs Service or Department of Justice forfeiture for purposes of cash or proceeds disposition or for federal, state and local transfers, the Deputy Attorney General or his designee and the Assistant Secretary for Enforcement, Department of the Treasury, shall resolve the issue.

July 31, 1990

DATE

  
\_\_\_\_\_  
DICK THORNBURGH  
ATTORNEY GENERAL

**APPENDIX D**

**GLOSSARY OF SELECTED TERMS AND CONTROLLED SUBSTANCES**

## GLOSSARY OF SELECTED TERMS AND CONTROLLED SUBSTANCES

This glossary provides descriptions of selected terms used in this report. The descriptions are derived in major part from federal controlled substances provisions. Standard reference materials were consulted in instances where no definitions are included in federal provisions.

### *Terms*

#### **Analog**

A substance that has a chemical structure substantially similar to the chemical structure of a controlled substance in schedule I of the federal CSA; that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of the federal CSA; or that a particular person represents has, or intends to have, a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of the federal CSA. Analogs also are called "designer drugs."

#### **Barbiturates**

Sedative, hypnotic drugs that depress the central nervous system. They are metabolized in the liver and eliminated by kidneys at varying degrees. Having some recognized medical use, barbiturates are classified in schedule II, III, and IV of the federal CSA.

#### **Controlled Substance**

A drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of the federal CSA or corresponding scheduling scheme of state CSA's. The term does not include alcoholic beverages or tobacco.

#### **Counterfeit Substance**

A controlled substance that without authorization, bears, or has a label or container bearing, the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and that thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

#### **Delivery**

The actual, constructive, or attempted transfer of a controlled substance, whether or not there exists an agency relationship. Distribution is considered delivery.

#### **Depressant**

A drug containing any quantity of barbituric acid or salts of barbituric acid; any derivative of barbituric acid that has habit-forming qualities.

#### **Designer Drugs**

Compounds that produce the effects of controlled substances classified under schedule I or II of the federal CSA but that are chemically different from the controlled substance and thus not subject to the CSA provisions. The effect of such a compound can be several hundred times that of the drug it is designed to imitate. Designer drugs also are called analogs.

**Dispensing**

Delivery of a controlled substance to an user or research subject by a practioner.

**Distribute**

To deliver a controlled substance. A "distributor" is a person who delivers a controlled substance.

**Flat Penalty**

A provision of the federal CSA and some state CSA's setting the same fine and term of imprisonment for all schedules of drugs involved in a given category of offense, whether possession or manufacturing, delivery, or sale.

**Forfeiture**

**Administrative Forfeiture:** government action to have property and proceeds forfeited to the government without judicial process. Under the federal CSA, property with a value up to \$100,000 may be forfeited administratively; in state CSA's authorizing administrative forfeiture, other ceilings may be set. The Administrative forfeiture action becomes judicial if an interested party files a claim against the property.

**Civil Forfeiture:** government action in rem to take possession of property connected with illegal activity, independent of criminal action against any individual. Property subject to civil forfeiture may include instrumentalities of illegal trade; property exchanged or intended to be exchanged for drugs; proceeds traceable to an illegal drug exchange; and money, negotiable instruments, and securities used or intended to be used to facilitate drug laws violations.

**Criminal Forfeiture:** government action in persona to take possession of an individual's property upon his conviction for a criminal offense. A convicted individual's profits from and interests in a continuing criminal enterprise, as well as property or contractual rights that afford a source of income over the enterprise, may be subject to forfeiture. A statute also may provide for the forfeiture of any interest, security or claim of a convicted individual regarding property or contractual rights of any kind affording a source of influence over any enterprise he participated in or has established, operated, controlled, or conducted.

**Hallucinogen**

A substance that acts on the central nervous system, causing mood and perceptual changes such as illusions or hallucinations. LSD, mescaline, peyote, DMT, psilocybin, marijuana and tetrahydrocannabinol are all considered hallucinogens. Hallucinogens are classified in schedule I in the federal CSA.

**Imitation Controlled Substance**

A non-controlled substance, which, by dosage unit; appearance including color, size, shape, and markings; and representations made, would lead a reasonable person to believe that the substance is a controlled substance. Imitation controlled substances also are called "look-alike" drugs.

**Manufacture**

The production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly, or by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. The term encompasses the act of packaging or repackaging a controlled substance or labeling or relabeling its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use.

**Narcotic Drug**

Any of the following, whether produced directly or indirectly, by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- opium, coca leaves, and opiates;
- a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
- a substance or any compound, manufacture, salt, derivative, or preparation thereof, that is chemically identical to any of the substances described above.

note: cocaine is manufactured from the leaves of the coca plant and is classified as a narcotic drug under the federal and all other definitions.

### **Opiate**

Any drug or other substance having an addiction-forming or addiction-sustaining character similar to morphine or capable of being converted into a drug having such addiction-forming or addiction-sustaining liability.

### **Paraphernalia**

Any equipment, product, or material of any kind that is intended or designed primarily for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, inhaling, or otherwise introducing into the human body a controlled substance. In some CSA's "paraphernalia" also may include kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived; kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances; isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled substance; testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance; scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances; dilutants and adulterants, used, intended for use, or designed for use in cutting controlled substances; capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances; containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; hypodermic syringes, needles, and other objects used, intended for use, or designed for use in injecting controlled substances into the human body.

### **Paregoric Solutions**

Opium tinctures (powdered opium dissolved in alcohol) with camphor. These narcotic solutions act on the central nervous systems. Paregoric solutions are classified in schedule III of the federal CSA.

### **Precursor Ingredient (Immediate Precursor)**

A principal compound used, or produced primarily for use, in the manufacture of a controlled substance; an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance.

### **Production**

The manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

### **Safe House/Rock House**

Any place, including buildings, rooms, or enclosures, maintained, managed, or controlled for the purpose of manufacturing, distributing, or using any controlled substance.

### **Schedule**

A classification defining a group of different controlled substances. The federal CSA and the majority of state CSA's have five schedules.

**Schoolyard Provision**

A provisions in the federal CSA and some state CSA's that prohibits the manufacture, distribution, or use of illegal drugs within a specified distance from a public or private elementary, vocation, or secondary school or a public or private college, junior college, or university.

**Stimulant**

A drug containing any quantity of amphetamine or any of its optical isomers, any salt of amphetamine or any salt of an optical isomer of amphetamine, or any substance found to have a potential for abuse because of its stimulant effect on the central nervous system.

**Third Party Interests**

A direct interest in a piece of property against which the government has brought a forfeiture action. If the individual having such an interest is able to prove that the property was not purchased with funds derived from illegal activity and that he had no knowledge of the illegal use to which the property was put, he may defeat the forfeiture action.

*Controlled Substances***Amphetamine**

A stimulant prescribed medically to reduce appetite and relieve minor depression. Short-term effects include increased alertness, loss of appetite, and insomnia. Long-term effects include delusions, psychosis, malnutrition, exhaustion, and damage to the heart, brain, and circulatory system. The principal groups of amphetamines (followed by trade names) are amphetamine (benzedrine), dextroamphetamine (dexadrine), and methamphetamine (methedrine). Amphetamines are classified in schedule II of the federal CSA.

**Cocaine**

An alkaloid found in the leaves of the coca bush that is used as a stimulant to the central nervous system. It depresses the appetite, increases alertness, and induces feelings of euphoria. It also is used by doctors as a local anesthetic. The effects of cocaine are similar to those of adrenaline or manufactured amphetamines. Although cocaine is psychologically addictive, users rarely form a physical dependence. Cocaine is classified in schedule II of the federal CSA.

**Crack**

The most potent, toxic form of cocaine, 90 percent pure. Found in solid rock form, crack differs from cocaine powder in 3 ways:

- a) crack is smoked rather than sniffed, creating a high that lasts less than 15 minutes;
- b) crack produces a more powerful effect than cocaine that is sniffed; crack penetrates directly from lungs to brain
- c) crack ultimately is more expensive to use than cocaine because the high does not last as long and users need larger quantities.

**Diazepam (Valium)**

A benzodiazepine derivative that depresses the central nervous system and acts on the brain's limbic system. A mild tranquilizer, diazepam is the largest selling drug on the commercial market; doctors use it to treat anxiety, tension, high blood pressure, alcoholism and psychosomatic disorders. Diazepam is classified in schedule IV of the federal CSA.

**Heroin**

A narcotic diacetylmorphine, alkaloid derived from morphine that depresses the central nervous system, relieves pain, and depresses aggression, appetite, and sex drive. It is classified in schedule I of the federal CSA.

**Lysergic Acid Diethylamide (LSD)**

A hallucinogenic drug synthesized from a natural grain fungus. It acts on the central nervous system by altering perception and inducing dream-like states of trance. Users also experience "flashbacks"; they may feel LSD effects for weeks or months after using the drug. LSD is classified in schedule I of the federal CSA.

**Marijuana**

All parts of the plant cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except resin extracted therefrom); or the sterilized seed of the plant, which is incapable of germination. Marijuana is classified in schedule I of the federal CSA.

**Mescaline**

A natural hallucinogen extracted from the peyote cactus plant. Mescaline is classified in schedule I of the federal CSA.

**Methamphetamine (Speed)**

An amphetamine derivative that acts as a stimulant. It is used medically to suppress appetite. It is classified in schedule II of the federal CSA.

**Morphine**

A narcotic analgesic and the principal active component of opium. It acts on the central nervous system, especially the pain receptors. Morphine can be converted into heroin by a chemical process. Morphine is classified in schedule II of the federal CSA.

**Peyote (Lophophora Williamsii)**

A spineless cactus native to Mexico. The cactus' top crown and bottom contain a natural hallucinogen. It is classified in schedule I of the federal CSA.

**Phenobarbital**

A long-acting barbiturate used as a sedative hypnotic and anti convulsant. It is classified in schedule IV of the federal CSA.

**Phencyclidine (PCP)**

A synthetic hallucinogen anesthetic that is easily and inexpensively manufactured. It serves as a substitute for or adulterant in mescaline, psilocybin, lysergic acid diethylamide (LSD), cocaine, and heroin. It is classified in schedule II of the federal CSA.

**Psilocybin**

An active hallucinogenic ingredient in the mushroom, Psilocybe Mexicana. Taken orally, psilocybin is the most rapidly reacting hallucinogen. It is classified in schedule I of the federal CSA.

TABLE OF CITATIONS

Rev. 1/91

STATE CONTROLLED SUBSTANCES ACTS

Jurisdiction

Statutory Citation

Alabama	Ala. Code §§ 20-2-1 to 20-2-93, 20-2-140 to 20-2-144, 13A-12-201 to 13A-12-220
Alaska	Alaska Stat. §§ 11.71.010 to 11.71.900, 17.30.010 to 17.30.900, 11.73.010 to 11.73.099
Arizona	Ariz. Rev. Stat. Ann. §§ 13-3401 to 13-3415, 36-2501 to 36-2553
Arkansas	Ark. Stat. Ann. §§ 5-64-10 to 5-64-906
California	Cal. Health & Safety Code §§ 11000 to 11651
Colorado	Colo. Rev. Stat. §§ 12-22-301 to 12-22-322
Connecticut	Conn. Gen. Stat. Ann. §§ 21a-240 to 21a-308
Delaware	Del. Code Ann. tit. 16, §§ 4701 to 4796
District of Columbia	D. C. Code Ann. §§ 33-501 to 33-567
Florida	Fla. Stat. Ann. §§ 893.01 to 893.15
Georgia	Ga. Code Ann. §§ 16-13-20 to 16-13-79
Hawaii	Haw. Rev. Stat. §§ 329-1 to 329-58, 329C-1 to 329C-3, 712-1240 to 712-1255
Idaho	Idaho Code §§ 37-2701 to 37-2751
Illinois	Ill. Ann. Stat. ch. 56 <sup>1</sup> / <sub>2</sub> , para. 1100 to 1702.4
Indiana	Ind. Code Ann. §§ 35-48-1-1 to 35-48-1-14
Iowa	Iowa Code Ann. §§ 204.101 to 204.602
Kansas	Kan. Stat. Ann. §§ 65-4101 to 65-4140
Kentucky	Ky. Rev. Stat. Ann. §§ 218A.010 to 218A.991
Louisiana	La. Rev. Stat. Ann. §§ 40:961 to 40:995
Maine	Me. Rev. Stat. Ann. tit. 17-A, §§ 1101 to 1116; tit. 22, §§ 2383 to 2383B; tit. 32, §§ 13722 and 13731
Maryland	Md. Ann. Code art. 27, §§ 276 to 302
Massachusetts	Mass. Gen. Laws Ann. ch. 94C, §§ 1 to 48
Michigan	Mich. Comp. Laws Ann. §§ 333.7101 to 333.7545
Minnesota	Minn. Stat. Ann. §§ 152.01 to 152.20
Mississippi	Miss. Code Ann. §§ 41-29-101 to 41-29-175
Missouri	Mo. Ann. Stat. §§ 195.010 to 195.320
Montana	Mont. Code Ann §§ 50-32-101 to 50-32-405, 45-9-101 to 45-9-121
Nebraska	Neb. Rev. Stat. §§ 28-401 to 28-445
Nevada	Nev. Rev. Stat. §§ 453.011 to 453.575
New Hampshire	N. H. Rev. Stat. Ann. §§ 318B:1 to 318B:30
New Jersey	N. J. Stat. Ann. 24:21-1 to 24:21-53
New Mexico	N. M. Stat. Ann. §§ 30-31-1 to 30-31B-18
New York	N. Y. Public Health Law §§ 3300 to 3396
North Carolina	N. C. Gen. Stat. §§ 90-86 to 90-113.8
North Dakota	N. D. Cent. Code 19-03.1-01 to 19-03.2-03, 12.1-21.1-01 to 12.1-31.1-06
Ohio	Ohio Rev. Code §§ 3719.01 to 3719.99, 2925.01 to 2925.51
Oklahoma	Okla. Stat. Ann. tit. 63, §§ 2-101 to 2-608
Oregon	Or. Rev. Stat. §§ 475.005 to 475.285, 475.922 to 475.995
Pennsylvania	Pa. Stat. Ann. tit. 35, §§ 780-101 to 780-144
Rhode Island	R. I. Gen. Laws §§ 21-28-1.01 to 21-28-6.02, 21-28.5-1 to 21-28.5-4
South Carolina	S. C. Code Ann. §§ 44-53-110 to 44-53-580
South Dakota	S. D. Codified Laws Ann. §§ 34-20B-1 to 34-20B-114, 22-42-1 to 22-42-16
Tennessee	Tenn. Code Ann. §§ 39-17-401 to 39-17-427, 53-11-201 to 53-11-214
Texas	Tex. Health and Safety Code Ann. §§ 481.001 to 481.205
Utah	Utah Code Ann. §§ 58-37-1 to 58-37-19
Vermont	Vt. Stat. Ann. tit. 18, §§ 4201 to 4248
Virginia	Va. Code Ann. §§ 18.2-247 to 18.2-265.5, 54.1-3400 to 54.1-3472
Washington	Wa. Rev. Code Ann. §§ 69.50.101 to 69.50.608
West Virginia	W. Va. Code §§ 60A-1-101 to 60A-7-207
Wisconsin	Wisc. Stat. Ann. §§ 161.001 to 161.62
Wyoming	Wyo. Stat. §§ 35-7-1001 to 35-7-1057

**APPENDIX B**

**REFERENCE CHARTS:**

**ELEMENTS OF CONTROLLED SUBSTANCES ACTS**

**COMPARISON OF PENALTIES FOR USE, POSSESSION, SALE—FIRST OFFENSE**

**DRUGS TARGETED FOR ENHANCED PENALTIES UNDER  
CONTROLLED SUBSTANCES ACTS**

**FORFEITABLE ASSETS UNDER CONTROLLED SUBSTANCES ACTS**

**CURRENCY TRANSACTION REPORTING STATUTES**

**STATE CONTROLLED SUBSTANCE TAX PROVISIONS**



**COMPARISON OF PENALTIES FOR USE, POSSESSION,  
SALE—FIRST OFFENSE**

This chart sets out the range of penalties for first offenses for the use, the possession, and the sale, manufacturing, delivery, or distribution of controlled substances in all state CSA's and the federal CSA. Because the chart lists only the range of possible penalties for offenses, depending upon the category of drugs involved in an offense, it does not depict specific penalties or ranges of penalties triggered by other factors, such as amount of drug. Generally, enhanced penalties are not covered by this chart. In any case where a statute does not specify penalty provisions for an offense category, a dash appears in that place in the chart. In some instances statutory provisions do not correspond precisely to the format of the chart; in such cases, provisions are placed in the chart category that most closely approximates the statutory intent. This chart is intended to provide information for general comparisons only; state statutes and the state-by-state summaries included in the Guide should be consulted for more detailed information concerning penalty provisions.

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<b>Alabama</b> flat penalty marijuana	— —	1-10; \$5,000 0-1; \$2,000	2-20; \$10,000 —
<b>Alaska</b> IA IIA IIIA IVA VA VIA	— — — — — 0-90 days; \$1,000	0-5; \$50,000 0-5; \$50,000 0-5; \$5,000-\$50,000 0-5; \$5,000-\$50,000 0-5; \$5,000-\$50,000 0-5; \$1,000-\$50,000	5-20; \$50,000 0-10; \$50,000 0-10; \$50,000 0-5; \$50,000 0-5; \$50,000 0-5; \$5,000-\$50,000
<b>Arizona</b> dangerous drugs narcotic drugs prescription-only drugs marijuana peyote vapor-releasing substances precursor chemicals	0-5; \$1,000-\$150,000 0-5; \$2,000-\$150,000 0-6 mos.; \$1,000 0-5; \$750-\$150,000 0-1 <sup>9</sup> / <sub>10</sub> ; \$150,000 0-2 <sup>1</sup> / <sub>2</sub> ; \$150,000 0-14; \$150,000	0-5; \$1,000-\$150,000 0-5; \$2,000-\$150,000 0-6 mos.; \$1,000 0-5; \$750-\$150,000 0-1 <sup>9</sup> / <sub>10</sub> ; \$150,000 0-2 <sup>1</sup> / <sub>2</sub> ; \$150,000 0-14; \$150,000	5 <sup>1</sup> / <sub>2</sub> -14; \$1,000-\$150,000 5 <sup>1</sup> / <sub>4</sub> -14; \$2,000-\$150,000 0-1 <sup>9</sup> / <sub>10</sub> ; \$1,000 0-14; \$750-\$150,000 0-1 <sup>9</sup> / <sub>10</sub> ; \$150,000 0-2 <sup>1</sup> / <sub>2</sub> ; \$150,000 0-14; \$150,000
<b>Arkansas</b> I/II narcotics I/II non-narcotics III IV V VI	— — — — — —	3-10; \$10,000 3-10; \$10,000 0-1; \$1,000 0-1; \$1,000 0-1; \$1,000 0-1; \$1,000	10-40; \$25,000-\$250,000 5-40; \$15,000 5-40; \$15,000 3-40; \$10,000-\$50,000 3-40; \$10,000-\$50,000 4-30; \$15,000-\$100,000
<b>California</b> flat penalty I/II narcotics I/II non-narcotics III/IV/V narcotics III/IV/V non-narcotics marijuana	See state chart	— 16 mos.-3; \$20,000 0-1 16 mos.-3; \$20,000 0-1 0-6 mos., \$100-\$500	3-7; \$50,000 3-5; \$20,000 2-4 3-5; \$20,000 2-4 2-4; \$100-\$20,000
<b>Colorado</b> I II III IV V marijuana	1-4; \$1,000-\$100,000 1-4; \$1,000-\$100,000 0-2; \$5,000 0-2; \$5,000 0-2; \$5,000 —	4-16; \$3,000-\$750,000 4-16; \$3,000-\$750,000 2-8; \$2,000-\$500,000 1-4; \$1,000-\$100,000 0-2; \$5,000 15 days-4; \$100-\$100,000	4-16; \$3,000-\$750,000 4-16; \$3,000-\$750,000 2-8; \$2,000-\$500,000 1-4; \$1,000-\$100,000 0-2; \$500 2-8; \$2,000-\$500,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,  
SALE—FIRST OFFENSE (Cont'd)**

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State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<b>Connecticut</b>			
flat penalty	0-30 days; \$25	—	—
I/II narcotics	—	0-7; \$50,000	0-15; \$50,000
I/II non-narcotics	—	0-1; \$1,000	0-7; \$25,000
III	—	0-1; \$1,000	0-7; \$25,000
IV	—	0-1; \$1,000	0-7; \$25,000
V	—	0-1; \$1,000	0-7; \$25,000
marijuana	—	0-5; \$1,000-\$2,000	0-7; \$25,000
other: hallucinogens	—	0-5; \$2,000	0-15; \$50,000
<b>Delaware</b>			
I/II narcotic	0-1; \$3,000	0-1; \$3,000	0-10; \$5,000-\$50,000
I/II non-narcotics	0-6 mos.; \$1,000	0-6 mos.; \$1,000	0-5; \$1,000-\$10,000
III	0-6 mos.; \$1,000	0-6 mos.; \$1,000	0-5; \$1,000-\$10,000
IV	0-6 mos.; \$1,000	0-6 mos.; \$1,000	0-5; \$1,000-\$10,000
V	0-6 mos.; \$1,000	0-6 mos.; \$1,000	0-5; \$1,000-\$10,000
<b>District of Columbia</b>			
flat penalty	—	0-1; \$1,000	—
I/II narcotics	—	—	4-15; \$100,000
I/II non-narcotics	—	—	20 mos.-5; \$50,000
III	—	—	20 mos.-5; \$50,000
IV	—	—	0-3; \$25,000
V	—	—	0-1; \$10,000
other	—	—	4-25; \$200,000
<b>Florida</b>			
flat penalty	—	0-5; \$5,000	—
I narcotics	—	0-30; \$10,000	0-30; \$10,000
II narcotics	—	—	0-15; \$10,000
I/II non-narcotics	—	—	0-5; \$5,000
III	—	—	0-5; \$5,000
IV	—	—	0-5; \$5,000
V	—	—	0-1; \$1,000
marijuana	—	0-1; \$1,000	0-5; \$5,000
<b>Georgia</b>			
I	—	2-15	5-30
II	—	2-15	5-30
III	—	1-5	1-10
IV	—	1-5	1-10
V	—	1-5	1-10
marijuana	—	0-10; \$1,000	1-10
<b>Hawaii</b>			
dangerous drugs	—	0-20; \$10,000-\$50,000	0-20; \$25,000-\$50,000
harmful drugs	—	0-20; \$2,000-\$50,000	0-20; \$25,000-\$50,000
detrimental drugs	—	0-5; \$1,000-\$10,000	0-5; \$2,000-\$10,000
marijuana	—	0-20; \$1,000-\$50,000	0-20; \$2,000-\$50,000
<b>Idaho</b>			
I narcotics	—	0-3; \$5,000	0-life; \$25,000
I non-narcotics	—	0-1; \$1,000	0-5; \$15,000
II	—	0-3; \$5,000	0-life; \$25,000
III	—	0-1; \$1,000	0-5; \$15,000
IV	—	0-1; \$1,000	0-3; \$10,000
V	—	0-1; \$1,000	0-1; \$5,000
VI	—	0-1; \$1,000	0-1; \$5,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,  
SALE—FIRST OFFENSE (Cont'd)**

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State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<b>Illinois</b>			
I/II narcotics	—	1-15; \$15,000-\$200,000	3-30; \$200,000-\$500,000
I/II non-narcotics	—	1-3; \$15,000	2-30; \$150,000-\$500,000
III	—	1-3; \$15,000	2-5; \$125,000
IV	—	1-3; \$15,000	2-5; \$100,000
V	—	1-3; \$15,000	2-5; \$75,000
marijuana	—	30 days-5; \$500-\$10,000	6 mos.-7; \$500-\$100,000
<b>Indiana</b>			
I/II narcotics	—	1.5-4; \$10,000	10-30; \$10,000
I/II non-narcotics	—	1.5; \$10,000	10; \$10,000
III	—	1.5; \$10,000	10; \$10,000
IV	—	1.5; \$10,000	4; \$10,000
V	—	1.5; \$10,000	1.5; \$10,000
marijuana	—	0-1.5; \$5,000-\$10,000	0-4; \$5,000-\$10,000
<b>Iowa</b>			
flat penalty	—	0-1; \$1,000	—
I/II narcotics	—	—	0-10; \$1,000-\$50,000
I/II non-narcotics	—	—	0-10; \$1,000-\$50,000
III	—	—	0-10; \$1,000-\$50,000
IV	—	—	0-2; \$5,000
V	—	—	0-2; \$5,000
marijuana	—	0-6 mos.; \$1,000	0-10; \$1,000-\$5,000
<b>Kansas</b>			
narcotics, opiates, methamphetamines	—	3-20; \$300,000	3-life; \$300,000
depressants, stimulants, hallucinogens, and IV	—	0-1; \$2,500	3-life; \$300,000
V	—	0-1; \$2,500	0-1; \$2,500
<b>Kentucky</b>			
I/II narcotics	—	1-5; \$3,000-\$5,000	5-10; \$5,000-\$10,000
I/II non-narcotics	—	0-1; \$500	1-5; \$3,000-\$5,000
III	—	0-1; \$500	1-5; \$3,000-\$5,000
IV	—	0-1; \$500	1-3; \$1,000-\$3,000
V	—	0-1; \$500	1-3; \$1,000-\$3,000
marijuana	—	0-1; \$200-\$500	0-10; \$500-\$10,000
hashish	—	—	1-5; \$10,000
<b>Louisiana</b>			
I narcotics	—	4-10; \$5,000	life; \$15,000
I non-narcotics	—	0-10; \$5,000	5-30; \$15,000
II narcotics	—	0-5; \$5,000	5-30; \$15,000
II non-narcotics	—	0-5; \$5,000	0-10; \$15,000
III	—	0-5; \$5,000	0-10; \$15,000
IV	—	0-5; \$5,000	0-10; \$15,000
V	—	0-5; \$5,000	0-5; \$5,000
marijuana	—	0-6 mos.; \$500	—
<b>Maine</b>			
W	—	0-1; \$1,000	0-10; \$2,500-\$10,000
X	—	0-1; \$1,000	0-5; \$1,000-\$2,500
Y	—	0-6 mos.; \$500	0-1; \$1,000
Z	—	0-6 mos.; \$500	0-1; \$1,000
marijuana	—	\$200-\$400	0-1; \$1,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,  
SALE—FIRST OFFENSE (Cont'd)**

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State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<b>Maryland</b>			
flat penalty	—	0-4; \$25,000	—
I/II narcotics	—	—	0-20; \$25,000
I/II non-narcotics	—	—	0-5; \$15,000
III	—	—	0-5; \$15,000
IV	—	—	0-5; \$15,000
V	—	—	0-5; \$15,000
marijuana	—	0-1; \$1,000	—
<b>Massachusetts</b>			
A	—	0-2; \$2,000	0-10; \$1,000-\$10,000
B	—	0-1; \$1,000	0-10; \$1,000-\$10,000
C	—	0-1; \$1,000	0-5; \$500-\$5,000
D	—	0-1; \$1,000	0-2; \$500-\$5,000
E	—	0-6 mos.; \$500	0-9 mos.; \$250-\$2,500
marijuana	—	0-6 mos.; \$500	—
<b>Michigan</b>			
I/II narcotics	0-1; \$2,000	0-life; \$25,000	0-life; \$25,000
I/II non-narcotics	0-1; \$1,000	0-2; \$2,000	0-7; \$5,000
III	0-1; \$1,000	0-2; \$2,000	0-7; \$5,000
IV	0-1; \$1,000	0-2; \$2,000	0-4; \$2,000
V	0-6 mos.; \$500	0-2; \$2,000	0-2; \$2,000
marijuana	0-90 days; \$100	0-1; \$1,000	—
other: LSD, peyote, mescaline, dimethyltryptamine, psilocybin	0-6 mos.; \$1,000	0-1; \$1,000	—
<b>Minnesota</b>			
I/II narcotics	—	0-5; \$10,000	0-20; \$250,000
I/II non-narcotics	—	0-5; \$10,000	0-15; \$100,000
III	—	0-5; \$10,000	0-15; \$100,000
IV	—	0-5; \$10,000	0-5; \$10,000
V	—	0-1; \$3,000	0-1; \$3,000
marijuana	—	—	0-5; \$10,000
<b>Mississippi</b>			
I	—	0-3; \$1,000-\$30,000	0-30; \$1,000-\$1,000,000
II	—	0-3; \$1,000-\$30,000	0-30; \$1,000-\$1,000,000
III	—	0-1; \$5,000	0-20; \$1,000-\$250,000
IV	—	0-1; \$5,000	0-20; \$1,000-\$250,000
V	—	0-1; \$5,000	0-10; \$1,000-\$50,000
marijuana	—	0-1; \$100-\$1,000	0-30; \$3,000-\$1,000,000
<b>Missouri</b>			
flat penalty	—	0-7; \$5,000	5-15; \$5,000
marijuana	—	0-1; \$1,000	0-7; \$5,000
<b>Montana</b>			
flat penalty	—	0-5; \$50,000	1-life; \$50,000
<b>Nebraska</b>			
flat penalty	3 mos.; \$500	0-5; \$10,000	—
I/II/III	—	—	0-50; \$25,000
IV	—	—	0-5; \$10,000
V	—	—	0-5; \$10,000
marijuana	—	0-5; \$100-\$10,000	—
<b>Nevada</b>			
I/II	1-6; \$5,000	1-6; \$5,000	1-20 or life; \$20,000
III/IV	1-6; \$5,000	1-6; \$5,000	1-10 or life; \$10,000
V	0-1; \$1,000	0-1; \$1,000	1-10 or life; \$10,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,  
SALE—FIRST OFFENSE (Cont'd)**

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State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<b>New Hampshire</b> I-IV V marijuana hashish	— — — —	0-7; \$25,000 0-3; \$15,000 0-1; \$1,000 0-1; \$1,000-\$5,000	0-7; \$100,000 0-3; \$25,000 0-3; \$25,000 —
<b>New Jersey</b> I/II narcotics I/II non-narcotics III IV V marijuana	3-5; \$25,000 3-5; \$25,000 3-5; \$25,000 3-5; \$25,000 0-18 mos.; \$15,000 0-18 mos.; \$1,000-\$15,000	3-5; \$25,000 3-5; \$25,000 3-5; \$25,000 3-5; \$25,000 0-18 mos.; \$15,000 0-18 mos.; \$1,000-\$15,000	3-10; \$50,000-\$100,000 3-5; \$15,000 3-5; \$15,000 3-5; \$15,000 0-18 mos.; \$15,000 0-5; \$7,500-\$15,000
<b>New Mexico</b> I/II narcotics I/II non-narcotics III IV V marijuana	— — — — — —	1-5; \$5,000 0-1; \$500-\$1,000 0-1; \$500-\$1,000 0-1; \$500-\$1,000 — 0-1; \$50-\$1,000	0-9; \$10,000 0-3; \$5,000 0-3; \$5,000 0-3; \$5,000 6 mos.-1; \$100-\$500 0-3; \$5,000
<b>New York</b> I II III IV V marijuana	— — — — — —	0-1; \$1,000 0-1; \$1,000 0-1; \$1,000 0-1; \$1,000 0-1; \$1,000 \$100	0-7; \$5,000 0-7; \$5,000 0-7; \$5,000 0-7; \$5,000 0-7; \$5,000 —
<b>North Carolina</b> I II III IV V VI marijuana	— — — — — —	0-5; \$5,000 0-2; \$2,000 0-2; \$2,000 0-2; \$2,000 0-6 mos.; \$500 0-5; \$100-\$5,000	0-10; fine 0-10; fine 0-5; fine 0-5; fine 0-5; fine 0-5; fine
<b>North Dakota</b> flat penalty I/II narcotics I/II non-narcotics III IV V marijuana	— — — — — — —	0-5; \$5,000 — — — — — 0-5; \$1,000-\$5,000	— 0-20; \$10,000 0-10; \$10,000 0-10; \$10,000 0-5; \$5,000 0-1; \$1,000 0-20; \$10,000
<b>Ohio</b> I II III IV V marijuana <100 g.	— — — — — —	1½-5; \$2,500 1½-5; \$2,500 0-60 days; \$500 0-60 days; \$500 0-60 days; \$500 \$100	1-10; \$2,000 1-10; \$2,000 0-60 days; \$500 0-60 days; \$500 0-60 days; \$500 \$100
<b>Oklahoma</b> I/II narcotics I/II non-narcotics III IV V marijuana	— — — — — —	2-10 2-10 0-1 0-1 0-1 0-1	5-life; \$100,000 2-life; \$20,000 2-life; \$20,000 2-life; \$20,000 0-5; \$1,000 —

**COMPARISON OF PENALTIES FOR USE, POSSESSION,  
SALE—FIRST OFFENSE (Cont'd)**

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State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<b>Oregon</b>			
I	—	0-10; \$100,000	0-20; \$100,000
II	—	0-5; \$100,000	0-10; \$100,000
III	—	0-1; \$2,500	0-5; \$100,000
IV	—	0-30 days; \$500	0-6mos.; \$1,000
V	—	\$250	0-30 days; \$500
marijuana	—	0-10; \$500-\$100,000	0-10; \$100,000
<b>Pennsylvania</b>			
flat penalty	—	0-1; \$5,000	—
I/II narcotics	—	—	0-15; \$250,000
I/II non-narcotics	—	—	0-5; \$15,000
III	—	—	0-5; \$15,000
IV	—	—	0-3; \$10,000
V	—	—	0-1; \$5,000
marijuana	—	0-1; \$500-\$5,000	—
<b>Rhode Island</b>			
flat penalty	—	0-3; \$5,000	—
I/II drug-dependent	—	—	0-30; \$100,000
I/II non-drug dependent	—	—	0-life; \$500,000
III	—	—	0-20; \$40,000
IV	—	—	0-20; \$40,000
V	—	—	0-1; \$10,000
marijuana	—	0-1; \$500	0-30; \$100,000
<b>South Carolina</b>			
I/II narcotics	—	0-2; \$5,000	0-5; \$25,000
I/II non-narcotics	—	0-6 mos.; \$1,000	0-5; \$5,000
III	—	0-6 mos.; \$1,000	0-5; \$5,000
IV	—	0-6 mos.; \$1,000	0-3; \$3,000
V	—	0-6 mos.; \$1,000	0-1; \$1,000
marijuana	—	0-30 days; \$100-\$200	—
<b>South Dakota</b>			
flat penalty	—	0-5; \$5,000	—
I	—	—	30 days-10; \$10,000
II	—	—	30 days-10; \$10,000
III	—	—	30 days-5; \$5,000
IV	—	—	30 days-5; \$2,000
marijuana	—	0-10; \$100-\$10,000	15 days-10; \$1,000-\$10,000
<b>Tennessee</b>			
flat penalty	—	0-1; \$2,500	—
I	—	—	8-30; \$100,000
II	—	—	3-15; \$100,000
III	—	—	2-12; \$50,000
IV	—	—	2-12; \$50,000
V	—	—	1-6; \$5,000
VI	—	—	0-10; \$2,500-\$10,000
VII	—	—	1-6; \$1,000
<b>Texas</b>			
group 1	—	2-life; \$10,000-\$100,000	5-life; \$20,000-\$250,000
group 2	—	2-life; \$10,000-\$100,000	2-life; \$10,000-\$100,000
group 3	—	0-life; \$2,000-\$100,000	2-life; \$10,000-\$100,000
group 4	—	0-life; \$1,000-\$100,000	2-life; \$10,000-\$100,000
marijuana	—	0-life; \$1,000-\$100,000	0-life; \$1,000-\$100,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,  
SALE—FIRST OFFENSE (Cont'd)**

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State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<b>Utah</b>			
I/II	—	0-5; \$5,000	1-15; \$15,000
III	—	0-6 mos.; \$1,000	0-5; \$10,000
IV	—	0-6 mos.; \$1,000	0-5; \$10,000
V	—	0-6 mos.; \$1,000	0-1; \$7,500
marijuana	—	0-5; \$1,000-\$5,000	0-5; \$10,000
<b>Vermont</b>			
hallucinogens	—	0-15; \$500,000	0-15; \$500,000
depressants, stimulants, narcotics	—	0-20; \$500,000	0-20; \$500,000
cocaine	—	0-20; \$1,000,000	0-20; \$1,000,000
heroin	—	0-20; \$1,000,000	0-20; \$1,000,000
marijuana	—	0-15; \$500,000	0-15; \$500,000
LSD	—	0-20; \$500,000	0-20; \$500,000
<b>Virginia</b>			
I/II	—	1-10; \$1,000	5-40; \$100,000
III	—	0-1; \$1,000	0-1; \$1,000
IV	—	0-6 mos.; \$500	0-1; \$1,000
V	—	\$500	0-1; \$1,000
VI	—	\$100	—
marijuana	—	0-10; \$500-\$1,000	0-30; \$1,000-\$10,000
<b>Washington</b>			
flat penalty	—	0-5; \$10,000	—
I/II narcotics	—	—	<2 kg.: 0-10; \$25,000 ≥2 kg.: 0-10; \$100,000 + \$50/g. over 2 kg.
I/II non-narcotics	—	—	0-5; \$10,000
III	—	—	0-5; \$10,000
IV	—	—	0-5; \$10,000
V	—	—	0-5; \$10,000
marijuana	—	0-5; \$1,000-\$10,000	—
<b>West Virginia</b>			
flat penalty	—	90 days-6 mos.; \$1,000	—
I/II narcotics	—	—	1-15; \$25,000
I/II non-narcotics	—	—	1-5; \$15,000
III	—	—	1-5; \$15,000
VI	—	—	1-3; \$10,000
V	—	—	6 mos.-1; \$5,000
<b>Wisconsin</b>			
I/II narcotic	—	0-1; \$5,000	0-15; \$25,000
I/II non-narcotic	—	0-30 days; \$500	0-5; \$15,000
III	—	0-30 days; \$500	0-5; \$15,000
IV	—	0-30 days; \$500	0-3; \$10,000
V	—	0-30 days; \$500	0-1; \$5,000
<b>Wyoming</b>			
flat penalty	—	0-6 mos.; \$750	—
I/II narcotics	0-90 days; \$100	—	0-20; \$25,000
I/II non-narcotics	0-90 days; \$100	—	0-10; \$10,000
III	0-90 days; \$100	—	0-10; \$10,000
IV	—	—	0-2; \$2,500
V	—	—	0-1; \$1,000
marijuana	—	—	0-6 mos.; \$1,000