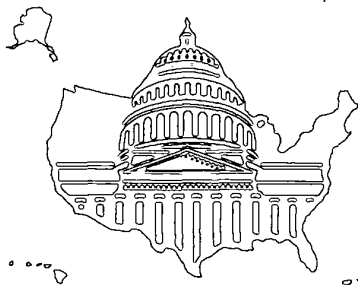
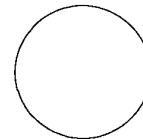


FROM THE
NATIONAL
CRIMINAL
JUSTICE
ASSOCIATION



A GUIDE TO STATE CONTROLLED SUBSTANCES ACTS

REVISED JANUARY 1999

in cooperation with the
Department of Justice, Bureau of Justice Assistance

184295^{c.1}

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Serving Criminal Justice Professionals Since 1971

Based in Washington, D.C., the National Criminal Justice Association (NCJA) represents state and local governments on crime control and public safety issues. Its 1,500 members represent all facets of the criminal justice community, from law enforcement, corrections, prosecution, defense, victim-witness services, and educational institutions, to federal, state, and local elected officials.

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REVISED JANUARY 1999

EDITION OF
National Criminal Justice Reference Service (NCJRS)
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Prepared in cooperation with the
U. S. Department of Justice, Bureau of Justice Assistance

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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 had 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.

The *Guide* was updated in January 1991. This revised edition is current through December 1997. 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 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 acknowledge the contributions to this project by NCJA staff and former staff members Paul E. Lawrence, director of administration, Lisa Doyle Moran, associate director for legal affairs, Scott Cooper, staff attorney, and Carolyn J. Reid, administrative assistant. The NCJA is particularly grateful for the hours of statutory research and analysis devoted to this project by former legal researchers Christine Malone and Karen McCloud.

Cabell C. Cropper
Executive Director

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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 which may lead to dependence or other undesirable consequences. 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 counterfeit 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 the 1987 legislative sessions. The second 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, provided an updated analysis of CSA's through the end of the 1990 legislative sessions. The *Guide's* scope was 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.

This edition of the *Guide* reflects significant revisions and additions and provides an updated analysis through the end of the 1997 legislative sessions. The *Guide* provides coverage of previously uncovered topics such as counterfeit drugs, medical marijuana, and drug dealer civil liability. Additionally, for clarity, readability, and ease-of-use purposes, the *Guide* now provides state code citations to penalty provisions rather than detailed breakdowns of penalty provisions by first, second, and subsequent offenses; provides state code citations for each subcategory of CSA provisions; eliminates the "Forfeiture Provisions" section because all states currently have some form of forfeiture provisions for controlled substances offenses; and reclassifies the "Schoolyard" section as a "Drug-free Zones" section to reflect laws that impose additional penalties for crimes in or around public housing areas, day-care facilities, and other specific locations.

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. 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.A. §§ 801-971 (1981, Supp. 1998)). 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), the Comprehensive Crime Control Act of 1990 (Pub. L. 101-647), the Comprehensive Methamphetamine Control Act of 1996 (Pub. L. 104-237), and the Drug-Induced Rape Prevention and Punishment Act of 1996 (Pub. L. 104-305). The CSA also establishes controls and sanctions, in addition to those provided under the Federal Food, Drug and Cosmetic Act (21 U.S.C.A. §§ 301-382 (1972, Supp. 1998)), 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.

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" or other "drug-free zone" such as a day-care center or video arcade. 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.

Guide Overview

The *Guide* is divided into four sections. The first, this section, briefly reviews the history of federal efforts to regulate drugs and general variations among state CSA's. The second 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; paraphernalia provisions; counterfeit and imitation drug provisions; provisions concerning offenses involving minors; drug-free zones provisions; safehouse provisions; statutorily imposed drug testing provisions; and a miscellaneous category that addresses the possession of marijuana for medical or therapeutic research purposes and drug dealer civil liability.

The final part of the *Guide* contains a number of appendices. Reference charts are provided that indicate, for each state, the types of provisions contained in the CSA; citations to each state's controlled substances forfeiture provisions; 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.

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 subdivide schedule categories according to distinguishing factors or whether the drug is narcotic or non-narcotic; in most of these instances, Schedules I and II are divided into narcotics and non-narcotics for purposes of establishing penalties. In North Dakota, for example, schedules are set up as shown in Table 1.

Table 1—Subdivided Five-Schedule Penalty Grouping

North Dakota Penalties for Manufacturing/Delivery/Sale Offenses

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|----------------------------------|
| I, II narcotic/meth | 1 yr and a day - life; ≤\$10,000 |
| I, II non-narcotic | ≤20 yrs; ≤\$10,000 |
| III | 8 mos - 10 yrs; ≤\$10,000 |
| IV | ≤5 yrs; ≤\$5,000 |
| V | ≤1 yr; ≤\$2,000 |

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 subdivided five-schedule system of assigning enhanced penalties for activity involving specific drugs under

which the offense triggers a penalty higher than would other violations involving other substances similarly scheduled, 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.

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 2. Often, in the state charts provided in the *Guide*, while not separately scheduled, marijuana has been listed separately in the penalty portion of the chart. This is so because states often have developed penalties with lesser sentences and fines for marijuana offenses involving small amounts.

Table 2--Five-Schedule with Exceptions Penalty Grouping

North Carolina Penalties for Possession Offenses

| | |
|--------------|-----------------------|
| I | 4-279 mos; fine |
| II | 1 day - 279 mos; fine |
| III, IV | 1-45 days; fine |
| V | 1-30 days; ≤\$1,000 |
| VI marijuana | 1 day - 219 mos; fine |

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 3).

Table 3--Unique Penalty Grouping

Hawaii Penalties for Possession Offenses

| | |
|-------------------|--------------------|
| dangerous drugs | ≤20 yrs; ≤\$50,000 |
| harmful drugs | ≤20 yrs; ≤\$50,000 |
| detrimental drugs | ≤5 yrs; ≤\$10,000 |
| marijuana | ≤20 yrs; ≤\$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.

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 six CSA schedules. Schedule VI is for prescription drugs not included in the first five schedules. For the purposes of criminal penalties, the state categorizes substances in Classes A through E. Generally speaking, Class A includes federal Schedule I opiates and opiate derivatives; Class B includes opium, cocaine, amphetamines, methamphetamine, derivatives of barbituric acid and methaqualone, federal Schedule II opiates, depressants, lysergic acid (LSD), and phencyclidine (PCP); Class C includes 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.

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 that otherwise would fall outside the CSA regulatory scheme without having to approve a regulatory or statutory change in each instance.

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. Numerous states have enacted a grace period by which they can approve an addition, deletion, or rescheduling; conduct hearings on the change; or publish their reasons for rejecting the change to the schedules.

While some states use "automatic conformity" to effect expeditious scheduling other states have addressed such scheduling needs by enacting provisions that authorize emergency scheduling by the appropriate state regulatory agency.

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. Since 1991, at least 20 jurisdictions increased penalties for some possession offenses, and at least 22 jurisdictions increased penalties for some basic manufacturing, delivery, and sale offenses. Many states have added new provisions addressing offenses such as distribution in drug-free zones, 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. These provisions appear most frequently in relation to offenses with smaller quantities of marijuana.

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. An "intent" offense usually carries a penalty similar or identical to those for manufacturing, distributing, creating, or dispensing controlled substances. In some instances in this *Guide*, manufacturing penalties have been broken out separately from distribution, delivery, sale, and possession with intent penalties because of the severity of the penalty and because they would have given an improper perspective of the state's sentencing ranges. A number of states have also added "transport" offenses into their penalty provisions. These provisions often target an offender that brings a drug of a certain amount into a state. These amounts are often large and carry more severe penalties as a result.

In this *Guide*, penalties for offenses involving steroids and precursor chemicals are broken out when the substances are not listed in a schedule and have unique penalty provisions.

Another category of offense included in at least 15 state CSA's is a "use provision," which makes it a crime to use or be under the influence of a controlled substance. Drugs included in use provisions vary among states. South Dakota prohibits intoxication by use of any substance except alcohol, which is ingested, inhaled, breathed, or otherwise taken into the body, while Alaska penalizes only use of marijuana. California specifically penalizes use of narcotics, mecloqualone, methaqualone, cocaine base, mescaline, peyote, PCP and its analogues, methamphetamine, and amphetamines. Some use provisions have a limited scope. Louisiana's use provision 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.

"Mandatory minimums" are captured in the state charts only of the state's statute specifically mentions the term. Some states' statutes provide for mandatory-minimum fines, but these fines are not captured in the charts.

Drug Paraphernalia Provisions

Since the DEA drafted the Model Drug Paraphernalia Act in 1979, almost all of the states have passed some type of paraphernalia provision, mirroring 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 of, sale of, distribution of, advertisement of, and possession with intent to deliver, sell, or use drug paraphernalia. Although similar in many respects, states' provisions vary in the assessment of penalties for violations of the law.

Counterfeit and Imitation Controlled Substances Provisions

An imitation controlled substance is an uncontrolled substance that is sold or otherwise distributed under representation that it is a controlled substance, while a counterfeit controlled substance is 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, of a manufacturer, distributor, or dispenser. Often the imitation controlled substance is actually caffeine or ephedrine, found in diet pills and sold over the counter in drugstores. The imitation and counterfeit controlled substances often look like legitimate controlled substances, with shapes, sizes, colors, and markings similar or identical to those found on the legitimate product.

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.

Provisions Relating to Minors

A major focus of state CSA amendments in recent years has been offenses involving minors. All of the 51 jurisdictions' 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. The *Guide* captures provisions that provide enhanced penalties for the sale to minors of or the use of minors in selling controlled substances, marijuana, imitation controlled substances, and drug paraphernalia. The charts differ from those in the last version in that they do not contain detailed information regarding "age requirements." Statutory citations have been provided so that the reader may easily refer to specific state provisions.

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.

Since publication of the last *Guide*, more states have addressed 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, 27 more jurisdictions have enacted such provisions. These provisions vary in scope of offenses covered and severity of penalties established.

Drug-free Zone Provisions

Provisions creating additional or enhanced penalties for distribution of drugs in or near drug-free zones have become increasingly popular in recent years. Having first started with targeting schools, the provisions have grown to encompass such areas such as school buses, public housing, day-care facilities, churches, video arcades,

public parks, and community recreation centers. All of the jurisdictions had enacted some type of drug-free provision at the end of 1997.

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. Almost all jurisdictions have adopted some type of safehouse provision, usually to conform to federal law in the scope of activities covered.

In addition to criminal penalties, CSA's in 37 states have public nuisance provisions that allow authorities to take action to enjoin or abate the illegal use of the premises. Of the 37 states with drug-related public nuisance abatement provisions, 32 also have the types of criminal penalties cited above for violations of safehouse provisions.

The state charts indicate what kinds of activities related to the ownership, management, or lease of a safehouse structure are prohibited. The charts also depict the particular offenses prohibited inside a safehouse.

Under most safehouse provisions, an innocent owner who does not know that his property is being used as a safehouse is not subject to sanctions. However, a few 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. These states' provisions may permit prosecution of negligent property owners who are unaware of the illegal use of their premises.

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. Only provisions that mention specifically and require mandatory urine testing have been included in the state charts. Provisions related to discretionary screening for possible substance abuse or testing as part of treatment programs have not been captured.

In 10 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, Florida, Illinois, Nevada, and Texas -- permit testing specifically of probationers with histories of drug laws violations. 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. Three states -- Colorado, Illinois, and Rhode Island -- 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 -- Alabama, Colorado, Florida, Illinois, Rhode Island, Texas, Virginia, and Wisconsin -- presently authorize the routine testing of parolees. Colorado, Florida, and Rhode Island 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. 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.

Miscellaneous Provisions

Possession of Marijuana for Medical or Therapeutic Research Purposes

Although states have had medical marijuana laws on the books for a number of years, the national debate on this issue heated up after citizens in Arizona and California in 1996 adopted referenda legalizing the possession of marijuana for medical purposes.

Twenty states had statutes addressing the use of marijuana for medical purposes at the end of 1997. These states employ a number of approaches -- allowing marijuana to be administered to patients as part of a state-run cannabis research program, allowing physicians to prescribe marijuana, rescheduling marijuana when it used medicinally, and providing an "affirmative defense" for medical users.

Drug Dealer Civil Liability

Thirteen states have enacted laws allowing drug dealers to be held civilly liable for damages resulting from the use of the drugs they sell. Hawaii enacted the first such statute in 1995; the statute is scheduled to be repealed effective June 30, 2003.

Under the Hawaii act, a parent, legal guardian, child, spouse, or sibling of a drug user; an individual exposed to an illegal drug in utero; an employer of a drug user; a medical facility, insurer, governmental entity, employer, or a person injured as a result of the actions of a drug user may bring an action for damages against a person who participated in the chain of distribution of the drug that was used by the drug user or, under limited circumstances, a person who participated in the same illegal drug market. Individuals bringing suits may seek economic damages, including medical and treatment expenses, loss of economic or educational potential, and loss of productivity, and noneconomic damages such as physical and emotional pain,

Under the Hawaii statute, an individual drug user may not bring an action unless he has not used illegal drugs within the six months before filing the suit and he remains drug-free throughout the pendency of the suit. Individual drug users may only bring suits against individuals who participated in the chain of distribution of the drug used and may only seek economic damages. Twenty-five percent of damages recovered by an individual drug user must be turned over the state.

Currency Transaction Reporting Provisions

In an effort to thwart traffickers' efforts to conceal their illegal activity and proceeds, at least 10 states -- Alabama, California, Florida, Georgia, Illinois, Iowa, Maryland, Nebraska, Ohio 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 U. S. 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 California, Georgia, Illinois, Iowa, Maryland, and Ohio 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, Georgia compels financial institutions to report "suspicious transactions," regardless of the dollar figures involved. California, Florida, Georgia, and Illinois specifically enumerate penalties for "structuring," or separating, transactions to avoid the \$10,000 CTR trigger.

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 23 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.). Another nine 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. 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. Most states impose on violators a civil fine equal to 100 percent of the tax due, in effect doubling the tax assessment. Criminal penalties for drug violations include up to 10 years' imprisonment and up to \$14,000 in fines.

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.

STATE-BY-STATE SUMMARIES OF CSA PROVISIONS

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. The goal of this edition of the *Guide* is to maintain the readability and ease of use the reader has come to expect from past editions. In order to achieve that goal, the reader should note that detailed citations to relevant statutes appear under each subheading of the state charts.

The charts contain eight 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. Mandatory-minimum sentences specifically delineated in the statutes are listed separately.

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

Offenses involving sale to minors or use of minors in drug distribution activities are detailed in the next section of each chart. Users of the *Guide* are referred to the statutes for specific penalties.

The next section of the state charts depicts provisions that authorize enhanced penalties for the use, possession, distribution, or manufacture of controlled substances in or near schools, school buses, public housing, day-care facilities, and other areas, such as churches, video arcades, public parks, and community recreation centers.

The next section of the state charts summarize safehouse provisions. The charts indicate what kinds of activities related to the ownership, management, or lease of a safehouse structure are prohibited, as well as particular offenses prohibited inside a safehouse.

The state summaries detail 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.

Finally, the state charts indicate which states have enacted provisions related to the use of marijuana for medical or therapeutic research purposes, drug dealer liability.

Alabama

Alabama's scheduling scheme is similar to the federal scheme, except that anabolic steroids are not included within Schedule III. Any additions, deletions, or reschedulings made in the federal schedules automatically become part of the state schedule, unless the state Board of Health objects. ALA. CODE §§ 20-2-20 to 20-2-31 (1990).

PENALTY PROVISIONS

ALA. CODE §§ 13A-5-6, 13A-5-7, 13A-5-11, 13A-5-12, 13A-12-211 to 13A-12-214, 13A-12-231 (1994)

Possession Offenses

| | |
|------------------------------|-----------------------------------|
| I, II | ≤life without parole; ≤\$500,000 |
| III | ≤life without parole; ≤\$250,000 |
| IV, V | 1 yr and 1 day - 10 yrs; ≤\$5,000 |
| marijuana | ≤life without parole; ≤\$200,000 |
| mandatory minimums: | |
| cocaine ≥28 grams | 3 calendar yrs |
| marijuana ≥1 kilo or 2.2 lbs | 3 calendar yrs |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|------------------------------|----------------------------------|
| I, II | ≤life without parole; ≤\$500,000 |
| III | ≤life without parole; ≤\$250,000 |
| IV, V | 2-20 yrs; ≤\$10,000 |
| marijuana | ≤life without parole; ≤\$200,000 |
| mandatory minimums: | |
| cocaine ≥28 grams | 3 calendar yrs |
| marijuana ≥1 kilo or 2.2 lbs | 3 calendar yrs |

PARAPHERNALIA PROVISIONS

ALA. CODE § 13A-12-260 (1994)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

ALA. CODE §§ 20-2-72, 20-2-140 to 20-2-144 (1990)

| | COUNTERFEIT | IMITATION |
|--|-------------------------------------|-------------------------------------|
| Not addressed specifically: | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell: | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession: | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Receipt: | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

ALA. CODE §§ 13A-12-215, 13A-12-260 (1994); § 20-2-143 (1990)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

ALA. CODE §§ 13A-12-250, 13A-12-270 (1994)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

ALA. CODE §§ 6-5-155.1, 6-5-155.7, 6-5-156.3 (Supp. 1997); § 20-2-71 (1990)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

ALA. CODE §§ 12-23-5, 12-23-7 (1995)

- ☐ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

- ☐ adult probationers
- ☒ adult probationers
w/drug histories
- ☐ juvenile probationers

- ☐ parolees
- ☒ parolees w/drug
histories
- ☒ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, ALA. CODE §§ 20-2-110 to 20-2-120 (1997).
 - ☐ drug dealer civil liability
-

Alaska

Alaska has six schedules, IA to VIA. Alaska does not use the separate criterion of "accepted medical use" applied in the federal scheduling scheme. Alaska determines a drug's schedule placement by focusing on the degree of danger or probable danger of the substance to a person or the public, with schedule IA being the highest degree of danger or probable danger. However, if a substance is added as a controlled substance under federal law, the governor is required to introduce legislation adding the substance as a controlled substance and scheduling the substance under state law. ALASKA STAT. §§ 11.71.120 to 11.71.190 (Michie 1996).

PENALTY PROVISIONS

ALASKA STAT. §§ 11.71.020 to 11.71.060, 12.55.035, 12.55.125, 12.55.135 (Michie 1996)

Possession Offenses

IA, IIA, IIIA, IVA, VA, VIA

≤5 yrs; ≤\$50,000

Use Offenses

VIA

≤90 days; ≤\$1,000

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

IA

5-20 yrs; ≤\$50,000

IIA, IIIA

≤10 yrs; ≤\$50,000

IVA, VA, VIA

≤5 yrs; ≤\$50,000

PARAPHERNALIA PROVISIONS

■ not addressed specifically

☐ distribution/delivery/sale

☐ possession w/ intent to use

☐ advertisement

☐ manufacture w/intent to deliver

☐ possession w/ intent to deliver

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

ALASKA STAT. §§ 11.71.040, 11.73.010, 11.73.040 (Michie 1996)

| | COUNTERFEIT | IMITATION |
|--|--------------------------|--------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | ■ |
| Distribution/Delivery/Sale | <input type="checkbox"/> | ■ |
| Manufacture | <input type="checkbox"/> | ■ |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | ■ |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | ■ | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

ALASKA STAT. §§ 11.71.010, 11.71.030, 11.73.030 (Michie 1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

ALASKA STAT. §§ 11.71.030, 11.71.040 (Michie 1996)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

ALASKA STAT. §§ 09.50.170, 11.71.040 (Michie 1996)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☒ drug dealer civil liability, ALASKA STAT. § 09.65.205 (Michie Supp. 1997).
-

Arizona

Arizona has five schedules; a number of substances are scheduled differently than under the federal scheme. For purposes of penalizing drug offenses, Arizona divides controlled substances into narcotic drugs, dangerous drugs, prescription-only drugs, and marijuana. Dangerous drugs include hallucinogenic substances, anabolic steroids, and substances with stimulant or depressant effects. ARIZ. REV. STAT. ANN. §§ 13-3401, 36-2512 to 36-2516 (West Supp. 1997); § 36-2501 (West 1993).

PENALTY PROVISIONS

ARIZ. REV. STAT. ANN. §§ 13-3405 to 13-3408 (West Supp. 1997); §§ 13-701, 13-707, 13-801, 13-802, 13-3402, 13-3404.01 (West 1989)

Possession Offenses

| | |
|-------------------------|--------------------------------|
| narcotic drugs | 4 yrs; \$2,000-150,000 |
| dangerous drugs | 6 mos - 4 yrs; \$1,000-150,000 |
| prescription-only drugs | 6 mos; \$1,000-2,500 |
| marijuana | 1½-4 yrs; \$750-150,000 |
| precursor chemical II | 7 yrs; ≤\$150,000 |
| peyote | 1½ yrs |

Use Offenses

| | |
|-------------------------|--------------------------------|
| narcotic drugs | 4 yrs; \$2,000-150,000 |
| dangerous drugs | 6 mos - 4 yrs; \$1,000-150,000 |
| prescription-only drugs | 6 mos; \$1,000-2,500 |
| marijuana | 1½-4 yrs; \$750-150,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------------|-------------------------|
| narcotic drugs | 7 yrs; \$2,000-150,000 |
| dangerous drugs | 7 yrs; \$1,000-150,000 |
| prescription-only drugs | 6 mos - 1½ yrs; \$1,000 |
| marijuana | 2-7 yrs; \$750-150,000 |
| precursor chemical II | 7 yrs; ≤\$150,000 |
| peyote | 1½ yrs |

PARAPHERNALIA PROVISIONS

ARIZ. REV. STAT. ANN. § 13-3415 (West Supp. 1997)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

ARIZ. REV. STAT. ANN. § 32-1965 (West Supp. 1997); §§ 13-3453 to 13-3459 (West 1989)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

ARIZ. REV. STAT. ANN. § 13-3409 (West Supp. 1997); §§ 13-3453 to 13-3455 (West 1989)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

ARIZ. REV. STAT. ANN. § 13-3411 (West Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

ARIZ. REV. STAT. ANN. §§ 12-991, 12-991.01, 13-3421 (West Supp. 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☐ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☒ fortify
- ☒ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☐ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

ARIZ. REV. STAT. ANN. §§ 13-3405 to 13-3408 (West Supp. 1997)

- ☐ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

- ☐ adult probationers
- ☒ adult probationers w/drug histories
- ☐ juvenile probationers

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, ARIZ. REV. STAT. ANN. §§ 13-3412, 13-3412.01 (West Supp. 1997).
- ☐ drug dealer civil liability

Arkansas

Arkansas' first five schedules are similar to the federal CSA schedules; the state has a sixth schedule for marijuana and tetrahydrocannabinol (THC). The director of the Arkansas Department of Health administers the six schedules and may add, delete, or reschedule substances by rulemaking, provided that no substance is deleted without prior approval of the Arkansas Legislative Council. The director is responsible for revising and republishing the schedules annually. Any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA, unless the director objects. ARK. CODE ANN. §§ 5-64-101 to 5-64-216 (Michie 1997).

PENALTY PROVISIONS

ARK. CODE ANN. §§ 5-4-201, 5-4-401, 5-64-401, 5-64-701 (Michie 1997)

Possession Offenses

| | |
|----------------|---------------------|
| I, II | 3-10 yrs; ≤\$10,000 |
| III, IV, V, VI | ≤1 yr; ≤\$1,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|------------------------------|
| I, II narcotic | 10 yrs - life; ≤\$250,000 |
| I non-narcotic, III | 5-40 yrs or life; ≤\$100,000 |
| II non-narcotic | 5 yrs - life; ≤\$250,000 |
| IV, V | 3-40 yrs or life; ≤\$100,000 |
| VI | 4-30 yrs; ≤\$100,000 |

PARAPHERNALIA PROVISIONS

ARK. CODE ANN. § 5-64-403 (Michie 1997)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

Comment: Arkansas has a number of additional criminal and civil penalties relating to drug paraphernalia or drug devices: Any person who conducts, finances, manages, supervises, directs, or owns a part of an illegal drug paraphernalia business is guilty of a misdemeanor; an addict, who becomes addicted to a controlled substance as the result of using drug paraphernalia, may have a cause of action against the store that sold him the paraphernalia; and places where drug devices are manufactured, sold, stored, possessed, or given away may be declared common or public nuisances. (Drug devices are defined as objects used for smoking marijuana or tetrahydrocannabinols, or for ingesting or inhaling cocaine.) ARK. CODE ANN. §§ 5-64-801 to 5-64-803, 5-64-902 (Michie 1997).

COUNTERFEIT/IMITATION DRUG PROVISIONS

ARK. CODE ANN. §§ 5-64-401, 5-64-403 (Michie 1997); §§ 20-64-306, 20-64-310 (Michie 1991)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

ARK. CODE ANN. §§ 5-64-403, 5-64-406, 5-64-701 (Michie 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

ARK. CODE ANN. § 5-64-411 (Michie 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comment: Arkansas has additional penalties for those who keep or maintain a drug "safehouse" within 1,000 feet of a certified drug-free zone, defined as a city or state park, public or private school, recreation center, skating rink, video arcade, Boys or Girls Club, and YMCA or YWCA center. ARK. CODE ANN. § 5-64-402 (Michie 1997).

SAFEHOUSE PROVISIONS

ARK. CODE ANN. § 16-105-402 (Michie Supp. 1997); § 5-64-402 (Michie 1997); § 20-64-213 (Michie 1991)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input type="checkbox"/> make available for use | <input checked="" type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, ARK. CODE ANN. §§ 16-124-101 to 16-124-112 (Michie Supp. 1997).

California

California's five CSA schedules substantially conform to the federal schedule. For the assignment of penalties, however, California loosely breaks down the schedules into five divisions: I/II narcotics, I/II non-narcotics, III/IV/V narcotics, III/IV/V non-narcotics, and marijuana. CAL. HEALTH & SAFETY CODE §§ 11015, 11022, 11026, 11027, 11054 to 11057 (West Supp. 1998); §§ 11000 to 11014.5, 11016 to 11021, 11023 to 11025, 11028 to 11033, 11058 (West 1991).

PENALTY PROVISIONS

CAL. HEALTH & SAFETY CODE §§ 11350, 11358, 11375, 11377, 11378, 11379, 11379.2 (West Supp. 1998); §§ 11351, 11351.5, 11352, 11352.5, 11357, 11359, 11360, 11372, 11378.5, 11379.5, 11379.6, 11550 (West 1991); CAL. PENAL CODE §§ 18, 19 (West 1988)

Possession Offenses

| | |
|----------------------------|---|
| I, II, III, IV, V narcotic | 16 mos, 2 yrs, or 3 yrs; ≤\$20,000 |
| I, II non-narcotic | ≤1 yr, 16 mos, 2 yrs, or 3 yrs; ≤\$20,000 |
| III, IV, V non-narcotic | ≤1 yr |
| marijuana | ≤6 mos; ≤\$500 |

Use Offenses

| | |
|---|----------------|
| narcotics, meclo-/metha-qualone, cocaine base, mescaline, peyote, meth/amphetamine, PCP | 90 days - 1 yr |
|---|----------------|

Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------------|--|
| I narcotic | 2 yrs, 3 yrs, 4 yrs, 5 yrs, 6 yrs, or 9 yrs; ≤\$50,000 |
| II, III, IV, V narcotic | 2 yrs, 3 yrs, 4 yrs, 5 yrs, 6 yrs, or 9 yrs; ≤\$20,000 |
| I, II non-narcotic | 16 mos, 2 yrs, 3 yrs, 4 yrs, 5 yrs, 6 yrs, or 9 yrs; ≤\$20,000 |
| III, IV non-narcotic | ≤1 yr, 16 mos, 2 yrs, 3 yrs, 4 yrs, 5 yrs, 6 yrs, or 9 yrs |
| V non-narcotic | 16 mos, 2 yrs, 3 yrs, 4 yrs, 5 yrs, 6 yrs, or 9 yrs |
| marijuana | ≤6 mos, 16 mos, 2 yrs, 3 yrs, or 4 yrs; ≤\$20,000 |

Manufacturing Offenses

| | |
|--------------|-----------------------------------|
| flat penalty | 3 yrs, 5 yrs, or 7 yrs; ≤\$50,000 |
| marijuana | 16 mos, 2 yrs, or 3 yrs |

Comment: California provides enhanced penalties for some drug offenses when they involve certain weight categories of heroin, crack, cocaine, amphetamines, methamphetamines, and phencyclidine. CAL. HEALTH & SAFETY CODE §§ 11370.4, 11379.8 (West Supp. 1998).

PARAPHERNALIA PROVISIONS

CAL. HEALTH & SAFETY CODE § 11364.7 (West Supp. 1998); § 11364 (West 1991)

☐ not addressed specifically

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input type="checkbox"/> possession w/intent to use | <input type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

Comment: Failing to prohibit a minor from entering or visiting a room within a place of business where drug paraphernalia is kept, displayed, or offered for sale or transfer, is grounds for revocation or non-renewal of business permits or licenses in California. CAL. HEALTH & SAFETY CODE § 11364.5 (West 1991).

COUNTERFEIT/IMITATION DRUG PROVISIONS
CAL. HEALTH & SAFETY CODE §§ 109575, 110325, 110330 (West 1996)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

CAL. HEALTH & SAFETY CODE §§ 11364.7 (West Supp. 1998); § 109580 (West 1996); §§ 11353, 11354, 11361, 11380 (West 1991)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: In California any person convicted of the offense of possessing with intent to manufacture or manufacturing methamphetamine or PCP is subject to having additional years added onto his sentence if the offense occurs in a structure where a child under 16 years of age is present or the commission of the offense causes such a child to suffer great bodily injury. CAL. HEALTH & SAFETY CODE § 11379.7 (West Supp. 1998).

DRUG-FREE ZONES PROVISIONS

CAL. HEALTH & SAFETY CODE §§ 11353.1, 11353.5, 11353.6, 11364.7, 11380.1 (West Supp. 1998); §§ 11353.7, 11357 (West 1991)

☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

CAL. HEALTH & SAFETY CODE §§ 11365, 11366, 15571 (West Supp. 1998); §§ 11366.5, 11366.6, 11570 (West 1991)

☐ not addressed specifically

- | | | | |
|--|---|---|---|
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input checked="" type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input checked="" type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input checked="" type="checkbox"/> make available for use | <input checked="" type="checkbox"/> manufacture | |
| | <input checked="" type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

CAL. HEALTH & SAFETY CODE § 729.9 (West Supp. 1998)

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input checked="" type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |
-

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, CAL. HEALTH & SAFETY CODE § 11362.5 (West Supp. 1998).
 - ☒ drug dealer civil liability, CAL. HEALTH & SAFETY CODE §§ 11700 to 11717 (West Supp. 1998).
-

Colorado

Colorado's scheduling system is similar to the federal system, however, a number of drugs are classified within different schedules and marijuana is not placed within a schedule. The State Board of Pharmacy is responsible for administering the schedules; the general assembly may, by bill, add substances to or delete or reschedule substances in the state's five schedules. COLO. REV. STAT. ANN. §§ 18-18-202 to 18-18-207 (West Supp. 1997).

PENALTY PROVISIONS

COLO. REV. STAT. ANN. §§ 18-1-105, 18-1-106, 18-18-404 to 18-18-406 (West Supp. 1997)

Possession Offenses

| | | |
|---------------------|---------------------------|---------------------------------|
| I | 4-12 yrs; \$3,000-750,000 | |
| II, III | 2-6 yrs; \$2,000-500,000 | |
| IV | 1-3 yrs; \$1,000-100,000 | |
| V | 6-18 mos; \$500-5,000 | |
| marijuana | \$100 | or 6 mos - 3 yrs; \$500-100,000 |
| mandatory minimums: | | |
| cocaine ≥28 grams | 2 yrs | |

Use

| | | |
|------------|--------------------------|---------------------------------|
| I, II | 1-3 yrs; \$1,000-100,000 | |
| III, IV, V | 6-18 mos; \$500-5,000 | |
| marijuana | 15 days; \$100 | or 6 mos - 3 yrs; \$500-100,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|---------------------------|
| I, II | 4-12 yrs; \$3,000-750,000 |
| III | 2-6 yrs; \$2,000-500,000 |
| IV | 1-3 yrs; \$1,000-100,000 |
| V | 6-18 mos; \$500-5,000 |
| marijuana | 2-6 yrs; \$2,000-500,000 |
| mandatory minimums: | |
| cocaine ≥28 grams | 4 yrs |

PARAPHERNALIA PROVISIONS

COLO. REV. STAT. ANN. §§ 18-18-425 to 18-18-430 (West Supp. 1997)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

COLO. REV. STAT. ANN. §§ 18-18-419 to 18-18-424 (West Supp. 1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

COLO. REV. STAT. ANN. §§ 18-18-407, 18-18-422 (West Supp. 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

COLO. REV. STAT. ANN. §§ 18-18-405, 18-18-407 (West Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

COLO. REV. STAT. ANN. §§ 18-18-410, 18-18-411 (West Supp. 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☒ rent or lease
- ☒ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

COLO. REV. STAT. ANN. §§ 16-11-102.5, 16-11.5-101 to 16-11.5-106 (West Supp. 1996); 17-2-201 (West 1990 & Supp. 1996)

- ☐ not addressed specifically

- ☒ prison inmates

- ☐ to determine pretrial release conditions
- ☒ to determine sentencing conditions

- ☒ adult probationers
- ☐ adult probationers w/drug histories
- ☐ juvenile probationers

- ☒ parolees
- ☐ parolees w/drug histories
- ☒ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☐ drug dealer civil liability
-

Connecticut

The commissioner of consumer protection may by regulation designate a substance a controlled substance. Substances are classified in five schedules, I to V. In the event of any inconsistency between the state schedules and the federal schedules, the provisions of the federal act shall prevail, except when the state has placed a substance in a higher schedule than the federal system. In penalizing controlled substances offenses, Connecticut divides the substances into narcotic substances, hallucinogenic substances other than marijuana, marijuana, and other controlled substances. CONN. GEN. STAT. ANN. §§ 21a-243, 21a-277, 21a-278, 21a-279 (West 1994).

PENALTY PROVISIONS

CONN. GEN. STAT. ANN. §§ 21a-277, 21a-279 (West 1994)

Possession Offenses

| | |
|-----------------------------|-------------------|
| narcotics | ≤7 yrs; ≤\$50,000 |
| hallucinogenic, marijuana | ≤5 yrs; ≤\$2,000 |
| other controlled substances | ≤1 yr; ≤\$1,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|--|--------------------|
| narcotics, hallucinogenic | ≤15 yrs; ≤\$50,000 |
| marijuana, other controlled substances | ≤7 yrs; ≤\$25,000 |

Comment: Connecticut also provides mandatory minimum penalties for the manufacture, delivery, sale, transportation with intent to sell, or possession with intent to sell of certain controlled substances by non-drug-dependant persons. CONN. GEN. STAT. ANN. § 21a-278 (West 1994).

PARAPHERNALIA PROVISIONS

CONN. GEN. STAT. ANN. §§ 21a-267, 21a-270, 21a-271, 21a-277 (West 1994)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

CONN. GEN. STAT. ANN. §§ 21a-93, 21a-268 (West 1994)

| | COUNTERFEIT | IMITATION |
|--|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

CONN. GEN. STAT. ANN. § 21a-278a (West 1994)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

CONN. GEN. STAT. ANN. § 21a-278a (West Supp. 1997); § 21a-279 (West 1994)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/ intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/ intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

CONN. GEN. STAT. ANN. § 21a-259 (West 1994)

- ☐ not addressed specifically

- ☒ public nuisance
- ☐ criminal violation

- ☐ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

CONN. GEN. STAT. ANN. § 54-76j (West 1997)

- ☐ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

- ☐ adult probationers
- ☐ adult probationers
w/drug histories
- ☒ juvenile probationers

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, CONN. GEN. STAT. ANN. §§ 21a-246, 21a-253 (West 1994).
 - ☐ drug dealer civil liability
-

District of Columbia

The District's schedule places hashish and synthetic tetrahydrocannabinol (THC), the active ingredient in marijuana, in Schedule II and marijuana in Schedule V. The District's mayor may propose to control or delete substances in accordance with federal law. The mayor, through rulemaking procedures, has the authority to add, delete, or reschedule substances, subject to the city council's approval. D.C. CODE ANN. §§ 33-501, 33-514, 33-516, 33-518, (1993 & Supp. 1997); §§ 33-511, 33-513, 33-515, 33-517, 33-519 to 33-522 (1993).

PENALTY PROVISIONS

D.C. CODE ANN. § 33-541 (1993 & Supp. 1997)

Possession Offenses

flat penalty ≤ 180 days; $\leq \$1,000$

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

I, II narcotic ≤ 30 yrs; $\leq \$500,000$

I, II non narcotic, III ≤ 5 yrs; $\leq \$50,000$

IV ≤ 3 yrs; $\leq \$25,000$

V ≤ 1 yr; $\leq \$10,000$

PARAPHERNALIA PROVISIONS

D.C. CODE ANN. §§ 33-550, 33-601 to 33-603.1 (1993 & Supp. 1997)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☒ possession w/intent to use

☒ possession w/intent to deliver

☐ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

D.C. CODE ANN. § 33-541 (1993 & Supp. 1997); § 33-543 (1993)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

D.C. CODE ANN. § 33-603 (1993 & Supp. 1997); §§ 33-546, 33-547 (1993)

Distribution to a minor:

☐ not addressed specifically

☒ controlled substances

☒ marijuana

☐ counterfeit/imitation drugs

☒ drug paraphernalia

Using minor to sell:

☐ not addressed specifically

☒ controlled substances

☒ marijuana

☐ counterfeit/imitation drugs

☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

D.C. CODE ANN. § 33-547.1 (Supp. 1997)

☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

D.C. CODE ANN. §§ 33.542, 33.543a (1993); §§ 45-2559.1, 45-2559.2 (1996 & Supp. 1997)

☐ not addressed specifically

☒ public nuisance
☒ criminal violation

☒ open, keep, or maintain
☒ control or manage
☒ rent or lease
☐ make available for use
☐ fortify
☐ occupy

☒ use
☒ distribute/deliver/sell
☒ store or keep
☒ manufacture

☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

☒ not addressed
specifically

☐ prison inmates

☐ to determine pretrial
release conditions
☐ to determine sentencing
conditions

☐ adult probationers
☐ adult probationers
w/drug histories
☐ juvenile probationers

☐ parolees
☐ parolees w/drug
histories
☐ others

MISCELLANEOUS

☐ possession of marijuana for medical or therapeutic research purposes
☐ drug dealer civil liability

Delaware

Delaware has five schedules; some substances are scheduled differently than under the federal scheme. The secretary of the Department of Health and Human Services is responsible for administering the state's CSA; any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA. DEL. CODE ANN. tit. 16, § 4718 (Supp. 1997); tit. 16, §§ 4701 to 4717, 4719 to 4722 (1995).

PENALTY PROVISIONS

DEL. CODE ANN. tit. 11, § 4205 (1995 & Supp. 1997); tit. 11, § 4206 (1995); tit. 16, §§ 4751, 4752, 4753 to 4754 (1995)

Possession Offenses

| | |
|----------------------------|---------------------|
| I narcotic | ≤25 yrs; ≤\$750,000 |
| II narcotic | ≤15 yrs; ≤\$400,000 |
| I, II non-narcotic | ≤15 yrs; ≤\$400,000 |
| III, IV, V narcotic | ≤1 yr; ≤\$2,300 |
| III, IV, V non-narcotic | ≤6 mos; ≤\$1,150 |
| mandatory minimums: | |
| cocaine ≥5 grams | 3 yrs |
| marijuana ≥5 lbs | 3 yrs |

Use Offenses

| | |
|--------------------------------|------------------|
| I, II, III, IV, V narcotic | ≤1 yr; ≤\$2,300 |
| I, II, III, IV, V non-narcotic | ≤6 mos; ≤\$1,150 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|----------------------------|--------------------------|
| I narcotic | ≤25 yrs; \$5,000-750,000 |
| II narcotic | ≤15 yrs; \$5,000-400,000 |
| I, II non-narcotic | ≤15 yrs; \$1,000-400,000 |
| III, IV, V narcotic | ≤5 yrs; \$3,000-15,000 |
| III, IV, V non-narcotic | ≤5 yrs; \$1,000-10,000 |
| mandatory minimums: | |
| cocaine ≥5 grams | 3 yrs |
| marijuana ≥5 lbs | 3 yrs |

Comment: Delaware also provides mandatory-minimum penalties for controlled substances or counterfeit substances manufactured, delivered or possessed with intent to manufacture or deliver by non-drug-dependant persons. DEL. CODE ANN. tit. 16, § 4751 (1995).

PARAPHERNALIA PROVISIONS

DEL. CODE ANN. tit. 16, §§ 4771, 4772, 4774 (1995)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☒ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

DEL. CODE. ANN. tit. 16, §§ 4751 to 4753, 4756 (1995)

| | COUNTERFEIT | IMITATION |
|--|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

DEL. CODE. ANN. tit. 16, §§ 4761, 4773 (1995)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Comment: Delaware also has established a criminal penalty for a person who knowingly permits a minor to enter or remain in a place where unlawful narcotics or dangerous drug activity is maintained or conducted. DEL. CODE. ANN. tit. 11, § 1106 (Supp. 1996).

DRUG-FREE ZONES PROVISIONS

DEL. CODE. ANN. tit. 16, §§ 4767, 4768 (1995)

☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

DEL. CODE. ANN. tit. 10, § 7101 (Supp. 1996); tit. 16, § 4755 (1995); tit. 11, § 1322 (1995); tit. 10, § 7102 (1975)

☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☐ fortify
- ☒ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

☒ not addressed
specifically

☐ prison inmates

☐ to determine pretrial
release conditions
☐ to determine sentencing
conditions

☐ adult probationers
☐ adult probationers
w/drug histories
☐ juvenile probationers

☐ parolees
☐ parolees w/drug
histories
☐ others

MISCELLANEOUS

☐ possession of marijuana for medical or therapeutic research purposes
☐ drug dealer civil liability

Florida

Florida has five schedules; a number of substances are scheduled differently than under the federal scheme. FLA. STAT. ANN. § 893.03 (West Supp. 1998).

PENALTY PROVISIONS

FLA. STAT. ANN. §§ 775.082, 775.083, 893.13 (West Supp. 1998); §§ 893.033, 893.149 (West 1994); § 893.135 (West 1994, Supp. 1998)

Possession Offenses

| | |
|----------------|--------------------|
| I | ≤30 yrs; ≤\$10,000 |
| II, III, IV, V | ≤5 yrs; ≤\$5,000 |
| marijuana | ≤5 yrs; ≤\$5,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | | | |
|--|--------------------|----|------------------------|
| I | ≤30 yrs; ≤\$10,000 | or | 74 yrs and \$500,000 |
| II | ≤15 yrs; ≤\$10,000 | or | ≤ life and \$500,000 |
| III, IV | ≤5 yrs; ≤\$5,000 | | |
| V | ≤1 yr; ≤\$1,000 | | |
| marijuana | ≤5 yrs; ≤\$5,000 | or | ≤ 74 yrs and \$200,000 |
| precursor & essential listed chemicals | ≤15 yrs; ≤\$10,000 | | |
| mandatory minimums: | | | |
| cocaine ≥ 400g but < 150kg | 15 yrs | | |
| marijuana ≥ 10,000 lbs. | 15 yrs | | |

Comment: Any person who knowingly brings specified amounts of cocaine, morphine, opium, oxycodone, hydrocodone, hydromorphone, heroin, or phencyclidine into the state and who knows that the probable result of such importation would be the death of any person commits a capital felony punishable by death. FLA. STAT. ANN. § 893.135 (West 1994, Supp. 1998).

PARAPHERNALIA PROVISIONS

FLA. STAT. ANN. § 893.146 (West 1994 & Supp. 1998); §§ 893.145, 893.147 (West 1994)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

FLA. STAT. ANN. § 831.31 (West Supp. 1998); § 817.564 (West 1994)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS
FLA. STAT. ANN. § 893.13 (West Supp. 1998); §§ 817.564, 893.147 (West 1994)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

FLA. STAT. ANN. § 893.13 (West Supp. 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

FLA. STAT. ANN. §§ 893.13, 893.138 (West Supp. 1998); § 893.1351 (West 1994)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input checked="" type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input type="checkbox"/> make available for use | <input checked="" type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

FLA. STAT. ANN. §§ 947.18, 948.03, 948.034 (West Supp. 1998); § 948.01 (West 1996)

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| | <input type="checkbox"/> to determine sentencing conditions | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input checked="" type="checkbox"/> parolees w/drug histories |
| <input type="checkbox"/> prison inmates | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☒ drug dealer civil liability, FLA. STAT. ANN. § 772.12 (West Supp. 1998).
-

Georgia

Georgia's CSA consists of five schedules, updated and republished by the state Board of Pharmacy on an annual basis. The state's schedules are similar to the federal schedules; however, a number of drugs are classified within different schedules and marijuana is not placed within a schedule. GA. CODE ANN. §§ 16-13-24, 16-13-25 (1996); 16-13-26 to 16-13-28 (Supp. 1997).

PENALTY PROVISIONS

GA. CODE ANN. §§ 16-13-2, 16-13-30, 16-13-31 (Supp. 1997)

Possession Offenses

| | |
|---------------------|------------------------|
| I, II | 2-25 yrs; ≤\$1,000,000 |
| III, V | 1-5 yrs |
| IV | 1-15 yrs |
| marijuana | ≤15 yrs; ≤\$1,000,000 |
| mandatory minimums: | |
| cocaine ≥28 grams | 10 yrs |
| marijuana >50 lbs | 5 yrs |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|------------------------|
| I | 5-30 yrs; ≤\$500,000 |
| II | 5-30 yrs; ≤\$1,000,000 |
| III, V | 1-10 yrs |
| IV | 1-30 yrs |
| marijuana | ≤15 yrs; ≤\$1,000,000 |
| mandatory minimums: | |
| cocaine ≥28 grams | 10 yrs |
| marijuana >50 lbs | 5 yrs |

PARAPHERNALIA PROVISIONS

GA. CODE ANN. §§ 16-13-32 to 16-13-32.2 (1996)

☐ not addressed specifically

☒ distribution/delivery/sell

☐ manufacture w/intent to deliver

☒ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

GA. CODE ANN. § 16-13-30 (Supp. 1997); §§ 16-13-30.2, 16-13-43 (1996)

| | COUNTERFEIT | IMITATION |
|--|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

GA. CODE ANN. § 16-13-30 (Supp. 1997); § 16-13-1(1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

GA. CODE ANN. §§ 16-13-32.4 to 16-13-32.6 (1996)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

GA. CODE ANN. § 41-3-1.1 (1997); § 16-13-42 (1996)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, GA. CODE ANN. §§ 43-34-120 to 43-34-126 (1994).
- ☐ drug dealer civil liability

Hawaii

Hawaii has five schedules; a number of substances are scheduled differently than under the federal scheme. For purposes of penalizing drug offenses, Hawaii divides controlled substances into dangerous drugs, harmful drugs, and detrimental drugs. Dangerous drugs consist of federal schedule I and II substances; harmful drugs consist of federal schedule III and IV substances and marijuana concentrate; and detrimental drugs include federal schedule V substances and marijuana. The Department of Public Safety has the responsibility for proposing amendments to the drug schedules, subject to approval by the state legislature. HAW. REV. STAT. ANN. §§ 329-1, 329-11, 329-14, 329-16, 329-18, 712-1240 (Michie Supp. 1997); §§ 329-2 to 329-4, 329-13, 329-15, 329-17, 329-19 to 329-23 (Michie 1996).

PENALTY PROVISIONS

HAW. REV. STAT. ANN. §§ 706-640, 706-659, 706-669, 712-1241 to 712-1243 (Michie Supp. 1997);
§§ 706-660, 706-663, 712-1244 to 712-1249.5 (Michie 1994)

Possession Offenses

| | |
|-------------------|--------------------|
| dangerous drugs | ≤20 yrs; ≤\$50,000 |
| harmful drugs | ≤20 yrs; ≤\$50,000 |
| detrimental drugs | ≤5 yrs; ≤\$10,000 |
| marijuana | ≤20 yrs; ≤\$50,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------|--------------------|
| dangerous drugs | ≤20 yrs; ≤\$50,000 |
| harmful drugs | ≤20 yrs; ≤\$50,000 |
| detrimental drugs | ≤5 yrs; ≤\$10,000 |
| marijuana | ≤20 yrs; ≤\$50,000 |

PARAPHERNALIA PROVISIONS

HAW. REV. STAT. ANN. § 329-43.5 (Michie 1996)

☐ not addressed specifically

■ distribution/delivery/sale

■ manufacture w/intent to deliver

■ possession w/intent to use

■ possession w/intent to deliver

■ advertisement

■ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

HAW. REV. STAT. ANN. § 329-42 (Michie Supp. 1997); §§ 329C-1 to 329C-3 (Michie 1996)

| | COUNTERFEIT | IMITATION |
|--|--------------------------|--------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | ■ |
| Distribution/Delivery/Sale | <input type="checkbox"/> | ■ |
| Manufacture | <input type="checkbox"/> | ■ |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | ■ |
| Possession w/intent to use | <input type="checkbox"/> | ■ |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | ■ | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | ■ |

PROVISIONS FOR OFFENSES INVOLVING MINORS

HAW. REV. STAT. ANN. §§ 329-43.5, 329C-2, (Michie 1996); § 712-1241 (Michie Supp. 1997); §§ 712-1244, 712-1249.5 (Michie 1994)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

HAW. REV. STAT. ANN. § 712-1249.6 (Michie 1994)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

HAW. REV. STAT. ANN. §§ 712-1270 to 712-1274 (Michie Supp 1997); § 329-41 (Michie 1996)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, HAW. REV. STAT. ANN. §§ 663D-1 to 663D-14 (Michie Supp. 1997).

Idaho

Idaho has six schedules; the substances in schedules I through V are similar to those under the federal scheme with a few exceptions. Idaho's schedule VI contains volatile nitrites and its schedule II contains immediate precursors to amphetamines and methamphetamine. The state also provides an exception in its penalties sections for the sacramental use of peyote. The state's Board of Pharmacy is responsible for administering the state's CSA; any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA, unless the board objects. IDAHO CODE §§ 37-2702, 37-2704, 37-2706, 37-2708, 37-2710, 37-2712 to 37-2714, 37-2732A (1994); §§ 37-2701, 37-2705, 37-2707, 37-2709, 37-2711 (Supp. 1997).

PENALTY PROVISIONS

IDAHO CODE §§ 37-2732B, 37-2732C (Supp. 1997); § 37-2732 (1994)

Possession Offenses

| | |
|---------------------|--------------------|
| I narcotic, II | ≤life; ≤\$100,000 |
| I non-narcotic | ≤3 yr; ≤\$5,000 |
| III, IV, V, VI | ≤1 yr; ≤\$1,000 |
| marijuana | ≤15 yrs; ≤\$50,000 |
| mandatory minimums: | |
| cocaine ≥28 grams | 3 yrs |
| marijuana ≥1 lb | 1 yr |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|--------------------|
| I narcotic, II | ≤life; ≤\$100,000 |
| I non-narcotic, III | ≤5 yrs; ≤\$15,000 |
| IV | ≤3 yrs; ≤\$10,000 |
| V, VI | ≤1 yr; ≤\$5,000 |
| marijuana | ≤15 yrs; ≤\$50,000 |
| mandatory minimums: | |
| cocaine ≥28 grams | 3 yrs |
| marijuana ≥1 lb | 1 yr |

PARAPHERNALIA PROVISIONS

IDAHO CODE §§ 37-2734A, 37-2734B (1994)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

IDAHO CODE §§ 37-2732, 37-2734 (1994)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

IDAHO CODE §§ 37-2737, 37-2739B (1994)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: Idaho also has established a criminal penalty for a person who manufactures, delivers, or possess with the intent to manufacture or deliver a controlled substance upon premises where a minor is present. IDAHO CODE § 37-2737A (1994) The state has also defined unique penalties for minors who possess marijuana or drug paraphernalia or who use or are under the influence of controlled substances. IDAHO CODE § 18-1502C (1994).

DRUG-FREE ZONES PROVISIONS

IDAHO CODE § 37-2739B (1994)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

IDAHO CODE § 37-2733 (1994)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input type="checkbox"/> make available for use | <input type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Illinois

Illinois has five schedules; the substances in schedules I through V are similar to those under the federal scheme with a few exceptions. The state's CSA differs from the federal scheduling system in that it does not include marijuana in a CSA schedule; marijuana penalties are instead a part of the state's Cannabis Control Act. The state's Department of Human Services is responsible for administering the state's CSA; any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA, unless the department objects. 720 ILL. COMP. STAT. ANN. 550/3, 570/102, 570/204, 570/206, 570/208, 570/210, 570/212 (West Supp. 1998); 550/15.1, 570/201, 570/203, 570/205, 570/207, 570/209, 570/211, 570/213 (West 1993).

PENALTY PROVISIONS

720 ILL. COMP. STAT. ANN. 550/4, 550/5, 570/401, 570/402, 570/411.2 (West Supp. 1998); 720 ILL. COMP. STAT. ANN. 550/6, 550/8, 550/10.3 (West 1993); 730 ILL. COMP. STAT. ANN. 5/5-8-1, 5/5-9-1 (West Supp. 1998); 730 ILL. COMP. STAT. ANN. 5/5-8-3 (1997)

Possession Offenses

| | |
|-----------------------------|----------------------|
| I; II narcotic | 1-50 yrs; ≤\$200,000 |
| II non-narcotic, III, IV, V | 1-3 yrs; ≤\$25,000 |
| anabolic steroids | ≤30 days; ≤\$1,500 |
| marijuana | ≤15 yrs; ≤\$25,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|----------------------|----------------------|
| I; II narcotic | 3-60 yrs; ≤\$500,000 |
| II non-narcotic, III | 2-15 yrs; ≤\$250,000 |
| IV | 2-5 yrs; ≤\$100,000 |
| V | 2-5 yrs; ≤\$75,000 |
| marijuana | ≤30 yrs; ≤\$200,000 |

Comment: Illinois has established enhanced penalties for knowingly bringing, or causing to be brought, into the state, for purposes of manufacture, delivery or with the intent to to manufacture or deliver, a controlled substance or 2,500 g or more of cannabis. 720 ILL. COMP. STAT. ANN. 550/5.1 (West Supp. 1998); 720 ILL. COMP. STAT. ANN. 570/401.1 (West 1993).

PARAPHERNALIA PROVISIONS

720 ILL. COMP. STAT. ANN. 600/3.5, 600/6 (West Supp. 1998); 720 ILL. COMP. STAT. ANN. 600/1 to 600/3, 600/4, 600/5, 600/7 (West 1993)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☒ possession w/intent to use

☐ possession w/intent to deliver

☐ advertisement

☐ use

Comment: Illinois also has established specific criminal penalties for any person who sells or delivers drug paraphernalia to a woman he knows to be pregnant. 720 ILL. COMP. STAT. ANN. 600/3 (West 1993).

COUNTERFEIT/IMITATION DRUG PROVISIONS

720 ILL. COMP. STAT. ANN. 570/401, 570/402 (West Supp. 1998); 720 ILL. COMP. STAT. ANN. 570/401.1, 570/404, 570/406 (West 1993)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

720 ILL. COMP. STAT. ANN. 570/407 (West Supp. 1998); 720 ILL. COMP. STAT. ANN. 550/7, 600/3 (West 1993)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

720 ILL. COMP. STAT. ANN. 570/407 (West Supp. 1998); 720 ILL. COMP. STAT. ANN. 550/5.2 (West 1993)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

720 ILL. COMP. STAT. ANN. 5/19-5, 570/406, 570/406.1 (West 1993); 740 ILL. COMP. STAT. ANN. 40/2 (West 1993)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input checked="" type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input checked="" type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input checked="" type="checkbox"/> make available for use | <input checked="" type="checkbox"/> manufacture | |
| | <input checked="" type="checkbox"/> fortify | | |
| | <input checked="" type="checkbox"/> occupy | | |

Comment: It is also a public nuisance in Illinois to keep or maintain premises upon which items of drug paraphernalia are kept for sale, sold, or delivered for commercial consideration. 720 ILL. COMP. STAT. ANN. 600/3 (West 1993).

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

720 ILL. COMP. STAT. ANN. 550/10, 570/410 (West Supp. 1998); 720 Ill. Comp. Stat. Ann. 570/509 (West 1993);
725 ILL. COMP. STAT. ANN. 5/110-6.5 (West Supp. 1998)

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input checked="" type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input checked="" type="checkbox"/> juvenile probationers | <input checked="" type="checkbox"/> others |

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, 720 ILL. COMP. STAT. ANN. 550/11 (West 1993).
- ☒ drug dealer civil liability, 740 ILL. COMP. STAT. ANN. 57/1 through 57/85 (West Supp. 1998).

Indiana

The state board of pharmacy administers Indiana's CSA schedules, which are similar to the federal schedules. If a substance is designated or rescheduled to a more restrictive schedule under federal law and notice is given to the board, the board shall recommend similar control of the substance unless the board objects to inclusion or rescheduling. If a substance is scheduled to a less restrictive schedule or deleted under federal law, the substance is to be rescheduled or deleted under Indiana law. If the board objects, it shall notify the chairman of the legislative council and the substance may not be rescheduled or deleted until the conclusion of the next complete session of the general assembly. IND. CODE ANN. §§35-48-2-1 to 35-48-2-14 (West 1998).

PENALTY PROVISIONS

IND. CODE ANN. §§ 35-48-4-1 to 38-45-4-4, 35-48-4-6, 35-48-4-7, 35-48-4-10, 35-48-4-11, 35-50-2-1, 35-50-2-2, 35-50-2-4 to 35-50-2-7, 35-50-3-2 (West 1998)

Possession Offenses

| | |
|--------------------------------|--|
| I, II narcotic | 1½ yrs or 4 yrs; ≤\$10,000 |
| I, II non-narcotic; III, IV, V | 1½ yrs; ≤\$10,000 |
| marijuana | ≥fixed 1 yr; ≥\$5,000 or fixed 1½ yrs; ≤\$10,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------------|------------------------------------|
| I, II narcotic | 10 or 30 yrs; ≤\$10,000 |
| I, II non-narcotic; III | 10 yrs; ≤\$10,000 |
| IV | 4 yrs; ≤\$10,000 |
| V | 1½ yrs; ≤\$10,000 |
| marijuana | ≥1 yr, 1½ yrs, or 4 yrs; ≤\$10,000 |

PARAPHERNALIA PROVISIONS

IND. CODE ANN. §§ 35-48-4-8.1, 35-48-4-8.3, 35-48-4-8.5 (West 1998)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ possession w/intent to use

☐ advertisement

☐ manufacture w/intent to deliver

☐ possession w/intent to deliver

☐ use

Comment: Indiana has two additional provisions relating to drug paraphernalia: manufacturing drug paraphernalia w/intent to use is a Class A infraction; and places where items of drug paraphernalia are unlawfully kept, offered for sale, sold, delivered, or financed for delivery may be declared common nuisances. IND. CODE ANN. §§ 35-48-4-8.1, 35-48-4-13 (West 1998).

COUNTERFEIT/IMITATION DRUG PROVISIONS

IND. CODE ANN. §§ 35-48-4-4.5, 35-48-4-4.6, 35-48-4-5 (West 1998)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

IND. CODE ANN. §§ 35-48-4-1, 35-48-4-2, 35-48-4-3, 35-48-4-4, 35-48-4-10 (West 1998)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

IND. CODE ANN. §§ 35-48-4-1 to 35-48-4-4, 35-48-4-6, 35-48-4-7, 35-48-4-10 (West 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

IND. CODE ANN. § 35-48-4-13 (West 1998)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☒ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, IND. CODE ANN. §§ 34-1-70-1 to 34-1-70-21 (West Supp. 1997).

Iowa

Iowa has five schedules; some substances are scheduled differently than under the federal scheme. Special provisions are listed within the schedules for the use of peyote in religious ceremonies and the classification of marijuana as a schedule II substance instead of a schedule I substance when it is used for medicinal purposes. The state Board of Pharmacy is responsible for administering the state's CSA; any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA. IOWA CODE ANN. § 124.212 (West Supp. 1998); §§ 124.101 to 124.211 (West 1997).

PENALTY PROVISIONS

IOWA CODE ANN. §§ 124.401, 903.1 (West Supp. 1998); § 124B.9 (West 1997); § 902.9 (West 1994)

Possession Offenses

| | |
|---------------------|--------------------|
| flat penalty | ≤1 yr; \$250-1,500 |
| precursor chemicals | ≤5 yrs; ≤\$7,500 |
| marijuana | ≤6 mos; ≤\$1,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-----------------------------|-------------------------|
| I, II (targeted substances) | ≤50 yrs; ≤\$1,000,000 |
| I, II, III | ≤10 yrs; \$1,000-50,000 |
| IV, V | ≤2 yrs; \$500-5,000 |
| precursor chemicals | ≤10 yr; ≤\$10,000 |

Comment: The penalty provisions in Iowa target the manufacturing, delivering, or possessing with intent to manufacture or deliver of specific substances within schedules I and II for higher penalties than all other substances (both narcotic and non-narcotic) listed in schedules I and II. For this reason, the penalty provisions for these targeted substances have been broken out separately. IOWA CODE ANN. § 124.401 (Supp. 1998).

PARAPHERNALIA PROVISIONS

■ not addressed specifically

| | | |
|--|---|--|
| <input type="checkbox"/> distribution/delivery/sale | <input type="checkbox"/> possession w/intent to use | <input type="checkbox"/> advertisement |
| <input type="checkbox"/> manufacture w/intent to deliver | <input type="checkbox"/> possession w/intent to deliver | <input type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

IOWA CODE ANN. § 124.401 (West Supp. 1998); §§ 124.403, 124A.4, 126.3 (West 1997)

| | COUNTERFEIT | IMITATION |
|---|--------------------------|--------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | ■ |
| Distribution/Delivery/Sale | ■ | ■ |
| Manufacture | ■ | ■ |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | ■ | ■ |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | ■ | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

IOWA CODE ANN. § 124.406 (West Supp. 1998); §§ 124.406A, 124A.4 (West 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: Iowa also has established a criminal penalty for an adult who manufactures methamphetamine in the presence of a minor. IOWA CODE ANN. § 124.401C (Supp. 1998).

DRUG-FREE ZONES PROVISIONS

IOWA CODE ANN. § 124.406 (West Supp. 1998); §§ 124.401A, 124.401B (West 1997)

☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

IOWA CODE ANN. §§ 657.1, 657.2 (West Supp. 1998); § 124.402 (West 1997)

☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input checked="" type="checkbox"/> make available for use | <input type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

Comment: Iowa has also established criminal penalties for any person who sponsors, promotes, or aids in sponsoring or promoting a meeting, gathering, or assemblage with the knowledge or intent that controlled substances will be used or possessed at the gathering. IOWA CODE ANN. § 124.407 (1997).

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Kansas

Kansas has five schedules; a number of substances are scheduled differently than under the federal scheme. For purposes of penalizing drug offenses, Kansas distinguishes controlled substances by the drug type. Because the penalty for manufacturing is the same for all substances it has been broken out below separately. The state's Board of Pharmacy administers the state's CSA and may adopt rules and regulations relating to the scheduling of controlled substances, which are annually submitted to the state legislature for approval. KAN. STAT. ANN. §§ 65-4101, 65-4102, 65-4105 to 65-4107, 65-4111, 65-4113 (Supp. 1997); § 65-4109 (1992).

PENALTY PROVISIONS

KAN. STAT. ANN. §§ 21-4502, 21-4503a, 21-4705, 65-4159 to 65-6164 (Supp. 1997); §§ 21-4708 to 21-4710 (1992)

Possession Offenses

narcotics, opiates, amphetamine, 10-12 mos; ≤\$100,000
methamphetamine

depressants, stimulants, hallucinogens, ≤1 yr; ≤\$2,500
steroids, IV, V

Delivery, Sale, Transport, or Possession with Intent Offenses

narcotics, opiates, amphetamine, 14-16 mos; ≤\$300,000
methamphetamine depressants, stimulants,
hallucinogens, steroids, IV

V ≤1 yr; \$2,500

Manufacturing Offenses

flat penalty 46-51 mos; ≤\$300,000

PARAPHERNALIA PROVISIONS

KAN. STAT. ANN. §§ 65-4152, 65-4153 (Supp. 1997); §§ 65-4150, 65-4151 (1992)

☐ not addressed specifically

■ distribution/delivery/sale

■ manufacture w/intent to deliver

■ possession w/intent to use

■ possession w/intent to deliver

☐ advertisement

■ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

KAN. STAT. ANN. §§ 65-4152, 65-4153, 65-4155 (Supp. 1997)

| | COUNTERFEIT | IMITATION |
|--|--------------------------|--------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | ■ | ■ |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | ■ |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | ■ |
| Possession w/intent to use | <input type="checkbox"/> | ■ |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | ■ |

PROVISIONS FOR OFFENSES INVOLVING MINORS

KAN. STAT. ANN. §§ 65-4153, 65-4155, 65-4164 (Supp. 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☐ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

KAN. STAT. ANN. §§ 65-4159, 65-4161, 65-4163 (Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

KAN. STAT. ANN. § 22-3901 (1995)

- ☐ not addressed specifically

- ☒ public nuisance
- ☐ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☐ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Kentucky

Kentucky's five CSA schedules, administered by the state's Cabinet for Human Resources through rulemaking, conform substantially to the federal schedules. Any addition, deletion, or rescheduling made in the federal schedules may be similarly scheduled by the Cabinet upon receiving notice of such a change. KY. REV. STAT. ANN. § 218A.010 (Michie Supp. 1996); §§ 218A.020 to 218A-130 (Michie 1995).

PENALTY PROVISIONS

KY. REV. STAT. ANN. §§ 532.060, 534.030, 534.040 (Michie Supp. 1996);
§§ 218A.1404, 218A.1412 to 218A.1423 (Michie 1995); § 532.090 (Michie 1990)

Possession Offenses

| | |
|--------------------------------|-------------------------|
| I, II narcotic | 1-5 yrs; \$1,000-10,000 |
| I, II non-narcotic, III, IV, V | ≤12 mos; ≤\$500 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------------|---------------------------------|
| I, II narcotic | 5-10 yrs; \$1,000-10,000 |
| I, II non-narcotic, III | 1-5 yrs; \$1,000-10,000 |
| IV, V | ≤12 mos; ≤\$500 |
| marijuana | ≤10 yrs; ≤\$500, \$1,000-10,000 |

PARAPHERNALIA PROVISIONS

KY. REV. STAT. ANN. § 218A.500 (Michie 1995)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

KY. REV. STAT. ANN. §§ 218A.140, 218A.350 (Michie 1995)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

KY. REV. STAT. ANN. § 218A.1401 (Michie 1995)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

KY. REV. STAT. ANN. § 218A.1411 (Michie 1995)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

- ☒ not addressed specifically

- | | | | |
|---|--|--|--------------------------------|
| <input type="checkbox"/> public nuisance | <input type="checkbox"/> open, keep, or maintain | <input type="checkbox"/> use | <input type="checkbox"/> visit |
| <input type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input type="checkbox"/> distribute/deliver/sell | |
| | <input type="checkbox"/> rent or lease | <input type="checkbox"/> store or keep | |
| | <input type="checkbox"/> make available for use | <input type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Louisiana

Louisiana has five schedules, the substances in schedules I through V are similar to those under the federal scheme with a few exceptions. One difference of note is that Louisiana places phencyclidine (PCP) in schedule I, whereas it appears in schedule II of the federal CSA. The state's secretary of the Department of Health and Human Resources may add or reschedule a substance to the state's CSA by rulemaking. If the federal Drug Enforcement Administration determines a substance to be a controlled dangerous substance then the secretary must add the substance to the state's CSA. LA. REV. STAT. ANN. §§ 40:961, 40:962.1, 964.1 (West Supp. 1998); §§ 40:962, 40:964 (West 1992 & Supp. 1998); §§ 40:963, 40:965 (West 1992).

PENALTY PROVISIONS

LA. REV. STAT. ANN. §§ 40:966, 40:967, 40:969 (West 1992 & Supp. 1998); §§ 40:968, 40:970 (West 1992)

Possession Offenses

| | | | |
|-----------------|-----------------------------|----|-------------------------------|
| I narcotic | 4-10 yrs; ≤\$5,000 | | |
| I non-narcotic | ≤20 yrs; ≤\$5,000 | | |
| II narcotic | 10-60 yrs; \$50,000-600,000 | | |
| II non-narcotic | ≤5 yrs; ≤\$5,000 | or | 10-60 yrs; \$50,000-600,000 |
| III, V | ≤5 yrs; ≤\$5,000 | | |
| IV | ≤10 yrs; ≤\$5,000 | | |
| marijuana | ≤6 mos; ≤\$500 | or | 10-80 yrs; \$50,000-1,000,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | | | |
|-----------------|---------------------|----|-----------------------|
| I narcotic | life; ≤\$50,000 | | |
| I non-narcotic | 5-30 yrs; ≤\$50,000 | | |
| II narcotic | 5-30 yrs; ≤\$50,000 | or | life; ≤\$500,000 |
| II non-narcotic | ≤10 yrs; ≤\$15,000 | or | 40-99 yrs; ≤\$500,000 |
| III | ≤10 yrs; ≤\$15,000 | | |
| IV | ≤10 yrs; ≤\$50,000 | | |
| V | ≤5 yrs; ≤\$5,000 | | |

PARAPHERNALIA PROVISIONS

LA. REV. STAT. ANN. § 40:1033 (West 1992)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ possession w/intent to use

☐ advertisement

☐ manufacture w/intent to deliver

☒ possession w/intent to deliver

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

LA. REV. STAT. ANN. § 40:617.1 (West Supp. 1998); §§ 40:966, 40:967, 40:696, 40:971.1 (West 1992 & Supp. 1998); §§ 40:968, 40:970; 40:971 (West 1992)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

LA. REV. STAT. ANN. § 40:617.1 (West Supp. 1998); §§ 40:981, 40:981.2, 40:1033.1 (West 1992)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comments: Louisiana has also established criminal penalties for the following activities: use, possession, or distribution of a controlled substance by a person over the age of 17 in the presence of a person under the age of 17; contributing to the delinquency of a juvenile by enticing or soliciting the juvenile to engage in any crime as defined in the state's CSA; distribution of a controlled substance to any student enrolled in a public or private Louisiana school; inviting or allowing any unmarried person under 17 to be in any commercial establishment where drug paraphernalia is displayed. LA. REV. STAT. ANN. §§ 14:91.13, 14:92 (West Supp. 1998); §§ 40:981.1, 40:1033.1 (West 1992).

DRUG-FREE ZONES PROVISIONS

LA. REV. STAT. ANN. § 40:981.3 (West 1992 & Supp. 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

LA. REV. STAT. ANN. § 40:971 (West 1992)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, LA. REV. STAT. ANN. § 40:1021 (West 1992).
- ☒ drug dealer civil liability, LA. REV. STAT. ANN. §§ 9:2800.61 to 9:2800.76 (West Supp. 1998).

Maine

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, phencyclidine, and most narcotic drugs. Schedule X is made up of specified depressants, hallucinogens, methaqualone, and drugs containing limited quantities of narcotic drugs similar to those in federal schedule III. Schedule Y includes lower-level depressants and substances included in federal schedules IV and V. Finally, schedule Z consists of marijuana and prescription drugs not listed in other schedules. ME. REV. STAT. ANN. tit. 17-A, § 1101 (West 1983 & Supp. 1997); § 1102 (West 1983).

PENALTY PROVISIONS

ME. REV. STAT. ANN. tit. 17-A, § 1107 (West Supp. 1997); tit. 17-A, §§ 1103, 1105, 1106, 1252, 1301 (West 1983 & Supp. 1997)

Possession Offenses

| | |
|------|--------------------|
| W | ≤10 yrs; ≤\$20,000 |
| X | ≤1 yr; ≤\$2,000 |
| Y, Z | ≤6 mos; ≤\$1,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-----------|--------------------|
| W | ≤40 yrs; ≤\$50,000 |
| X | ≤5 yrs; ≤\$5,000 |
| Y, Z | ≤1 yr; ≤\$2,000 |
| marijuana | ≤10 yrs; \$20,000 |

Comment: Possession of a usable amount of marijuana is a civil violation in Maine. For a first offense a forfeiture of not less than \$200 but no more than \$400 shall be levied. ME. REV. STAT. ANN. tit. 22, § 2383 (West 1992).

PARAPHERNALIA PROVISIONS

ME. REV. STAT. ANN. tit. 17-A, § 1111-A (West 1983)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☒ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

ME. REV. STAT. ANN. tit. 17-A, § 1104 (West 1983 & Supp. 1997); § 1116 (West 1983); tit. 22, § 2382-A (West 1992)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

ME. REV. STAT. ANN. tit. 17-A, § 1105 (West 1983 & Supp. 1997); §§ 1111-A, 1116 (West 1983)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

ME. REV. STAT. ANN. tit. 17-A, § 1105 (West 1983 & Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

ME. REV. STAT. ANN. tit. 17, §§ 2741, 2742 (West Supp. 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☐ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☒ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Massachusetts

Massachusetts has six CSA schedules, administered by the state's commissioner of public health, Schedule VI is for prescription drugs not included in the first five schedules. For the purposes of criminal penalties, the state categorizes substances in classes A through E. Generally speaking, class A includes substance classified under the federal Schedule I as opiates and opiate derivatives; class B includes opium, cocaine, amphetamines, methamphetamine, derivatives of barbituric acid and methaqualone, federal Schedule II opiates, depressants, lysergic acid (LSD), and phencyclidine (PCP); class C includes 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. The commissioner schedules substances by rulemaking; any substance designated, rescheduled, or deleted as a controlled substance under federal law shall be similarly treated under the state's CSA. MASS. GEN. LAWS ANN. ch. 94C, § 1 (West Supp. 1998); ch. 94C, §§ 2 to 4, 31 (West 1997).

PENALTY PROVISIONS

MASS. GEN. LAWS ANN. ch. 94C, §§ 32 to 32E, 34 (West 1997)

Possession Offenses

| | |
|--------------|------------------|
| A | ≤2 yrs; ≤\$2,000 |
| B, C, D | ≤1 yr; ≤\$1,000 |
| E, marijuana | ≤6 mos; \$500 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|--------------------------|
| A, B | ≤20 yrs; \$1,000-500,000 |
| C | ≤5 yrs; \$500-5,000 |
| D | ≤2 yrs; \$500-5,000 |
| E | ≤9 mos; \$250-2,500 |
| marijuana | ≤15 yrs; \$500-200,000 |
| mandatory minimums: | |
| cocaine | 1 yr |
| marijuana ≥50 lbs | 1 yr |

PARAPHERNALIA PROVISIONS

MASS. GEN. LAWS ANN. ch. 94C, § 32I (West 1997)

☐ not addressed specifically

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input type="checkbox"/> possession w/intent to use | <input type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

MASS. GEN. LAWS ANN. ch. 94C, § 32G (West 1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|--------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

Comment: Massachusetts defines a counterfeit substance as "a substance which is represented to be a particular controlled drug or substance, but which is in fact not that drug or substance." MASS. GEN. LAWS ANN. ch. 94C, § 1 (West Supp. 1998).

PROVISIONS FOR OFFENSES INVOLVING MINORS

MASS. GEN. LAWS ANN. ch. 94C, §§ 32F, 32I, 32K (West 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

MASS. GEN. LAWS ANN. ch. 94C, § 32J (West 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

MASS. GEN. LAWS ANN. ch. 139, §§ 16A, 20 (West 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☒ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, MASS. GEN. LAWS ANN. ch. 94C, § 34; ch. 94D, §§ 1 to 3 (West 1997).
 - ☐ drug dealer civil liability
-

Maryland

Maryland has five schedules; a number of substances are scheduled differently than under the federal scheme. The state's Department of Health and Mental Hygiene schedules substances by rulemaking and is responsible for updating and republishing the schedules on an annual basis. Any new substance that is designated as controlled under federal law shall be similarly controlled under the state's CSA, unless the department objects. MD. ANN. CODE art. 27, §§ 278, 279 (1996).

PENALTY PROVISIONS

MD. ANN. CODE art. 27, § 286A (Supp. 1997); §§ 286, 287 (1996)

Possession Offenses

| | |
|--------------|-------------------|
| flat penalty | ≤4 yrs; ≤\$25,000 |
| marijuana | ≤1 yr; ≤\$1,000 |

Use Offenses

| | |
|-----------|-----------------|
| marijuana | ≤1 yr; ≤\$1,000 |
|-----------|-----------------|

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|--------------------|
| I, II | ≤25 yrs; ≤\$50,000 |
| III, IV, V | ≤5 yrs; ≤\$15,000 |
| marijuana | ≤10 yrs; ≤15,000 |
| mandatory minimums: | |
| cocaine ≥448 grams | 5 yrs |
| crack ≥50 grams | 5 yrs |
| marijuana ≥50 lbs | 5 yrs |

PARAPHERNALIA PROVISIONS

MD. ANN. CODE art. 27, §§ 287, 287A (1996)

☐ not addressed specifically

| | | |
|---|---|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/ intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/ intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

MD. ANN. CODE art. 27, §§ 286, 286B, 287B (1996)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

MD. ANN. CODE art. 27, §§ 286C, 286E, 287A (1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

MD. ANN. CODE art. 27, § 286D (1996)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

MD. CODE ANN., REAL PROP. § 14-120 (1996); MD. ANN. CODE art. 27, § 286 (1996)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☐ drug dealer civil liability
-

Michigan

Michigan has five schedules; the substances in schedules I through V are similar to those under the federal scheme with a few exceptions. The state's CSA differs from the federal scheduling system in that it does not include anabolic steroids in a CSA schedule; steroid penalties are provided for in a separate section of the state's code. The state's Board of Pharmacy is responsible for administering the state's CSA; any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA, unless the board objects. MICH. COMP. LAWS ANN. §§ 333.7104, 333.7105, 333.7107, 333.7109 to 333.7113, 333.7204, 333.7212, 333.17766a (West Supp. 1998); §§ 333.7101, 333.7103, 333.7106, 333.7108, 333.7201 to 333.7203, 333.7211, 333.7213 to 333.7231 (West 1992).

PENALTY PROVISIONS

MICH. COMP. LAWS ANN. §§ 333.7401 to 333.7404, 333.7410, 333.17766a (West Supp. 1998)

Possession Offenses

| | |
|-----------------------------|----------------------------|
| I, II narcotic | ≤30 yrs or life; ≤\$25,000 |
| I, II non-narcotic; III, IV | ≤2 yrs; ≤\$2,000 |
| V, marijuana | ≤1 yr; ≤\$2,000 |
| anabolic steroids | ≤90 days; ≤\$100 |

Use Offenses

| | |
|------------------------------|------------------|
| I, II narcotic | ≤1 yr; ≤2,000 |
| I, II non-narcotic; III, IV | ≤1 yr; ≤\$1,000 |
| V | ≤6 mos; ≤\$500 |
| anabolic steroids, marijuana | ≤90 days; ≤\$100 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------------|-----------------------------|
| I, II narcotic | 1-30 yrs or life; ≤\$25,000 |
| I, II non-narcotic; III | ≤7 yrs; ≤\$10,000 |
| IV | ≤4 yrs; ≤\$2,000 |
| V | ≤2 yrs; ≤\$2,000 |
| anabolic steroids | ≤7 yrs; ≤\$5,000 |
| marijuana | ≤15 yrs; ≤\$10,000,000 |

PARAPHERNALIA PROVISIONS

MICH. COMP. LAWS ANN. §§ 333.7451 to 333.7457 (West 1992)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☐ possession w/intent to use

☐ possession w/intent to deliver

☐ advertisement

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

MICH. COMP. LAWS ANN. §§ 333.7402, 333.7407, 333.17766a (West Supp. 1998); § 333.7341 (West 1992)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

MICH. COMP. LAWS ANN. §§ 333.7410, 333.7416 (West Supp. 1998); § 333.7455 (West 1992)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☐ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

MICH. COMP. LAWS ANN. § 333.7410 (West Supp. 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

MICH. COMP. LAWS ANN. §§ 333.7405, 600.3801 (West Supp. 1998); § 333.7406 (West 1992)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input checked="" type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input checked="" type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input checked="" type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input type="checkbox"/> make available for use | <input checked="" type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, MICH. COMP. LAWS ANN. §§ 691.1601 to 691.1619 (West Supp. 1998).

Minnesota

Minnesota has five schedules; some substances are scheduled differently than under the federal scheme. Notable differences in Minnesota's scheduling are the classification of anabolic steroids under schedule IV as opposed to federal schedule III and the state's recognition of the sacramental non-drug use of peyote. The state Board of Pharmacy is responsible for administering the state's CSA by rulemaking; any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA, unless the board objects. MINN. STAT. ANN. §§ 152.01, 152.02 (West 1998).

PENALTY PROVISIONS

MINN. STAT. ANN. §§ 152.021 to 152.025, 152.0261, 152.027, 609.228 (West 1998)

Possession Offenses

| | |
|---------|-----------------------|
| I, II | ≤30 yrs; ≤\$1,000,000 |
| III, IV | ≤5 yrs; ≤\$10,000 |
| V | ≤1 yr; ≤\$3,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------|-----------------------|
| I, II | ≤35 yrs; ≤\$1,250,000 |
| III | ≤15 yrs; ≤\$100,000 |
| IV | ≤5 yrs; ≤\$10,000 |
| V | ≤1 yr; ≤\$3,000 |

PARAPHERNALIA PROVISIONS

MINN. STAT. ANN. §§ 152.092 to 152.095 (West 1998)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

MINN. STAT. ANN. § 152.097 (West 1998)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

MINN. STAT. ANN. §§ 152.022 to 152.024, 152.094 (West 1998)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

MINN. STAT. ANN. §§ 152.021 to 152.024 (West 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

MINN. STAT. ANN. § 609.33 (West 1987 & Supp. 1998); §§ 617.88, 617.89 (West Supp. 1998)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☐ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, MINN. STAT. ANN. § 152.21 (West 1998).
 - ☐ drug dealer civil liability
-

Mississippi

Mississippi's CSA consists of five schedules, which are similar to the federal schedules. The state's schedules, administered by the state's Bureau of Narcotics in conjunction with the state's Board of Health, are subject to the approval of the legislature. The board is responsible for revising and republishing the schedules of the state's CSA at least once every 12 months. If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the board shall recommend similar control of such substance to the state legislature.

MISS. CODE ANN. §§ 41-29-113 to 41-29-121 (Supp. 1997); §§ 41-29-105, 41-29-107, 45-29-111, 41-29-122, 41-29-123 (1993).

PENALTY PROVISIONS

MISS. CODE ANN. § 41-29-139 (Supp. 1997)

Possession Offenses

| | |
|------------|------------------------|
| I, II | ≤3 yrs; \$1,000-30,000 |
| III, IV, V | ≤1 yr; ≤\$5,000 |
| marijuana | ≤20 yr; ≤\$1,000,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------|------------------------------------|
| I, II | ≤30 yrs or life; \$5,000-1,000,000 |
| III, IV | ≤20 yrs; \$1,000-250,000 |
| V | ≤10 yrs; \$1,000-50,000 |

PARAPHERNALIA PROVISIONS

MISS. CODE ANN. § 41-29-139 (Supp. 1997)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

MISS. CODE ANN. § 41-29-139 (Supp. 1997); §§ 41-29-143, 41-29-146 (1993)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

MISS. CODE ANN. § 41-29-139 (Supp. 1997); § 41-29-145 (1993)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

MISS. CODE ANN. § 41-29-142 (1993)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

MISS. CODE ANN. §§ 41-29-141, 41-29-309 (1993)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Missouri

Missouri's CSA consists of five schedules, which are similar to the federal schedules. The state's Department of Health schedules substances by rulemaking. Any addition, deletion, or rescheduling made in the federal schedules automatically becomes a part of the state schedule, unless the department objects. MO. ANN. STAT. §§ 195.010, 195.017, 195.022 (West Supp. 1998); § 195.015 (West 1996).

PENALTY PROVISIONS

MO. ANN. STAT. § 558.011 (West Supp. 1998); §§ 195.202, 195.211, 195.222, 195.223 (West 1996); § 560.011 (West 1979)

Possession Offenses

| | |
|------------|---------------------------|
| I, II | ≤30 yrs or life; ≤\$5,000 |
| III, IV, V | ≤7 yrs; ≤\$5,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|------------|----------------------------|
| I, II | 5-30 yrs or life; ≤\$5,000 |
| III, IV, V | 5-15 yrs; ≤\$5,000 |
| marijuana | ≤30 yrs or life; ≤\$5,000 |

PARAPHERNALIA PROVISIONS

MO. ANN. STAT. §§ 195.233, 195.235, 195.244 (West 1996)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

MO. ANN. STAT. §§ 195.241, 195.242, 195.244, 195.256 (West 1996)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

MO. ANN. STAT. §§ 195.212, 195.213 (West 1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

MO. ANN. STAT. § 195.214 (West Supp. 1998); § 195.218 (West 1996)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

MO. ANN. STAT. §§ 565.065, 569.085 (West Supp. 1998); §§ 195.130, 195.253 (West 1996)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☒ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☐ drug dealer civil liability
-

Montana

Montana has five CSA schedules; its scheduling scheme is similar to the federal scheme. In penalizing controlled substances, Montana provides separate penalties for opiates, narcotics, anabolic steroids, and precursors. The state's Board of Pharmacy schedules substances by rulemaking. Any addition, deletion, or rescheduling made in the federal schedules automatically becomes a part of the state schedule, unless the board objects. Montana law also states that if the federal government decides to permit the use of marijuana for medicinal purposes, any compound containing tetrahydrocannabinols must automatically be rescheduled from Schedule I to Schedule II. MONT. CODE ANN. §§ 50-32-101 to 50-32-104, 50-32-201 to 50-32-233 (1997).

PENALTY PROVISIONS

MONT. CODE ANN. §§ 45-9-101 to 45-9-103, 45-9-107, 45-9-110 (1997)

Possession Offenses

| | |
|-------------------|---------------------|
| opiates | 2-5 yrs; ≤\$50,000 |
| I, II, IV, V | ≤5 yrs; ≤\$50,000 |
| precursors | 2-20 yrs; ≤\$50,000 |
| anabolic steroids | ≤6 mos; \$100-500 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|--------------------|-------------------------|
| narcotics, opiates | 2 yrs - life; ≤\$50,000 |
| I, II, IV, V | ≤life; ≤\$50,000 |

PARAPHERNALIA PROVISIONS

MONT. CODE ANN. §§ 45-10-101 to 45-10-108 (1997)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

MONT. CODE ANN. §§ 45-9-101 to 45-9-103, 45-9-110, 45-9-112 to 45-9-115, 50-31-501 (1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

MONT. CODE ANN. §§ 45-9-101, 45-9-112, 45-10-105 (1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

MONT. CODE ANN. § 45-9-109 (1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

MONT. CODE ANN. §§ 45-8-111, 45-9-130, 45-9-206 (1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

North Carolina

The state's schedules, administered by the state Drug Commission, are similar to the federal schedules, except that the state has created a schedule VI for marijuana. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law, the commission shall similarly control or cease control of the substance unless the commission objects. N.C. GEN. STAT. §§ 90-88 to 90-94 (1997).

PENALTY PROVISIONS

N.C. GEN. STAT. §§ 15A-1340-14, 15A-1340-17, 15A-1340.23, 90-95 (1997)

Possession Offenses

| | |
|---------|-----------------------|
| I | 4-279 mos; fine |
| II | 1 day - 279 mos; fine |
| III, IV | 1-45 days; fine |
| V | 1-30 days; ≤\$1,000 |
| VI | 1 day - 219 mos; fine |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|------------|-----------------|
| I, II | 5-279 mos; fine |
| III, IV, V | 4-8 mos; fine |
| VI | 4-219 mos; fine |

PARAPHERNALIA PROVISIONS

N.C. GEN. STAT. §§ 90-113.20 to 90-113.24 (1997)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

N.C. GEN. STAT. §§ 90-95, 90-108 (1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

N.C. GEN. STAT. §§ 90-95, 90-95.4, 90-113.23 (1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

N.C. GEN. STAT. § 90-95 (1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

N.C. GEN. STAT. § 19-1, 90-108 (1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, N.C. GEN. STAT. § 90-95.5 (1997).

North Dakota

North Dakota has five schedules; a number of substances are scheduled differently than under the federal scheme. The states's schedules are administered by a state board of pharmacy through rulemaking procedures and are to be revised and republished annually. Any new substance that is designated as controlled under federal law shall be similarly controlled under the state's CSA, unless the department objects. N.D. CENT. CODE §§ 19-03.1-01 to 19-03.1-15 (1997).

PENALTY PROVISIONS

N.D. CENT. CODE §§ 12.1-32-01, 19-03.1-23, 19-03.1-23.1 (1997)

Possession Offenses

| | |
|--------------|------------------|
| flat penalty | ≤5 yrs; ≤\$5,000 |
| marijuana | ≤1 yr; ≤\$2,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|----------------------------------|
| I, II narcotic/meth | 1 yr and a day - life; ≤\$10,000 |
| I, II non-narcotic | ≤20 yrs; ≤\$10,000 |
| III | 8 mos - 10 yrs; ≤\$10,000 |
| IV | ≤5 yrs; ≤\$5,000 |
| V | ≤1 yr; ≤\$2,000 |

PARAPHERNALIA PROVISIONS

N.D. CENT. CODE §§ 12.1-31.1-01 to 12.1-31.1-06 (1997)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

N.D. CENT. CODE §§ 19-03.1-23, 19-03.1-25, 19-03.2-01 to 19-03.2-03 (1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

N.D. CENT. CODE §§ 12.1-31.1-05, 19-03.1-23, 19-03.1-23.1 (1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

N.D. CENT. CODE §§ 19-03.1-23, 19-03.1-23.1 (1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

N.D. CENT. CODE § 19-03.1-24 (1997)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☐ drug dealer civil liability
-

Nebraska

Nebraska has five schedules; a number of substances are scheduled differently than under the federal scheme. For purposes of penalizing offenses, Nebraska divides controlled substance into groups of "exceptionally hazardous" schedule I, II, or III substances; other schedule I, II, or III substances; and schedule IV or V substances. The state's Department of Health and Human Services promulgates rules and regulations relating to the state's CSA. NEB. REV. STAT. ANN. §§ 28-401, 28-405, 28-406 (Michie Supp. 1997).

PENALTY PROVISIONS

NEB. REV. STAT. ANN. § 28-106 (Michie 1995); §§ 28-105, 28-416 (Michie Supp. 1997)

Possession Offenses

| | |
|--------------|-------------------------------------|
| flat penalty | 6 mos - 5 yrs; ≤\$10,000 |
| marijuana | ≤7 days or 6 mos - 5 yrs; ≤\$10,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|--|--------------------------|
| I, II, III (exceptionally hazardous drugs) | 1 yr - life |
| I, III | 1-25 yrs; ≤\$25,000 |
| II | 1-50 yrs; ≤\$25,000 |
| IV, V | 6 mos - 5 yrs; ≤\$10,000 |

PARAPHERNALIA PROVISIONS

NEB. REV. STAT. ANN. §§ 28-439 to 28-444 (Michie 1995)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

NEB. REV. STAT. ANN. §§ 28-418, 28-445 (Michie 1995); § 28-416 (Michie Supp. 1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS
NEB. REV. STAT. ANN. § 28-443 (Michie 1995); § 28-416 (Michie Supp. 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS
NEB. REV. STAT. ANN. § 28-416 (Michie Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS
NEB. REV. STAT. ANN. § 28-417 (Michie 1995)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☐ drug dealer civil liability
-

Nevada

Nevada has five schedules; a number of substances are scheduled differently than under the federal scheme. Nevada's State Board of Pharmacy reviews the schedules annually and has the authority to add, delete, or reschedule substances by rulemaking. Any new substance that is designated as controlled under federal law shall be similarly controlled under the state's CSA, unless the board objects. NEV. REV. STAT. ANN. §§ 453.146 to 453.219 (Michie 1996).

PENALTY PROVISIONS

NEV. REV. STAT. ANN. §§ 193.130, 453.336, 453.337, 453.3385 (Michie Supp. 1997);
§§ 453.321, 453.338, 453.339, 453.3395, 453.411 (Michie 1996)

Possession Offenses

| | |
|-----------|-------------------------|
| I, IV | 1 yr - life; ≤\$500,000 |
| II | 1 yr - life; ≤\$250,000 |
| III, V | 1-4 yrs; ≤\$5,000 |
| marijuana | 1 yr - life; ≤\$200,000 |

Use Offenses

| | |
|----------------|-------------------|
| I, II, III, IV | 1-4 yrs; ≤\$5,000 |
| V | ≤1 yr; ≤\$1,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-----------|-------------------------|
| I, IV | 1 yr - life; ≤\$500,000 |
| II | 1 yr - life; ≤\$250,000 |
| III, V | 1-5 yrs; ≤\$10,000 |
| marijuana | 1 yr - life; ≤\$200,000 |

PARAPHERNALIA PROVISIONS

NEV. REV. STAT. ANN. §§ 453.554 to 453.566 (Michie 1996)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ possession w/intent to use

☒ advertisement

☒ manufacture w/intent to deliver

☒ possession w/intent to deliver

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

NEV. REV. STAT. ANN. §§ 453.321, 453.331, 453.332 (Michie 1996)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

NEV. REV. STAT. ANN. §§ 453.332, 453.334, 453.562 (Michie 1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

NEV. REV. STAT. ANN. § 453.3345 (Michie 1996)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

NEV. REV. STAT. ANN. §§ 453.316, 453.326 (Michie 1996)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input checked="" type="checkbox"/> make available for use | <input type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

NEV. REV. STAT. ANN. § 453.580 (Michie 1996); §§ 209.367, 213.1235, 453.3363 (Michie Supp. 1997)

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input checked="" type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input checked="" type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, NEV. REV. STAT. ANN. §§ 453.553 to 453.5533 (Michie 1996).

New Hampshire

New Hampshire's five CSA schedules, administered by the commissioner of the state's Department of Health and Human Services through rulemaking and subject to the approval of the state's Pharmacy Board, conform to the federal schedule. Any addition, deletion, or rescheduling made in the federal schedules automatically becomes a part of the state schedule, unless the commissioner objects. N.H. REV. STAT. ANN. §§ 318-B:1 to 318-B:1-b, 318-B:24 (1995 & Supp. 1997).

PENALTY PROVISIONS

N.H. REV. STAT. ANN. §§ 318-B:2, 318-B:26 (1995); § 651:2 (1996 & Supp. 1997); § 652:9 (1996)

Possession Offenses

| | |
|----------------|-------------------|
| I, II, III, IV | ≤7 yrs; ≤\$25,000 |
| V | ≤3 yrs; ≤\$15,000 |
| marijuana | 1 yr; ≤\$5,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|--|---------------------|
| I; II narcotic, III non-narcotic (specified) | ≤30 yrs; ≤\$500,000 |
| I, II (other) | ≤20 yrs; ≤\$300,000 |
| III (other), IV | ≤7 yrs; ≤\$100,000 |
| V | ≤3 yrs; ≤\$25,000 |
| marijuana | ≤20 yr; ≤\$300,000 |

Comment: New Hampshire's penalties for the manufacture, sale or transport of controlled substances provide higher penalties for specific controlled substances within certain weight ranges. The impact of these provisions has been captured by providing a separate line which details the sentence and fine for these specified substances. N.H. REV. STAT. ANN. § 318-B:26 (1995).

PARAPHERNALIA PROVISIONS

N.H. REV. STAT. ANN. §§ 318-B:2, 318-B:26 (1995)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

N.H. REV. STAT. ANN. §§ 146:1 (date); 318-B:2, 318-B:26 (1995)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

N.H. REV. STAT. ANN. §§ 318-B:2, 318-B:26 (1995)

Distribution to a minor:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

N.H. REV. STAT. ANN. §§ 193-B:1, 193-B:2 (Supp. 1997); §§ 318-B:2, 318-B:26 (1995)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comment: New Hampshire also allows towns to adopt bylaws which will create drug-free zones in public housing authority property and within 1,000 feet of public housing authority property. N.H. REV. STAT. ANN. § 47:17 (1991 & Supp. 1997); § 31:41-e (Supp. 1997).

SAFEHOUSE PROVISIONS

N.H. REV. STAT. ANN. §§ 318-B:16, 318-B:26 (1995)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, N.H. REV. STAT. ANN. § 318-B:10 (1995).
- ☐ drug dealer civil liability

New Jersey

New Jersey's CSA schedules, administered by the state commissioner of health, substantially conform to the federal schedules. Any addition, deletion, or rescheduling made in the federal schedules will automatically take effect in the state's CSA unless objected to by the commissioner within 30 days of its posting in the Federal Register. The state Department of Health must update and republish the schedules on an annual basis. N.J. STAT. ANN. §§ 24:21-1 to 24:21-8.1 (West 1997).

PENALTY PROVISIONS

N.J. STAT. ANN. §§ 2C:35-5, 2C:35-10, 2C:43-3 (West Supp. 1998); §§ 2C:43-6, 2C:43-8 (West 1995)

Possession Offenses

| | |
|----------------|----------------------|
| I, II, III, IV | 3-5 years; ≤\$35,000 |
| V | ≤18 mos; ≤\$15,000 |
| marijuana | ≤18 mos; ≤\$25,000 |

Use Offenses

| | |
|--------------|------------------|
| flat penalty | ≤6 mos; ≤\$1,000 |
|--------------|------------------|

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------|-----------------------------|
| I | 3-20 years; ≤\$500,000 |
| III | 3-20 years; ≤\$300,000 |
| II narcotic | 3-10 years; ≤\$150,000 |
| II non-narcotic, IV | 3-5 years; ≤\$25,000 |
| V | ≤18 mos; ≤\$25,000 |
| marijuana | 18 mos - 20 yrs; ≤\$300,000 |

Comment: New Jersey Drug Reform Act also established penalties for the possession, manufacturing, and distribution of gamma hydroxybutyrate and flunitrazepan, two designer "date-rape" drugs not scheduled within the state's CSA. N.J. STAT. ANN. §§ 2C:35-5.2, 2C:35-5.3, 2C:35-10.2, 2C:35-10.3 (West Supp. 1998).

PARAPHERNALIA PROVISIONS

N.J. STAT. ANN. §§ 2C:36-2 to 2C:36-6 (West 1995)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

N.J. STAT. ANN. §§ 2C:35-5, 2C:35-10, 2C:35-11 (West Supp. 1998); §§ 24:6D-2, 24:21-22 (West 1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS
N.J. STAT. ANN. § 2C:35-6 (West Supp. 1998); §§ 2C:35-8, 2C:36-5 (West 1995)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

N.J. STAT. ANN. §§ 2C:35-7, 2C:35-7.1, 2C:35-10 (West Supp. 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

N.J. STAT. ANN. §§ 2C:35-4, 2C:35-4.1 (West Supp. 1998); §§ 24:21-21, 24:21-35 (West 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☒ rent or lease
- ☒ make available for use
- ☒ fortify
- ☒ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

New Mexico

New Mexico's CSA schedules generally conform to the federal schedules. Anabolic steroids are not listed within a schedule; however, the state's CSA provides penalties for the possession and distribution of steroids. In addition, the state's Precursor Chemicals Act regulates the use and trade of precursor chemicals by setting forth criminal penalties for illegal possession, sale, and manufacturing. The state Board of Pharmacy is responsible for administering and adding substances to schedules I through IV. Any addition, deletion, or rescheduling made in the federal schedules may be similarly scheduled by the board upon receiving notice of such a change. N.M. STAT. ANN. §§ 30-31-2 to 30-31-10, 30-31-41, 30-31B-1 to 30-31B-3, 30-31B-12 (Michie 1997).

PENALTY PROVISIONS

N.M. STAT. ANN. §§ 30-31-20, 30-31-22, 30-31-23, 30-31-41, 30-31B-12 (Michie 1997); §§ 31-18-15, 31-19-1 (Michie 1994)

Possession Offenses

| | | | |
|----------------------------------|--------------------|----|-----------------|
| I, II narcotic | 18 mos; \$5,000 | | |
| II, III non-narcotic | <1 yr; \$500-1,000 | or | 18 mos; \$5,000 |
| I non-narcotic, III narcotic, IV | <1 yr; \$500-1,000 | | |
| V | — | | |
| anabolic steroids, precursors | <1 yr; ≤\$1,000 | | |
| marijuana | <1 yr; \$50-1,000 | or | 18 mos; \$5,000 |

Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-----------------------------|--------------------------|
| I, II narcotic | 9 yrs; \$10,000 |
| I, II non-narcotic; III, IV | 3 yrs; \$5,000 |
| V | 180-364 days; \$100-500 |
| anabolic steroids | 18 mos; \$5,000 |
| precursors | <1 yr; ≤\$1,000 |
| marijuana | 18 mos or 3 yrs; \$5,000 |

Manufacturing Offenses

| | |
|--------------|-----------------|
| flat penalty | 9 yrs; \$10,000 |
| precursors | <1 yr; ≤\$1,000 |

PARAPHERNALIA PROVISIONS

N.M. STAT. ANN. § 30-31-25.1 (Michie 1997)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☒ possession w/intent to use

☒ possession w/intent to deliver

☐ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

N.M. STAT. ANN. §§ 30-31-22, 30-31-25, 30-31A-4, 30-31A-6, 30-31A-7 (Michie 1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS
N.M. STAT. ANN. §§ 30-31-21, 30-31-25.1, 30-31-41, 30-31A-5 (Michie 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: It is also unlawful for any person eighteen years of age or older to distribute anabolic steroids to a minor in the state of New Mexico. N.M. STAT. ANN. § 30-31-41 (Michie 1997).

DRUG-FREE ZONES PROVISIONS
N.M. STAT. ANN. §§ 30-31-20, 30-31-22 (Michie 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

- ☒ not addressed specifically

- ☐ public nuisance
- ☐ criminal violation

- ☐ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☐ distribute/deliver/sell
- ☐ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, N.M. STAT. ANN. §§ 26-2A-1 to 26-2A-7 (Michie 1987).

New York

The state's schedules, administered by the state commissioner of health, are similar to the federal schedules. 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 permissible definite sentences and permissible indefinite sentences. In the column titled "Permissible Indefinite Sentence," the numbers to the left of the hyphen indicate the possible minimum sentences in years and the number to the right of the hyphen indicate possible maximum sentences in years followed by possible fines. The statute should be consulted for determining the appropriate penalty for a violation involving a specific amount of a given drug. N.Y. PUB. HEALTH LAW §§ 3300-3308 (McKinney 1993)

PENALTY PROVISIONS

N.Y. PENAL LAW §§ 55.05, 55.10, 60.05, 70.00, 70.15, 80.00, 80.05 (McKinney 1998); N.Y. PENAL LAW §§ 220.00, 220.06, 220.09, 220.16, 220.18, 220.21, 220.34, 220.39, 220.41, 220.43, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35, 221.45, 221.50, 221.55 (McKinney 1989 & Supp. 1998); N.Y. PENAL LAW §§ 220.03, 220.31, 221.05, 221.40 (McKinney 1989)

| Possession Offenses | Permissible Definite Sentence | Permissible Indefinite Sentence (mins, maxs) |
|--|-------------------------------|---|
| LSD | ≤1 yr | None or 1/3-15/25/Life; ≤\$50,000 |
| methadone, narcotics | ≤1 yr | None or 1/3/15-15/Life; ≤\$100,000 |
| methamphetamine | ≤1 yr | None or 1/3-15/Life; ≤\$50,000 |
| concentrated cannabis, narcotic preparation | ≤1 yr | None or 1-7/15 yrs |
| phencyclidine | ≤1 yr | None or 1-7/15/25 yrs; ≤\$30,000 |
| cocaine | ≤1 yr | None or 1-7 yrs |
| marijuana | ≤1 yr; ≤\$1,000 | 1-4/7/15 yrs; ≤\$15,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | | |
|-------------------------------------|-----------------|---------------------------------|
| LSD, methamphetamine | ≤1 yr | 1/3-7/25/life; ≤\$50,000 |
| methadone, narcotic preparations | ≤1 yr | 1/3/15 -7/15/life; ≤\$100,00 |
| narcotic | ≤1 yr | 1/3/15-7/15/25/life; ≤\$100,000 |
| phencyclidine | ≤1 yr | 1-7/15/25 yrs; \$30,000 |
| concentrated cannabis | ≤1 yr | 1-7/15 yrs; ≤\$15,000 |
| cocaine | ≤1 yr | 1-7 yrs; |
| marijuana | ≤1 yr; ≤\$1,000 | 1-4/7/15 yrs; ≤\$15,000 |

PARAPHERNALIA PROVISIONS

N.Y. PENAL LAW § 220.50 (McKinney Supp.1998); N.Y. PENAL LAW §§ 220.45, 220.55 (McKinney 1989);
N.Y. PUB. HEALTH LAW § 3381 (McKinney 1993 & Supp.1998)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☐ possession w/intent to use

☐ possession w/intent to deliver

☐ advertisement

☒ use

Comment: New York has also established criminal penalties for the unlawful possession of drug paraphernalia, hypodermic syringes or needles. N.Y. PENAL LAW § 220.50 (McKinney Supp.1998); N.Y. PENAL LAW § 220.45 (McKinney 1989); N.Y. PUB. HEALTH LAW § 3381 (McKinney 1993 & Supp.1998).

COUNTERFEIT/IMITATION DRUG PROVISIONS

N.Y. PUB. HEALTH LAW § 3383 (McKinney 1993)

| | COUNTERFEIT | IMITATION |
|--|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

N.Y. PENAL LAW §§ 220.39, 221.50 (McKinney 1989 & Supp. 1998)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: New York also has established a criminal penalty for a person who knowingly permits a minor to enter or remain in a place where unlawful narcotics or dangerous drug activity are maintained or conducted. N.Y. PENAL LAW § 260.20 (McKinney 1989 & Supp. 1998).

DRUG-FREE ZONES PROVISIONS

N.Y. PENAL LAW §§ 220.34, 220.44 (McKinney 1989 & Supp. 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

N.Y. PENAL LAW §§ 240.45, 240.46 (McKinney 1989)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☐ use
- ☐ distribute/deliver/sell
- ☐ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

N.Y. CRIM. PROC. LAW §§ 410.91 (McKinney 1994 & Supp. 1998)

- ☐ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☒ parolees
- ☒ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, N.Y. PUB. HEALTH LAW § 3328, 3397 (McKinney 1993)
 - ☐ drug dealer civil liability,
-

Ohio

Ohio's CSA schedules substantially conform to the federal schedules. The state Board of Pharmacy is responsible for administering the state's CSA. Any additions, deletions, or rescheduling made in the federal schedules automatically become part of the state schedule. Ohio's penalty provisions for the sale and possession of controlled substances are based on a table of "bulk amounts," which vary depending on the substance. The penalties listed below are for offenses involving less than the bulk amounts as well as offenses that involve the sale or possession of bulk amounts in varying degrees. OHIO REV. CODE ANN. §§ 3719.01, 3719.01.1, 3719.42 to 3719.44 (Anderson 1997); §§ 2925.01, 3719.41 (Anderson Supp. 1997).

PENALTY PROVISIONS

OHIO REV. CODE ANN. §§ 2925.11, 2929.14 (Anderson Supp. 1997); §§ 2925.03, 2925.04, 2929.18, 2929.21 (Anderson 1996)

Possession Offenses

| | |
|------------|--|
| I, II | 6 mos - 10 yrs; ≤\$20,000 |
| III, IV, V | ≤60 days; ≤\$500 or 6 mos - 8 years; ≤\$15,000 |
| marijuana | 30 days - 8 yrs; ≤\$15,000 |

Use Offenses

| | |
|------------|--|
| I, II | 6 mos - 10 yrs; ≤\$20,000 |
| III, IV, V | ≤60 days; ≤\$500 or 6 mos - 8 years; ≤\$15,000 |
| marijuana | 30 days - 8 yrs; ≤\$15,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|------------|-----------------------------------|
| I, II | 6 mos - 10 yrs; ≤\$20,000 |
| III, IV, V | 6 mos - 8 yrs; ≤\$15,000 |
| marijuana | \$100 or 6 mos - 8 yrs; ≤\$15,000 |

Comment: Ohio's code also provides for the imposition of a mandatory fine of up to one million dollars for first, second, or third degree felony violations of those criminal drug offenses specified with Chapter 2925 of its Revised Code. OHIO REV. CODE ANN. § 2929.25 (Anderson 1996).

PARAPHERNALIA PROVISIONS

OHIO REV. CODE ANN. §§ 2925.12, 2925.14 (Anderson 1996)

☐ not addressed specifically

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

OHIO REV. CODE ANN. § 2925.37 (Anderson 1996)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

Comment: Ohio's definition of "counterfeit substance" encompasses both counterfeit and imitation drugs as commonly defined in this guide to the state controlled substance acts. OHIO REV. CODE ANN. § 2925.01 (Anderson Supp. 1997).

PROVISIONS FOR OFFENSES INVOLVING MINORS

OHIO REV. CODE ANN. §§ 2925.02, 2925.14, 2925.37 (Anderson 1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: Ohio's has also established criminal penalties for the sale and distribution of controlled substances and counterfeit substances in the vicinity of a juvenile, which is defined as an offense committed within 100 feet of or within the view of a juvenile, regardless of whether the offender knows the juvenile's age, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the offense. OHIO REV. CODE ANN. §§ 2925.03, 2925.37 (Anderson 1996). The state has also set up criminal penalties for certain individuals who induce or cause a juvenile to use a controlled substance or to participate in surveillance activity related to preventing the detection of a drug sale. OHIO REV. CODE ANN. § 2925.02 (Anderson 1996).

DRUG-FREE ZONES PROVISIONS

OHIO REV. CODE ANN. § 2925.03 (Anderson 1996)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comment: Ohio's code provides enhanced penalties for the manufacture, sale, or delivery of counterfeit controlled substances when such offenses are committed in the vicinity of a school. OHIO REV. CODE ANN. § 2925.37 (Anderson 1996). Additionally, the act of inducing a juvenile to use or commit a drug abuse felony within the vicinity of a school is considered a felony under Ohio law. OHIO REV. CODE ANN. § 2925.02 (Anderson 1996).

SAFEHOUSE PROVISIONS

OHIO REV. CODE ANN. § 2925.13 (Anderson 1996); §§ 3719.10, 3767.01, 3767.02 (Anderson 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☐ fortify
- ☒ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☐ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Oklahoma

Oklahoma has five schedules; some substances are scheduled differently than under the federal scheme. 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 III in the federal CSA. Additionally, the state has scheduled tetrahydrocannabinols under schedule II as opposed to federal placement of this drug in schedule I. The director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is responsible for administering the state's CSA; the state's Board of Pharmacy may recommend the addition, deletion, or rescheduling of any controlled substance, provided that the proposed rule is submitted to the next regular session of the Oklahoma legislature for approval. OKLA. STAT. ANN. tit. 63, § 2-101 (West Supp. 1998); tit. 63, §§ 2-101.1, 2-201 to 2-212 (West 1997).

PENALTY PROVISIONS

OKLA. STAT. ANN. tit. 21, §§ 16, 20.3, 64; tit. 22, § 990a-1; tit. 63, §§ 2-401, 2-402, 2-415 (West Supp. 1998)

Possession Offenses

| | | | |
|-----------------|--------------------|----|------------------------------|
| I, II narcotic | ≤ 1 yr; ≤ \$10,000 | or | 24-191 mos; \$25,000-500,000 |
| I non-narcotic | ≤ 1 yr; ≤ \$10,000 | or | 24-191 mos; \$20,000-250,000 |
| II non-narcotic | ≤ 1 yr; ≤ \$10,000 | or | 24-155 mos; \$25,000-500,000 |
| III, IV, V | ≤ 1 yr; ≤ \$1,000 | | |
| marijuana | ≤ 1 yr; ≤ \$1,000 | or | 24-155 mos; \$25,000-500,000 |

Use Offenses

| | |
|-------|-------------------|
| opium | ≤ 1 yr; ≤ \$1,000 |
|-------|-------------------|

Delivery, Sale, Transport, or Possession with Intent Offenses

| | | | |
|-----------------|-----------------------|----|------------------------------|
| I, II narcotic | 6-45 mos; ≤ \$100,000 | or | 24-191 mos; \$25,000-500,000 |
| I non-narcotic | 6-36 mos; ≤ \$20,000 | or | 24-191 mos; \$20,000-250,000 |
| II non-narcotic | 6-36 mos; ≤ \$20,000 | or | 24-155 mos; \$25,000-500,000 |
| III, IV | 6-36 mos; ≤ \$20,000 | | |
| V | 6-24 mos; ≤ \$1,000 | | |
| marijuana | 6-24 mos; ≤ \$20,000 | or | 24-155 mos; \$25,000-500,000 |

Manufacturing Offenses

| | | | |
|-----------------|-----------------------|----|------------------------------|
| I, II narcotic | 12-98 mos; ≥ \$50,000 | or | 24-191 mos; \$25,000-500,000 |
| I non-narcotic | 12-98 mos; ≥ \$50,000 | or | 24-191 mos; \$20,000-250,000 |
| II non-narcotic | 12-98 mos; ≥ \$50,000 | or | 24-155 mos; \$25,000-500,000 |
| III, IV, V | 12-98 mos; ≥ \$50,000 | | |
| marijuana | 12-98 mos; ≥ \$50,000 | or | 24-155 mos; \$25,000-500,000 |

PARAPHERNALIA PROVISIONS

OKLA. STAT. ANN. tit. 63, § 2-405 (West Supp. 1998)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☐ possession w/intent to use

☐ possession w/intent to deliver

☐ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

OKLA. STAT. ANN. tit. 63, §§ 2-401, 2-406 (West Supp. 1998)

COUNTERFEIT

IMITATION

Not addressed specifically
Advertisement
Distribution/Delivery/Sale
Manufacture
Manufacture w/intent to
distribute/deliver/sell
Possession
Possession w/intent to
distribute/deliver/sell
Possession w/intent to use
Receipt
Related paraphernalia provisions
Use

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PROVISIONS FOR OFFENSES INVOLVING MINORS

OKLA. STAT. ANN. tit. 63, §§ 2-401, 2-405, 2-415 (West Supp. 1998)

Distribution to a minor:

- ☐ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: Oklahoma has also established a criminal penalty for any person who possesses or purchases a controlled substance in the presence of a child under 12 years of age. OKLA. STAT. ANN. tit. 63, §§ 2-402 (West Supp. 1998).

DRUG-FREE ZONES PROVISIONS

OKLA. STAT. ANN. tit. 63, § 2-402 (West Supp. 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

OKLA. STAT. ANN. tit. 63, § 2-404 (West Supp. 1998)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input type="checkbox"/> make available for use | <input type="checkbox"/> manufacture | |
| | <input type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, OKLA. STAT. ANN. tit. 63, §§ 2-421 to 2-435 (West 1997).

Oregon

Oregon's has five schedules that substantially conform to the federal schedules. The state Board of Pharmacy is responsible for administering the schedules and may change or make additions to the schedules by rulemaking. The board must publish the schedules within 30 days following any revision or re-classification of a controlled substance. Any additions, deletions, or changes to the federal schedules shall be reviewed and adopted if agreed to by the board. OR. REV. STAT. §§ 475.005, 475.035, 475.045, 475.055 (1997).

PENALTY PROVISIONS

OR. REV. STAT. §§ 161.625, 161.635, 475.992, 475.996 (1997)

Possession Offenses

| | |
|-----|---------------------|
| I | ≤10 yrs; ≤\$200,000 |
| II | ≤5 yrs; ≤\$100,000 |
| III | ≤1 yr; ≤\$5,000 |
| IV | ≤30 days; ≤\$1,000 |
| V | 0; ≤\$250 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-----|---------------------|
| I | ≤20 yrs; ≤\$300,000 |
| II | ≤10 yrs; ≤\$200,000 |
| III | ≤5 yrs; ≤\$100,000 |
| IV | ≤6 mos; ≤\$2,000 |
| V | ≤30 days; ≤\$1,000 |

PARAPHERNALIA PROVISIONS

OR. REV. STAT. §§ 475.525, 475.535 to 475.565 (1997)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☐ advertisement

☐ use

Comment: Oregon has also established criminal penalties for any person who illegally sells any "substance, article, apparatus or device with knowledge" that the item will be used to "manufacture, compound, convert, process or prepare a controlled substance for unlawful sale or distribution." OR. REV. STAT. §§ 475.960 (1997).

COUNTERFEIT/IMITATION DRUG PROVISIONS

OR. REV. STAT. §§ 475.991, 475.992, 475.994 (1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

OR. REV. STAT. §§ 163.575, 167.262, 475.805, 475.995 (1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: Oregon also criminalizes certain drug activities conducted in front of minors in the offenses against persons section of its code. It is a crime of child neglect in the first degree to knowingly leave a child or allow a child to stay in a vehicle or on premises where controlled substances are being criminally delivered or manufactured; while, it is crime of endangering the welfare of a minor if a person knowingly permits a minor to enter or remain in a place where illegal drug activity is occurring. OR. REV. STAT. §§ 163.547, 163.575 (1997).

DRUG-FREE ZONES PROVISIONS

OR. REV. STAT. §§ 475.996, 475.999 (1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

OR. REV. STAT. §§ 105.555, 167.222, 475.993 (1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☒ visit

Comment: Oregon nuisance law also covers any place where unauthorized possession of a controlled substance occurs. OR. REV. STAT. § 105.555 (1997).

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

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

- ☐ parolees
- ☐ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☐ drug dealer civil liability

Pennsylvania

Pennsylvania has five schedules; some substances are scheduled differently than under the federal scheme. One notable difference in Pennsylvania's scheduling is the classification of phencyclidine under Schedule II as opposed to Schedule III under the federal schedule. The state secretary of health is responsible for administering the state's CSA, but must request the advice of the Pennsylvania Drug, Device and Cosmetic Board before adding a substance to a schedule. Additionally the secretary cannot remove a substance from the state's CSA unless specifically authorized by the General Assembly; nor can the secretary reschedule any controlled substance without specific authorization by the board. PA. STAT. ANN. tit. 35, § 780-104 (West 1993 & Supp. 1998); tit. 35, §§ 780-101 to 708-103, 708-105 (West 1993).

PENALTY PROVISIONS

PA. STAT. ANN. tit. 35, § 780-113 (West 1993 & Supp. 1998); 18 PA. CONS. STAT. ANN. § 7508 (West 1998)

Possession Offenses

| | |
|--------------|-------------------|
| flat penalty | ≤ 1 yr; ≤ \$5,000 |
|--------------|-------------------|

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

I, II narcotic ≤15 yrs; ≤\$250,000

I, II non-narcotic ≤10 yrs; ≤\$100,000

III **≤5 yrs; ≤\$15,000**

IV ≤3 yrs; ≤\$10,000

V **≤1 yr; ≤\$5,000**

| | |
|-----------|---------------------|
| marijuana | ≤10 yrs, ≤\$100,000 |
|-----------|---------------------|

mandatory minimums:

cocaine ≥2 grams 1 yr

| | |
|-------------------|------|
| marijuana ≥2 lbs. | 1 yr |
|-------------------|------|

PARAPHERNALIA PROVISIONS

PA. STAT. ANN. tit. 35, § 780-113 (West 1993 & Supp. 1998)

☐ not addressed specifically

■ **distribution/delivery/sale**

- manufacture w/intent to deliver

- possession w/intent to use

- possession w/intent to deliver

■ advertisement

■ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

PA. STAT. ANN. tit. 35, § 780-113 (West 1993 & Supp. 1998)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

PA. STAT. ANN. tit. 35, § 780-113 (West 1993 & Supp. 1998); 18 PA. CONS. STAT. ANN. §§ 6314, 6316 (West 1998)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

18 PA. CONS. STAT. ANN. §§ 6314, 6317 (West 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

42 PA. CONS. STAT. ANN. §§ 8382, 8384, 8389 (West 1998)

- ☐ not addressed specifically

- ☒ public nuisance
- ☐ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☐ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
 - ☐ drug dealer civil liability
-

Rhode Island

Rhode Island has five schedules; certain substances are scheduled differently than under the federal scheme. The state's director of health administers and may add, reschedule, or delete substances to the state's schedules by rulemaking. Any new substance that is designated as controlled under federal law shall be similarly controlled under the state's CSA, unless the director objects within 60 days of receiving notice of such change. R.I. GEN. LAWS § 21-28-2.08 (Supp. 1997); §§ 21-28-1.01 to 21-28-2.07, 21-28-2.09, 21-28-2.10 (1989).

PENALTY PROVISIONS

R.I. GEN. LAWS §§ 21-28-4.01 to 21-28-4.01.2 (Supp. 1997)

Possession Offenses

| | | | |
|------------|----------------------|----|-----------------------------------|
| I, II | ≤3 yrs; \$500-5,000 | or | 10 yrs - life; \$10,000-1,000,000 |
| III, IV, V | ≤3 yrs; \$500- 5,000 | | |
| marijuana | ≤1 yr; \$200-500 | or | 10 yrs - life; \$10,000-1,000,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------|--------------------------|
| I, II | ≤life; \$3,000-1,000,000 |
| III, IV | ≤20 yrs; ≤\$40,000 |
| V | ≤1 yr; ≤\$10,000 |

PARAPHERNALIA PROVISIONS

R.I. GEN. LAWS § 21-28-5.2 (1989)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☐ advertisement

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

R.I. GEN. LAWS § 21-28-4.01 (Supp. 1997); § 21-28-4.03 (1989)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS
R.I. GEN. LAWS § 21-28-4.07 (Supp. 1997); §§ 21-28-4.15, 21-28.5-3 (1989)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS
R.I. GEN. LAWS § 21-28-4.07.1 (Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS
R.I. GEN. LAWS § 21-28-4.06 (1989)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☒ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☒ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS
R.I. GEN. LAWS § 21-28-4.21 (Supp. 1997); § 13-8-16.1 (1994)

- ☐ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

- ☒ adult probationers
- ☐ adult probationers w/drug histories
- ☐ juvenile probationers

- ☒ parolees
- ☐ parolees w/drug histories
- ☐ others

Comment: Rhode Island has also established mandatory testing for human immunodeficiency virus (HIV) for any person convicted of possession of any hypodermic instrument associated with intravenous drug use. R.I. GEN. LAWS § 21-28-4.20 (Supp. 1997).

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, R.I. GEN. LAWS §§ 21-28.4-1 to 21-28.4-11 (1989).
- ☐ drug dealer civil liability

South Carolina

South Carolina has five schedules; a number of substances are scheduled differently than under the federal scheme. The state's Department of Health and Environmental Control schedules substances by rulemaking. Any new substance that is designated as controlled under federal law shall be similarly controlled under the state's CSA, unless the department objects. S.C. CODE ANN. §§ 44-53-160 to 44-53-270 (Law. Co-op. 1976 & Supp. 1997).

PENALTY PROVISIONS

S.C. CODE ANN. § 44-53-370 (Law. Co-op. 1976 & Supp. 1997); § 44-53-375 (Law. Co-op. Supp. 1997)

Possession Offenses

| | |
|----------------------------|---------------------|
| I, II narcotic | ≤40 yrs; ≤\$200,000 |
| I, II non-narcotic | ≤25 yrs; ≤\$100,000 |
| III, IV, V | ≤6 mos; ≤\$1,000 |
| mandatory minimums: | |
| cocaine ≥400 grams | 25 yrs |
| crack ≥400 grams | 25 yrs |
| marijuana ≥10,000 lbs | 25 yrs |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|----------------------------|---------------------|
| I, II narcotic | ≤40 yrs; ≤\$200,000 |
| I, II non narcotic | ≤25 yrs; ≤\$100,000 |
| III | ≤5 yrs; ≤\$5,000 |
| IV | ≤3 yrs; ≤\$3,000 |
| V | ≤1 yr; ≤\$1,000 |
| mandatory minimums: | |
| cocaine ≥400 grams | 25 yrs |
| crack ≥400 grams | 25 yrs |
| marijuana ≥10,000 lbs | 25 yrs |

PARAPHERNALIA PROVISIONS

S.C. CODE ANN. § 44-53-391 (Law. Co-op. 1976)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

S.C. CODE ANN. §§ 44-53-370, 44-53-390 (Law. Co-op. Supp. 1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

S.C. CODE ANN. §§ 44-53-440, 44-53-577 (Law. Co-op. Supp. 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

S.C. CODE ANN. § 44-53-445 (Law. Co-op. Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

S.C. CODE ANN. § 44-53-380 (Law. Co-op. 1976)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, S.C. CODE ANN. §§ 44-53-630 to 44-53-660 (Law. Co-op. Supp. 1997); § 44-53-620 (Law. Co-op. 1976 & Supp. 1997).
 - ☐ drug dealer civil liability
-

South Dakota

South Dakota has four schedules; the state places substances scheduled in the federal schedule V in its schedule IV. Additionally, a number of drugs are classified differently than under the federal system. The state's Department of Health makes recommendations to the legislature to add, delete or reschedule a substance upon determining such a need. S.D. CODIFIED LAWS §§ 34-20B-2 to 34-20B-18, 34-20B-20, 34-20B-22 to 34-20B-24, 34-20B-26 to 34-20B-28 (Michie 1994); §§ 34-20B-1, 34-20B-19, 34-20B-21, 34-20B-25, 34-20B (Michie Supp. 1997).

PENALTY PROVISIONS

S.D. CODIFIED LAWS §§ 22-6-1, 22-6-2, 22-42-2, 22-42-6 (Michie Supp. 1997); §§ 22-42-3 to 22-42-5, 22-42-7, 22-42-15 (Michie 1994)

Possession Offenses

| | |
|--------------|--------------------|
| flat penalty | ≤5 yrs; ≤\$5,000 |
| marijuana | ≤10 yrs; ≤\$10,000 |

Use Offenses

| | |
|--------------|-----------------|
| flat penalty | ≤1 yr; ≤\$1,000 |
|--------------|-----------------|

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-----------|-----------------------------|
| I, II | 1-10 yrs; ≤\$10,000 |
| III | 30 days - 5 yrs; ≤\$5,000 |
| IV | 30 days - 2 yrs; ≤\$2,000 |
| marijuana | 15 days - 10 yrs; ≤\$10,000 |

PARAPHERNALIA PROVISIONS

S.D. CODIFIED LAWS §§ 22-42A-1 to 22-42A-4 (Michie 1994)

☐ not addressed specifically

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

S.D. CODIFIED LAWS § 22-42-2 (Michie Supp. 1997); §§ 22-42-3, 22-42-4, 22-42-9, 22-42-16 (Michie 1994)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

S.D. CODIFIED LAWS § 22-42-2 (Michie Supp. 1997); §§ 22-42-3, 22-42-4, 22-42-7 (Michie 1994)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

S.D. CODIFIED LAWS §§ 22-42-18 to 22-42-20 (Michie Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

S.D. CODIFIED LAWS §§ 22-42-10, 22-42-11 (Michie 1994)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☐ fortify
- ☒ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes
- ☒ drug dealer civil liability, S.D. CODIFIED LAWS §§ 34-20C-1 to 34-20C-19 (Michie Supp. 1997).

PROVISIONS FOR OFFENSES INVOLVING MINORS

TENN. CODE ANN. §§ 39-17-417, 39-17-425 (1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

TENN. CODE ANN. §§ 39-17-432, 40-35-114 (1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

TENN. CODE ANN. § 29-3-101 (Supp. 1997); § 53-11-401 (1991)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

TENN. CODE ANN. § 41-1-120 (1997)

- ☐ not addressed specifically

- ☒ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, TENN. CODE § 39-17-427 (1997); § 53-11-302 (Supp. 1997); §§ 53-14-101 to 53-14-114 (1991).
 - ☐ drug dealer civil liability
-

Texas

Texas's CSA consists of five schedules. The state's schedules, administered by the commissioner of health and subject to approval by the legislature, are similar to the federal schedules. If a substance is designated a controlled substance or rescheduled or deleted under the federal schedule, the commissioner is required to similarly designate, reschedule, or delete the substance unless the commissioner objects. For the purpose of establishing criminal penalties for violations of the state's CSA, controlled substances are divided into Penalty Groups 1 through 4. Marijuana offenses are not penalized within a penalty group. TEX. HEALTH & SAFETY CODE ANN. §§ 481.102 to 481.105 (West Supp. 1998); § 481.038 (West 1992).

PENALTY PROVISIONS

TEX. HEALTH & SAFETY CODE ANN. §§ 481.112 to 481.118, 481.120, 481.121 (West Supp. 1998);

TEX. PENAL CODE ANN. §§ 12.21, 12.22, 12.32 to 12.35 (West 1994)

Possession Offenses

| | |
|-----------|-----------------------------|
| I | 180 days - life; ≤\$100,000 |
| Ia | 180 days - life; ≤\$250,000 |
| II | 180 days - life; ≤\$50,000 |
| III, IV | ≤life; ≤\$50,000 |
| marijuana | ≤life; ≤\$50,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------|-----------------------------|
| I, Ia | 180 days - life; ≤\$250,000 |
| II, III, IV | 180 days - life; ≤\$100,000 |
| marijuana | ≤life; ≤\$100,000 |

PARAPHERNALIA PROVISIONS

TEX. HEALTH & SAFETY CODE ANN. § 481.125 (West Supp. 1998)

☐ not addressed specifically

■ distribution/delivery/sale

■ manufacture w/intent to deliver

■ possession w/ intent to use

■ possession w/ intent to deliver

☐ advertisement

■ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

TEX. HEALTH & SAFETY CODE ANN. §§ 481.129, 482.002 (West Supp. 1998)

| | COUNTERFEIT | IMITATION |
|---|--------------------------|--------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | ■ | ■ |
| Manufacture | ■ | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | ■ |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | ■ | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | ■ | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS
 TEX. HEALTH & SAFETY CODE ANN. §§ 481.122, 481.125 (West Supp. 1998)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS
 TEX. HEALTH & SAFETY CODE ANN. § 481.134 (West Supp. 1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/ intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/ intent to manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS
 TEX. CIV. PRAC. & REM. CODE ANN. § 125.001 (West 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS
 TEX. GOV'T CODE ANN. §§ 500.007, 508.184 (West Supp. 1998)

- ☐ not addressed specifically
- ☒ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

- ☐ adult probationers
- ☒ adult probationers w/drug histories
- ☐ juvenile probationers

- ☐ parolees
- ☒ parolees w/drug histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, TEX. HEALTH & SAFETY CODE ANN. § 481.062 (West 1992 & Supp. 1998); § 481.111 (West 1992).
- ☐ drug dealer civil liability

Utah

Utah's CSA schedules, administered by the state Division of Occupational and Professional Licensing (DOPL), substantially conform to the federal schedules. Any addition, deletion, or rescheduling made in the federal schedules will automatically take effect in the state's CSA. The Controlled Substance Database Advisory Committee advises the DOPL regarding the establishment, maintenance, and operation of the controlled substance database; access to the database and how access is obtained; and control of information contained in the database. UTAH CODE ANN. §§ 58-37-3, 58-37-4, 58-37-7.5 (1998)

PENALTY PROVISIONS

UTAH CODE ANN. §§ 58-37-8, 76-3-203, 76-3-301 (1998 SUPP.), 76-3-204 (1995)

Use and Possession Offenses

| | |
|-----------------|---------------------|
| Schedules I, II | ≤5 yrs; ≤\$5,000 |
| III, IV, V | ≤6 mos; ≤\$1,000 |
| marijuana | 0-15 yrs; ≤\$10,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|--------------------|---------------------|
| Schedules I, II | 1-15 yrs; ≤\$10,000 |
| III, IV, marijuana | ≤5 yrs; ≤\$5,000 |
| V | ≤1 yr.; ≤\$2,500 |

PARAPHERNALIA PROVISIONS

UTAH CODE ANN. § 58-37a-5 (1998)

☐ not addressed specifically

| | | |
|---|--|---|
| <input checked="" type="checkbox"/> distribution/delivery/sale | <input checked="" type="checkbox"/> possession w/intent to use | <input checked="" type="checkbox"/> advertisement |
| <input checked="" type="checkbox"/> manufacture w/intent to deliver | <input checked="" type="checkbox"/> possession w/intent to deliver | <input checked="" type="checkbox"/> use |

COUNTERFEIT/IMITATION DRUG PROVISIONS

UTAH CODE ANN. §§ 58-37-8, 58-37b-4, 58-37b-6, 58-37b-7 (1998)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

UTAH CODE ANN. §§ 58-37-8, 58-37a-5 (1998)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☐ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

UTAH CODE ANN. §§ 58-37-8 (1998)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| Use | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

UTAH CODE ANN. §§ 57-37-8 (1998)

- ☐ not addressed specifically

- ☐ public nuisance
- ☒ criminal violation

- ☐ open, keep, or maintain
- ☒ control or manage
- ☒ rent or lease
- ☒ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☐ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes,
 - ☒ drug dealer civil liability, UTAH CODE ANN. §§ 58-37e-1 to 58-37e-14 (1998)
-

Vermont

Vermont's Board of Health promulgates rules regarding the state's CSA. Those rules may be adopted only after prior written notice to the Board of Pharmacy and the Board of Medical Registration and after the Board of Pharmacy and the Board of Medical Registration have had an opportunity to advise the Board of Health with respect to the form and substance of those regulations or amendments and to recommend revisions. For penalty purposes, the state has classified controlled substances or "regulated drugs" into the following categories: depressants, stimulants, narcotics, and hallucinogens. The state provides separate penalties for crimes involving cocaine, heroin, marijuana, and lysergic acid diethylamide (LSD). Exact penalties are based on amounts involved in the offense. VT. STATE ANN. tit. 18, §§ 4202, 4230 to 4236 (Supp. 1997)

PENALTY PROVISIONS

VT. STATE ANN. tit. 18, §§ 4230 to 4236 (Supp. 1997)

Possession Offenses

| | |
|---|----------------------|
| cocaine, heroin | ≤20 yrs; \$1,000,000 |
| depressants, stimulants, narcotics, LSD | ≤20 yrs; \$500,000 |
| hallucinogens, marijuana | ≤15 yrs; \$500,000 |

Delivery, Sale, Transport, or Possession w/Intent Offenses

| | |
|---|----------------------|
| cocaine, heroin | ≤20 yrs; \$1,000,000 |
| depressants, stimulants, narcotics, LSD | ≤20 yrs; \$500,000 |
| hallucinogens, marijuana | ≤15 yrs; \$500,000 |
| V | ≤6 mos; \$500 |

Manufacturing Offenses

| | |
|--------------|---------------------------|
| flat penalty | ≤20 yrs; \$1,000,000 |
| marijuana | ≤15 yrs; \$10,000-500,000 |

PARAPHERNALIA PROVISIONS

VT. STATE ANN. tit. 18, §§ 4475, 4476 (Supp. 1997)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☐ advertisement

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

VT. STATE ANN. tit. 18, § 4228 (1982)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

Vt. STATE. ANN. tit. 18, §§ 4237, 4476 (Supp. 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

Vt. STATE. ANN. tit. 18, § 4237 (Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

Vt. STATE. ANN. tit. 18, § 4222 (1982)

- ☐ not addressed specifically

- ☒ public nuisance
- ☐ criminal violation

- ☐ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, Vt. STATE. ANN. tit. 18, § 4471 (1982).
 - ☐ drug dealer civil liability
-

Virginia

Virginia's CSA schedules substantially conform to the federal scheme except that the state has created a schedule VI for certain stimulants and depressants exempted from schedules III, IV, and V and unscheduled drugs, which are recognized by experts to be unsafe for use without medical supervision. The state Board of Pharmacy is responsible for administering the schedules and may add, delete, or reschedule all substances by rulemaking. Any new substance that is added, deleted, or rescheduled as a controlled substance under federal law shall be similarly controlled under the state's CSA, unless the board objects. VA. CODE ANN. §§ 54.1-3401, 54.1-3448, 54.1-3452 (Michie Supp. 1998); §§ 54.1-3443, 54.1-3446 (Michie Supp. 1997); §§ 54.1-3444, 54.1-3445, 54.1-3447, 54.1-3449 to 54.1-3451, 54.1-3453 to 54.1-3456 (Michie 1994).

PENALTY PROVISIONS

VA. CODE ANN. §§ 18.2-250, 18.2-250.1 (Michie Supp. 1998); §§ 18.2-10, 18.2-11, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-248.5 (Michie 1996)

Possession Offenses

| | |
|-----------|-------------------|
| I, II | ≤10 yrs; ≤\$2,500 |
| III | ≤12 mos; ≤\$2,500 |
| IV | ≤6 mos; ≤\$1,000 |
| V | ≤\$500 |
| VI | ≤\$250 |
| marijuana | ≤30 days; ≤\$500 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------|----------------------|
| I, II | 5-40 yrs; ≤\$500,000 |
| III, IV, V | ≤12 mos; ≤\$2,500 |
| VI | — |
| anabolic steroids | ≤10 yrs; ≤\$20,000 |
| marijuana | ≤40 yrs; ≤\$500,000 |

PARAPHERNALIA PROVISIONS

VA. CODE ANN. §§ 18.2-265.3, 18.2-265.5 (Michie 1996); § 54.1-3466 (Michie 1994)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

VA. CODE ANN. §§ 18.2-248, 18.2-248.4 (Michie 1996); §§ 54.1-3457, 54.1-3458 (Michie 1994)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

VA. CODE ANN. §§ 18.2-255, 18.2-265.3 (Michie 1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☐ drug paraphernalia

Comment: It is a misdemeanor in Virginia for any person to knowingly sell, distribute, or display for sale to a minor a book, pamphlet, or other printed materials that advertises drug paraphernalia. VA. CODE ANN. § 18.2-255.1 (Michie 1996).

DRUG-FREE ZONES PROVISIONS

VA. CODE ANN. § 18.2-255.2 (Michie 1996)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|--|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

VA. CODE ANN. §§ 18.2-258 to 18.2-258.02 (Michie 1996)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☒ rent or lease
- ☐ make available for use
- ☒ fortify
- ☐ occupy

- ☐ use
- ☒ distribute/deliver/sell
- ☐ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

VA. CODE ANN. §§ 18.2-251, 18.2-251.01 (Michie Supp. 1998)

- ☐ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial release conditions
- ☐ to determine sentencing conditions

- ☒ adult probationers
- ☐ adult probationers w/drug histories
- ☐ juvenile probationers

- ☐ parolees
- ☐ parolees w/drug histories
- ☒ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, VA. CODE ANN. § 18.2-251.1 (Michie 1996).
- ☐ drug dealer civil liability

Washington

The state board of pharmacy administers Washington's CSA schedules, which are similar to the federal schedules. If a substance is designated, rescheduled to a more restrictive schedule, or deleted under federal law the board must similarly control the substance under state law after the expiration of 30 days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance, unless within that 30-day period, the board or an interested party objects to inclusion, rescheduling, or deletion. If no objection is made, the board must adopt and publish a final rule designating, rescheduling, or deleting the substance. WASH. REV. CODE ANN. §§ 69.50.201 (West 1997)

PENALTY PROVISIONS

WASH. REV. CODE ANN. §§ 69.50.401, 69.50.402, 69.50.403, 69.50.410 (West 1997)

Possession Offenses

Schedules I-V ≤ 5yrs; ≤ \$10,000
marijuana misdemeanor

Use Offenses

flat penalty

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

I narcotic, II narcotic, ≤ 10 yrs; fine based on weight/financial gain
methamphetamine

I, II non-narcotic, III,
IV, V, marijuana ≤ 5yrs; ≤ \$10,000

PARAPHERNALIA PROVISIONS

WASH. REV. CODE ANN. §§ 69.50.412 (West 1997)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☐ possession w/intent to use

☐ possession w/intent to deliver

☒ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

WASH. REV. CODE ANN. §§ 69.50.401, 69.50.416, 69.52.30 (West 1997)

| | COUNTERFEIT | IMITATION |
|--|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

WASH. REV. CODE ANN. §§ 69.50.401, 69.50.406, 69.50.412-69.52.030 (West 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☐ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

WASH. REV. CODE ANN. § 69.50.435 (West 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SAFEHOUSE PROVISIONS

WASH. REV. CODE ANN. §§ 69.50.402, 69.53.010 (West 1997)

- ☐ not addressed specifically

- | | | | |
|--|---|---|--------------------------------|
| <input type="checkbox"/> public nuisance | <input checked="" type="checkbox"/> open, keep, or maintain | <input checked="" type="checkbox"/> use | <input type="checkbox"/> visit |
| <input checked="" type="checkbox"/> criminal violation | <input type="checkbox"/> control or manage | <input checked="" type="checkbox"/> distribute/deliver/sell | |
| | <input checked="" type="checkbox"/> rent or lease | <input checked="" type="checkbox"/> store or keep | |
| | <input checked="" type="checkbox"/> make available for use | <input type="checkbox"/> manufacture | |
| | <input checked="" type="checkbox"/> fortify | | |
| | <input type="checkbox"/> occupy | | |

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> to determine pretrial release conditions | <input type="checkbox"/> adult probationers | <input type="checkbox"/> parolees |
| <input type="checkbox"/> prison inmates | <input type="checkbox"/> to determine sentencing conditions | <input type="checkbox"/> adult probationers w/drug histories | <input type="checkbox"/> parolees w/drug histories |
| | | <input type="checkbox"/> juvenile probationers | <input type="checkbox"/> others |

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, WASH. REV. CODE ANN. §§ 69.51.010 through 69.51.080 (West 1997)
- ☒ drug dealer civil liability, WASH. REV. CODE ANN. §§ 69.50.414 (West 1997)

Wisconsin

Wisconsin has five schedules; a number of substances are scheduled differently than under the federal scheme. The state's controlled substance board schedules substances by rulemaking and is responsible for publishing updated schedules annually. If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the board shall similarly treat the substance under the state's CSA, unless the board or an interested party objects. WIS. STAT. ANN. §§ 961.11 to 961.22 (West Supp. 1997).

PENALTY PROVISIONS

WIS. STAT. ANN. § 961.41 (West Supp. 1997); § 939.61 (West 1996)

Possession Offenses

| | |
|------------|------------------|
| I, II | ≤1 yr; ≤\$5,000 |
| III, IV, V | ≤30 days; ≤\$500 |
| marijuana | ≤6 mos; ≤\$1,000 |

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|--------------------|------------------------|
| I, II narcotic | ≤30 yrs; ≤\$1,000,000 |
| I, II non-narcotic | ≤30 yrs; ≤\$1,000,000 |
| III | ≤5 yrs; ≤\$15,000 |
| IV | ≤3 yrs; ≤\$10,000 |
| V | ≤1 yr; ≤\$5,000 |
| marijuana | ≤10 yrs; \$500-100,000 |

PARAPHERNALIA PROVISIONS

WIS. STAT. ANN. §§ 961.571 to 961.576 (West Supp. 1997)

☐ not addressed specifically

☒ distribution/delivery/sale

☒ manufacture w/intent to deliver

☒ possession w/intent to use

☒ possession w/intent to deliver

☒ advertisement

☒ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

WIS. STAT. ANN. §§ 961.41, 961.43 (West Supp. 1997)

| | COUNTERFEIT | IMITATION |
|--|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

WIS. STAT. ANN. §§ 961.455, 961.46, 961.575 (West Supp. 1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

WIS. STAT. ANN. §§ 961.49, 961.495 (West Supp. 1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

WIS. STAT. ANN. §§ 823.113, 961.42, 961.53 (West Supp. 1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

WIS. STAT. ANN. § 301.03 (West 1991)

- ☐ not addressed specifically
- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☒ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, WIS. STAT. ANN. §§ 961.32, 961.335, 961.34 (West Supp. 1997).
 - ☐ drug dealer civil liability
-

West Virginia

West Virginia has five schedules; a number of substances are scheduled differently than under the federal scheme. The state Board of Pharmacy is responsible for administering state's CSA and for the annual review and printing of the schedules. If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the state Board of Pharmacy shall recommend similar control of such substance to the state legislature. W. VA. CODE §§ 60A-2-201 to 60A-2-213 (1997).

PENALTY PROVISIONS

W. VA. CODE §§ 60A-4-401, 60A-4-409 (1997)

Possession Offenses

flat penalty 90 days - 6 mos; ≤\$1,000

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|-------------------------|------------------------|
| I, II narcotic | 1-15 yrs; ≤\$25,000 |
| I, II non-narcotic, III | 1-5 yrs; ≤\$15,000 |
| IV | 1-3 yrs; ≤\$10,000 |
| V | 6 mos - 1 yr; ≤\$5,000 |

PARAPHERNALIA PROVISIONS

W. VA. CODE §§ 47-19-1 to 47-19-8 (1996)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☐ possession w/intent to use

☐ possession w/intent to deliver

☐ advertisement

☐ use

Comment: In West Virginia illegal drug paraphernalia businesses are deemed public nuisances. W. VA. CODE § 60A-4-403a (1997).

COUNTERFEIT/IMITATION DRUG PROVISIONS

W. VA. CODE §§ 60A-4-401, 60A-4-403 (1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

W. VA. CODE §§ 60A-4-401, 60A-4-406 (1997); § 47-19-6 (1996)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☒ marijuana
- ☒ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

W. VA. CODE § 60A-4-406 (1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

W. VA. CODE § 60A-4-402 (1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☐ control or manage
- ☐ rent or lease
- ☐ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☐ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

- ☒ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

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

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☒ possession of marijuana for medical or therapeutic research purposes, W. VA. CODE §§ 60A-3-302, 60A-5-508 (1997).
- ☐ drug dealer civil liability

Wyoming

The commissioner of drugs and substances control administers Wyoming's CSA schedules, which are similar to the federal schedules. If a substance is designated, rescheduled, or deleted under federal law, and notice is given to the commissioner, the commissioner must similarly control the substance under state law after the expiration of 30 days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance, unless within that 30-day period, the commissioner objects to inclusion, rescheduling, or deletion. WYO. STAT. § 35-7-1011 (1997)

PENALTY PROVISIONS

WYO. STAT. §§ 35-7-1031, 35-7-1039, 35-7-1040 (1997)

Possession Offenses

| | |
|--------------------------------------|-------------------|
| I narcotic; II narcotic | ≤7 yrs; ≤\$15,000 |
| I non-narcotic; II non-narcotic; III | ≤5 yrs; ≤\$10,000 |
| IV | ≤2 yrs; ≤\$2,500 |
| V | ≤1 yr; ≤\$1,000 |

Use Offenses

| | |
|------------|------------------|
| I, II, III | ≤90 days; ≤\$100 |
|------------|------------------|

Manufacturing, Delivery, Sale, Transport, or Possession with Intent Offenses

| | |
|---------------------------|--------------------|
| I or II narcotic | ≤20 yrs; ≤\$25,000 |
| I or II non-narcotic, III | ≤10 yrs; ≤\$10,000 |
| IV | ≤2 yrs; ≤\$2,500 |
| V | ≤1 yr; ≤\$1,000 |

PARAPHERNALIA PROVISIONS

WYO. STAT. § 35-7-1056 (1997)

☐ not addressed specifically

☒ distribution/delivery/sale

☐ manufacture w/intent to deliver

☐ possession w/intent to use

☒ possession w/intent to deliver

☐ advertisement

☐ use

COUNTERFEIT/IMITATION DRUG PROVISIONS

WYO. STAT. §§ 35-7-1031, 35-7-1033 (1997)

| | COUNTERFEIT | IMITATION |
|---|-------------------------------------|-------------------------------------|
| Not addressed specifically | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Advertisement | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Manufacture w/intent to distribute/deliver/sell | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to use | <input type="checkbox"/> | <input type="checkbox"/> |
| Receipt | <input type="checkbox"/> | <input type="checkbox"/> |
| Related paraphernalia provisions | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Use | <input type="checkbox"/> | <input type="checkbox"/> |

PROVISIONS FOR OFFENSES INVOLVING MINORS

WYO. STAT. §§ 35-7-1036, 35-7-1056 (1997)

Distribution to a minor:

- ☐ not addressed specifically
- ☒ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☒ drug paraphernalia

Using minor to sell:

- ☒ not addressed specifically
- ☐ controlled substances
- ☐ marijuana
- ☐ counterfeit/imitation drugs
- ☐ drug paraphernalia

DRUG-FREE ZONES PROVISIONS

WYO. STAT. §§ 35-7-1036 (1997)

- ☐ not addressed specifically

| | SCHOOLS | SCHOOL BUSES | PUBLIC HOUSING | DAY-CARE FACILITIES | OTHERS |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Distribution/Delivery/Sale | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to distribute/deliver/sell | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Possession w/intent to manufacture | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SAFEHOUSE PROVISIONS

WYO. STAT. §§ 6-6-201, 6-6-209, 35-7-1032 (1997)

- ☐ not addressed specifically

- ☒ public nuisance
- ☒ criminal violation

- ☒ open, keep, or maintain
- ☒ control or manage
- ☒ rent or lease
- ☒ make available for use
- ☐ fortify
- ☐ occupy

- ☒ use
- ☒ distribute/deliver/sell
- ☒ store or keep
- ☒ manufacture

- ☐ visit

STATUTORILY IMPOSED DRUG TESTING PROVISIONS

WYO. STAT. § 35-7-1036 (1997)

- ☐ not addressed specifically

- ☐ prison inmates

- ☐ to determine pretrial
release conditions
- ☐ to determine sentencing
conditions

- ☐ adult probationers
- ☐ adult probationers
w/drug histories
- ☒ juvenile probationers

- ☐ parolees
- ☐ parolees w/drug
histories
- ☐ others

MISCELLANEOUS

- ☐ possession of marijuana for medical or therapeutic research purposes,
 - ☐ drug dealer civil liability,
-

APPENDICES

**APPENDIX A:
STATE CSA PROVISIONS**

| Jurisdiction | Offenses | | | Special Provisions | | | | | | | | | Drug-Free Zone Provisions | | | | |
|----------------------|----------|------------|----------------------------|--------------------|-------------------|-----------------|-------------------------|---------------------|----------------------|-----------------------|-------------------|-----------------------|---------------------------|--------------|----------------|---------------------|--------|
| | Use | Possession | Manufacture, Deliver, Sell | Paraphernalia | Counterfeit Drugs | Imitation Drugs | Distribution to a Minor | Using Minor to Sell | Safehouse Provisions | Offender Drug Testing | Medical Marijuana | Drug Dealer Liability | Schools | School Buses | Public Housing | Day-Care Facilities | Others |
| ALABAMA | | • | • | • | • | • | • | | • | • | • | | • | | • | | |
| ALASKA | • | • | • | | • | • | • | | • | | | • | • | • | | | • |
| ARIZONA | • | • | • | • | • | • | • | • | • | • | • | | • | • | | | |
| ARKANSAS | | • | • | • | • | | • | | • | | | • | • | | • | • | • |
| CALIFORNIA | • | • | • | • | • | • | • | • | • | • | • | • | • | | | • | • |
| COLORADO | • | • | • | • | • | • | • | • | • | • | | | • | • | • | | • |
| CONNECTICUT | | • | • | • | • | • | • | • | • | • | • | | • | | • | • | |
| DELAWARE | • | • | • | • | • | • | • | • | • | | | | • | | | | • |
| DISTRICT OF COLUMBIA | | • | • | • | • | | • | • | • | | | | • | | | • | • |
| FLORIDA | | • | • | • | • | • | • | • | • | • | | • | • | | • | • | • |
| GEORGIA | | • | • | • | • | • | • | • | • | | • | | • | | • | | • |
| HAWAII | | • | • | • | • | • | • | | • | | | • | • | • | | | |
| IDAHO | | • | • | • | • | • | • | | • | | | | • | | | | • |
| ILLINOS | | • | • | • | • | • | • | | • | • | • | • | • | • | • | | • |
| INDIANA | | • | • | • | • | • | • | | • | | | • | • | • | • | | • |
| IOWA | | • | • | | • | • | • | • | • | | | | • | • | | | • |
| KANSAS | | • | • | • | • | • | • | | • | | | | • | | | | |
| KENTUCKY | | • | • | • | • | • | • | | | | | | • | | | | |
| LOUISIANA | | • | • | • | • | • | • | • | • | | • | • | • | • | | | • |
| MAINE | | • | • | • | • | • | • | • | • | | | | • | • | | | |
| MARYLAND | • | • | • | • | • | • | • | • | • | | | | • | • | | | |
| MASSACHUSETTS | | • | • | • | • | | • | • | • | | • | | • | | | | • |
| MICHIGAN | • | • | • | • | • | • | • | • | • | | | • | • | | | | |
| MINNESOTA | | • | • | • | | • | • | • | • | | • | | • | • | • | | • |
| MISSISSIPPI | | • | • | • | • | • | • | | • | | | | • | | | | • |
| MISSOURI | | • | • | • | • | • | • | • | • | | | | • | • | • | | |
| MONTANA | | • | • | • | • | • | • | | • | | | | • | | | | |
| NEBRASKA | | • | • | • | • | • | • | • | • | | | | • | | | | • |
| NEVADA | • | • | • | • | • | • | • | | • | • | | • | • | | | | • |
| NEW HAMPSHIRE | | • | • | • | • | • | | • | • | | • | | • | • | | | |
| NEW JERSEY | • | • | • | • | • | • | • | • | • | | | | • | • | • | | • |
| NEW MEXICO | | • | • | • | • | • | • | | | | | • | • | | | | |
| NEW YORK | | • | • | • | | • | • | | • | • | | | • | | | | |
| NORTH CAROLINA | | • | • | • | • | | • | • | • | | | • | • | | | | • |
| NORTH DAKOTA | | • | • | • | • | • | • | • | • | | | | • | | | | |
| OHIO | • | • | • | • | • | • | • | • | • | | | | • | | | | |

| | | | | | | | | | | | | | | | | | |
|----------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| OKLAHOMA | ● | ● | ● | ● | ● | ● | ● | ● | ● | | | ● | ● | | | | ● |
| OREGON | | ● | ● | ● | ● | ● | ● | ● | ● | | | | ● | | | | |
| PENNSYLVANIA | | ● | ● | ● | ● | ● | ● | ● | ● | | | | ● | ● | | | ● |
| RHODE ISLAND | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | ● | | | | ● |
| SOUTH CAROLINA | | ● | ● | ● | ● | ● | ● | ● | ● | | ● | | ● | | | | ● |
| SOUTH DAKOTA | ● | ● | ● | ● | ● | ● | ● | | ● | | | ● | ● | | | | ● |
| TENNESSEE | | ● | ● | ● | ● | | ● | | ● | ● | ● | | ● | | ● | | ● |
| TEXAS | | ● | ● | ● | ● | ● | ● | | ● | ● | ● | | ● | ● | | ● | ● |
| UTAH | ● | ● | ● | ● | ● | ● | ● | | ● | | | ● | ● | | | ● | ● |
| VERMONT | | ● | ● | ● | | ● | ● | | ● | | ● | | ● | ● | | | |
| VIRGINIA | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | ● | ● | | | ● |
| WASHINGTON | ● | ● | ● | ● | ● | ● | ● | | ● | | ● | ● | ● | ● | ● | | ● |
| WEST VIRGINIA | | ● | ● | ● | ● | ● | ● | | ● | | ● | | ● | | | | |
| WISCONSIN | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | ● | ● | ● | | ● |
| WYOMING | ● | ● | ● | ● | ● | | ● | | ● | ● | | | ● | ● | | | |

APPENDIX B:
CITATIONS TO STATE FORFEITURE PROVISIONS

| JURISDICTION | FORFEITURE PROVISIONS |
|----------------------|---|
| ALABAMA | ALA. CODE § 13A-12-260 (1994); § 20-2-93 (1990) |
| ALASKA | ALASKA § 11.73.060, §§ 17.30.110 to -126 (Michie 1996) |
| ARIZONA | ARIZ. REV. STAT. ANN. §§ 13-3413, -3415 (West Supp. 1997); § 13-3460 (West 1989) |
| ARKANSAS | ARK. CODE ANN. § 5-64-505 (Michie 1997); §§ 20-64-307, 20-64-308 (Michie 1991) |
| CALIFORNIA | CAL. HEALTH & SAFETY CODE §§ 11469, 11470, 11471, 11473, 11473.5, 11488.4 (West Supp. 1998); §§ 11472, 11475, 11476 (West 1991) |
| COLORADO | COLO. REV. STAT. ANN. §§ 16-13-501.5, -504, -507, -508 (West 1990); §§ 16-13-502 to -506 (West 1990 & Supp. 1996) |
| CONNECTICUT | CONN. GEN. STAT. ANN. §§ 54-36a, 54-36h, 54-36i (West 1994 & Supp. 1997); §§ 21a-246, 21a-263, 54-36b, 54-36c (West 1994) |
| DELAWARE | DEL. CODE ANN. tit. 16, § 4784 (1995) |
| DISTRICT OF COLUMBIA | D.C. CODE ANN. § 33-552 (1993 & Supp. 1997); § 33-604 (1993) |
| FLORIDA | FLA. STAT. ANN. § 893.12 (West 1994 & Supp. 1998) |
| GEORGIA | GA. CODE ANN. §§ 16-13-30.2, 16-13-32, 16-13-45 (1996) |
| HAWAII | HAW. REV. STAT. ANN. § 329-55 (Michie 1996) |
| IDAHO | IDAHO CODE §§ 37-2801 to 37-2815 (Supp. 1997); §§ 37-2744, 37-2744A (1994) |
| ILLINOIS | 725 ILL. COMP. STAT. §§ 175/1 to 175/11 (West 1993); |
| INDIANA | IND. CODE ANN. §§ 34-4-30.1-1 thru 34-4-30.1-9 (West Supp. 1997) |
| IOWA | IOWA CODE ANN. §§ 809A.1 to 809A.25 (Supp. 1998) |
| KANSAS | KAN. STAT. ANN. §§ 60-4102 to 60-4115 |
| KENTUCKY | KY. REV. STAT. ANN. §§ 218A.405 to 218A.460 (Michie 1995) |
| LOUISIANA | LA. REV. STAT. ANN. § 40:2606 (Supp. 1998); §§ 40:2607, 40:2608, 40:2611, 40:2612, 40:2616 (West 1992 & Supp. 1998); §§ 40:2603 to 40:2605, 40:2609, 40:2619 to 40:2622 (West 1992) |
| MAINE | ME. REV. STAT. ANN. tit. 15, §§ 5821 to 5827 (West Supp. 1997) |
| MARYLAND | MD. ANN. CODE art. 27, § 297 (Supp. 1997) |
| MASSACHUSETTS | MASS. GEN. LAWS ANN. ch. 94C, § 47 (West 1997) |
| MICHIGAN | MICH. COMP. LAWS ANN. § 333.7524 (West Supp. 1998); §§ 333.7521 to 333.7523, 333.7525 (West 1992) |
| MINNESOTA | MINN. STAT. ANN. §§ 609.531 to 609.5317 (West Supp. 1998) |
| MISSISSIPPI | MISS. CODE ANN. §§ 41-29-176, 41-29-178, 41-29-181 (Supp. 1997); §§ 41-29-153, 41-29-154, 41-29-179, 41-29-185 (1993) |
| MISSOURI | MO. ANN. STAT. § 190.140 (West 1996) |
| MONTANA | MONT. CODE ANN. §§ 44-12-102 to 44-12-104, 44-12-201 to 44-12-206, 45-9-206 (1997) |

| JURISDICTION | FORFEITURE PROVISIONS |
|----------------|---|
| NEBRASKA | NEB. REV. STAT. ANN. § 28-431 (Michie Supp. 1997) |
| NEVADA | NEV. REV. STAT. ANN. §§ 453.301, 453.305, 453.311 (Michie 1996) |
| NEW HAMPSHIRE | N.H. REV. STAT. ANN. §§ 318-B:17-b, 318-B:17-e (1995 & Supp. 1997); §§ 318-B:17-c, 318-B:17-d (1995) |
| NEW JERSEY | N.J. STAT. ANN. §§ 2C:64-1 to 2C:64-8 (West 1995) |
| NEW MEXICO | N.M. STAT. ANN. §§ 30-31-34 to 30-31-36, 30-31A-9 to 30-31A-11, 30-31B-17 (Michie 1997) |
| NEW YORK | N.Y. CIVIL PRACTICE LAW AND RULES §§ 1310-1352 (McKinney 1997) |
| NORTH CAROLINA | N.C. GEN. STAT. § 90-112 (1997) |
| NORTH DAKOTA | N.D. CENT. CODE §§ 19-03.1-36 to 19-03.1-36.7 (1997) |
| OHIO | OHIO REV. CODE ANN. §§ 2925.44, 3719.11 (Anderson 1997); §§ 2925.41 to 2925.43 (Anderson 1996) |
| OKLAHOMA | OKLA. STAT. ANN. §§ 2-503 to 2-506 (West Supp. 1998) |
| OREGON | OR. REV. STAT. §§ 475A.005 to 475A.160 (1997) |
| PENNSYLVANIA | PA. STAT. ANN. tit. 35, §§ 831.1 to 831.5 (West 1993) |
| RHODE ISLAND | R.I. GEN. LAWS §§ 21-28-5.04, 21-28-5.07 (Supp. 1997); §§ 21-28-5.04.1 to 21-28-5.05 (1989) |
| SOUTH CAROLINA | S.C. CODE ANN. §§ 44-53-520, 44-53-530 (Law. Co-op. Supp. 1997) |
| SOUTH DAKOTA | S.D. CODIFIED LAWS § 34-20B-73 (Michie Supp. 1997); §§ 34-20B-70 to 34-20B-72, 34-20B-74 to 34-20B-89 (Michie 1994) |
| TENNESSEE | TENN. CODE ANN. §§ 39-17-420, 53-11-451, 53-11-452 (1997) |
| TEXAS | TEX. HEALTH & SAFETY CODE ANN. §§ 481.151, 481.153 (West 1992); TEX. CODE CRIM. P. ANN. §§ 59.01, 59.02 (West Supp. 1998) |
| UTAH | UTAH CODE ANN. § 58-37-13 (1998) |
| VERMONT | VT. STAT. ANN. tit. 18, §§ 4241-4248 (Supp. 1998) |
| VIRGINIA | VA. CODE ANN. § 19.2-386.3 (Michie Supp. 1998) |
| WASHINGTON | WASH. REV. CODE ANN. § 69.50.505 (West 1997) |
| WEST VIRGINIA | W. VA. CODE §§ 60A-7-701 to 60A-7-705 (1997) |
| WISCONSIN | WIS. STAT. ANN. §§ 961.55, 961.555 (West Supp. 1997) |
| WYOMING | WYO. STAT. ANN. § 35-7-1049 (Michie 1997) |

APPENDIX C:
STATE CURRENCY TRANSACTION REPORTING STATUTES

CURRENCY TRANSACTION REPORTING STATUTES

| | Provides Penalties for Structured Transactions | Requires Reports on all Suspicious Transactions | Requires Reports from Trades and Businesses | Exemptions ¹ | Penalties for Willful Failure to Report |
|---|--|---|---|-------------------------|--|
| ALABAMA ALA.CODE §§5-22-1 thru 5-22-8 (1996) | NO | NO | NO | FEDERAL | ≥12 mos. and/or ≥\$500 |
| CALIFORNIA CAL.PENAL CODE §§14160,14163,14164 (West1992);§§14161, 14162,14165-67 (West Supp.1998) | YES | NO | YES | FEDERAL | 1st offense: civil fine≤\$10,000 |
| FLORIDA FLA.STAT.ANN. §655.50(West Supp.1998) | YES | NO | NO | FEDERAL | ≤1 yr; fine≤ \$1,000; civil penalty |
| GEORGIA GA.CODE ANN. §§7-1-910 thru 7-1-916(1997) | YES | YES | YES | ADD'L | misdemeanor; civil penalty ≤\$1,000 |
| ILLINOIS 205 ILL.COMP.STAT.ANN. 685/3 thru 685/10 (West 1993) | YES | NO | YES | FEDERAL | misdemeanor; civil penalty: ≤\$1,000 |

¹All 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 legit

| | | | | | |
|---|----|----|-----|---------|---|
| IOWA IOWA CODE ANN. §§529.1 thru 529.4 (West Supp.1998) | NO | NO | YES | FEDERAL | ≥10 yrs.;\$500- \$10,000; civil penalty: 3x value of property involved in transaction or \$5,000 |
| MARYLAND MD.CODE ANN., BUS. REG. §§1-501 thru 1- 505(196, Supp. 1997);FIN.INST. §§12- 801 thru 12- 806(1998);MD.CODE ANN.art.27,§297B (1996) | NO | NO | YES | ADD'L | civil penalty: \$50/day up to \$1,000 |
| NEBRASKA NEB.REV.STAT. §§8-1801 thru 8- 1807(1995) | NO | NO | NO | FEDERAL | civil penalty: \$100/day up to \$500 |
| OHIO OHIO REV. CODE ANN. §1315.53(Anderson Supp.1997) | NO | NO | YES | FEDERAL | 6-18 mos.; ≥\$5,000; civil penalty: 3x value of property involved in transaction or \$5,000 |
| UTAH UTAH CODE ANN. §§76-10-1901,76-10- 1906,76-10-1907(1995) | NO | NO | YES | FEDERAL | ≤90 days; ≤\$750 |

| | | | | | |
|-------------------------------------|------------|------------|------------|----------------|---|
| FEDERAL 31 CFR 103(1997) | YES | YES | YES | FEDERAL | civil penalty: * of proceeds or \$25,000 |
|-------------------------------------|------------|------------|------------|----------------|---|

APPENDIX D:
STATE CONTROLLED SUBSTANCES TAX PROVISIONS

STATE CONTROLLED SUBSTANCE TAX PROVISIONS

| | Tax Rates | Confidential Returns | Discovery Tools | Penalty for Non-Payment of Tax | Distribution of Proceeds |
|--|---|----------------------|--|---|---|
| ALABAMA ALA.CODE §§40-17A-1 thru 40-17A-16(1993) | \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; 1-10 yrs. | Deposited in state's general treasury fund |
| ARIZONA ARIZ.REV.STAT. ANN. §§42-1201, 42-1202, 42-1203.1, 42-1204, 42-1207, 42-1209, 42-1212.02, 42-1214.01, 42-1214.03, 42-1214.07, 42.1215, 42-1218(1991) | \$10/oz marijuana \$125/oz other | NO | Inspect records | Penalty of 10% of tax in addition to tax; 1-1/2 to 3 yrs. | Seizing agency |
| CONNECTICUT CONN.GEN.STAT. ANN. §§12-650 thru 12-658 (West 1993); §12-659 (West 1993, Supp.1998) | \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; *\$10,000 and/or 6 yrs. | Not addressed |
| GEORGIA GA.CODE ANN. §§48-15-1 thru 48-15-11(1995) | \$3.50/g marijuana \$200/g other \$400/10 dosage units | YES | Not addressed | Not addressed | Not addressed |
| IDAHO IDAHO CODE §§63-4201 thru 63-4211(1996) | \$3.50/g marijuana \$775/growing marijuana plant \$200/g other \$2,000/50 dosage units | YES | Not addressed | Penalty of 100% of tax in addition to tax; criminal offense punishable to same extent as possession of the controlled substance | Amount equal to amount required to enforce tax retained by state Tax Commission; amount sufficient to pay refund claims to state refund account; balance to substance abuse treatment account |

STATE CONTROLLED SUBSTANCE TAX PROVISIONS (Cont'd)

| | Tax Rates | Confidential Returns | Discovery Tools | Penalty for Non-Payment of Tax | Distribution of Proceeds |
|--|---|-----------------------------|--|--|--|
| ILLINOIS 35 ILL.COMP. STAT.ANN.520/1 thru 520/26 (West 1996) | \$10/g marijuana \$500/g other \$4,000/50 dosage units | YES | Inspect records and subpoena testimony | Penalty of 50% of tax in addition to tax; 1-3 yrs.; \$10,000 | General revenue fund |
| INDIANA IND.CODE ANN. §§6-7-3-2 thru 6-7-3-20 (Michie 1996) | \$40/g Schedule I,II,III \$3.50/g marijuana \$40/dosage unit Schedule I,II,III \$20/g Schedule IV \$20/dosage unit Schedule IV \$10/g Schedule V \$10/dosage unit Schedule V | Not addressed ² | Not addressed | Penalty of 100% of tax in addition to tax | Expenses incurred in administering statute and awards to persons who provide information leading to collection of tax |
| IOWA IOWA CODE ANN. §§453B.1 thru 453B.16 (West 1998) | \$5/g marijuana \$250/g other \$750/each unprocessed marijuana plant \$400/10 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; 5 yrs.; \$500-\$7,500 | Not addressed |
| KANSAS KAN.STAT.ANN. §§79-5201 thru 79-5212 (1997) | \$3.50/g marijuana \$.40/g wet marijuana plant \$.90/g dry marijuana plant \$200/g other \$2,000/50 dosage unit | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; level 10 felony | All taxes and 25% of penalties to general fund; 75% of penalties to law enforcement agency that conducted investigation |

² Case law establishes that confidentiality ensured by legislature ordering punishment for disclosure of information disclosed in tax returns and by removing incentive to disclose information by providing that information can't be used to "initiate or facilitate" prosecution. Clift v. Indiana Department of State Revenue, 660 N.E.2d 310 (Ind.1995).

STATE CONTROLLED SUBSTANCE TAX PROVISIONS (Cont'd)

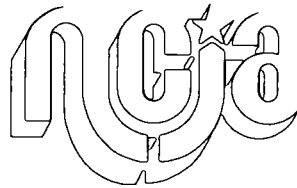
| | Tax Rates | Confidential Returns | Discovery Tools | Penalty for Non-Payment of Tax | Distribution of Proceeds |
|---|---|-----------------------------|--|--|--|
| KENTUCKY KY.REV.STAT.ANN. §§138.870 thru 138.889 (Michie Supp.1996) | \$1,000/marijuana plant \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; 5-10 yrs; \$1,000-\$10,000 | General fund |
| MARYLAND MD.ANN.CODE art. 24, §9- 601 (1998) | Permits counties to impose taxes on controlled substances | N/A | N/A | N/A | N/A |
| MASSACHUSETTS MASS.GEN.LAWS ANN. ch. 64K, §§1-14 (West Supp.1998) | \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; ±5 yrs. and/or ±\$10,000 | Not addressed |
| MINNESOTA MINN.STAT.ANN. §§297D.01 thru 297D.14 (1991) | \$3.50/g marijuana \$200/g other \$400/10 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; ±7 yrs. and/or ±\$14,000 | Not addressed |
| NEBRASKA NEB.REV.STAT.ANN. §§77-4301 thru 77-4316(1995 (Michie 1995) | \$100/oz marijuana \$150/g other \$500/50 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; ≤5 yrs.and/or \$10,000 | 5% to Marijuana & Controlled Substances Tax Administration Cash Fund; 50% to county from which proceeds originated for credit to drug law enforcement & education funds; remainder to Nebraska State Patrol Drug Control & Education Cash Fund |

STATE CONTROLLED SUBSTANCE TAX PROVISIONS (Cont'd)

| | Tax Rates | Confidential Returns | Discovery Tools | Penalty for Non-Payment of Tax | Distribution of Proceeds |
|--|--|-----------------------------|--|--|---|
| NEVADA NEV.REV.STAT.ANN. §§372A.010 thru 372A.150 (Michie 1993) | \$100/g marijuana \$1,000/g other \$2,000/50 dosage units | YES | Not addressed | Penalty of 100% of tax in addition to tax | Taxes & fees to state general fund to be used for grants to county & city law enforcement agencies for enforcement of controlled substances provisions; civil penalties to county treasury for law enforcement purposes |
| NORTH CAROLINA N.C.GEN.STAT. §§105-113.105 thru 105- 113.113(1997); §§114-18.1, 114-19(1994) | \$.40/g separated marijuana stems & stalks \$3.50/g marijuana \$200/g other \$50/10 dosage units of low- street-value drug \$400/10 dosage units other | YES | Not addressed | Penalty of 50% of tax in addition to tax | 75% to state or local law enforcement agency that conducted investigation; 25% to general fund |
| NORTH DAKOTA N.D.CENT.CODE §§57-36.1-01 thru 57-36.1-16(1993) | \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; ≤5 yrs.;and/or \$5,000 | Not addressed |
| OKLAHOMA OKLA.STAT.ANN. tit.68,§§450.1 thru 450.9(West 1992) | \$3.50/g marijuana \$200/g other \$1,000/50 dosage units | YES | Not addressed | Penalty of 100% of tax in addition to tax; ≤5 yrs.;and/or \$10,000 | Deposited in state drug abuse education fund |
| RHODE ISLAND R.I.GEN.LAWS §§44-49-1 thru 44-49-16(1995) | \$3.50/g marijuana \$200/g other \$400/10 dosage units | YES | Inspect records and subpoena testimony | Penalty of 100% of tax in addition to tax; ≤5 yrs.;and/or ≥\$10,000 | Not addressed |

STATE CONTROLLED SUBSTANCE TAX PROVISIONS (Cont'd)

| | Tax Rates | Confidential Returns | Discovery Tools | Penalty for Non-Payment of Tax | Distribution of Proceeds |
|--|--|-----------------------------|------------------------|---|---|
| SOUTH CAROLINA S.C.CODE ANN. §§12-21-5010 thru 12-21-6050 (Law. Co-op. Supp. 1997) | \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Not addressed | Penalty of 100% of tax in addition to tax; ±5 yrs.; and/or ±\$10,000 | General fund |
| TEXAS TEX.TAX CODE ANN. §§159.001,159.103, 159.203,159.205, 159.206(West Supp.1998);159.002 thru 159.005, 159.102,159.201, 159.202, 159.301(West 1992); 159.101(West 1992,Supp.1998) | \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Not addressed | Penalty of 100% of tax in addition to tax and 2-10 yrs.; ±\$10,000 | Tax deposited in state's general revenue fund; fines deposited to credit of county treasury |
| UTAH UTAH CODE ANN. §§59-19-101 thru 59-19-107(1996) | \$3.50/g marijuana \$200/g other \$2,000/50 dosage units | YES | Not addressed | Penalty of 100% of tax in addition to tax; ≤5 yrs.; \$5,000 | Deposited in Drug Stamp Tax Fund; 40% to cover costs of tax provision enforcement; 60% to investigating agency for enforcement of controlled substances provisions |
| WISCONSIN WIS.STAT.ANN. §§139.87 thru 139.96 (West Supp.1997) | Provisions declared unconstitutional by Wisconsin Supreme Court, <u>State v. Hall</u> , 557 N.W.2d 778 (1997). | | | | |



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