

LS 101 — Chapter 11: Drug Legislation and Social Policy

1 Canadian Drug Legislation

- The *Controlled Drugs and Substances Act*, or CDSA, outlines prohibited drugs and penalties for possession, manufacturing, importing, and trafficking these substances.
- The *Criminal Code* also has somewhat related laws, mainly in regards to conspiracy, anti-gang provisions, and proceeds of crime/money laundering laws.
- Penalties under the CDSA are severe; possession of a controlled substance can be punished by up to 7 years.
- Importing/exporting/producing/trafficking/conspiracy can be liable to imprisonment for life in some cases.
- Offences under the CDSA and *Criminal Code of Canada*(CCC) include:
 1. Possession of a controlled substance
 2. Double-doctoring
 3. Possession for the purpose of trafficking
 4. Trafficking
 5. Importing/exporting a controlled substance
 6. Production of a substance
 7. Possession of a property obtained by crime
 8. Laundering the proceeds of crime
 9. Conspiracy laws
 10. Participation in a criminal organization

1.1 Possession

- One issue with this is what constitutes possession.
- The Crown must prove the accused has a guilty state of mind — and thus, knew of the substance and its nature.
- It is not required for the drug to actually be what the accused thinks it is, the accused must just actually believe the drug is prohibited or is willingly blind to it being such a drug.

1.2 Double-doctoring

- It is illegal under section 4.2 of the CDSA to seek any substances that are controlled from Schedules I to IV from a practitioner without disclosing particulars related to the acquisition of any of the scheduled substances from any other particular within the preceding 30 days.

1.3 Possession for the purposes of trafficking, and trafficking

- Trafficking and the possession with the *intent* of trafficking are both forbidden under section 5 of the CDSA.
- The onus is on the Crown to prove intent to traffic.

1.4 Importing and Exporting

- It is an offence to import/export controlled substances into or out of Canada.