

SENATE BILL 168

By Campbell

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 29; Title 33; Title 38; Title 39; Title 40; Title
41; Title 43; Title 45; Title 50; Title 53; Title 63;
Title 67; Title 68 and Title 71, relative to cannabis.

WHEREAS, Tennessee's motto is "Agriculture and Commerce," and this act supports these principles; and

WHEREAS, thirty-eight states have a marijuana regulatory structure, and Tennessee should act forthwith in order to remain competitive nationally and globally in the burgeoning cannabis industry; and

WHEREAS, Tennessee businesses believe in the promotion of free and fair markets by providing consumers with the highest quality goods at the lowest possible prices, and this act does so by protecting Tennessee farmers, processors, and retailers from undue influence on intrastate cannabis markets by special interests seeking to monopolize trade therein; and

WHEREAS, Tennesseans believe in product safety and the protection of minors, and this act includes measures to provide funding for both with regard to the cannabis industry; and

WHEREAS, the federal government has not demonstrated a willingness to violate Tennessee's Tenth Amendment right to promulgate laws regarding agriculture and commerce within the State; and

WHEREAS, this act honors the United States Constitution by codifying Fourth and Fifth Amendment protections for Tennesseans with respect to cannabis use and possession; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 43, is amended by adding the following as a new chapter:

43-23-101. Short title.

This chapter is known and may be cited as the "Free All Cannabis for Tennesseans Act" or "FACT Act."

43-23-102. Chapter definitions.

As used in this chapter:

- (1) "Adult" means a natural person who is twenty-one (21) years of age or older;
- (2) "Advertising":
 - (A) Means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communication to induce, directly or indirectly, any person to patronize a particular marijuana dispensary, or to purchase marijuana or marijuana products;
 - (B) Includes marketing and marketing materials; and
 - (C) Does not include product packaging or labeling;
- (3) "Batch number" means a unique numeric or alphanumeric identifier assigned prior to testing to allow for inventory tracking and traceability;
- (4) "Cannabinoid":
 - (A) Means an active chemical compound that is found in cannabis; and
 - (B) Includes, but is not limited to, delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD);
- (5) "Cannabis" means the plant species and subspecies of *Cannabis sativa* L.;
- (6) "Child-resistant" means special packaging that is:

(A) Designed or constructed in accordance with 16 CFR Part 1700 to be significantly difficult to open for children under five (5) years of age and not difficult for normal adults to use properly;

(B) Opaque so that the outermost packaging does not allow the product to be seen without opening the packaging material; and

(C) Resealable to maintain its child-resistant effectiveness for multiple openings for any product intended for more than a single use or containing multiple servings;

(7) "Clone" means a nonflowering plant cut from a mother plant that is capable of developing into a new plant and has shown no signs of flowering;

(8) "Community facility" means:

(A) A licensed child care center, as defined in § 71-3-501;

(B) A public park;

(C) A public playground;

(D) A public swimming pool;

(E) A community center, the primary purpose of which is to provide recreational opportunities or services to children; or

(F) A place of worship;

(9) "Completed application":

(A) Means a document prepared in accordance with the requirements of this chapter and rules promulgated by the department, and the forms and instructions provided by the issuing department or agency; and

(B) Includes any required supporting documentation and the applicable license application fee;

(10) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marijuana plant by manual or mechanical means;

(11) "Department" means the department of agriculture;

(12) "Disadvantaged business" has the same meaning as defined in § 4-26-102;

(13) "Dispense" means the selling of marijuana or marijuana products to an adult consumer that is packaged in a suitable container appropriately labeled for subsequent administration to, or use by, an adult;

(14) "Edible marijuana product":

(A) Means a marijuana product that is intended to be ingested orally; and

(B) Includes, but is not limited to, food-based marijuana concentrate or marijuana-infused food, drink, or pills;

(15) "Entity" means an individual, general partnership, limited partnership, limited liability company, trust, estate, association, corporation, cooperative, or any other legal or commercial organization;

(16) "Flowering" means the reproductive state of a marijuana plant in which there are physical signs of flower or budding out of the nodes of the stem;

(17) "Food-based marijuana concentrate" means a marijuana concentrate that was produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, coconut oil, or other typical food-safe cooking fats;

(18) "Good cause" for purposes of an initial, renewal, or reinstatement license application, or for purposes of discipline of a licensee, means:

(A) The licensee or applicant has violated, does not meet, or has failed to comply with this chapter or any rules promulgated pursuant to this chapter;

(B) The licensee or applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the

department of agriculture, the department of revenue, or a local governmental entity with specific governing jurisdiction established by statute or rules promulgated pursuant to this chapter; or

(C) The licensed premises of a marijuana establishment or applicant have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate vicinity in which the establishment is located;

(19) "Healthcare practitioner" means a person licensed under title 63, or such person's counterpart in another state, who has the authority to prescribe or dispense controlled substances in the course of professional practice;

(20) "Heat- or pressure-derived marijuana concentrate" means a marijuana concentrate that was produced by extracting cannabinoids from marijuana through the use of heat or pressure;

(21) "Hemp" has the same meaning as defined in § 43-27-101;

(22) "Immature plant" means a nonflowering marijuana plant that has not demonstrated signs of flowering;

(23) "Inhalation" means the consumption of marijuana by smoking or vaporization;

(24) "Licensed premises" means the premises specified in an application for a marijuana establishment or marijuana research facility that is owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, test, or research marijuana or marijuana products pursuant to this chapter;

(25) "Manufacture" means the production, compounding, or processing of a marijuana product from marijuana, excluding natural marijuana plants or any part of such plant;

(26) "Marijuana":

(A) Means all parts of the plant cannabis with a total THC of greater than one percent (1%), whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, including concentrates and oils, its seeds, or resin; and

(B) Does not include hemp;

(27) "Marijuana biomass" means the aerial parts of the cannabis plant that are removed from the roots, stalks, stems, or seeds to the extent possible and primarily used for extracting marijuana concentrate;

(28) "Marijuana concentrate":

(A) Means the cannabinoid-rich oil or extract from marijuana extracted from plant material or the resin created from the plant by physical or chemical means; and

(B) Includes water-based marijuana concentrate, food-based marijuana concentrate, solvent-based marijuana concentrate, and heat- or pressure-derived marijuana concentrate;

(29) "Marijuana dispensary" means a marijuana establishment that has been licensed by the department to purchase marijuana or marijuana products from a marijuana grower or marijuana processor for the purpose of reselling marijuana or marijuana products to adult consumers, or selling or transferring such products to another marijuana dispensary;

(30) "Marijuana establishment":

(A) Means an entity that is licensed by the department under this chapter;

(B) Includes, but is not limited to, marijuana dispensaries, marijuana processors, marijuana growers, marijuana testing facilities, and marijuana transporters; and

(C) Does not include a marijuana research facility;

(31) "Marijuana flower" means the reproductive organs of the marijuana plant, referred to as the "bud", and are parts of the plant, whether trimmed or not, that are harvested and consumed orally or via inhalation in the plant's natural form;

(32) "Marijuana grower" means an individual or entity that is licensed pursuant to this chapter to cultivate, prepare, and package marijuana for sale or transfer, or contract for transfer, to a marijuana establishment or marijuana research facility;

(33) "Marijuana plant" means a rooted cannabis plant, of a variety not intended to be cultivated as hemp as defined in § 43-27-101, that has a minimum of three (3) leaf sets;

(34) "Marijuana processor" means an individual or entity that is licensed pursuant to this chapter to operate a marijuana establishment that is responsible for the production, manufacture, extraction, processing, packaging, or creation of marijuana concentrate or marijuana products, including edible marijuana products, marijuana-infused products, and other marijuana products;

(35) "Marijuana product" means a product that contains cannabinoids extracted from marijuana by physical or chemical means and is intended for sale to and use by adult consumers and takes the form of oils, tinctures, flower, edibles, pills, topical forms,

gels, creams, vapors, patches, suppositories, liquids, and forms administered by a nebulizer;

(36) "Marijuana research facility" means a private postsecondary educational institution located in this state with a postgraduate program in agriculture or medicine conducting marijuana research or a public institution;

(37) "Marijuana testing facility" means an entity licensed by the department under this chapter to analyze the safety and potency of marijuana and marijuana products;

(38) "Marijuana transporter" means an individual or entity that is licensed by the department under this chapter to transport marijuana or marijuana products;

(39) "Marijuana trim" means the byproduct of trimming marijuana flower that may be used as marijuana biomass or as an ingredient in smokable or edible marijuana products;

(40) "Marijuana waste" means unused, surplus, returned, or out-of-date marijuana or marijuana products to be remediated or destroyed;

(41) "Material change" means a change that would require a substantive revision to the standard operating procedures of a licensee;

(42) "Mature plant" means a harvestable female marijuana plant that is flowering;

(43) "Minor" means a person who has not attained twenty-one (21) years of age;

(44) "Mother plant" means a marijuana plant that is grown or maintained for the purpose of generating clones;

(45) "Natural person" means an individual, living human being;

(46) "Owner" means a direct beneficial owner and is limited to the following:

(A) A shareholder owning at least a five percent (5%) interest of a corporate entity;

(B) An officer of a corporate entity;

(C) A partner in a general partnership;

(D) A general or limited partner who owns an interest in a limited partnership;

(E) A member who owns an interest in a limited liability company;

(F) A beneficiary who holds a beneficial interest in a trust;

(G) A trustee of a trust;

(H) A person who owns an interest in a joint venture;

(I) A person who owns an interest in an association;

(J) An owner of any other type of legal entity; and

(K) Any other person holding an interest or convertible note in any entity that owns, operates, or manages a licensed facility;

(47) "Package" or "packaging" means a container or wrapper that may be used by a marijuana establishment to enclose or contain marijuana or marijuana products;

(48) "Person":

(A) Means a natural person, partnership, association, business trust, company, corporation, estate, limited liability company, trust, or any other legal entity or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; and

(B) Does not include a governmental entity;

(49) "Process" means to separate or otherwise prepare parts of the marijuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marijuana concentrate or marijuana products;

(50) "Production batch":

(A) Means:

(i) An amount of marijuana concentrate of the same category that is produced using the same extraction methods, standard operating procedures, and harvest batch of marijuana; or

(ii) An amount of marijuana product of the same exact type that is produced using the same ingredients, standard operating procedures, and production batch of marijuana concentrate; and

(B) Does not include marijuana flower;

(51) "Public institution" means an entity established or controlled by the federal government, state government, or a local government, including, but not limited to, institutions of higher education and related research institutions;

(52) "Public money" means funds or money obtained from a governmental entity by a licensee, including, but not limited to, research grants;

(53) "Registered to conduct business" means an eligible applicant who has provided proof that the applicant's business is in good standing with the secretary of state and department of revenue;

(54) "Remediation" means:

(A) The process by which marijuana flower or marijuana trim that has failed required testing is processed into marijuana concentrate and retested for compliance; or

(B) The process by which marijuana waste is recycled into usable product, where possible;

(55) "Research project" means a discrete scientific endeavor to answer a research question or a set of research questions related to hemp or marijuana as required by a marijuana research license;

(56) "Revocation" means the final decision by the department to rescind a license issued pursuant to this chapter because the licensee did not comply with the applicable requirements set forth in this chapter or rules promulgated pursuant to this chapter;

(57) "Solvent-based marijuana concentrate" means marijuana concentrate produced by extracting cannabinoids from marijuana through the use of a safe solvent medium, resulting in a finished product that meets state and federal guidelines for food safety;

(58) "Strain" means the classification of cannabis or marijuana plants based on the individual genetics of the plant that can be used to track genetic traits through the cultivation and processing of marijuana products and to help licensees and consumers predict the contents and effects of a marijuana product;

(59) "Suitable container" means a child-resistant package that complies with state law;

(60) "Test batch":

(A) With regard to usable marijuana, means a homogenous, identified quantity of usable marijuana by strain that is harvested during a seven-day period from a specified cultivation area; and

(B) With regard to oils, vapors, and waxes derived from usable marijuana, means an identified quantity that is uniform, intended to meet specifications for identity, strength, and composition, and manufactured,

packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol;

(61) "THC" means delta-9 tetrahydrocannabinol, which is a cannabinoid in cannabis formed by decarboxylation of natural tetrahydrocannabinolic acid, which generally occurs by exposure to heat;

(62) "THCA" means delta-9 tetrahydrocannabinolic acid, the precursor to the primary psychotropic cannabinoid contained in cannabis;

(63) "Total THC" means the sum of the amount of THC and the result of eight hundred seventy-seven one-thousandths (0.877) multiplied by the amount of THCA;

(64) "Transporter agent" means a person who transports marijuana or marijuana products for a licensed marijuana transporter and holds a transporter agent license;

(65) "Universal symbol" means an image indicating that marijuana or a marijuana product contains THC;

(66) "Veteran" means a person who has been honorably discharged from the army, navy, air force, marine corps, or coast guard, or any person who has been honorably discharged from a reserve component, as defined in 10 U.S.C. § 10101, having performed active federal service in the armed forces of the United States; and

(67) "Veteran-owned business" means a business that is a continuing, independent, for-profit business located in this state that performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more veterans; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned and controlled by one (1) or more veterans and whose management and daily business operations are under the control of one (1) or more veterans.

43-23-103. Authorized conduct – Personal use of marijuana.

(a) An adult is authorized under this chapter to:

(1) Except as provided in subdivision (a)(4), use, possess, and transport not more than sixty (60) grams of marijuana, except that not more than fifteen (15) grams of that amount may be in the form of marijuana concentrate; provided, that the restrictions regarding the amount of marijuana or marijuana concentrate that may be possessed or transported do not apply to a marijuana transporter or a transportation agent acting within the course and scope of the transporter's or agent's license;

(2) Transfer without remuneration to another adult not more than sixty (60) grams of marijuana, except that not more than fifteen (15) grams of that amount may be in the form of marijuana concentrate; provided, that the transfer is not advertised or promoted to the public;

(3) Cultivate for personal use not more than twelve (12) marijuana plants in an area on the premises of the adult's private residence; provided, that the cultivation occurs in a private area that is:

(A) Equipped with locks or other security devices that restrict access to the area; and

(B) Not visible from a public place without the use of aircraft or optical aids;

(4) Possess, store, or process on the premises of the adult's private residence not more than the amount of marijuana produced from plants cultivated on the premises; provided, that:

(A) Not more than the twelve (12) marijuana plants are possessed, cultivated, or processed on the premises at one (1) time; and

(B) Any other amount of marijuana in excess of sixty (60) grams is stored in a locked container or secure area equipped with security devices that restrict access; and

(5) Use, possess, transport, or transfer to another adult without remuneration marijuana-related drug paraphernalia.

(b)

(1) A parent, legal guardian, or conservator may administer for medical purposes a marijuana product, excluding a smokeable product, to a minor with a medical condition, or symptoms resulting from a medical condition, for whom the parent, guardian, or conservator has legal authority to provide for the care, supervision, and control.

(2) The department of health shall provide on the department's website a form that, if executed by the parent, guardian, or conservator after consultation with a healthcare practitioner, creates a rebuttable presumption:

(A) That the practitioner's patient, as a minor for whom the parent, guardian, or conservator has legal authority to provide for the care, supervision, and control, has a medical condition, or symptoms resulting from a medical condition, for which the patient, parent, guardian, or conservator seeks to use a marijuana product to treat the medical condition, or alleviate the symptoms thereof; and

(B) Of legal conduct under subdivision (b)(1).

43-23-104. Authorized conduct – Retail marijuana operations.

This chapter authorizes:

(1) A marijuana grower director, manager, or employee acting within the scope of the grower's license to:

(A) Cultivate marijuana for sale or transfer to a marijuana establishment, including the sale or transfer of seeds, flower, mother plants, mature plants, immature plants, or clones; and

(B) Possess marijuana and marijuana-related drug paraphernalia;

(2) A marijuana processor director, manager, or employee acting within the scope of the processor's license to:

(A) Produce marijuana products for sale or transfer to a marijuana establishment; and

(B) Possess marijuana and marijuana-related drug paraphernalia;

(3) A marijuana dispensary director, manager, or employee acting within the scope of the dispensary's license to:

(A) Possess marijuana and marijuana products; and

(B) Transfer and sell marijuana, marijuana products, and marijuana-related drug paraphernalia to an adult;

(4) A marijuana transporter director, manager, employee, or agent acting within the scope of the transporter's license to transport and transfer marijuana or marijuana products between marijuana establishments; and

(5) A marijuana testing or research facility director, manager, or employee acting within the scope of the facility's license to possess, test, and transport marijuana, marijuana products, and marijuana-related drug paraphernalia.

43-23-105. Protection from legal action for authorized conduct.

(a) A person is not subject to the denial of any right or privilege or to arrest, prosecution, forfeiture of property, or penalty, including any civil penalty or disciplinary

action by a court or occupational or professional licensing board or other like instrumentality solely due to conduct authorized under §§ 43-23-103 and 43-23-104.

(b) The fact that a person engages in conduct authorized by § 43-23-103 or § 43-23-104 does not in itself constitute grounds for denying, limiting, or restricting conservatorship or custody or possession of or access to a child.

(c) Unless expressly required by federal law, a person in compliance with this chapter shall not be denied eligibility, based on acts authorized under this chapter, for a public assistance program, including, but not limited to, the special supplemental food program for women, infants, and children; temporary assistance for needy families (TANF); medicaid; the supplemental nutrition assistance program (SNAP); or other such public assistance programs.

(d)

(1) An employer is authorized to establish policies permitting, restricting, or prohibiting the use of marijuana or marijuana products in the workplace.

(2) This chapter does not prohibit an employer from:

(A) Disciplining an employee for using marijuana or a marijuana product in the workplace or for working while under the influence of marijuana or a marijuana product; or

(B) Considering a job applicant's use of marijuana as a basis for refusing to hire the applicant for employment responsibilities described in § 50-9-106(a)(3)(A) as long as that consideration, including testing of the applicant, is consistent with and appropriate in its application to the employer's hiring policy with regard to other adulterants that cause a refusal of hiring for an applicant, including the time segment under review, so as to not disproportionately restrict the legal rights of the applicant.

(3) Notwithstanding title 50, chapters 7 and 9, and for purposes of eligibility for benefits under Tennessee Employment Security Law, compiled in title 50, chapter 7, the use of marijuana or a marijuana product, when there is no other action or cause by the employee or reason for the termination, shall not be deemed a discharge for misconduct under § 50-7-303 or otherwise a termination for cause.

(e) Notwithstanding title 39, chapter 17, part 13, the use of marijuana or marijuana products, personal cultivation of marijuana, or status as a licensee under this chapter or under title 43, chapter 27, shall not be grounds for the denial or infringement of the right to own, purchase, or possess a firearm, ammunition, or firearm accessory under state law.

43-23-106. Prohibition of marijuana on private property – Exception.

(a) Except as otherwise provided by subsection (b), a person may prohibit or restrict the possession, consumption, cultivation, distribution, manufacture, sale, or display of marijuana or marijuana products on property the person owns, occupies, or manages.

(b) A person shall not prohibit a residential tenant under a lease agreement from possessing marijuana, marijuana products, or marijuana-related drug paraphernalia or consuming marijuana by means other than smoking on the premises.

43-23-107. Conduct not authorized – Violations.

(a) This chapter does not authorize the following conduct:

(1) Smoking or otherwise consuming marijuana in:

(A) A motor vehicle;

(B) An aircraft;

(C) A watercraft on the public waters of this state; or

(D) A public place, unless:

(i) The public place is an area designated by a political subdivision as an area where using marijuana or a marijuana product is permissible; and

(ii) The area described by subdivision (a)(1)(D)(i) is not accessible to minors;

(2) Possessing or consuming marijuana or marijuana products or possessing marijuana-related drug paraphernalia:

(A) On the premises of a public or private child care facility, pre-kindergarten, or primary or secondary school;

(B) On a school bus that serves a facility or school described by subdivision (a)(2)(A); or

(C) On the premises of a correctional facility; or

(3) The separation of resin from the marijuana plant by butane extraction or another method that uses a substance with a flashpoint below one hundred degrees Fahrenheit (100° F) in a public place or motor vehicle or within the curtilage of a residential structure.

(b) A person commits an offense if the person:

(1) Under the authority of this chapter:

(A) Sells, gives, or causes to be sold or given, marijuana or a marijuana product to a minor; or

(B) Sells, gives, or causes to be sold or given, marijuana or a marijuana product to another person knowing the other person intends to deliver the marijuana or marijuana product to a minor, except as authorized under § 43-23-103(b); or

(2) Sells marijuana or a marijuana product in or from:

(A) A marijuana dispensary that is not in compliance with this chapter; or

(B) A marijuana establishment other than a dispensary and such sale is not authorized under this chapter.

(c) It is a defense to prosecution under subsection (b) that the person to whom the marijuana or marijuana product was sold or given presented apparently valid proof of identification. For purposes of this subsection (c), "apparently valid proof of identification" means a government-issued photo identification that contains a physical description and photograph consistent with the person's appearance and purports to establish that the person is twenty-one (21) years of age or older. Such government-issued photo identification may include a driver license issued by this state or another state, a passport, or other identification card issued by a state, territory, tribe, or the federal government.

(d) A violation of this section is punishable as follows:

(1) A first, second, or third offense is a Class C misdemeanor; and

(2) A fourth or subsequent offense is a Class A misdemeanor, and if the violator is a licensee, the revocation of the violator's license for a period of two (2) years.

43-23-108. Duties of the department – Rules.

(a) The department shall implement and administer this chapter.

(b) The department shall promulgate all necessary rules for the administration and enforcement of this chapter. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) The department shall promulgate rules for the reasonable regulation of marijuana establishments and marijuana research facilities, including rules that:

(1) Set application and license fees under this chapter in amounts sufficient to administer this chapter and such fees may be adjusted annually for inflation;

(2) Establish standards for:

(A) The operation of marijuana testing facilities;

(B) The testing of cultivated marijuana flower and marijuana products; and

(C) The secure transportation of marijuana by marijuana transporters, including standards to ensure all marijuana establishments and marijuana research facilities are properly served;

(3) Restrict the use of dangerous pesticides;

(4) Regulate the packaging and labeling of marijuana products available at marijuana dispensaries, including requirements regarding:

(A) Child-resistant packaging;

(B) The use of a universal symbol; and

(C) The amount of THC or total THC present;

(5) Restrict advertising and display of marijuana and marijuana products;

(6) Restrict the maximum amount of THC or total THC, or regulate the serving size, that may be contained in a marijuana product sold to an adult consumer;

(7) Require recordkeeping and monitoring for identification of a production batch or test batch through the use of a batch number;

(8) Require recordkeeping for any remediation conducted by a marijuana establishment;

(9) Require recordkeeping and monitoring to track the transfer of marijuana and marijuana products between marijuana establishments or licensees;

(10) Require security measures; provided, that the security measures do not restrict the cultivation of marijuana outdoors or in greenhouses; and

(11) Establish protocols or restrictions with regard to the proximity of marijuana establishments to community facilities and elementary and secondary schools.

(d) The department, in consultation with the department of health, shall promulgate rules regarding the involvement of the state in sanctioning research projects or licensing marijuana research facilities, including a process by which marijuana research facilities may request and receive public money for research projects; provided, that a research project must include a description of a defined protocol, clearly articulated goals, defined methods and outputs, and a defined start and end date in order for the project to be sanctioned by the department.

(e) The department of health may promulgate rules and forms necessary to facilitate a medical use component of this chapter. In promulgating rules and forms, the department shall consider and prioritize the process by which patients, practitioners, and caregivers are able to document recommendations for the medical use of marijuana or marijuana products and by which patients and caregivers are able to establish that marijuana and marijuana products are being obtained for medical use when marijuana and marijuana products are purchased from a marijuana dispensary. The department of health shall publish such forms on the department's website.

(f) Except where prohibited by federal law and notwithstanding any other law to the contrary, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the department of financial institutions shall promulgate rules authorizing marijuana establishments to conduct cashless transactions and use banking services, including the depositing of revenue, in Tennessee-chartered banks or other Tennessee-chartered financial institutions.

(g) The department shall establish a universal symbol and publish the symbol on the department's website.

43-23-109. Conflicts of interest.

(a) A person who is involved in the implementation, administration, or enforcement of this chapter as a member or employee of the department, or a consultant to the department, shall not also hold a pecuniary interest in any entity licensed by the department under this chapter.

(b) A person who holds a pecuniary interest in a marijuana testing facility or a marijuana transporter that holds a license issued under this chapter shall not hold a pecuniary interest in any entity that holds a marijuana dispensary, marijuana processor, or marijuana grower license issued under this chapter.

(c) A person may not hold a pecuniary interest in more than five (5) entities that are licensed under this chapter as a marijuana grower, unless otherwise authorized by the department.

43-23-110. Annual report.

The department shall annually submit to the governor and to the chief clerks of the senate and the house of representatives a report providing the following information regarding licensing and regulation under this chapter:

(1) The number of licenses issued for each class of license under this chapter;

(2) Demographic information pertaining to licensees;

(3) A description of any fines imposed on a licensee or disciplinary actions taken against a licensee by the department; and

(4) A statement of revenues and expenses of the department related to the implementation, administration, and enforcement of this chapter.

43-23-111. Licensing.

(a) A license issued by the department under this chapter is required to operate as a marijuana establishment.

(b) The department by rule shall provide classes of licensure to be issued under this chapter and, for each class of license issued under this chapter, qualifications for licensure that are demonstrably related to the operations authorized and duties imposed under that class of license.

(c) The department shall prioritize the issuance of licenses in the following order:

(1) First priority to:

(A) Disadvantaged businesses and veteran-owned businesses that have held a hemp license, issued under § 43-27-102, in the prior year; and

(B) Business entities located in a tier 4 enhancement county, as described in § 67-4-2109, that have held a hemp license, issued under § 43-27-102, in the prior year;

(2) Second priority to business entities that have held a hemp license, issued under § 43-27-102, in the prior year;

(3) Third priority to entities that are:

(A) Owned solely by an individual who is a resident of this state;

or

(B) At least fifty-one percent (51%) owned and controlled by one (1) or more residents of this state; or, in the case of any publicly owned business, have at least fifty-one percent (51%) of the stock owned and controlled by one (1) or more residents of this state and management and daily business operations under the control of one (1) or more residents of this state;

(4) Fourth priority to disadvantaged businesses and veteran-owned businesses located in a tier 3 or tier 4 enhancement county as described in § 67-4-2109; and

(5) Fifth priority to all other qualified persons.

43-23-112. Licensure application.

(a) A person eligible for licensure may apply for an initial or renewal license under this chapter by submitting a form prescribed by the department along with the application fee in an amount set by the department.

(b) The completed application must indicate the class of license sought and include:

(1) The name and address of the applicant;

(2) The name of each owner, which the department shall make available as a matter of public record;

(3) The name and address of each of the applicant's directors, managers, and employees; and

(4) Any other information considered necessary by the department to determine the applicant's eligibility for the license.

(c) In addition to satisfying the other requirements provided by department rule under this chapter:

(1) An applicant for a license must submit to the department a complete and legible set of fingerprints, on a form prescribed by the department, for the purpose of obtaining criminal history record checks from the Tennessee bureau of investigation and the federal bureau of investigation;

(2) The department may deny a license to an applicant who does not comply with the requirement of subdivision (c)(1). Issuance of a license by the department is conditioned on the department obtaining the applicant's criminal history record check under this subsection (c); and

(3) Other than a conviction for an offense that involves the delivery, sale, distribution, or casual exchange of a controlled substance to a minor under eighteen (18) years of age where the person was an adult who was at least two (2) years older than the minor at the time of the offense, a person's conviction for an offense does not disqualify an applicant for licensure under this chapter.

43-23-113. Issuance, renewal, or denial of license.

(a) The department shall issue or renew a license under this chapter only if:

(1) The department determines the applicant meets the qualifications for the class of license sought, under §§ 43-23-111 and 43-23-112;

(2) The applicant is registered to conduct business; and

(3) The applicant is in compliance with any applicable local regulations.

(b) If the department denies the issuance or renewal of a license under subsection (a), then the department shall give written notice of the grounds for denial to the applicant.

(c) A license issued or renewed under this section expires on the second anniversary of the date of issuance or renewal, as applicable.

43-23-114. Duty to maintain qualifications.

(a) A licensee shall maintain compliance at all times with the qualifications for the applicable class of license established under § 43-23-111.

(b) A licensee shall notify the department in writing whenever there is a material change in the operations of a licensee.

43-23-115. License suspension or revocation.

(a) The department may at any time suspend or revoke a license issued under this chapter for good cause, including if the department determines that the licensee has not maintained the qualifications established under § 43-23-111 or has failed to comply with a duty imposed under this chapter.

(b) The department shall give written notice to a licensee of a license suspension or revocation under this section and the grounds for the suspension or revocation. The notice must be sent by certified mail, return receipt requested.

(c) After suspending or revoking a license issued under this chapter, the department may seize or place under seal all marijuana, marijuana products, and marijuana-related drug paraphernalia owned or possessed by the licensee. If the license is revoked, a disposition shall not be made of the seized or sealed marijuana, marijuana products, or drug paraphernalia until the time for administrative appeal of the order has elapsed or until all appeals have been concluded. When a revocation order becomes final, all marijuana, marijuana products, and drug paraphernalia may be forfeited to the state as contraband.

(d) Proceedings under this section must be conducted pursuant to title 4, chapter 5, part 3 of the Uniform Administrative Procedures Act.

43-23-116. Duties of licensees relating to dispensing marijuana or marijuana products.

Before dispensing marijuana or marijuana products to an adult consumer, a marijuana dispensary must make reasonable efforts to verify that:

- (1) The person receiving the marijuana or marijuana product is an adult;
- (2) The marijuana or marijuana product complies with testing and labeling rules promulgated by the department; and
- (3) The amount of marijuana or marijuana products dispensed is not greater than the amount authorized for personal use under § 43-23-103(a).

43-23-117. Duties of licensees relating to security.

(a) A licensee shall ensure that the cultivation, manufacture, sale, or display of marijuana, marijuana products, and marijuana-related drug paraphernalia is not visible from a public place without the use of optical aids or aircraft.

(b) A licensee shall not cultivate, manufacture, store, or sell marijuana, marijuana products, or marijuana-related drug paraphernalia at a location other than the physical address approved by the department for the establishment under the license issued to the establishment under this chapter.

(c) A licensee shall adopt reasonable security measures necessary to restrict access to areas where marijuana or marijuana products are stored and to prevent theft of marijuana and marijuana products.

43-23-118. Licensee employees.

A licensee shall not employ or otherwise accept the services of a person younger than eighteen (18) years of age.

43-23-119. Monthly sales report.

A marijuana dispensary shall submit a report to the department monthly specifying the amount of marijuana sold, the number of marijuana products sold, and the amount of money collected in sales by the establishment during the preceding month.

43-23-120. Taxes.

(a) Marijuana and marijuana products are taxable as tangible personal property and subject to sales and use taxes imposed by title 67, chapter 6. Notwithstanding § 67-6-702, a county, by resolution of the county legislative body, or an incorporated municipality, by ordinance of its governing body, is authorized to levy a local sales tax in a rate not to exceed five percent (5%) on the sale of marijuana and marijuana products within such county or municipality. Such local sales tax is to be levied, collected, and distributed in the same manner as local sales and use taxes under title 67, chapter 6, part 7.

(b)

(1) A marijuana tax is imposed on each sale of marijuana or a marijuana product by a marijuana dispensary.

(2) The rate of the tax is fifteen percent (15%) of the sales price of the marijuana or marijuana product.

(3) The tax imposed by this subsection (b) is administered, collected, and enforced in the same manner as the sales and use tax under title 67, chapter 6 is administered, collected, and enforced.

(4) The tax imposed by this subsection (b) is in addition to any other tax imposed by law.

(c)

(1) Notwithstanding any law to the contrary:

(A) A marijuana grower is entitled to a refund of twenty-five percent (25%) of the sales and use tax levied on supplies and materials purchased from a business located in this state and used for the cultivation of marijuana;

(B) A marijuana processor is entitled to a refund of twenty-five percent (25%) of the sales and use tax levied on supplies and materials purchased from a business located in this state and used for the manufacture or processing of marijuana and production of marijuana products; and

(C) A marijuana dispensary is entitled to a refund of twenty-five percent (25%) of the sales and use tax levied on supplies and materials purchased from a business located in this state and used for the dispensing and retail sale of marijuana and marijuana products.

(2) To receive a refund authorized under this subsection (c), a marijuana establishment must submit the form prescribed by the department of revenue, in addition to any documentation the department may require.

(d) Notwithstanding any law to the contrary, electronic payment and filing requirements for taxes levied under title 67 are waived and a marijuana establishment may file a return in paper form and remit payments in cash or other form approved by the department of revenue. The commissioner of revenue is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars (\$25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing, and processing any paper filing.

43-23-121. Allocation of marijuana tax.

The department of revenue shall allocate the revenue derived from the marijuana tax imposed by § 43-23-120(b) in the following manner:

(1) Fifty percent (50%) of the funds must be allocated to the department of agriculture to be used for:

(A) The administration and enforcement of this chapter;

(B) Educational and marketing programs related to the promotion and implementation of this chapter, including public safety campaigns; and

(C) Grant initiatives focused on economic development and green power infrastructure in tier 3 and tier 4 enhancement counties, as described in § 67-4-2109;

(2) Twenty percent (20%) of the funds must be allocated to the department of safety to be used for:

(A) Training and education of law enforcement agencies and officers with regard to cannabis-related laws in this state;

(B) The support of law enforcement officers injured in the line of duty; and

(C) The support of families of law enforcement officers killed in the line of duty;

(3) Twenty percent (20%) of the funds must be deposited, in equal amounts, into the state employee legacy pension stabilization reserve trust, created in § 9-4-1102, and the pension stabilization reserve trust, created in § 9-4-1001;

(4) Five percent (5%) of the funds must be allocated to the department of education to be used for educational programs for elementary and secondary

students regarding age restrictions for marijuana use and potential health and legal risks for improper or underage use of marijuana; and

(5) Five percent (5%) of the funds must be retained by the department of revenue to be used for administrative costs incurred pursuant to this chapter, including collection and enforcement costs.

43-23-122. Prohibited local regulation.

Except as provided in § 43-23-123(b), a political subdivision of this state shall not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits or unreasonably restricts the cultivation, production, manufacture, dispensing, transportation, or possession of marijuana or marijuana products or the operation of a marijuana grower, marijuana processor, marijuana dispensary, marijuana transporter, marijuana research facility, or marijuana testing facility as authorized by this chapter.

43-23-123. Permissible local regulation.

(a) A political subdivision may adopt regulations consistent with this chapter governing the hours of operation, location, manner of conducting business, and number of marijuana dispensaries; provided, that regulations must not be more restrictive than those that apply to establishments that are licensed as retail package stores pursuant to § 57-3-204.

(b)

(1) A county or municipality seeking to ban the sale of marijuana or marijuana products to adult consumers or the cultivation or manufacture of marijuana or marijuana products by marijuana establishments within its jurisdiction is authorized to do so by a two-thirds (2/3) vote of the local legislative body; provided, that the initial vote on a local ban occurs no later than September 30, 2023.

(2) Notwithstanding any law to the contrary, a ban established pursuant to this subsection (b) expires one (1) year from the ban's effective date; provided, that a ban may be renewed under the same procedure established in subdivision (b)(1).

(3) A county or municipality that bans the sale, cultivation, or manufacture of marijuana or marijuana products within its jurisdiction is disqualified from receiving any grant funds authorized under this chapter while the ban is in effect.

43-23-124. Use of gas chromatography mass spectrum tests.

Notwithstanding any law to the contrary:

(1) A person's bail, parole, probation, or suspended sentence shall not be revoked based solely on a positive confirmatory urine drug test conducted via a gas chromatography mass spectrum test (GC-MS) for THC-COOH (11-nor-9-carboxy-delta 9 tetrahydrocannabinol);

(2) A student shall not be prohibited or otherwise restricted from participation in voluntary extracurricular activities, or be required to receive referral information under § 49-6-4213(k)(3), based solely on a positive confirmatory urine drug test conducted via a gas chromatography mass spectrum test (GC-MS) for THC-COOH (11-nor-9-carboxy-delta 9 tetrahydrocannabinol) when the minor is administered a marijuana product in accordance with § 43-23-103(b);

(3) A governmental entity acting in its capacity as a public employer shall not take adverse action against an employee based solely on a positive confirmatory urine drug test conducted via a gas chromatography mass spectrum

test (GC-MS) for THC-COOH (11-nor-9-carboxy-delta 9 tetrahydrocannabinol);
and

(4) A person shall not be required to receive a referral to a treatment resource or be prohibited from receiving public assistance based solely on a positive confirmatory urine drug test conducted via a gas chromatography mass spectrum test (GC-MS) for THC-COOH (11-nor-9-carboxy-delta 9 tetrahydrocannabinol). For purposes of this subdivision (4), "public assistance" includes, but is not limited to, assistance from the special supplemental food program for women, infants, and children; temporary assistance for needy families (TANF); medicaid; the supplemental nutrition assistance program (SNAP); and other public assistance or welfare programs under title 71.

SECTION 2. Tennessee Code Annotated, Section 4-3-610(a), is amended by deleting the language "dogs trained to detect marijuana and other illicit substances" and substituting instead the language "dogs trained to detect illicit substances".

SECTION 3. Tennessee Code Annotated, Section 4-7-115, is amended by deleting the language "dogs trained to detect marijuana and other illicit substances" and substituting instead the language "dogs trained to detect illicit substances".

SECTION 4. Tennessee Code Annotated, Section 4-26-102, is amended by deleting subdivision (6)(B) and substituting instead the following:

(B) Impeded from normal entry into the economic mainstream because of past practices of discrimination based on race, religion, ethnic background, sex, or service in the armed forces;

SECTION 5. Tennessee Code Annotated, Section 29-38-104, is amended by deleting the following:

(1) From subdivision (5), the language "; or possession of one pound (1 lb.) or twenty-five (25) plants or more, but less than four pounds (4 lbs.) or fifty (50) plants, or distribution of less than one pound (1 lb.), of marijuana";

(2) From subdivision (6), the language "; or possession of four pounds (4 lbs.) or more or fifty (50) plants or more, but less than eight pounds (8 lbs.) or seventy-five (75) plants, or distribution of more than one pound (1 lb.), but less than five pounds (5 lbs.), of marijuana";

(3) From subdivision (7), the language "; or possession of eight pounds (8 lbs.) or more or seventy-five (75) plants or more, but less than sixteen pounds (16 lbs.) or one hundred (100) plants or more, or distribution of more than five pounds (5 lbs.), but less than ten pounds (10 lbs.), of marijuana"; and

(4) From subdivision (8), the language "; or possession of sixteen pounds (16 lbs.) or more or one hundred (100) plants or more, or distribution of ten pounds (10 lbs.) or more, of marijuana".

SECTION 6. Tennessee Code Annotated, Section 38-6-108, is amended by deleting the language "dogs trained to detect marijuana and other illicit substances" and substituting instead the language "dogs trained to detect illicit substances".

SECTION 7. Tennessee Code Annotated, Section 39-17-402(12), is amended by deleting subdivision (C) from the definition of "drug paraphernalia" and substituting instead the following:

(C) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body;

SECTION 8. Tennessee Code Annotated, Section 39-17-402, is amended by deleting subdivision (16) in its entirety.

SECTION 9. Tennessee Code Annotated, Section 39-17-415(a), is amended by deleting subdivisions (1) and (2) in their entirety.

SECTION 10. Tennessee Code Annotated, Section 39-17-417, is amended by deleting subsection (g), subdivision (i)(14), and subdivision (j)(14) in their entirety.

SECTION 11. Tennessee Code Annotated, Section 39-17-418, is amended by deleting subsection (b); and deleting the language "subsections (a) or (b)" in subsection (d) and substituting instead the language "subsection (a)".

SECTION 12. Tennessee Code Annotated, Section 39-17-428(b), is amended by deleting the language "classified as marijuana or hashish" wherever it appears.

SECTION 13. Tennessee Code Annotated, Section 40-32-101(g)(1), is amended by:

(1) Deleting subdivision (A)(xxxiii) and substituting instead the following:

(xxxiii) Section 39-17-417(g)(1) — Manufacture, delivery, sale, or possession of Schedule VI controlled substance;

(2) Deleting subdivision (D)(xxv) and substituting instead the following:

(xxv) Section 39-17-417(g)(2) — Manufacture, delivery, sale, or possession of Schedule VI controlled substance; and

(3) Deleting subdivision (E)(xxii) and substituting instead the following:

(xxii) Section 39-17-417(g)(3) — Manufacture, delivery, sale, or possession of Schedule VI controlled substance;

SECTION 14. Tennessee Code Annotated, Section 41-1-118, is amended by deleting the language "marijuana and other illicit substances" wherever it appears and substituting instead the language "illicit substances".

SECTION 15. Tennessee Code Annotated, Section 67-4-2802, is amended by deleting subdivision (7) in its entirety.

SECTION 16. Tennessee Code Annotated, Section 67-4-2803, is amended by deleting subdivisions (a)(1), (2), and (3) in their entireties; and deleting the language "marijuana or other" in subsection (b) and substituting instead the language "an".

SECTION 17. Tennessee Code Annotated, Section 67-4-2804, is amended by deleting subsection (b) in its entirety.

SECTION 18. Tennessee Code Annotated, Section 71-3-1201(4), is amended by deleting the language "marijuana,".

SECTION 19. Tennessee Code Annotated, Section 63-1-126, is amended by adding the following as a new subsection:

Notwithstanding this section to the contrary, neither the board nor the employer of the healthcare practitioner shall take adverse action against a healthcare practitioner based solely on a positive confirmatory urine drug test via GC-MS (gas chromatography mass spectrum) THC-COOH (11-nor-9-carboxy-delta 9 tetrahydrocannabinol).

SECTION 20. The Department of Correction shall review the records of persons who are incarcerated in this state for the cultivation, manufacture, delivery, sale, possession, or transfer of marijuana under Tennessee Code Annotated, Section 39-17-417 or Section 39-17-418. The department shall identify and list persons incarcerated for such offenses and include information as to whether the person was also convicted of a felony offense involving violence or the use of a firearm or a felony drug offense for a controlled substance other than marijuana. The department shall provide the list to the Governor and the Speakers of the House of Representatives and the Senate by December 31, 2023.

SECTION 21. Persons serving a sentence for the cultivation, manufacture, delivery, sale, possession, or transfer of marijuana under Tennessee Code Annotated, Section 39-17-417 or Section 39-17-418, who are not also serving a sentence for a felony offense involving violence or the use of a firearm or a felony drug offense for a controlled substance other than

marijuana are eligible for immediate release from incarceration, probation, and parole, and the Department of Correction shall take action to secure such release.

SECTION 22. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 23. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 24. For the purposes of promulgating rules and forms and initiating local bans, this act takes effect upon becoming a law, the public welfare requiring it. Section 20 of this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2024, the public welfare requiring it.

HOUSE BILL 1478

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 55, relative to sentencing in
criminal cases.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-402, is amended by deleting subdivision (a)(4) and substituting instead the following:

(4) Any person violating § 55-10-401, upon conviction for a fourth or fifth offense, shall be sentenced as a felon to serve not less than one hundred fifty (150) consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class E felony.

(5)

(A) A sixth or subsequent conviction for violating § 55-10-401, or any other applicable prior conviction as defined in § 55-10-405(c), is a Class C felony and any person sentenced under this subdivision (a)(5) shall be sentenced to serve no less than the minimum sentence of imprisonment established in subdivision (a)(4) for a fourth offender, and not more than the maximum punishment authorized for the appropriate range of a Class C felony. For this subdivision (a)(5) to be applicable, the person shall have been convicted at least five (5) times for violations of § 55-10-401, or any other applicable prior conviction as defined in § 55-10-405(c), prior to committing, on or after July 1, 2016, a sixth or subsequent offense.

(B) In addition to the required term of imprisonment for a sixth or subsequent offense, all of the collateral consequences of a violation of § 55-10-

-401, including a fine, forfeiture, driver license suspension or revocation, interlock and other monitoring devices, substance abuse assessments, in-patient or out-patient treatment, drug court or DUI court, and conditions of probation shall also apply to a sixth or subsequent offender.

(6) For purposes of this subsection (a), "prior conviction" includes convictions under the laws of any other state that, if committed in this state, would constitute the offense of driving under the influence of an intoxicant under § 55-10-401. If an offense in a jurisdiction other than this state is not identified as driving under the influence of an intoxicant in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements for driving under the influence of an intoxicant under § 55-10-401.

SECTION 2. Tennessee Code Annotated, Section 55-10-405, is amended by deleting subsection (c) and substituting instead the following:

(c)

(1) A prior conviction for an offense other than § 55-10-401 shall be treated the same as a prior conviction for a violation of § 55-10-401 if:

(A) The person committed and was convicted of the prior offense before the commission of the violation of § 55-10-401; and

(B) An essential element of the prior offense is that the driver's ability to safely operate or be in physical control of a motor vehicle is impaired by reason of:

(i) Being under the influence of any intoxicant, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof;

(ii) The alcohol concentration in the driver's blood or breath being eight-hundredths of one percent (0.08%) or more; or

(iii) The alcohol concentration in the driver's blood or breath being four-hundredths of one percent (0.04%) or more and the vehicle is a commercial motor vehicle as defined in § 55-50-102.

(2) Subdivision (c)(1) shall apply to any conviction occurring in another state or any conviction for an offense created after the effective date of this act, provided the offense or offenses meet the criteria of subdivision (c)(1).

(3) Offenses that meet the criteria of subdivision (c)(1) include §§ 39-13-106, 39-13-115, 39-13-213(a)(2), 39-13-218, and 55-10-421.

(4) The prior conviction is not precluded for enhancement purposes by the time limitations established in subsection (a).

(5) For the purpose of determining a "prior conviction", any applicable conviction occurring prior to the effective date of this act shall be considered a prior conviction if the instant violation of § 55-10-401 occurs on or after July 1, 2016.

SECTION 3. Tennessee Code Annotated, Section 40-11-118, is amended by deleting subdivision (d)(1) and substituting instead the following:

(1) When the court is determining the amount and conditions of bail to be imposed upon a defendant, the court shall consider the use of special conditions for the defendant, including, but not limited to, the conditions set out in subdivision (d)(2), if the defendant is charged with a violation of any offense that meets the criteria of § 55-10-405(c), and the defendant has one (1) or more prior convictions for a violation of any offense meeting the criteria of § 55-10-405(c).

SECTION 4. Tennessee Code Annotated, Section 40-11-148, is amended by deleting subdivision (b)(1) and substituting instead the following:

(1) When the court is determining the amount and conditions of bail to be imposed upon a defendant who is charged with an offense meeting the criteria of § 55-10-405(c), the court shall consider the use of special conditions for such defendant, including, but not limited to, the conditions set out in subdivision (b)(2), if the offense for which bail is being set was committed while the defendant was released on bail for a prior charge of violating any offense meeting the criteria of § 55-10-405(c).

SECTION 5. Tennessee Code Annotated, Section 55-10-406, is amended by deleting the final sentence of subsection (a) and substituting instead the following:

However, no such test or tests may be administered pursuant to this section unless conducted at the direction of a law enforcement officer having probable cause to believe the person was driving while under the influence of any intoxicant, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof as prohibited by § 55-10-401, or committing any other offense meeting the criteria of § 55-10-405(c).

SECTION 6. Tennessee Code Annotated, Section 55-10-407, is amended by deleting subdivision (f)(3) and substituting instead the following:

(3) For the purpose of determining the license suspension period under subsection (a), a prior conviction for a violation of any offense meeting the criteria of § 55-10-405(c), shall be treated the same as a prior conviction for a violation of § 55-10-401.

SECTION 7. Tennessee Code Annotated, Section 55-10-409, is amended by deleting subdivision (a)(1) and substituting instead the following:

(1) Has a prior conviction for a violation of any offense meeting the criteria of § 55-10-405(c); or

SECTION 8. Tennessee Code Annotated, Section 55-10-411, is amended by deleting the first sentence of subdivision (b)(2) and substituting instead the following:

In the prosecution of second or subsequent offenders, the indictment or charging instrument must allege the prior conviction or convictions for violating any offense meeting the criteria of § 55-10-405(c), setting forth the time and place of each prior conviction or convictions.

SECTION 9. Tennessee Code Annotated, Section 55-10-413, is amended by deleting subdivision (f)(1) and substituting instead the following:

(1) In addition to all other fines, fees, costs, and punishments now prescribed by law, including the fee imposed pursuant to subsection (d), a blood alcohol or drug concentration test (BADT) fee in the amount of two hundred fifty dollars (\$250) shall be assessed upon a conviction for a violation of any offense meeting the criteria of § 55-10-405(c), for each offender who has taken a breath alcohol test on an evidential breath testing unit provided, maintained, and administered by a law enforcement agency for the purpose of determining the breath alcohol content or has submitted to a chemical test to determine the alcohol or drug content of the blood or urine.

SECTION 10. Tennessee Code Annotated, Section 55-50-502, is amended by deleting from subdivision (c)(3)(B)(i) the language "§ 39-13-106," and substituting instead the language "§ 39-13-106, § 39-13-115,".

SECTION 11. Tennessee Code Annotated, Section 39-17-418, is amended by deleting subdivision (c)(1) and substituting instead the following:

(1) Except as provided in subsection (d), a violation of this section is a Class A misdemeanor.

SECTION 12. Tennessee Code Annotated, Section 39-17-418, is amended by deleting subsection (e) in its entirety.

SECTION 13. Tennessee Code Annotated, Section 39-17-428, is amended by deleting subdivisions (b)(3) and (b)(6) and substituting instead the following:

(3) Third or subsequent conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish 1,000

(6) Third or subsequent conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI 1,000

SECTION 14. Tennessee Code Annotated, Section 55-10-402, is amended by deleting subdivision (a)(1)(A) and (a)(1)(B) and substituting instead the following:

(A) Any person violating § 55-10-401, shall, upon conviction for the first offense, be sentenced to serve in the county jail or workhouse not less than forty-eight (48) consecutive hours nor more than eleven (11) months and twenty-nine (29) days.

(B) Any person violating § 55-10-401, upon conviction for the first offense with a blood alcohol concentration of twenty-hundredths of one percent (0.20%) or more, shall serve a minimum of seven (7) consecutive days rather than forty-eight (48) hours.

SECTION 15. Tennessee Code Annotated, Section 55-10-420, is amended by deleting the section in its entirety.

SECTION 16. This act shall take effect July 1, 2016, the public welfare requiring it.

There is a newer version of the Tennessee Code ↓

View our newest version here →

2010 Tennessee Code

Title 39 - Criminal Offenses

Chapter 17 - Offenses Against Public Health, Safety and Welfare

Part 4 - Drugs

39-17-415 - Criteria and controlled substances for Schedule VI.

39-17-415. Criteria and controlled substances for Schedule VI.

There is established a Schedule VI for the classification of substances which the commissioner of mental health and developmental disabilities, upon the agreement of the commissioner of health, upon considering the factors set forth in § 39-17-403, decides should not be included in Schedules I through V. The controlled substances included in Schedule VI are:

- (1) Marijuana;
- (2) Tetrahydrocannabinols; and
- (3) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

- (A) 1 cis or trans tetrahydrocannabinol, and its optical isomers;
- (B) 6 cis or trans tetrahydrocannabinol, and its optical isomers; or
- (C) 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.

[Acts 1989, ch. 591, § 1.]

Disclaimer: These codes may not be the most recent version. [Tennessee](#) may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google [Privacy Policy](#) and [Terms of Service](#) apply.



Free Daily Summaries in Your Inbox

Webinars You Might Like:



INVALID (DATE) Invalid Date
The Attack on DEI - Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]
[Learn More >](#)

INVALID (DATE) Invalid Date
Attorneys' Duties Towards Clients When Using Technology [CLE]
[Learn More >](#)

INVALID (DATE) Invalid Date
Google Analytics 101: Maximizing Your Website Traffic's Potential
[Learn More >](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Legal Issue or Lawyer Name

Tennessee

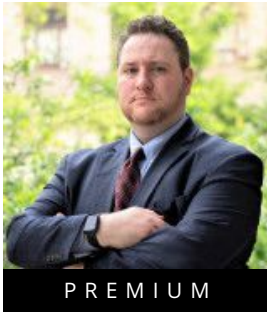
Search

Lawyers - [Get Listed Now!](#)

Get a free directory profile listing

SPONSORED LISTINGS

Jonathan Rosenberg **PRO**



(718) 715-4845

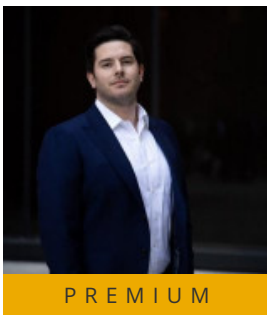
Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Benjamin A. Goldburd



(212) 302-9400

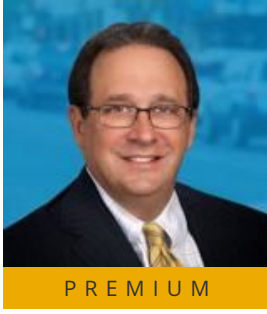
New York, NY
Tax Law

Website

Email

Profile

Stephen Bilkis **PRO**



(800) 696-9529

Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Darren M. Shapiro



(516) 333-6555

Jericho, NY
Arbitration & Mediation, Di...

Website

Email

Profile

Michael Ettinger



(800) 500-2525

Rockville Centre, NY
Elder Law, Estate Planning,...

Website

Email

Profile

Steven J. Seiden



(800) 287-2433

Carle Place, NY
Personal Injury, Products L...

Website

Email

Profile

Michael J. Duffy **PRO**



New York, NY
Business Law, Appeals & A...

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

US Federal Law

US Constitution
US Code
Regulations
Supreme Court
Circuit Courts
District Courts
Dockets & Filings
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

US State Law

State Constitutions
State Codes
State Case Law
California
Florida
New York
Texas
More...

Business

Business Formation
Business Operations
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Law Schools

Dictionary
Admissions
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

39-17-428. Mandatory minimum fines - Allocation of proceeds.

(a) Notwithstanding any other provision of this part to the contrary, any person convicted of violating any provision of this part shall be fined no less than the amount set out in the schedule in subsection (b). The fines set out in such schedule shall be the minimum mandatory fine for each type of offense and offender and shall not be construed to be a separate fine or in addition to the fines currently authorized by law for the offense committed. Nothing in this section shall prohibit the court from imposing a fine in excess of the minimum set out in such schedule; provided, that such amount is authorized by law.

(b) In determining the minimum fine to impose upon any person convicted of violating any provision of this part, the court shall first determine whether the person was convicted of a misdemeanor or felony violation of this part and then shall determine if the person has any previous convictions for violations of this part. Having determined the category of offense and offender, the judge shall impose a minimum mandatory fine based upon the following:

(1) First conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish	\$250
(2) Second conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish	500
(3) Third or subsequent conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish, enhanced as a felony under § 39-17-418(e)	1,000
(4) First conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI	750
(5) Second conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI.	850
(6) Third or subsequent conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI, enhanced as a felony under § 39-17-418(e)	1,000
(7) First conviction for possession of drug paraphernalia under § 39-17-425(a)(1)	150
(8) Second or subsequent conviction for possession of drug paraphernalia under § 39-17-425(a)(1) and conviction for all other misdemeanor drug offenses	250
(9) First conviction for all felony drug offenses involving a scheduled controlled substance	2,000
(10) Second conviction for all felony drug offenses involving a scheduled controlled substance	3,000

(11) Third or subsequent conviction for all felony drug offenses involving a scheduled controlled substance 5,000

(12) First conviction for all other felony drug offenses including § 39-17-423(a) and (b) and § 39-17-425(b)(1) 1,000

(13) Second or subsequent conviction for all other felony drug offenses including § 39-17-423(a) and (b) and § 39-17-425(b)(1) 1,500

(c) (1) Fifty percent (50%) of any fine collected pursuant to subsection (b) shall be allocated in the manner set out in § [39-17-420](#). The remaining fifty percent (50%) shall be paid to the general fund of the governing body of the law enforcement agency responsible for the investigation and arrest which resulted in the drug conviction; provided, that if a drug task force is responsible for the investigation and arrest, the amount above the minimum fine shall be paid to the general fund of the governing body of one (1) or more counties and cities within the judicial district as directed by the court. Notwithstanding the provisions of § [39-17-420\(a\)](#)(1) or any other law to the contrary, a portion of any fine collected pursuant to subsection (b) may be expended to fund programs and services for infants and children who are afflicted by HIV or AIDS.

(2) Nothing in this section shall be construed as prohibiting the use of proceeds from fines imposed pursuant to this section for the purpose of drug education.

(d) (1) Unless the judge, using the applicable criteria set out in § [40-14-202\(c\)](#), determines that a person convicted of violating this section is indigent, or that payment of the minimum fine would result in a severe economic hardship, or such fine would otherwise not be in the interests of justice, the minimum fines imposed by this section shall be mandatory and shall not be reduced, suspended, waived or otherwise released by the court. No plea agreement shall be accepted by a court if such agreement attempts to reduce or suspend all or any portion of the mandatory fines imposed by this section unless the judge determines that one (1) of the conditions set out in the first sentence of this subdivision (d)(1) exists.

(2) If the judge of a court of general sessions determines that it is necessary to reduce, suspend, waive or otherwise release the minimum fines imposed by this section, the judge shall assess the fine, and write on the warrant the amount of the fine, the fact that it is reduced, suspended, waived or released and the reasons therefor. If done by the judge of a court of record, such judge shall assess the fine and make a specific finding of fact on the record relative to the reduction, suspension, waiver or release and the reasons therefor.

[Acts 1990, ch. 1036, § 1; 1994, ch. 923, § 2; 1998, ch. 1079, § 5; 1999, ch. 503, § 1; 2000, ch. 881, § 1.]

Go to previous versions of this Section ↓

2021 Tennessee Code
Title 39 - Criminal Offenses
Chapter 17 - Offenses Against Public Health, Safety and Welfare
Part 4 - Drugs
§ 39-17-417. Criminal Offenses and Penalties

Universal Citation: TN Code § 39-17-417 (2021)

< Previous

Next >

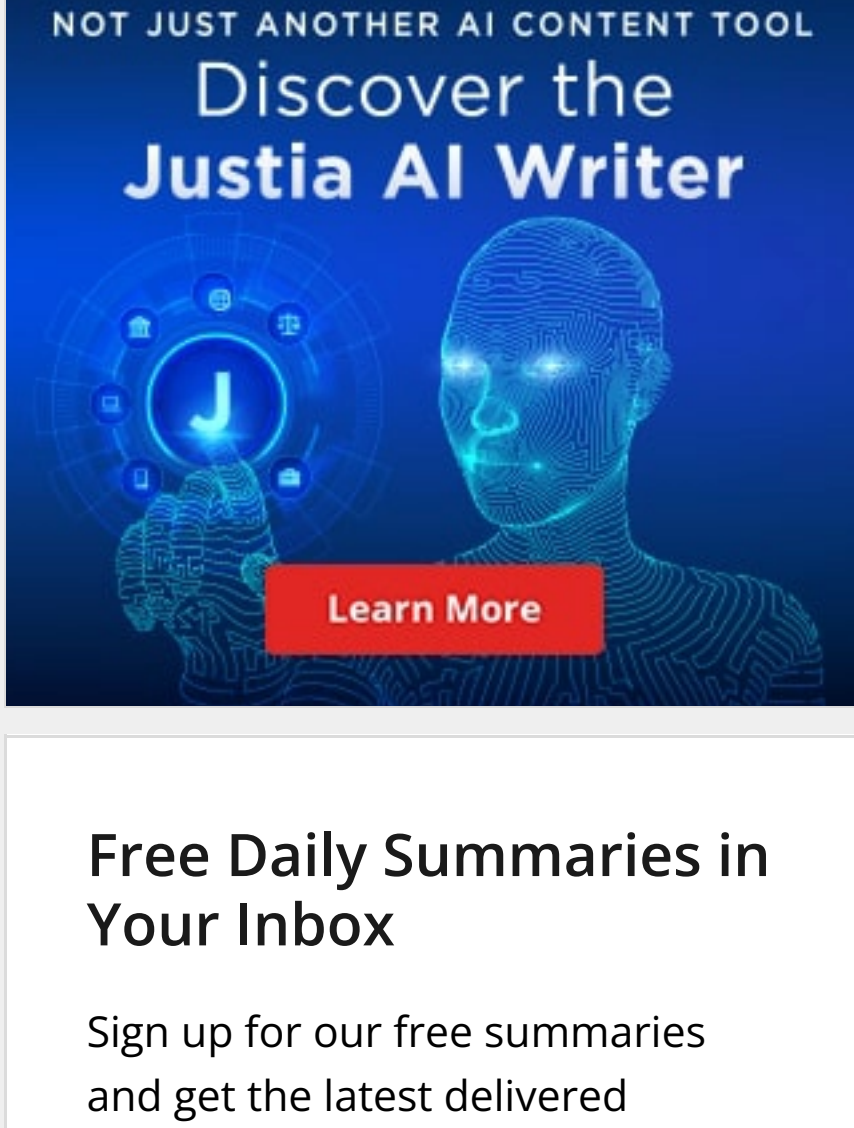
- a. It is an offense for a defendant to knowingly:
1. Manufacture a controlled substance;
 2. Deliver a controlled substance;
 3. Sell a controlled substance; or
 4. Possess a controlled substance with intent to manufacture, deliver or sell the controlled substance.
- b. A violation of subsection (a) with respect to a Schedule I controlled substance is a Class B felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).
- c. A violation of subsection (a) with respect to:
1. Cocaine or methamphetamine is a Class B felony if the amount involved is point five (0.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and
 2.
 - A. Any other Schedule II controlled substance, including cocaine or methamphetamine in an amount of less than point five (0.5) grams, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); provided, that if the offense involves less than point five (0.5) grams of a controlled substance containing cocaine or methamphetamine but the defendant carried or employed a deadly weapon as defined in § 39-11-106, during commission of the offense or the offense resulted in death or bodily injury to another person, the offense is a Class B felony.
 - B. As a part of any sentence imposed for a violation of subdivision (a)(1) involving a controlled substance listed in § 39-17-408(d)(2), the court shall require the defendant to make restitution to any governmental entity for the costs reasonably incurred in cleaning the area in which the offense occurred and in rendering the area safe for human use.
 - C. In addition to the requirement that restitution be made to the governmental entity pursuant to subdivision (c)(2)(B), the court shall also require that restitution be made to any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense. In the case of property that was rented or leased, damages may also include the loss of any revenue that occurred because the property was uninhabitable or a crime scene. The type and amount of restitution permitted pursuant to this subdivision (c)(2)(C) shall be determined by the court using the procedure set out in § 40-35-304.
- d.
 1. A violation of subsection (a) with respect to a Schedule III controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
 2.
 - A. Notwithstanding any other law to the contrary, a person charged for the first time with delivering an anabolic steroid or possessing an anabolic steroid with the intent to manufacture, deliver or sell the steroid shall be eligible for pretrial diversion pursuant to title 40, chapter 15, and probation pursuant to title 40, chapter 28 and § 40-35-313.
 - B. The inference permitted by the first sentence of § 39-17-419 does not apply to a person charged under subdivision (a)(4) with possession of an anabolic steroid with intent to sell or deliver the steroid. Unless the state can prove that an actual sale or delivery occurred, the person may only be convicted of simple possession and punished as provided in § 39-17-418.
- e. A violation of subsection (a) with respect to:
1. Flunitrazepam is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and
 2. Any other Schedule IV controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
- f. A violation of subsection (a) with respect to a Schedule V controlled substance is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).
- g.
 1. A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana containing not less than one-half (½) ounce (14.175 grams) nor more than ten pounds (10 lbs.) (4535 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds (2 lbs.) (905 grams) of hashish is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).
 2. A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana and containing not less than ten pounds (10 lbs.), one gram (4536 grams) of marijuana nor more than seventy pounds (70 lbs.) (31,696 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than two pounds (2 lbs.), one gram (906 grams) nor more than four pounds (4 lbs.) (1810 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than ten (10) marijuana plants nor more than nineteen (19) marijuana plants, regardless of weight, is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
 3. A violation of subsection (a) with respect to a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than four pounds (4 lbs.), one gram (1811 grams) nor more than eight pounds (8 lbs.) (3620 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than twenty (20) marijuana plants nor more than ninety-nine (99) marijuana plants, regardless of weight, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).
- h. A violation of subsection (a) with respect to a Schedule VII controlled substance is a Class E felony and, in addition, may be fined not more than one thousand dollars (\$1,000).
- i. A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts, is a Class B felony and, in addition, may be fined not more than two hundred thousand dollars (\$200,000):
1. Fifteen (15) grams or more of any substance containing heroin;
 2. Fifteen (15) grams or more of any substance containing morphine;
 3. Five (5) grams or more of any substance containing hydromorphone;
 4. Five (5) grams or more of any substance containing lysergic acid diethylamide (LSD);
 5. Twenty-six (26) grams or more of any substance containing cocaine;
 6. Five (5) grams or more of any substance containing a combination of pentazocine and tripeleonnamine or joint possession of pentazocine and tripeleonnamine;
 7. Thirty (30) grams or more of any substance containing phencyclidine;
 8. One hundred (100) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
 9. Fifty (50) grams or more of any substance containing phenmetrazine;
 10. Twenty-six (26) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
 11. One thousand (1,000) grams or more of any substance containing peyote;
 12. Fifteen (15) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);
 13. Two hundred (200) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or
 14. Not less than seventy pounds (70 lbs.) (31,697 grams) nor more than three hundred pounds (300 lbs.) (136,050 grams) of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than eight pounds (8 lbs.), one gram (3621 grams) nor more than fifteen pounds (15 lbs.) (6,792 grams) of any substance containing hashish, or not less than one hundred (100) marijuana plants nor more than four hundred ninety-nine (499) marijuana plants, regardless of weight.
- j. A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts is a Class A felony and, in addition, may be fined not more than five hundred thousand dollars (\$500,000):
1. One hundred fifty (150) grams or more of any substance containing heroin;
 2. One hundred fifty (150) grams or more of any substance containing morphine;
 3. Fifty (50) grams or more of any substance containing hydromorphone;
 4. Fifty (50) grams or more of any substance containing lysergic acid diethylamide (LSD);
 5. Three hundred (300) grams or more of any substance containing cocaine;
 6. Fifty (50) grams or more of any substance containing a combination of pentazocine and tripeleonnamine or joint possession of pentazocine and tripeleonnamine;
 7. Three hundred (300) grams or more of any substance containing phencyclidine;
 8. One thousand (1,000) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
 9. Five hundred (500) grams or more of any substance containing phenmetrazine;
 10. Three hundred (300) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
 11. Ten thousand (10,000) grams or more of any substance containing peyote;
 12. One hundred fifty (150) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);
 13. Two thousand (2,000) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or
 14. Three hundred pounds (300 lbs.) (136,050 grams) or more of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.), one gram (6,793 grams) of any substance containing hashish, or five hundred (500) or more marijuana plants, regardless of weight.
- k. A violation of this section or a conspiracy to violate this section where the recipient or the intended recipient of the controlled substance is under eighteen (18) years of age shall be punished one (1) classification higher than provided in subsections (b)-(i).
- l.
 1. If the district attorney general believes that a defendant should be sentenced as a habitual drug offender, the district attorney general shall file notice of the defendant's record of prior convictions for violations specified in this subsection (l) in conformity with § 40-35-202.
 2. The trial court, upon the request of the district attorney general, shall enter injunctions, restraining orders, directions or prohibitions, or take other actions, including the acceptance of satisfactory performance bonds, liens on real property, security interests in personal property, for the purpose of collecting any fine imposed pursuant to this entire section.
 3. Any person found guilty of a violation of this section that constitutes a Class A or Class B felony or attempts to commit a Class A or Class B violation of this section or conspiracy to commit a Class A or Class B violation of this section and who has at least three (3) prior Class A or Class B felony convictions or any combination thereof under this section or § 39-6-417 [repealed] or under the laws of any other state or jurisdiction, which if committed in this state would have constituted a Class A or Class B felony violation under this section or § 39-6-417 [repealed]; provided, that the prior convictions were for violations committed at different times and on separate occasions at least twenty-four (24) hours apart, shall be found to be an habitual drug offender and shall be sentenced to one range of punishment higher than the range of punishment otherwise provided for in § 40-35-105, and, in addition, shall be fined not more than two hundred thousand dollars (\$200,000).
- m. The offense described in subdivision (a)(1) with respect to any substance defined in § 39-17-408(d)(2) shall include the preparation or compounding of a controlled substance by an individual for the individual's own use.
- n.
 1. A violation of subdivision (a)(1) with respect to any amount of methamphetamine shall be punished by confinement for not less than one hundred eighty (180) days, and the person shall serve at least one hundred percent (100%) of the one hundred eighty (180) day minimum.
 2.
 - A. The one hundred eighty (180) day minimum sentence required by subdivision (n)(1) shall not be construed to prohibit a person sentenced pursuant to this subsection (n) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services.
 - B. Any person participating in such a court may receive sentence credit for up to the full one hundred eighty (180) day minimum required by subdivision (n)(1).

< Previous

Next >

Disclaimer: These codes may not be the most recent version. Tennessee may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.



Free Daily Summaries in Your Inbox

Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ Criminal Law
- ☐ New York Court of Appeals

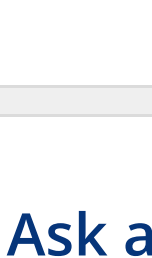
Enter Your Email

Sign Up



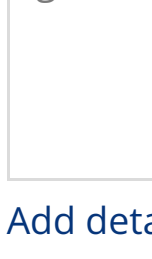
INVALID
(DATE)
Invalid
Date

The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]
[Learn More >](#)



INVALID
(DATE)
Invalid
Date

Attorneys' Duties Towards Clients When Using Technology [CLE]
[Learn More >](#)



INVALID
(DATE)
Invalid
Date

Google Analytics 101: Maximizing Your Website Traffic's Potential
[Learn More >](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Criminal Law

Tennessee

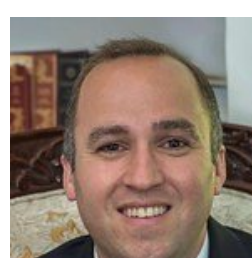
Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Stephen Bilkis ^{PRO}



(800) 696-9529

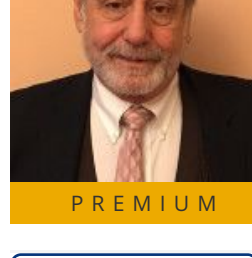
Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Stephanie Burke



(800) 696-9529

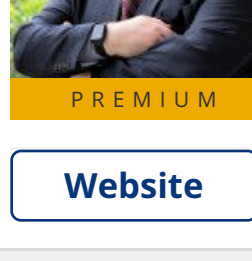
Baldwin, NY
Family Law, Divorce, Crimi...

Website

Email

Profile

Jeffrey Fox



(516) 730-9570

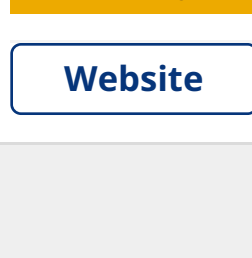
Syosset, NY
Personal Injury, Criminal L...

Website

Email

Profile

Charles Hochbaum



(800) 696-9529

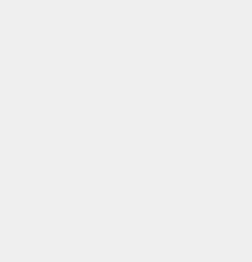
Baldwin, NY
Criminal Law, Personal Inju...

Website

Email

Profile

Jonathan Rosenberg ^{PRO}



(718) 715-4845

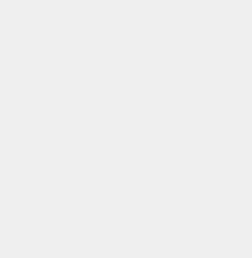
Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Richard Hochhauser ^{PRO}



(516) 939-1529

Hempstead, NY
Criminal Law, DUI & DWI, ...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

Business

Business Operations
Business Formation
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Law Schools

Dictionary
Directories
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

US Federal Law

US Constitution
US Code
Regulations
Supreme Court
Circuit Courts
District Courts
Dockets & Filings
More...

US State Law

State Constitutions
State Codes
State Case Law
California
Florida
New York
Texas
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

Go to previous versions of this Section ↓

2021 Tennessee Code
Title 40 - Criminal Procedure
Chapter 35 - Tennessee Criminal Sentencing Reform Act of 1989
Part 1 - General Provisions
§ 40-35-111. Authorized Terms of Imprisonment and Fines for Felonies and Misdemeanors

Universal Citation: TN Code § 40-35-111 (2021)

< Previous

Next >

- a. A sentence for a felony is a determinate sentence.
- b. The authorized terms of imprisonment and fines for felonies are:
- Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;
 - Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;
 - Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;
 - Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and
 - Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.
- c.
- A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:
 - Three hundred fifty thousand dollars (\$350,000) for a Class A felony;
 - Three hundred thousand dollars (\$300,000) for a Class B felony;
 - Two hundred fifty thousand dollars (\$250,000) for a Class C felony;
 - One hundred twenty-five thousand dollars (\$125,000) for a Class D felony; and
 - Fifty thousand dollars (\$50,000) for a Class E felony.
 - If a special fine for a corporation is expressly specified in the statute that defines an offense, the fine fixed shall be within the limits specified in the statute.
- d. A sentence for a misdemeanor is a determinate sentence.
- e. The authorized terms of imprisonment and fines for misdemeanors are:
- Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;
 - Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and
 - Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.
- f. In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and the house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

< Previous

Next >

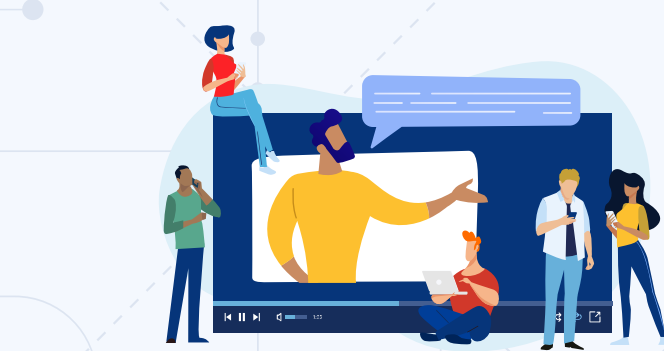
Disclaimer: These codes may not be the most recent version. [Tennessee](#) may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google [Privacy Policy](#) and [Terms of Service](#) apply.

JUSTIA CLE & Webinars

Need CLE Credit?

Explore upcoming live webinars and on-demand courses in the Justia CLE & Webinars Center.



Visit Center

Free Daily Summaries in Your Inbox

Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ Criminal Law
- ☐ New York Court of Appeals

Enter Your Email

Sign Up

Webinars You Might Like:

Invalid Date
The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court’s Affirmative Action Decision [CLE]
[Learn More >](#)

Invalid Date
Attorneys’ Duties Towards Clients When Using Technology [CLE]
[Learn More >](#)

Invalid Date
Google Analytics 101: Maximizing Your Website Traffic’s Potential
[Learn More >](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Criminal Law

Tennessee

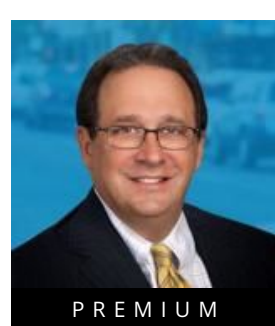
Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Stephen Bilkis **PRO**



(800) 696-9529

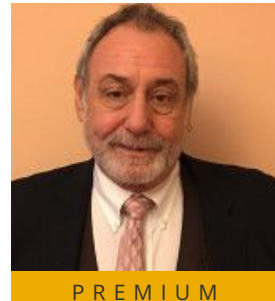
Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Charles Hochbaum



(800) 696-9529

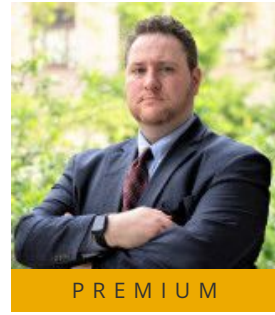
Baldwin, NY
Criminal Law, Personal Inju...

Website

Email

Profile

Jonathan Rosenberg **PRO**



(718) 715-4845

Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Shawn Richard Kassman



(888) 545-2944

Central Islip, NY
Criminal Law, Divorce, Do...

Website

Email

Profile

Richard Hochhauser **PRO**



(516) 939-1529

Hempstead, NY
Criminal Law, DUI & DWI, ...

Website

Email

Profile

Jeffrey Fox



(516) 730-9570

Syosset, NY
Personal Injury, Criminal L...

Website

Email

Profile

Joseph Maya **PRO**



(212) 682-5700

New York, NY
Employment Law, Criminal...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

Business

Business Formation
Business Operations
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Law Schools

Dictionary
Admissions
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

US Federal Law

US Constitution
US Code
Regulations
Supreme Court
Circuit Courts
District Courts
Dockets & Filings
More...

US State Law

State Constitutions
State Codes
State Case Law
California
Florida
New York
Texas
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

Go to previous versions of this Section ↓

2021 Tennessee Code

Title 39 - Criminal Offenses

Chapter 17 - Offenses Against Public Health, Safety and Welfare

Part 4 - Drugs

§ 39-17-418. Simple Possession or Casual Exchange

Universal Citation: TN Code § 39-17-418 (2021)

◀ Previous

Next ▶

- a. It is an offense for a person to knowingly possess or casually exchange a controlled substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice.
- b. It is an offense for a person to distribute a small amount of marijuana not in excess of one-half (½) ounce (14.175 grams).
- c.
1. Except as provided in subsections (d) and (e), a violation of this section is a Class A misdemeanor.
 - 2.
- A. A violation of subsection (a) with respect to any amount of methamphetamine shall be punished by confinement for not less than thirty (30) days, and the person shall serve at least one hundred percent (100%) of the thirty (30) day minimum.
- B.
- i. The thirty (30) day minimum sentence required by subdivision (c)(2)(A) shall not be construed to prohibit a person sentenced pursuant to this subsection (c) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services.
 - ii. Any person participating in such a court may receive sentence credit for up to the full thirty (30) day minimum required by subdivision (c)(2)(A).
- d. A violation of subsections (a) or (b), where there is casual exchange to a minor from an adult who is at least two (2) years the minor's senior, and who knows that the person is a minor, is punished as a felony as provided in § 39-17-417.
- e. A violation under this section is a Class E felony where the person has two (2) or more prior convictions under this section and the current violation involves a Schedule I controlled substance classified as heroin.
- f.
1. In addition to the other penalties provided in this section, any person convicted of violating this section for possession of a controlled substance may be required to attend a drug offender school, if available, or may be required to perform community service work at a drug or alcohol rehabilitation or treatment center.
 2. Any person required to attend a drug offender school pursuant to this subsection (f) shall also be required to pay a fee for attending the school. If the court determines that the person, by reason of indigency, cannot afford to pay a fee to attend the school, the court shall waive the fee and the person shall attend the school without charge. The amount of fee shall be established by the local governmental authority operating the school, but the fee shall not exceed the fee charged for attending an alcohol safety DUI school program if such a program is available in the jurisdiction. All fees collected pursuant to this subsection (f) shall be used by the governmental authority responsible for administering the school for operation of the school.

◀ Previous

Next ▶

Disclaimer: These codes may not be the most recent version. Tennessee may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

JUSTIA CLE & Webinars

Need CLE Credit?

Explore upcoming live webinars and on-demand courses in the Justia CLE & Webinars Center.



Visit Center

Free Daily Summaries in Your Inbox

Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ Criminal Law
- ☐ New York Court of Appeals

Enter Your Email

Sign Up

Webinars You Might Like:



INVALID (DATE) Invalid Date
The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]
[Learn More >](#)



INVALID (DATE) Invalid Date
Attorneys' Duties Towards Clients When Using Technology [CLE]
[Learn More >](#)



INVALID (DATE) Invalid Date
Google Analytics 101: Maximizing Your Website Traffic's Potential
[Learn More >](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Criminal Law

Tennessee

Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Stephen Bilkis **PRO**



(800) 696-9529

Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Richard Hochhauser **PRO**



(516) 939-1529

Hempstead, NY
Criminal Law, DUI & DWI, ...

Website

Email

Profile

Shawn Richard Kassman



(888) 545-2944

Central Islip, NY
Criminal Law, Divorce, Do...

Website

Email

Profile

Jonathan Rosenberg **PRO**



(718) 715-4845

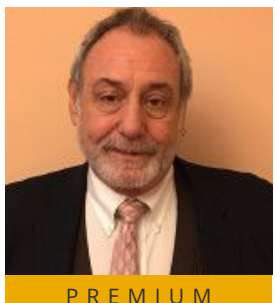
Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Charles Hochbaum



(800) 696-9529

Baldwin, NY
Criminal Law, Personal Inju...

Website

Email

Profile

Jeffrey Fox



(516) 730-9570

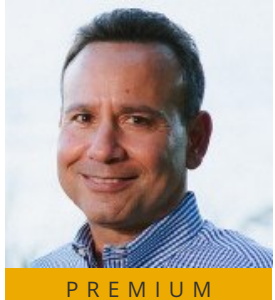
Syosset, NY
Personal Injury, Criminal L...

Website

Email

Profile

Joseph Maya **PRO**



(212) 682-5700

New York, NY
Employment Law, Criminal...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

Business

Business Formation
Business Operations
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Law Schools

Dictionary
Admissions
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

US Federal Law

US Constitution
US Code
Regulations
Supreme Court
Circuit Courts
District Courts
Dockets & Filings
More...

US State Law

State Constitutions
State Codes
State Case Law
California
Florida
New York
Texas
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

Go to previous versions of this Section ↓

2021 Tennessee Code
Title 39 - Criminal Offenses
Chapter 17 - Offenses Against Public Health, Safety and Welfare
Part 4 - Drugs
§ 39-17-432. Drug-Free School Zone — Enhanced Criminal Penalties for Violations Within Zone

Universal Citation: TN Code § 39-17-432 (2021)

< Previous

Next >

- a. It is the intent of this section to create drug-free zones for the purpose of providing vulnerable persons in this state an environment in which they can learn, play and enjoy themselves without the distractions and dangers that are incident to the occurrence of illegal drug activities. The enhanced sentences authorized by this section for drug offenses occurring in a drug-free zone are necessary to serve as a deterrent to such unacceptable conduct.
- b.
1. A violation of § 39-17-417, or a conspiracy to violate the section, may be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) if the violation or the conspiracy to violate the section occurs:

A. On the grounds or facilities of any school; or

B. Within five hundred feet (500') of or within the area bounded by a divided federal highway, whichever is less, the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.
 2. In addition to any other penalty imposed by this section, a person convicted of violating this subsection (b) may also be subject to the following:

A. Upon conviction of a Class E felony, a fine of not more than ten thousand dollars (\$10,000);

B. Upon conviction of a Class D felony, a fine of not more than twenty thousand dollars (\$20,000);

C. Upon conviction of a Class C felony, a fine of not more than forty thousand dollars (\$40,000);

D. Upon conviction of a Class B felony, a fine of not more than sixty thousand dollars (\$60,000); and

E. Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars (\$100,000).
 3. A person convicted of violating this subsection (b), who is within the prohibited zone of a preschool, childcare center, public library, recreational center or park shall not be subject to additional incarceration as a result of this subsection (b) but may be subject to the additional fines imposed by this section.
- c.
1. Notwithstanding any other law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) may be required to serve at least the minimum sentence for the defendant's appropriate range of sentence.
 2. There is a rebuttable presumption that a defendant is not required to serve at least the minimum sentence for the defendant's appropriate range of sentence. The rebuttable presumption is overcome if the court finds that the defendant's conduct exposed vulnerable persons to the distractions and dangers that are incident to the occurrence of illegal drug activity.
 3. If the defendant is required to serve at least the minimum sentence for the defendant's appropriate range of sentence, any sentence reduction credits the defendant may be eligible for or earn must not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.
- d. Notwithstanding the sentence imposed by the court, title 40, chapter 35, part 5, relative to release eligibility status and parole does not apply to or authorize the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.
- e. Nothing in title 41, chapter 1, part 5, shall give either the governor or the board of parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b), and required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.
- f. This section does not prohibit the judge from sentencing a defendant, who violated subsection (b) and is required under subsection (c) to serve at least the minimum sentence for the defendant's appropriate range of sentence, to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.
- g. The sentence of a defendant who, as the result of a single act, violates both subsection (b) and § 39-14-417(k), may be enhanced under both subsection (b) and § 39-17-417(k) for each act. The state may seek enhancement of the defendant's sentence under subsection (b), § 39-17-417(k), or both, and shall provide notice of the election pursuant to § 40-35-202.

< Previous

Next >

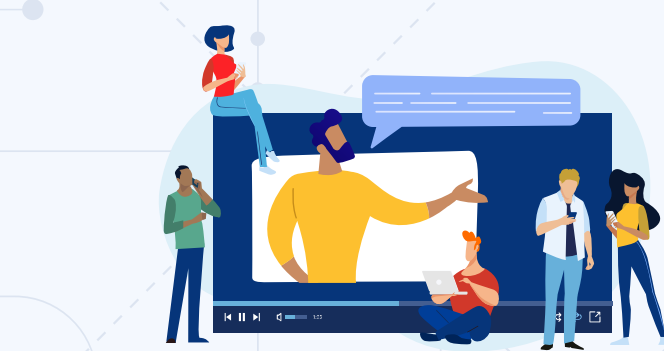
Disclaimer: These codes may not be the most recent version. [Tennessee](#) may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google [Privacy Policy](#) and [Terms of Service](#) apply.

JUSTIA CLE & Webinars

Need CLE Credit?

Explore upcoming live webinars and on-demand courses in the Justia CLE & Webinars Center.



Visit Center

Free Daily Summaries in Your Inbox

Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ Criminal Law
- ☐ New York Court of Appeals

Enter Your Email

Sign Up

Webinars You Might Like:

INVALID DATE Invalid Date

The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]

Learn More >

INVALID DATE Invalid Date

Attorneys' Duties Towards Clients When Using Technology [CLE]

Learn More >

INVALID DATE Invalid Date

Google Analytics 101: Maximizing Your Website Traffic's Potential

Learn More >

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Criminal Law

Tennessee

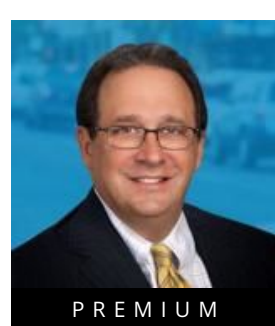
Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Stephen Bilkis PRO



(800) 696-9529

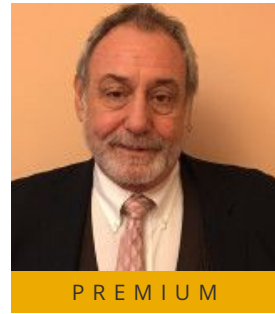
Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Charles Hochbaum



(800) 696-9529

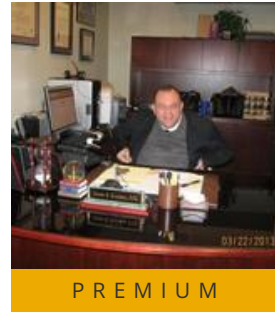
Baldwin, NY
Criminal Law, Personal Inju...

Website

Email

Profile

Shawn Richard Kassman



(888) 545-2944

Central Islip, NY
Criminal Law, Divorce, Do...

Website

Email

Profile

Richard Hochhauser PRO



(516) 939-1529

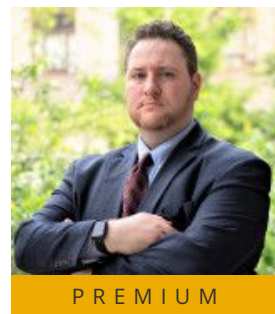
Hempstead, NY
Criminal Law, DUI & DWI, ...

Website

Email

Profile

Jonathan Rosenberg PRO



(718) 715-4845

Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Jeffrey Fox



(516) 730-9570

Syosset, NY
Personal Injury, Criminal L...

Website

Email

Profile

Joseph Maya PRO



(212) 682-5700

New York, NY
Employment Law, Criminal...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

Business

Business Formation
Business Operations
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Law Schools

Dictionary
Admissions
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

Go to previous versions of this Section ↓

2021 Tennessee Code

Title 39 - Criminal Offenses

Chapter 17 - Offenses Against Public Health, Safety and Welfare

Part 4 - Drugs

§ 39-17-417. Criminal Offenses and Penalties

Universal Citation: TN Code § 39-17-417 (2021)

< Previous

Next >

- a. It is an offense for a defendant to knowingly:
1. Manufacture a controlled substance;
 2. Deliver a controlled substance;
 3. Sell a controlled substance; or
 4. Possess a controlled substance with intent to manufacture, deliver or sell the controlled substance.
- b. A violation of subsection (a) with respect to a Schedule I controlled substance is a Class B felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).
- c. A violation of subsection (a) with respect to:
1. Cocaine or methamphetamine is a Class B felony if the amount involved is point five (0.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and
 2.
 - A. Any other Schedule II controlled substance, including cocaine or methamphetamine in an amount of less than point five (0.5) grams, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); provided, that if the offense involves less than point five (0.5) grams of a controlled substance containing cocaine or methamphetamine but the defendant carried or employed a deadly weapon as defined in § 39-11-106, during commission of the offense or the offense resulted in death or bodily injury to another person, the offense is a Class B felony.
 - B. As a part of any sentence imposed for a violation of subdivision (a)(1) involving a controlled substance listed in § 39-17-408(d)(2), the court shall require the defendant to make restitution to any governmental entity for the costs reasonably incurred in cleaning the area in which the offense occurred and in rendering the area safe for human use.
 - C. In addition to the requirement that restitution be made to the governmental entity pursuant to subdivision (c)(2)(B), the court shall also require that restitution be made to any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense. In the case of property that was rented or leased, damages may also include the loss of any revenue that occurred because the property was uninhabitable or a crime scene. The type and amount of restitution permitted pursuant to this subdivision (c)(2)(C) shall be determined by the court using the procedure set out in § 40-35-304.
- d.
 1. A violation of subsection (a) with respect to a Schedule III controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
 2.
 - A. Notwithstanding any other law to the contrary, a person charged for the first time with delivering an anabolic steroid or possessing an anabolic steroid with the intent to manufacture, deliver or sell the steroid shall be eligible for pretrial diversion pursuant to title 40, chapter 15, and probation pursuant to title 40, chapter 28 and § 40-35-313.
 - B. The inference permitted by the first sentence of § 39-17-419 does not apply to a person charged under subdivision (a)(4) with possession of an anabolic steroid with intent to sell or deliver the steroid. Unless the state can prove that an actual sale or delivery occurred, the person may only be convicted of simple possession and punished as provided in § 39-17-418.
- e. A violation of subsection (a) with respect to:
1. Flunitrazepam is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and
 2. Any other Schedule IV controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
- f. A violation of subsection (a) with respect to a Schedule V controlled substance is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).
- g.
 1. A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana containing not less than one-half (½) ounce (14.175 grams) nor more than ten pounds (10 lbs.) (4535 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds (2 lbs.) (905 grams) of hashish is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).
 2. A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana and containing not less than ten pounds (10 lbs.), one gram (4536 grams) of marijuana nor more than seventy pounds (70 lbs.) (31,696 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than two pounds (2 lbs.), one gram (906 grams) nor more than four pounds (4 lbs.) (1810 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than ten (10) marijuana plants nor more than nineteen (19) marijuana plants, regardless of weight, is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
 3. A violation of subsection (a) with respect to a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than four pounds (4 lbs.), one gram (1811 grams) nor more than eight pounds (8 lbs.) (3620 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than twenty (20) marijuana plants nor more than ninety-nine (99) marijuana plants, regardless of weight, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).
- h. A violation of subsection (a) with respect to a Schedule VII controlled substance is a Class E felony and, in addition, may be fined not more than one thousand dollars (\$1,000).
- i. A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts, is a Class B felony and, in addition, may be fined not more than two hundred thousand dollars (\$200,000):
1. Fifteen (15) grams or more of any substance containing heroin;
 2. Fifteen (15) grams or more of any substance containing morphine;
 3. Five (5) grams or more of any substance containing hydromorphone;
 4. Five (5) grams or more of any substance containing lysergic acid diethylamide (LSD);
 5. Twenty-six (26) grams or more of any substance containing cocaine;
 6. Five (5) grams or more of any substance containing a combination of pentazocine and tripeleonnamine or joint possession of pentazocine and tripeleonnamine;
 7. Thirty (30) grams or more of any substance containing phencyclidine;
 8. One hundred (100) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
 9. Fifty (50) grams or more of any substance containing phenmetrazine;
 10. Twenty-six (26) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
 11. One thousand (1,000) grams or more of any substance containing peyote;
 12. Fifteen (15) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);
 13. Two hundred (200) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or
 14. Not less than seventy pounds (70 lbs.) (31,697 grams) nor more than three hundred pounds (300 lbs.) (136,050 grams) of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.) (6,792 grams) of any substance containing hashish, or not less than one hundred (100) marijuana plants nor more than four hundred ninety-nine (499) marijuana plants, regardless of weight.
- j. A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts is a Class A felony and, in addition, may be fined not more than five hundred thousand dollars (\$500,000):
1. One hundred fifty (150) grams or more of any substance containing heroin;
 2. One hundred fifty (150) grams or more of any substance containing morphine;
 3. Fifty (50) grams or more of any substance containing hydromorphone;
 4. Fifty (50) grams or more of any substance containing lysergic acid diethylamide (LSD);
 5. Three hundred (300) grams or more of any substance containing cocaine;
 6. Fifty (50) grams or more of any substance containing a combination of pentazocine and tripeleonnamine or joint possession of pentazocine and tripeleonnamine;
 7. Three hundred (300) grams or more of any substance containing phencyclidine;
 8. One thousand (1,000) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
 9. Five hundred (500) grams or more of any substance containing phenmetrazine;
 10. Three hundred (300) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
 11. Ten thousand (10,000) grams or more of any substance containing peyote;
 12. One hundred fifty (150) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);
 13. Two thousand (2,000) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or
 14. Three hundred pounds (300 lbs.) (136,050 grams) or more of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.), one gram (6,793 grams) of any substance containing hashish, or five hundred (500) or more marijuana plants, regardless of weight.
- k. A violation of this section or a conspiracy to violate this section where the recipient or the intended recipient of the controlled substance is under eighteen (18) years of age shall be punished one (1) classification higher than provided in subsections (b)-(i).
- l.
 1. If the district attorney general believes that a defendant should be sentenced as a habitual drug offender, the district attorney general shall file notice of the defendant's record of prior convictions for violations specified in this subsection (l) in conformity with § 40-35-202.
 2. The trial court, upon the request of the district attorney general, shall enter injunctions, restraining orders, directions or prohibitions, or take other actions, including the acceptance of satisfactory performance bonds, liens on real property, security interests in personal property, for the purpose of collecting any fine imposed pursuant to this entire section.
 3. Any person found guilty of a violation of this section that constitutes a Class A or Class B felony or attempts to commit a Class A or Class B violation of this section or conspiracy to commit a Class A or Class B violation of this section and who has at least three (3) prior Class A or Class B felony convictions or any combination thereof under this section or § 39-6-417 [repealed] or under the laws of any other state or jurisdiction, which if committed in this state would have constituted a Class A or Class B felony violation under this section or § 39-6-417 [repealed]; provided, that the prior convictions were for violations committed at different times and on separate occasions at least twenty-four (24) hours apart, shall be found to be an habitual drug offender and shall be sentenced to one range of punishment higher than the range of punishment otherwise provided for in § 40-35-105, and, in addition, shall be fined not more than two hundred thousand dollars (\$200,000).
- m. The offense described in subdivision (a)(1) with respect to any substance defined in § 39-17-408(d)(2) shall include the preparation or compounding of a controlled substance by an individual for the individual's own use.
- n.
 1. A violation of subdivision (a)(1) with respect to any amount of methamphetamine shall be punished by confinement for not less than one hundred eighty (180) days, and the person shall serve at least one hundred percent (100%) of the one hundred eighty (180) day minimum.
 2.
 - A. The one hundred eighty (180) day minimum sentence required by subdivision (n)(1) shall not be construed to prohibit a person sentenced pursuant to this subsection (n) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services.
 - B. Any person participating in such a court may receive sentence credit for up to the full one hundred eighty (180) day minimum required by subdivision (n)(1).

< Previous

Next >

Disclaimer: These codes may not be the most recent version. Tennessee may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

Free Daily Summaries in Your Inbox

Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ Criminal Law
- ☐ New York Court of Appeals

Enter Your Email

Sign Up



Webinars You Might Like:



The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]

[Learn More >](#)



Attorneys' Duties Towards Clients When Using Technology [CLE]

[Learn More >](#)



Google Analytics 101: Maximizing Your Website Traffic's Potential

[Learn More >](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Criminal Law

Tennessee

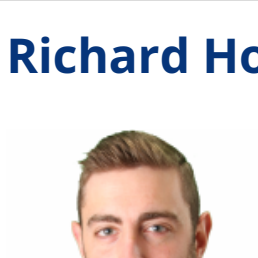
Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Stephen Bilkis ^{PRO}



(800) 696-9529

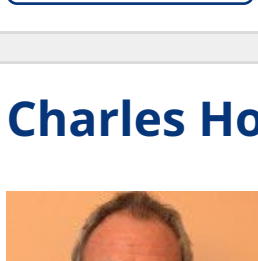
Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Jonathan Rosenberg ^{PRO}



(718) 715-4845

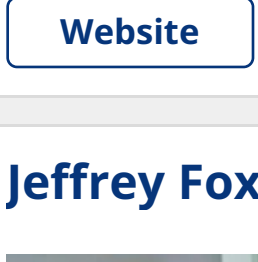
Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Richard Hochhauser ^{PRO}



(516) 939-1529

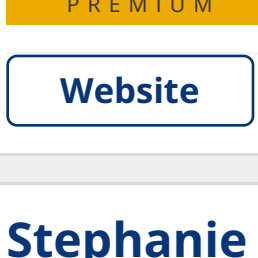
Hempstead, NY
Criminal Law, DUI & DWI, ...

Website

Email

Profile

Charles Hochbaum



(800) 696-9529

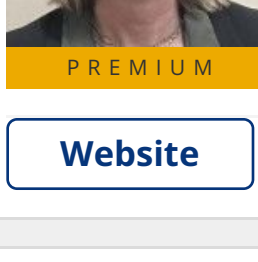
Baldwin, NY
Criminal Law, Personal Inju...

Website

Email

Profile

Jeffrey Fox



(516) 730-9570

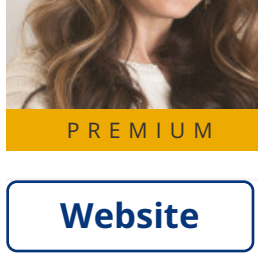
Syosset, NY
Personal Injury, Criminal L...

Website

Email

Profile

Stephanie Burke



(800) 696-9529

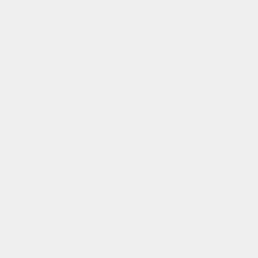
Baldwin, NY
Family Law, Divorce, Crimi...

Website

Email

Profile

Kara Rachel Lavy ^{PRO}



(212) 321-0226

New York, NY
Criminal Law, Immigration ...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

Business

Business Operations
Business Formation
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Law Schools

Dictionary
Directories
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

US Federal Law

US Constitution
US Code
Regulations
Supreme Court
Circuit Courts
District Courts
Dockets & Filings
More...

US State Law

State Constitutions
State Codes
State Case Law
California
Florida
New York
Texas
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

Go to previous versions of this Section ↓

2021 Tennessee Code

Title 39 - Criminal Offenses

Chapter 17 - Offenses Against Public Health, Safety and Welfare

Part 4 - Drugs

§ 39-17-424. Determination Whether Object Is Drug Paraphernalia

Universal Citation: TN Code § 39-17-424 (2021)

◀ Previous

Next ▶

In determining whether a particular object is drug paraphernalia as defined by § 39-17-402, the court or other authority making that determination shall, in addition to all other logically relevant factors, consider the following:

1. Statements by the owner or anyone in control of the object concerning its use;
2. Prior convictions, if any, of the owner or of anyone in control of the object for violation of any state or federal law relating to controlled substances or controlled substance analogues;
3. The existence of any residue of controlled substances or controlled substance analogues on the object;
4. Instructions, oral or written, provided with the object concerning its use;
5. Descriptive materials accompanying the object that explain or depict its use;
6. The manner in which the object is displayed for sale;
7. The existence and scope of legitimate uses for the object in the community; and
8. Expert testimony concerning its use.

◀ Previous

Next ▶

Disclaimer: These codes may not be the most recent version. [Tennessee](#) may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google [Privacy Policy](#) and [Terms of Service](#) apply.

JUSTIA CLE & Webinars

Need CLE Credit?

Explore upcoming live webinars and on-demand courses in the Justia CLE & Webinars Center.



Visit Center

Free Daily Summaries in Your Inbox

Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ Criminal Law
- ☐ New York Court of Appeals

Enter Your Email

Sign Up

Webinars You Might Like:

INVALID (DATE) Invalid Date
The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]
[Learn More >](#)

INVALID (DATE) Invalid Date
Attorneys' Duties Towards Clients When Using Technology [CLE]
[Learn More >](#)

INVALID (DATE) Invalid Date
Google Analytics 101: Maximizing Your Website Traffic's Potential
[Learn More >](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Criminal Law

Tennessee

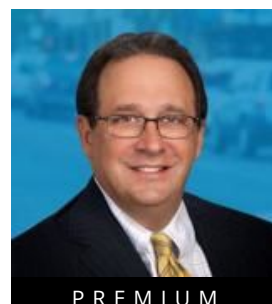
Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Stephen Bilkis **PRO**



(800) 696-9529

Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Shawn Richard Kassman



(888) 545-2944

Central Islip, NY
Criminal Law, Divorce, Do...

Website

Email

Profile

Jonathan Rosenberg **PRO**



(718) 715-4845

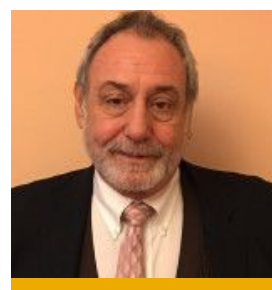
Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Charles Hochbaum



(800) 696-9529

Baldwin, NY
Criminal Law, Personal Inju...

Website

Email

Profile

Stephanie Burke



(800) 696-9529

Baldwin, NY
Family Law, Divorce, Crimi...

Website

Email

Profile

Richard Hochhauser **PRO**



(516) 939-1529

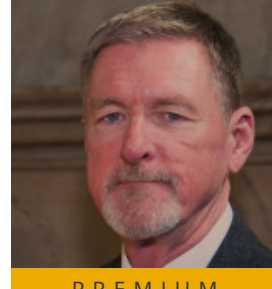
Hempstead, NY
Criminal Law, DUI & DWI, ...

Website

Email

Profile

Charles Holster **PRO**



(516) 747-2330

Garden City, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

Business

Business Formation
Business Operations
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Law Schools

Dictionary
Admissions
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

US Federal Law

US Constitution
US Code
Regulations
Supreme Court
Circuit Courts
District Courts
Dockets & Filings
More...

US State Law

State Constitutions
State Codes
State Case Law
California
Florida
New York
Texas
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

Go to previous versions of this Section ↓

2021 Tennessee Code
Title 39 - Criminal Offenses
Chapter 17 - Offenses Against Public Health, Safety and Welfare
Part 4 - Drugs
§ 39-17-425. Unlawful Drug Paraphernalia Uses and Activities

Universal Citation: TN Code § 39-17-425 (2021)

< Previous

Next >

- a.
- Except when used or possessed with the intent to use by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analogue in violation of this part.
 - Any person who violates this subsection (a) commits a Class A misdemeanor.
- b.
- Except when delivered, possessed with the intent to deliver, or manufactured with the intent to deliver by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, it is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analogue in violation of this part.
 - Any person who violates subdivision (b)(1) commits a Class E felony.
 - Except when delivered by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, any person eighteen (18) years of age or over who violates this subsection (b) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than that person commits a Class E felony.
- c.
- It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
 - Any person who violates subdivision (c)(1) commits a Class A misdemeanor.

< Previous

Next >

Disclaimer: These codes may not be the most recent version. [Tennessee](#) may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google [Privacy Policy](#) and [Terms of Service](#) apply.

JUSTIA CLE & Webinars

Need CLE Credit?

Explore upcoming live webinars and on-demand courses in the Justia CLE & Webinars Center.



Visit Center

Free Daily Summaries in Your Inbox

Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ Criminal Law
- ☐ New York Court of Appeals

Enter Your Email

Sign Up

Webinars You Might Like:

INVALID (DATE) Invalid Date
The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]
[Learn More >](#)

INVALID (DATE) Invalid Date
Attorneys' Duties Towards Clients When Using Technology [CLE]
[Learn More >](#)

INVALID (DATE) Invalid Date
Google Analytics 101: Maximizing Your Website Traffic's Potential
[Learn More >](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Criminal Law

Tennessee

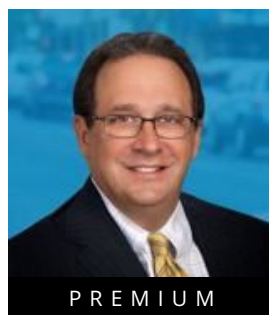
Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Stephen Bilkis **PRO**



(800) 696-9529

Baldwin, NY
Family Law, Divorce, Perso...

Website

Email

Profile

Stephanie Burke



(800) 696-9529

Baldwin, NY
Family Law, Divorce, Crimi...

Website

Email

Profile

Shawn Richard Kassman



(888) 545-2944

Central Islip, NY
Criminal Law, Divorce, Do...

Website

Email

Profile

Jonathan Rosenberg **PRO**



(718) 715-4845

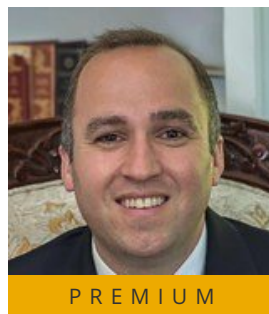
Brooklyn, NY
Appeals & Appellate, Crimi...

Website

Email

Profile

Jeffrey Fox



(516) 730-9570

Syosset, NY
Personal Injury, Criminal L...

Website

Email

Profile

Richard Hochhauser **PRO**



(516) 939-1529

Hempstead, NY
Criminal Law, DUI & DWI, ...

Website

Email

Profile

Joseph Maya **PRO**



(212) 682-5700

New York, NY
Employment Law, Criminal...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers
Business Lawyers
Criminal Lawyers
Employment Lawyers
Estate Planning Lawyers
Family Lawyers
Personal Injury Lawyers
More...

Individuals

Bankruptcy
Criminal
Divorce
DUI
Estate Planning
Family Law
Personal Injury
More...

Business

Business Formation
Business Operations
Employment
Intellectual Property
International Trade
Real Estate
Tax Law
More...

Law Schools

Dictionary
Admissions
Financial Aid
Course Outlines
Law Journals
Blogs
Employment
More...

US Federal Law

US Constitution
US Code
Regulations
Supreme Court
Circuit Courts
District Courts
Dockets & Filings
More...

US State Law

State Constitutions
State Codes
State Case Law
California
Florida
New York
Texas
More...

Other Databases

Legal Jobs
Legal Blogs
Business Forms
Product Recalls
Patents
Trademarks
Countries
More...

Marketing Solutions

Justia Connect Membership
Justia Lawyer Directory
Justia Premium Placements
Justia Elevate (SEO, Websites)
Justia Amplify (PPC, GBP)
Justia Onward Blog
Testimonials
More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

There is a newer version of the Tennessee Code ↴

View our newest version here →

2010 Tennessee Code

Title 39 - Criminal Offenses

Chapter 17 - Offenses Against Public Health, Safety and Welfare

Part 4 - Drugs

39-17-402 - Definitions.

39-17-402. Definitions.

As used in this part and title 53, chapter 11, parts 3 and 4, unless the context otherwise requires:

(1) Administer means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (A) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or
- (B) The patient or research subject at the direction and in the presence of the practitioner;

(2) Agent means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. Agent does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;

(3) Bureau means the United States drug enforcement administration, United States department of justice, or its successor agency, except when used as the Tennessee bureau of investigation;

(4) Controlled substance means a drug, substance, or immediate precursor in Schedules I through VI of §§ 39-17-403 39-17-415;

(5) Counterfeit substance means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(6) Deliver or delivery means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(7) Dispense means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(8) Dispenser means a practitioner who dispenses;

(9) Distribute means to deliver other than by administering or dispensing a controlled substance;

(10) Distributor means a person who distributes;

(11) Drug means:

(A) Substances recognized as drugs in the United States Pharmacopoeia, official Homeopaths Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal;

(C) Substances, other than food, intended to affect the structure or any function of the body of man or animal; and

(D) Substances intended for use as a component of any article specified in subdivision (11)(A), (B) or (C). Drug does not include devices or their components, parts, or accessories;

(12) Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance as defined in subdivision (4). Drug paraphernalia includes, but is not limited to:

(A) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled substance;

(B) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances; and

(C) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, acrylic, glass, stone, or plastic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburation tubes and devices;

(iv) Smoking and carburation masks;

(v) Chamber pipes;

(vi) Carburetor pipes;

(vii) Electric pipes;

(viii) Chillums;

(ix) Bonges; and

(x) Ice pipes or chillers;

(13) Immediate methamphetamine precursor means ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers, or any drug or other product that contains a detectable quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers;

(14) Immediate precursor means a substance that the commissioner of mental health and developmental disabilities, upon the agreement of the commissioner of health, has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture;

(15) Manufacture means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that manufacture does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance by:

(A) A practitioner as an incident to administering or dispensing a controlled substance in the course of professional practice; or

(B) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(16) Marijuana means all parts of the plant cannabis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seeds of the plant which are incapable of germination;

(17) Narcotic drug means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(B) Any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subdivision (16)(A), but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw; and

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

(18) Opiate means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. Opiate does not include, unless specifically designated as controlled under § 39-17-403, the dextrorotatory isomer of 3-methoxy-methyl-morphinan and its salts (dextromethorphan). Opiate does not include its racemic and levorotatory forms;

(19) Opium poppy means the plant of the species Papaver somniferum 1 , except its seeds;

(20) Person means individual, corporation, governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity;

(21) Pharmacist means a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in this part or title 53, chapter 11, parts 3 and 4 shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to that person by the pharmacy laws of this state;

(22) Poppy straw means all parts, except the seeds, of the opium poppy after mowing;

(23) Practitioner means:

(A) A physician, dentist, optometrist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state; or

(B) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state;

(24) Production includes the manufacturing, planting, cultivating, growing or harvesting of a controlled substance;

(25) State, when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States;

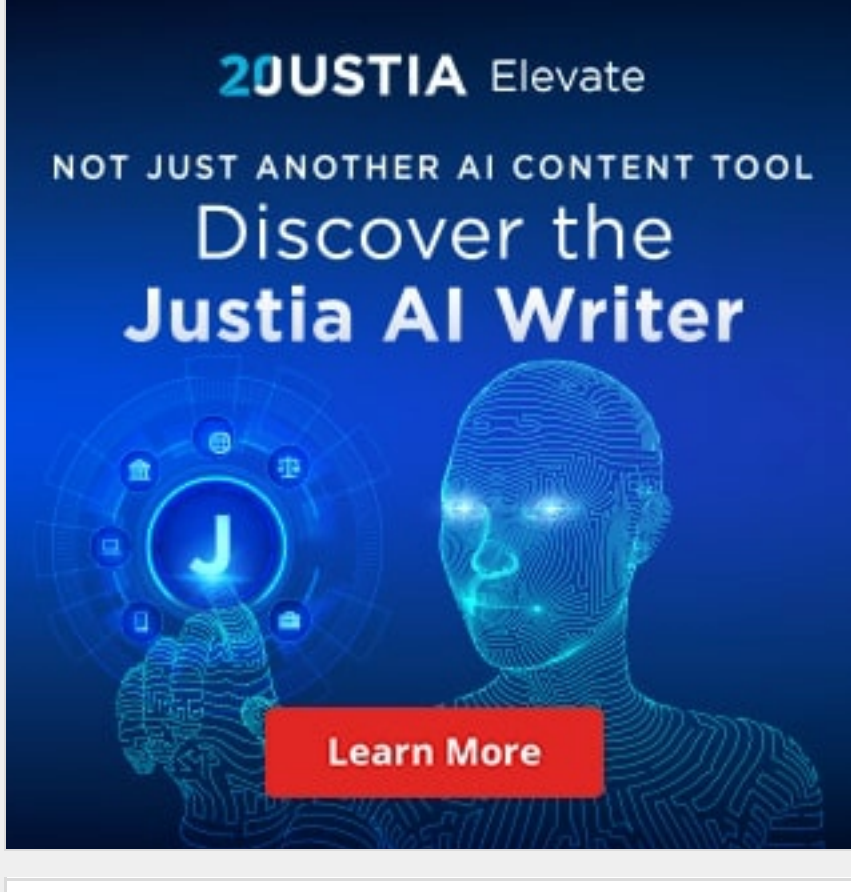
(26) Ultimate user means a person who lawfully possesses a controlled substance for the person's own use or for the use of a member of the person's household or for the administering to an animal owned by the person or by a member of the person's household; and

(27) Wholesaler means a person who supplies a controlled substance that the person has not produced or prepared, on official written orders, but not on prescriptions.

[Acts 1989, ch. 591, § 1; 1993, ch. 295, § 8; 2005, ch. 18, § 9.]

Disclaimer: These codes may not be the most recent version. Tennessee may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.



Free Daily Summaries in Your Inbox

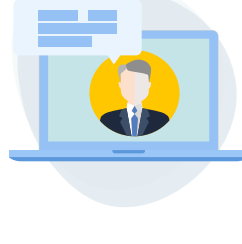
Sign up for our free summaries and get the latest delivered directly to you.

Our Suggestions:

- ☐ Tennessee Supreme Court
- ☐ New York Court of Appeals
- ☐ US Court of Appeals for the 2nd Circuit

Enter Your Email

Sign Up



Webinars You Might Like:

The Attack on DEI – Safeguarding Corporate DEI Initiatives Post-Supreme Court's Affirmative Action Decision [CLE]
[Learn More](#)

Attorneys' Duties Towards Clients When Using Technology [CLE]
[Learn More](#)

Google Analytics 101: Maximizing Your Website Traffic's Potential
[Learn More](#)

Please visit individual webinar pages for more information about CLE accreditation.

Ask a Lawyer

Question:

Please ask your question here and get free answers from lawyers.

Add details

120

Ask Question

Find a Lawyer

Legal Issue or Lawyer Name

Tennessee

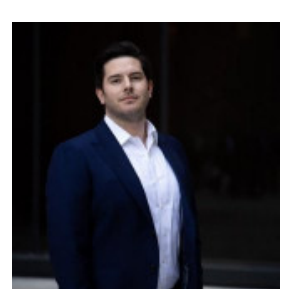
Search

Lawyers - Get Listed Now!

Get a free directory profile listing

SPONSORED LISTINGS

Benjamin A. Goldburd



(212) 302-9400

New York, NY

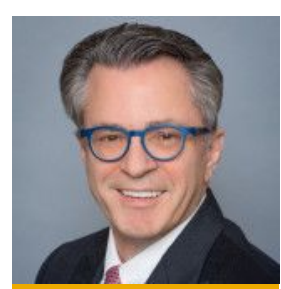
Tax Law

Website

Email

Profile

Michael Ettinger



(800) 500-2525

Rockville Centre, NY

Elder Law, Estate Planning...

Website

Email

Profile

Steven J. Seiden



(800) 287-2433

Carle Place, NY

Personal Injury, Products L...

Website

Email

Profile

Jonathan Rosenberg **PRO**



(718) 715-4845

Brooklyn, NY

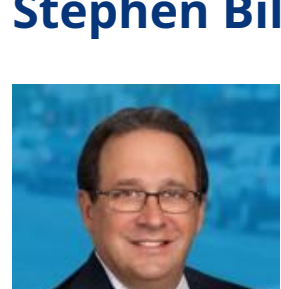
Appeals & Appellate, Crimi...

Website

Email

Profile

Stephen Bilkis **PRO**



(800) 696-9529

Baldwin, NY

Family Law, Divorce, Perso...

Website

Email

Profile

Darren M. Shapiro



(516) 333-6555

Jericho, NY

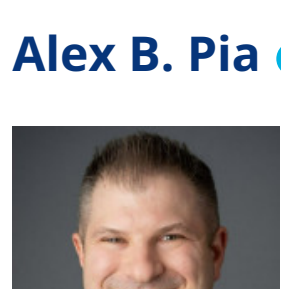
Arbitration & Mediation, Di...

Website

Email

Profile

Alex B. Pia **PRO**



(212) 485-5282

New York, NY

Real Estate Law, Constructi...

Website

Email

Profile

Justia Legal Resources

Find A Lawyer

Bankruptcy Lawyers

Business Lawyers

Criminal Lawyers

Employment Lawyers

Estate Planning Lawyers

Family Lawyers

Personal Injury Lawyers

More...

Individuals

Bankruptcy

Criminal

Divorce

DUI

Estate Planning

Family Law

Personal Injury

More...

Business

Business Formation

Business Operations

Employment

Intellectual Property

International Trade

Real Estate

Tax Law

More...

Other Databases

Legal Jobs

Legal Blogs

Business Forms

Product Recalls

Patents

Trademarks

Countries

More...

Law Schools

Dictionary

Admissions

Financial Aid

Course Outlines

Law Journals

Blogs

Employment

More...

Marketing Solutions

Justia Connect Membership

Justia Lawyer Directory

Justia Premium Placements

Justia Elevate (SEO, Websites)

Justia Amplify (PPC, GBP)

Justia Onward Blog

Testimonials

More...

Get free summaries of new Tennessee Supreme Court opinions delivered to your inbox!

Enter Your Email

Sign Up

SENATE BILL 2726

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 2,
relative to non-binding, advisory referenda.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Each county election commission shall include the following questions on the November 2024 election ballot to serve as a non-binding, advisory referendum:

Should the State of Tennessee legalize medical marijuana? YES or NO

Should the State of Tennessee decriminalize possession of less than one ounce
(1 oz.) of marijuana? YES or NO

Should the State of Tennessee legalize and regulate commercial sales of
recreational use marijuana? YES or NO

SECTION 2. The secretary of state shall compile the results of the non-binding, advisory referendum, publish the results on the secretary of state's website, and forward the results to each member of the general assembly.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.