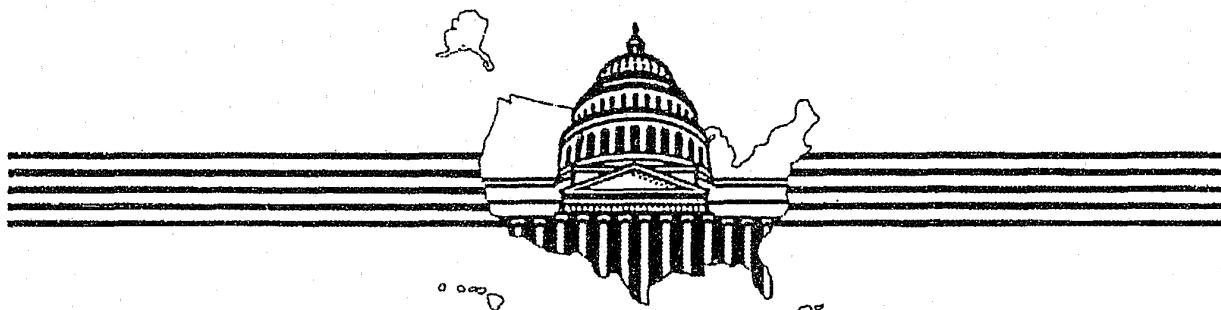


A Guide to State Controlled Substances Acts



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PREFACE

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

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

However, officials' efforts to draw such comparisons have been hampered by the lack of a single compilation or summary of CSA's that permitted a ready comparison of statutory elements. It became apparent in earlier NCJA research on state laws and procedures affecting drug trafficking control that state and local officials would find such a summary helpful.

This *Guide* is intended to fill that information gap by describing the purposes and development of CSA's, identifying common elements of CSA's, tracking recent developments in amendments to or applications of CSA's, summarizing major elements of each state CSA, and providing charts for ready comparison of these elements. The information contained in this report generally is derived from published state codes and the most recent code supplements available as of mid-1987. In some instances, however, the text reflects CSA amendments that took effect after that time, as well as clarifications of statutory provisions obtained through conversations with state officials. The NCJA plans to update the *Guide* periodically to reflect any future changes in federal or state CSA provisions. Information is included on the drug control statutes of all 50 states and the District of Columbia.

Development of the *Guide* was carried out in cooperation with and through a grant from the U. S. Department of Justice's Bureau of Justice Assistance (BJA). The BJA was established under the Justice Assistance Act of 1984 (Chapter VI, Part D, of the Comprehensive Crime Control Act of 1984, P. L. 98-473). Using block and discretionary grant programs as vehicles to allocate federal funding, the BJA assists state and local governments in improving the functioning of their respective criminal justice systems and law enforcement agencies, particularly in dealing with violent crime and serious offenders. In addition, under the State and Local Narcotics Control Assistance Act of 1986 (Subtitle K, Title I of the Anti-Drug Abuse Act of 1986, P. L. 99-570), the BJA is charged with the distribution of funds to augment state and local drug laws enforcement efforts. George A. Luciano was appointed to head the BJA on April 17, 1987.

The NCJA would like to thank Law Enforcement Branch Chief Richard Ward and Program Manager Fred Becker, both of the BJA, for their support of the project. The NCJA and the BJA gratefully acknowledge the efforts of Dr. Bernard A. Gropper, program manager for the justice department's National Institute of Justice, Drugs and Crime Research Program, in reviewing drafts and otherwise assisting in the *Guide*'s development. The NCJA also would like to acknowledge particularly the diligent work of NCJA Legal Researchers Andrew B. Brown and Ralph W. Talbot, Jr., and NCJA Staff Associate Lydia Brashear in researching and compiling the information for the *Guide*. The work of NCJA Associate General Counsel Penny Wakefield in coordinating and directing the project and the efforts of NCJA Staff Associates Mark R. Miller and Susan D. Schultz in providing research and editorial assistance for the project also are much appreciated.

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INTRODUCTION

State and federal controlled substances acts (CSA's) are designed primarily to govern the possession, use, sale, distribution, and manufacture of drugs that have a potential for abuse that may lead to dependence or other undesirable consequences. The CSA's provide government agencies with a means for controlling drug abuse and illegal trade in drugs through systems that classify drugs according to set criteria and that establish penalties, including monetary fines and terms of incarceration, for offenses involving the controlled substances. In the federal CSA, there are five categories, or schedules, under which drugs are classified according to their potential for abuse and degree of danger. State CSA's also have scheduling hierarchies, modeled after the federal act. In addition to scheduling mechanisms, CSA's may include provisions establishing penalties for the possession, manufacture, delivery, sale, and, in some cases, use of drugs, as well as enhanced penalties for specific or repeat offenses; authorizing forfeiture of assets associated with drug offenses; and creating special categories and penalties for offenses involving minors, drug paraphernalia, and analogs or imitation drugs.

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

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

Background

The first major federal legislation regulating the illicit use of dangerous substances, passed in 1887 (21 U.S.C. §§ 191-193 (1982)), was to curb the importation of opium into the United States by Chinese and into China by U. S. citizens. Congress subsequently enacted a number of additional statutes regulating dangerous drugs, including the Harrison Narcotic Drug Act of 1914 (I.R.C. §§ 4701-4736 (1954)); the Narcotic Drugs Import and Export Act of 1922 (21 U.S.C. 171-185 (1982))(original version at 35 Stat. 614 (1909)); the Marijuana Tax Act of 1937 (I.R.C. §§ 4741-4762 (1954)); the Opium Poppy Control Act of 1942 (21 U.S.C. §§ 188-188n (1982)); and the Narcotics Manufacturing Act of 1960 (21 U.S.C. §§ 501-517 (1982)). In 1970, in order to improve administration of the various federal statutes that regulated controlled substances, the Congress repealed most of the previous legislation and brought regulation of all drugs under the Controlled Substances Act of 1970 (Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§ 801-970). The CSA was amended by the Comprehensive Crime Control Act of 1984 (Pub. L. No. 98-473) and the Anti-Drug Abuse Act of 1986 (Pub. L. No. 99-570). The U. S. Drug Enforcement Administration (DEA) and the U. S. Customs Service have primary responsibility for enforcing the CSA. The DEA, which replaced the Bureau of Narcotics and Dangerous Drug Control in 1973, has the specific responsibilities of administering drug control-related licensing and registration requirements under the CSA, enforcing the CSA within the United States, and suppressing international illicit drug trafficking. The CSA established controls and sanctions in addition to those provided under the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301-382 (1982)), which regulates commerce in all therapeutic drugs.

Following enactment of the federal CSA, the National Conference of Commissioners on Uniform State Laws (NCCUSL), an organization of individuals appointed by their respective states' governors to develop uniform legislation, drafted a Uniform Controlled Substances Act (UCSA) as a model for states to consider when updating and revising their own drug laws. The purpose of the UCSA was to promote uniformity among states' laws, as well as between federal and state statutes, as a means of achieving consistent and more effective control of the possession, use, sale, distribution, and manufacture of regulated substances. Although the UCSA contained many elements that were complementary or identical to those of the federal statute, the UCSA did not include some kinds of provisions, such as those setting out fines or terms of incarceration, that the commissioners had concluded fell to state legislatures to determine.

Today only New Hampshire, Vermont, and Maine have not adopted the UCSA in major part. New Hampshire has a Controlled Drug Act; Vermont has a chapter entitled, "Possession and Control of Regulated Drugs"; Maine's statute includes some UCSA elements. In this *Guide*, the term, "CSA" encompasses and refers to the drug control statutes of all 50 states and the District of Columbia.

In the last 15 years, state statutes have undergone numerous modifications, often to bring them into conformance with changes made in the federal law. In addition, some states have adopted provisions of model legislation developed by the DEA to assist states in addressing specific drug control problems not covered in either the federal act or the UCSA; the most notable of these DEA models are the Model Drug Paraphernalia Act of 1979, the Model Forfeiture of Drug Profits Act of 1981, and the Model Imitation Controlled Substances Act of 1981.

Variations in CSA's

One of the major differences among states' CSA's is the fines and terms of incarceration assigned for specific CSA violations. While the realm of possible offenses does not differ significantly from state to state, the penalties for such offenses often vary substantially, depending upon individual states' perceived drug problems and their deterrent objectives.

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

Another variable among CSA's is the type and scope of forfeiture provisions, which provide states with the means of depriving drug laws violators of the proceeds of their illegal activity and which therefore serve as a potential deterrent to such activity. For example, most state CSA's, like the UCSA and the federal CSA, authorize forfeiture of conveyances, currency, or other items of value used to facilitate a violation of the CSA. However, some state statutes also include items such as drug paraphernalia and imitation drugs on statutory lists of property subject to forfeiture. On the other hand, many states have refused to authorize forfeiture of real property used to facilitate, or purchased with proceeds resulting from, a violation; federal law permits forfeiture of real property in such cases. Formulas for distributing forfeited assets or proceeds from the illegal sale of drugs also differ considerably among the states.

Other variations among state CSA's have developed as a result of statutory modifications made in some states in response to specific drug control concerns. For example, one category of offense that has been added to numerous state statutes, as well as the federal law, in recent years involves the use of minors in the distribution, manufacture, or sale of controlled substances. A related type of amendment in a number of statutes is a provision that adds or increases penalties for distribution of controlled substances within a certain radius of schools. These provisions vary considerably among jurisdictions with regard to the ages of offenders and victims that trigger the penalties, the distances from schools that trigger the offense, and the types of schools encompassed by such a provision.

State legislatures' increased focus on CSA's and the resulting statutory changes in recent years have been the subject of NCCUSL review. The commissioners developed for consideration in late 1987 a number of amendments to the UCSA that reflect changes already made in the federal CSA or in state statutes, as well as proposals for addressing other recently identified issues or problems. Proposed modifications include:

- o updated UCSA schedules reflecting changes that have been made on the federal level;
- o language authorizing the emergency scheduling of drug analogs to enable states to take immediate action in cases involving drugs that have effects similar to those of any drugs listed in schedules I and II, but that have a chemical structure that has been altered so that it is not a scheduled drug;
- o provisions designed to encourage states to identify substances that frequently are "diverted" from legitimate to illegitimate channels and to cooperate with other states and the federal government to prevent such illicit diversion;

- o a provision addressing the use or maintenance of rooms or buildings for the purpose of storing or manufacturing controlled substances;
- o a provision authorizing prosecution for use of communications facilities in connection with CSA violations;
- o a provision addressing the distribution of controlled substances to minors and the manufacturing of controlled substances within 1,000 feet of public or private schools and colleges;
- o a provision authorizing prosecution of persons more than 18 years old who use individuals under 18 years old to help carry out illegal drug operations;
- o language authorizing the prosecution of individuals involved in continuing criminal enterprises;
- o a provision establishing a drug treatment option for those convicted of violating CSA provisions;
- o a provision eliminating existing language that provides for the decriminalization of possession of small amounts of marijuana for personal use; and
- o a provision recommending prohibition of seizure actions regarding attorney's fees prior to the conclusion of a defendant's trial and prohibiting such actions if the transaction is not fraudulent.

The NCCUSL is scheduled to review and take action concerning these proposed modifications in August 1988.

Guide Overview

This *Guide* is divided into four sections. The first section reviews the federal CSA and recent amendments contained in the Anti-Drug Abuse Act of 1986. The next section includes a general overview of state CSA's and a comparative analysis of state and federal CSA provisions.

The third section consists of state-by-state summaries of controlled substances acts. These summaries are in chart form for ready comparison of states' provisions. Each summary provides information regarding scheduling, offenses, possible sentences, scope and types of forfeiture provisions, paraphernalia and imitation drug provisions, and provisions concerning offenses involving minors. Each summary also includes a brief narrative description of the state statute and a section highlighting unique or otherwise noteworthy provisions.

The final part of the *Guide* contains a number of appendices. There are tables of code citations to all state CSA's and to relevant federal statutes. There also are reference charts that identify which state statutes contain given provisions or characteristics; major elements of states' CSA's penalties, including enhanced penalties, for offenses covered under state CSA's; and forfeitable property under state CSA's. Also included are the U. S. Attorney General's most recent guidelines, issued in December 1987, on sharing of seized and forfeited assets among agencies that work cooperatively with the federal government in cases that result in such forfeitures. A resource list of individuals and organizations that can provide more information about CSA's and a glossary of selected terms used in this *Guide* make up the final appendices.

THE FEDERAL CONTROLLED SUBSTANCES ACT

Scheduling

The regulatory scheme of the federal controlled substances act classifies substances into five categories, or schedules, to facilitate administration and regulation of the manufacturing, distribution, and dispensing of narcotics and other dangerous drugs without interfering in the legitimate and necessary businesses of doctors, pharmacists, and manufacturers.

The categories are based upon such characteristics of drugs as potential for abuse, accepted medical use, and propensity to create a psychological or physiological dependency for users. Classification of drugs and periodic updating and re-publication of lists of drugs included in each category are the responsibility of the U. S. Drug Enforcement Administration (DEA).

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

Schedule II drugs have a high potential for abuse, and their use may lead to severe psychological or physiological dependencies; however, they have some recognized medicinal value. Drugs in this category include cocaine, morphine, methamphetamine, and phencyclidine (PCP). Dronabinol, the synthetic equivalent of the active ingredient in marijuana, recently was moved from schedule I to schedule II in recognition of its growing medical uses in treating glaucoma and chemotherapy patients. The DEA has under consideration a petition for reclassification of marijuana from schedule I to schedule II for similar reasons.

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

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

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

Penalty Provisions

The federal CSA separates violations of CSA provisions into two major categories of offenses: the possession of controlled substances and the manufacture, distribution, or dispensing of, or the possession with intent to manufacture, distribute, or dispense, controlled substances. (The second category is referred to collectively in this *Guide* as "manufacture, delivery, or sale" of controlled substances.) There is a flat penalty for possession offenses, but a graduated penalty structure for manufacture/delivery/sale offenses based on the type, amount, and purity of the substance involved in an offense. Penalties also differ depending upon whether the offense is committed by an "individual" or "other than individuals." Offenders in the latter category face much harsher fines than individuals.

Every possession offense carries a penalty of up to one year's incarceration and/or a fine of \$1,000 to \$5,000. Second offenses for possession are punishable by a minimum of 15 days' and a maximum of two years' incarceration, and/or a fine of \$2,500 to \$10,000. Third or subsequent offenses are punishable by three months' to three years' incarcera-

tion and/or a fine of \$5,000 to \$25,000. There is an exception to the general scheme for possession of piperidine, a precursor ingredient of PCP; a first offense carries a penalty of up to five years' incarceration and/or a \$250,000 fine.

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

Table 1
Penalties for Manufacturing/Delivery/Sale

Schedules I and II		
	First Offense	Second and Subsequent Offenses
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individual:		
No death/bodily injury	0-20;\$1 million	0-30;\$2 million
Death/bodily injury	20-life;\$1 million	life;\$2 million
Others:	\$5 million	\$10 million

Offenses involving schedule III drugs or offenses involving less than 50 kg. of marijuana; 100 or more marijuana plants, regardless of weight; less than 10 kg. hashish; or less than one kg. of hash oil are punishable by up to five years' incarceration and/or a \$250,000 fine for individuals; the potential fine is \$1 million for others. Second or subsequent offenses under this section are punishable by up to 10 years' incarceration and/or a \$500,000 fine for individuals, \$2 million for others. (See Table 2.)

Table 2
Penalties for Manufacturing/Delivery/Sale

Schedule III		
	First Offense	Second and Subsequent Offenses
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individual:		
	0-5; \$250,000	0-10; \$500,000
Others:	\$1 million	\$2 million

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

Table 3
Penalties for Manufacturing/Delivery/Sale

Schedule IV		
	First Offense	Second and Subsequent Offenses
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individual:	0-3; \$250,000	0-6; \$500,000
Others:	\$1 million	\$2 million

The manufacture/delivery/sale of a schedule V substance is punishable by up to one year's incarceration and/or a \$100,000 fine for individuals, \$250,000 for others. Second or subsequent offenses under this provision are punishable by up to two years' incarceration and/or a \$200,000 fine for individuals, \$500,000 for others. (See Table 4.)

Table 4
Penalties for Manufacturing/Delivery/Sale

Schedule V		
	First Offense	Second and Subsequent Offenses
	<u>Incarceration/Fine</u>	<u>Incarceration/Fine</u>
Individual:	0-1; \$100,000	0-2; \$200,000
Others:	\$250,000	\$500,000

Under a provision of the 1986 drug act, the CSA also includes a measure stipulating that an offense involving a controlled substance analog, a chemical substance substantially similar in chemical structure to a controlled substance, shall trigger penalties as if it were a controlled substance listed in schedule I. This section is designed to combat the proliferation of so-called "designer drugs," substances manufactured by chemists who slightly alter the chemical makeup of a controlled substance so that it retains the same psychotropic effect as the original substance but technically is not subject to regulation because it is a new compound not specifically listed in CSA schedules. The DEA has emergency scheduling power under which it may treat a given substance as "controlled" for enforcement purposes pending completion of hearings on whether to list the substance in the federal schedules.

Recent CSA amendments also have increased penalties for violations involving minimum amounts or more of heroin, cocaine, PCP, LSD, and marijuana. Any manufacture/delivery/sale offense involving more than the following quantities of drugs is punishable by a mandatory term of imprisonment of 10 years to life and/or a fine of up to \$4 million for an individual, \$10 million for others: one kg. of a mixture containing heroin, five kg. of a mixture containing cocaine, 50 g. of a mixture containing cocaine base, one kg. of a mixture containing PCP, 100 g. of PCP, 10 g. of a mixture containing LSD, and 1,000 kg. of a mixture containing marijuana. Second and subsequent offenses under this

section are punishable by prison terms of 20 years to life and fines of up to \$8 million for individuals, \$20 million for others. If death or serious bodily injury results from a first offense, there is a mandatory sentence of 20 years to life in prison; if the offender has a previous felony drug conviction, the mandatory sentence is life imprisonment.

A second tier of enhanced penalties provides that offenders who manufacture/deliver/sell less than the quantities enumerated above but more than the following amounts shall receive sentences of five to 40 years' imprisonment and up to a \$2 million fine for individuals, \$5 million for others: 100 g. of a mixture containing heroin, 500 g. of a mixture containing cocaine, five grams of a substance containing cocaine base, 100 g. of a mixture containing PCP, 10 g. of PCP, one gram of a substance containing LSD, and 100 kg. of marijuana. Second or subsequent violations are punishable by 10 years to life in prison and a \$4 million to \$10 million fine. If death or serious bodily injury results from a first offense, the mandatory sentence is 20 years to life imprisonment.

Forfeiture Provisions

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

Forfeiture not only deprives criminals of the proceeds of their illegal activities, but also generates revenues to support drugs laws enforcement activity. Forfeited assets or proceeds from their sale are deposited into the U. S. Department of Justice's Assets Forfeiture Fund, administered by the U. S. Marshals Service, and may be used to buy equipment, refurbish conveyances, and pay awards for information, among other purposes. Monies deposited into the fund also may be shared with state and local law enforcement agencies that participate in cooperative investigations with federal agencies. (See, "U. S. Attorney General's Guidelines for Seized and Forfeited Property," Appendix C.)

New Offenses

The CSA also includes special penalties for offenses involving minors. These provisions have been added in recent years in response to drug dealers' increased use of minors to sell drugs to other minors, particularly in or around schools, or to deliver drugs to other distributors. First, any person 18 years or older who distributes a controlled substance to a person under 18 is subject to a sentence of up to twice the term and fine otherwise authorized. In addition, the statute provides that any person who distributes a controlled substance in, on, or within 1,000 feet of real property of a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university shall receive a sentence of three years to life in prison or up to three times the fine and term of incarceration otherwise authorized, whichever is greater. Finally, any person at least 18 who hires, employs, coerces, or uses anyone under 18 to violate any part of the CSA or to assist in avoiding apprehension by law enforcement officials faces up to twice the term and fine otherwise authorized for the offense, with the added stipulation that the term of incarceration be a minimum of one year. The recent amendments also include provisions establishing similar sanctions against any person who knowingly distributes controlled substances to a pregnant woman and establishing enhanced penalties for second or subsequent offenses involving minors.

Like provisions relating to minors, two other recently-added CSA provisions, both part of the 1986 anti-drug abuse act, are intended to address specific new developments in drug control efforts. The CSA now includes a drug paraphernalia provision making it unlawful to use the U. S. Postal Service or other interstate shippers to sell, offer for sale, import, or export drug paraphernalia; violations of this section are punishable by up to three years' incarceration and/or a \$100,000 fine.

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

STATE CONTROLLED SUBSTANCE ACTS

Scheduling

Many states have adopted CSA schedules identical or similar to the federal schedules. In some instances, states have integrated the federal scheduling mechanism into state CSA statutes, but have adopted different mechanisms for the assignment of penalties. Those state CSA's that differ from the federal method and from other state CSA's do so primarily in the way they group drugs together for determining penalties.

Scheduling approaches in state CSA's fall broadly into five categories. The first group of states includes those that have adopted the federal scheduling method, including the same five schedules and the same criteria for determining a substance's classification. In addition, many of these CSA's include language that provides for the automatic addition, deletion, or re-classification of substances whenever such changes occur in the federal schedule. These CSA's generally have graduated penalties for offenses, with the heaviest penalties for offenses involving schedule I drugs; another, less severe set of penalties for offenses involving schedule II drugs; and so forth.

Like the CSA's in the first category, CSA's in the second group have scheduling schemes similar to that of the federal CSA, and most contain provisions for "automatic conformity" with federal scheduling actions. Unlike the first category, however, CSA's in the second group subdivide schedule categories according to some other distinguishing factor; in most CSA's that follow this scheduling approach, schedules I and II are divided into narcotics and non-narcotics for purposes of establishing penalties. In Minnesota, for example, schedules are set up as shown in Table 5.

Table 5

Minnesota Penalties for Possession Offenses

	First Offense	Second Offense	Subsequent Offenses
I/II narcotics	0-5; \$10,000	0-10; \$20,000	same
I/II non-narcotics	0-3; \$5,000	0-6; \$10,000	same
III	0-3; \$5,000	0-6; \$10,000	same
IV	0-3; \$5,000	0-6; \$10,000	same
V	0-1; \$5,000	0-2; \$10,000	same

The CSA's using the third scheduling method retain the five-schedule system of the federal CSA, but deviate from the federal system in their classification of specific drugs, generally in order to provide for more or less severe penalties for offenses involving those substances. For example, Louisiana has placed phencyclidine (PCP), which is under schedule II in the federal system, in schedule I to make use, possession, and manufacture/delivery/sale of PCP illegal under all circumstances. This type of classification approach differs from creation of an enhanced penalty, under which a CSA violation involving a specific drug in a given schedule triggers a penalty higher than would violations involving other substances similarly scheduled.

On the other hand, some states classify drugs in schedules carrying lower penalties in order to deal with the reality of cost and administrative constraints that can become considerations in a state's prosecution of frequently-committed offenses, such as use of certain drugs. Further, a state may deviate from set scheduling mechanisms in handling a specific drug without changing the overall CSA scheduling in order to avoid decriminalizing a drug offense or dealing with a complicated legislative process. For example, in Michigan, dimethyltryptamine, lysergic acid diethylamide (LSD), peyote, mescaline, psilocin, and psilocybin, found in schedule I, are listed separately from other schedule I

substances for penalty purposes. The penalty for use of these drugs is up to six months' incarceration and/or a \$1,000 fine, whereas the penalty otherwise would be up to one year's incarceration and/or a \$1,000 fine for these offenses. (See Table 6.)

Table 6

Michigan Penalties for Use Offenses

	First Offense	Second Offense	Subsequent Offenses
I/II narcotics	0-1; \$2,000	-----	-----
I/II non-narcotics	0-1; \$1,000	-----	-----
III	-----	-----	-----
IV	-----	-----	-----
V	-----	-----	-----
marijuana	0-90 days; \$100	-----	-----
other: LSD, peyote, mescaline, dimethyltriptamine, psilocin, psilocybin	0-6 mo.; \$1,000	-----	-----

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

A fourth scheduling method used by some states is to list marijuana separately from other schedule I substances and to specify lesser penalties for offenses involving marijuana than the offenses would trigger under the penalty scheme for offenses involving schedule I substances generally. Under these statutes, states either include marijuana under schedule I but establish a lower penalty for marijuana offenses than for other schedule I substance offenses, or the states create a schedule VI specifically for marijuana offenses that includes the desired lower penalties. For example, North Carolina has adopted the latter method, assigning marijuana offense penalties as shown in Table 7.

Table 7

North Carolina Penalties for Possession Offenses

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

States operating under the fifth scheduling method have developed scheduling schemes for classifying drugs that differ considerably from the federal approach. Under this method, states classify drugs by type, or by characteristic, such as potential for harm. Hawaii, for example, classifies drugs as dangerous, harmful, or detrimental, with a separate category for marijuana, as shown in Table 8.

	First Offense	Second Offense	Subsequent Offenses
dangerous drugs			
< $\frac{1}{2}$ oz.	0-5; \$5,000	same	0-10; \$5,000
$\frac{1}{2}$ - 2 oz.	0-10; \$10,000	same	0-20; \$10,000
\geq 2 oz.	0-20; \$10,000	same	0-life; \$10,000
harmful drugs			
< $\frac{1}{8}$ oz.	0-1; \$1,000	same	same
$\frac{1}{8}$ - 1 oz.	0-10; \$10,000	same	0-20; \$10,000
\geq 1 oz.	0-20; \$10,000	same	0-life; \$10,000
detrimental drugs			
< $\frac{1}{8}$ oz.	0-30 days; \$500	same	same
$\frac{1}{8}$ - 1 oz.	0-1; \$1,000	same	same
\geq 1 oz.	0-5; \$5,000	same	0-10; \$5,000
marijuana			
< 1 oz.	0-30 days; \$500	same	same
1 oz. - 2.2 lbs.	0-1; \$1,000	same	same
\geq 2.2 lbs.	0-5; \$5,000	same	0-10; \$5,000

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

A variation of this approach is to combine some aspects of the federal scheduling scheme with classes of drugs. For example, Kansas has three schedules. The first includes federal schedules I and II narcotics; the second includes depressants, stimulants, hallucinogens, and federal schedule IV drugs; and the third includes federal schedule V controlled substances.

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

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

States' varying responses to the federal CSA scheduling scheme highlight the advantages and disadvantages in adopting the federal approach to classification. Many states have chosen to rely on the federal government's perceived expertise in analyzing and classifying substances more effectively or efficiently than some states are able to by adopting statutory provisions requiring "automatic conformity" between state schedules and any scheduling changes made on the federal level. This type of provision permits states to control new substances, such as analogs, that otherwise would fall outside the CSA regulatory scheme without having to approve a regulatory or statutory change in each instance. The state of Arkansas, in fact, repealed its own CSA scheduling lists in 1979 and now updates its schedules in accordance with annual updates received from the DEA.

On the other hand, federal provisions may conflict with states' own penalty or administrative policies. Moreover, there is some concern that the "automatic conformity" provisions in some state statutes may raise constitutional issues regarding delegation of state authority to the federal government. The NCCUSL, which has considered this problem in revising its model CSA, has proposed an alternative to the "automatic conformity" clause that would establish a 30-day grace period within which any interested party may object to the placement of a substance in a given schedule.

Penalty Provisions

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

Another category of offense included in at least 12 state CSA's is that created by so-called "use provisions," which make it a crime to use or be under the influence of a controlled substance. In some states, a prosecutor need not prove that the offender was under the influence of a specific controlled substance in order to obtain a conviction under such a provision; he need only establish that the person manifested the physical and physiological symptoms or reactions caused by use of any controlled substance.

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

In addition to delineating specific penalties for certain offenses, a number of state CSA's, like the federal CSA, provide for enhanced penalties for offenses involving particular drugs that are "targets" for enforcement activity. At least 24 states have singled out specific drugs that will trigger enhanced penalties for offenses involving specified amounts or more of those drugs. Enhanced penalty formulas range from relatively simple provisions, such as those of Tennessee, to complex formulas, such as those of Illinois.

In Tennessee, the penalties are the same for all offenses involving all targeted drugs except marijuana; penalties for the manufacture, delivery, sale, or possession with intent to distribute targeted drugs are 10 years to life in prison and/or a fine of up to \$200,000. Penalties for offenses involving non-targeted Schedule I controlled substances are five to 15 years' imprisonment and/or a fine of up to \$18,000. Penalties for similar offenses involving 70 lbs. or more of marijuana are 10 to 20 years' imprisonment and/or a fine up to \$200,000; the penalties for 10 to 70 lbs. of marijuana are four to 10 years' imprisonment and a fine of up to \$10,000. (See Table 9.)

Table 9
ENHANCED PENALTIES UNDER TENNESSEE CSA

Targeted Substance	Amount Necessary to Trigger Enhanced Penalties	Penalty
Heroin	> = 15 g.	10-life; \$200,000
Morphine	> = 15 g.	"
Hydromorphone	> = 5 g.	"
Lysergic Acid Diethylamide (LSD)	> = 5 g.	"
Cocaine	> = 30 g.	"
Pentazocine/Tripeleannamine	> = 5 g.	"
Phencyclidine (PCP)	> = 30 g.	"
Barbituric Acid	> = 100 g.	"
Phenmetrazine	> = 50 g.	"
Amphetamine/Methamphetamine	> = 100 g.	"
Peyote	> = 1000 g.	"
Marijuana	> = 70 lbs.	10-20; \$200,000
Non-targeted Substances		
Schedule I		5-15; \$18,000
Schedule II		4-10; \$15,000
Schedule VI (marijuana)	10-70 lbs.	4-10; \$10,000

Illinois, on the other hand, has a two-tier scheme of enhanced penalties for offenses involving the manufacture, delivery, or possession with intent to manufacture or deliver targeted drugs. For example, the penalties for manufacture of at least 30 g. of cocaine are six to 30 years' imprisonment and/or a fine of up to \$500,000; the penalties for manufacture of 10-30 g. of cocaine are four to 15 years' imprisonment and/or a fine of up to \$250,000. By contrast, the penalties for manufacture of non-targeted schedule I and II narcotic drugs or for manufacture of less than 10 g. of cocaine are three to seven years' imprisonment and/or a fine of up to \$200,000.

Illinois also has enhanced penalty provisions for simple possession of targeted drugs. For example, a person convicted of possession of less than 30 g. of cocaine could receive a sentence of one to three years' imprisonment and/or a fine of up to \$15,000, while a person convicted of possession of 30 g. or more of cocaine could receive a sentence of four to 15 years' imprisonment and/or a fine of up to \$200,000. Although these penalty ranges are the same as for

other schedule I and II narcotic drugs, a non-targeted drug would trigger the greater penalties only if the offender possessed 200 g. or more of the non-targeted narcotic substance. (See Table 10).

Table 10
ENHANCED PENALTIES UNDER ILLINOIS CSA

Targeted Drugs

<u>Targeted Substance</u>	Manufacture, Delivery, or Possession with Intent to Manufacture or Deliver			
	Tier I	Tier II		
	Amount Necessary to Trigger Enhanced Penalty	Amount Necessary to Trigger Enhanced Penalty		
Heroin	10-15 g.	4-15; \$250,000	> = 15 g.	6-30; \$500,000
Cocaine	10-30 g.	"	> = 30 g.	"
Morphine	10-15 g.	"	> = 15 g.	"
Peyote	50-200 g.	"	> = 200 g.	"
Barbituric Acid	50-200 g.	"	> = 200 g.	"
Lysergic Acid Diethylamide (LSD)	5-15 g.	"	> = 15 g.	"
Pentazocine	10-30 g.	"	> = 30 g.	"
Methaqualone	10-30 g.	"	> = 30 g.	"
Phencyclidine (PCP)	10-30 g.	"	> = 30 g.	"
Amphetamine/Methamphetamine	50-200 g.	"	> = 200 g.	"

Possession		
Heroin	> = 30 g.	4-15; \$200,000
Cocaine	> = 30 g.	"
Morphine	> = 30 g.	"
Peyote	> = 200 g.	"
Barbituric Acid	> = 200 g.	"
Lysergic Acid Diethylamide (LSD)	> = 15 g.	"
Pentazocine	> = 30 g.	"
Methaqualone	> = 30 g.	"
Phencyclidine (PCP)	> = 30 g.	"
Amphetamine/Methamphetamine	> = 200 g.	"

In the 24 jurisdictions providing for enhanced penalties for offenses involving specified controlled substances, the drugs most frequently targeted are heroin, cocaine, PCP, and methamphetamine and/or amphetamine. (See Appendix B.)

Forfeiture

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

In most state CSA's, the list of forfeitable assets, similar to that in the federal CSA, includes such items as drug containers, conveyances, drug records, money and valuables, and proceeds traceable to violations of the CSA. Other forfeiture provisions relating to forfeitable property vary considerably, however. For example, numerous state CSA's provide for forfeiture of drug paraphernalia and imitation controlled substances, items not forfeitable under the federal CSA. On the other hand, only 17 states have made real property subject to forfeiture, as the federal forfeiture statute does.

Many states have adopted forfeiture provisions different from those of the federal statute to address specific state concerns. For example, several states authorize the forfeiture of a conveyance only in a case where the underlying offense is a felony or involves more than a designated amount of a controlled substance. In California, no vehicle may be subject to a forfeiture action if it is the defendant's immediate family's sole means of transportation, nor may a conveyance be forfeited if the offense involved less than one-half ounce of heroin, one ounce or less of any other schedule I or II controlled substance, or one pound or less of marijuana, peyote, or psilocybin. Under federal law, by contrast, a conveyance may be forfeited in any case where any usable amount of a controlled substance is involved.

Another important difference among the forfeiture laws is the formulas for distribution of forfeited assets or their proceeds. Although all states that provide for forfeiture require that proceeds first be used to pay for costs of activity associated with forfeiture proceedings, such as the seizure of forfeited items, the storage and maintenance of the property, and the advertising and sale of the property, states differ in the ways that they allocate funds remaining after coverage of costs. Many jurisdictions provide that the remainder be deposited into the state or county general fund of the seizing agency. Others provide that the funds be applied towards specific programs, such as state drug education or drug rehabilitation programs, or for other purposes unrelated to drugs or law enforcement. Others have set up special drug enforcement funds, monies from which help pay for enforcement of CSA provisions. Some states have no provisions addressing distribution of proceeds.

Provisions Relating to Minors

In addition to forfeiture, a major focus of state drug laws enforcement activity in recent years has been offenses involving minors. Of the 51 jurisdictions covered in this *Guide*, all but four have modified CSA's recently to provide for increased penalties for offenses involving distribution to minors of some controlled substance or other contraband, such as imitation controlled substances or drug paraphernalia.

Penalty provisions for distribution to minors vary considerably from state to state. Many states have followed the guidance of the UCSA, under which increased penalties for sales to minors apply only when an offender is 18 years old or older and the buyer is under 18 and is at least three years the seller's junior. Others have made such provisions applicable to offenders over 21, or to offenders over 18 where the buyer is under 18, regardless of the age difference between buyer and seller. Under proposed changes in the UCSA, the model language would alter the age difference criteria slightly to make the distribution to minors provision applicable where the buyer is "at least two years the seller's junior."

Schemes for determining penalties also vary significantly among jurisdictions. Many states have differing penalties for offenders who distribute narcotics and those who distribute non-narcotics; others base penalties on the sched-

ule placement of the drug involved in the offense, often authorizing a lesser sentence for offenses involving marijuana. Determining the applicability of such provisions can be complex. In Delaware, for example, the recommended statutory penalty for distribution of any non-narcotic to a person who is 16 years old is a sentence of incarceration of six months to 15 years. However, the statute also provides that if the seller is under 21, the buyer is over 15, the seller was not making a profit or assisting another to make a profit, and the buyer had been acquainted with the seller for at least one year prior to the incident, there is no mandatory minimum term of incarceration, and the maximum sentence is two years' incarceration and up to a \$1,000 fine. Other states, like the federal government, double the term and fine that otherwise would be applicable for distribution of the substance; some establish set terms with stiff mandatory minimum terms and fines.

Provisions regarding distribution of drugs in or near schools, or so-called schoolhouse provisions, also are becoming popular in the states. At least 10 states--Alaska, California, Illinois, Louisiana, Minnesota, New York, South Carolina, Utah, Virginia, and Wisconsin--have adopted some type of "schoolyard" provision that provides for enhanced penalties for sale or distribution of drugs in or near schools. Although based on the federal or UCSA provisions, these provisions vary regarding the types of schools, the extent of the area near schools covered by the provisions, the drugs targeted, and the age groups involved. Wisconsin's provision, for example, applies only to those who distribute cocaine within 1,000 feet of a public or private school building, while Alaska's applies to any person over 18 years who possesses any controlled substance on school grounds. California's law covers distribution to minors on a school ground or at any school-related activity. Louisiana, like the federal statute, includes post-secondary schools in its law, but other states do not. South Carolina's law stipulates that any distribution of a controlled substance within a half mile of any elementary, middle, or high school is a separate offense unto itself; most other states either have limited applicability of schoolyard provisions to school grounds or have adopted language similar to that of the federal CSA and the UCSA, limiting the scope of the provision to activity "within 1,000 feet" of a school.

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

There has been less state activity to date to address the problem of drug dealers' use of minors to distribute controlled substances. Knowing that minors generally receive less severe sentences than adults for CSA violations and thus are unlikely to implicate suppliers in exchange for lighter sentences, an increasing number of drug traffickers are employing minors to sell and distribute their drugs. While federal provisions of the 1986 anti-drug abuse act address the problem by making it unlawful for any person 18 or older to hire or use any person under 18 to violate any part of the CSA or to assist in avoiding detection for any offense under the CSA, only three other jurisdictions--California, the District of Columbia, and Maryland--specifically prohibit the use of minors for distributing controlled substances. California's law applies to any adult who encourages or intimidates a minor to violate any part of the controlled substances act regarding all narcotics, methaqualone or mescaline, peyote, marijuana, or tetrahydrocannabinols (THC). The District of Columbia's law applies to offenders who enlist, hire, or encourage anyone under 18 to sell or distribute controlled substances, and it calls for penalties equivalent to those applicable if the adult himself had sold the drugs, plus up to an additional 10 years' incarceration. Maryland's provision is similar to that of the District of Columbia, but the maximum permissible penalty under Maryland law is 10 years' imprisonment and a \$10,000 fine.

Drug Paraphernalia Provisions

Provisions to counter the sale and distribution of drug paraphernalia also have been a significant part of recent changes in state CSA's. Since the DEA drafted the Model Drug Paraphernalia Act in 1979, 47 states have passed some type of paraphernalia provision, almost all following the language of the model act, and the Congress passed a federal paraphernalia act as part of the 1986 anti-drug abuse law. These acts typically prohibit the manufacture, sale, possession, distribution, or advertisement of drug paraphernalia, but few prohibit only distribution.

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

In the 27 states that have adopted enhanced penalties for offenses involving distribution of drug paraphernalia to minors, such penalties also vary widely, and some provisions permit avoidance of penalties altogether. In the state of Ohio, for example, the distribution of marijuana paraphernalia to a person under 18 is prohibited, and a violation is punishable by up to six months' incarceration and/or up to a \$1,000 fine. However, if the violator can show that a parent accompanied the minor to whom the offender sold the contraband, there is no penalty.

Imitation Controlled Substances Provisions

Imitation controlled substances are non-controlled substances that are sold or otherwise distributed as controlled substances. Often the non-controlled substance is caffeine or ephedrine, found in diet pills and sold over the counter in drugstores. The imitation controlled substances often look like legitimate controlled substances, with the same shapes, sizes, colors, and manufacturer's markings found on the legitimate product.

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

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

Safehouse Provisions

States, like the federal government, also have had to contend with drug manufacturers' and distributors' increased use of so-called safehouses or rock houses in recent years. At least 10 states have adopted some type of safehouse provision, but a number of these differ from federal law in the scope of activities covered; some states, for example, prohibit only an individual's "presence" at a place where controlled substances are stored, manufactured, or used. California's rock house provision, on the other hand, goes one step further than federal law by establishing enhanced penalties for anyone who operates any such place and purposely fortifies the building, room, or house against law enforcement entry.

Education and Treatment Provisions

Prevention education for potential drug users and treatment for drug abusers have been a major focus of state legislators in recent years. In this area, many states have adopted the language of the UCSA, which provides for educational programs designed to prevent and deter misuse and abuse of controlled substances. The UCSA provision is intended to include educating the pharmaceutical industry, as well as interested groups and the general public, about the dangers of abuse and ways to reduce it. The majority of the provisions also encourage research on misuse and abuse.

A number of states have developed this concept further in attempts to stop drug abuse problems early. Under the CSA's of both Colorado and Delaware, for example, if a court finds that a person convicted of use is physically or psychologically dependent on the substance, the court must place him in a rehabilitation program. Under North Carolina law, a first offender convicted of possession may be placed in a drug education program as part of probation. In most instances, an offender who successfully completes such a program may have his record expunged.

In order to help fund these programs, some state CSA's provide for use of monies from state forfeiture funds to administer education and rehabilitation/prevention programs.

Miscellaneous Provisions

Many jurisdictions have gone beyond what the federal law sets out as a model for controlling drug trafficking and drug-related activity by passing their own innovative provisions.

Several states provide that first offenders may escape from harsh mandatory minimum penalties if the defendant assists in the apprehension of any of his accomplices.

Maine recently passed a provision that anyone convicted of any drug offense shall be fined, in addition to the regular fine, an amount equal to the value of the drug.

Although generally found under revenue codes rather than in CSA's, stamp taxes on controlled substances that are possessed unlawfully have been approved in a few states. In Minnesota, for example, the tax is imposed at the rate of \$3.50 for each gram of marijuana and \$200 for each gram of any other controlled substance sold by weight, and \$2,000 for each 50-dosage unit of a controlled substance not sold by weight. Failure to pay the tax results in a 100 percent penalty in addition to the tax, as well as liability for criminal penalties of not more than five years' incarceration and/or a fine up to \$10,000. Illinois' provisions, enacted in fall 1987, are modelled after the Minnesota law. Arizona also has adopted a similar scheme under its tax laws, and South Dakota had a drug tax until the state supreme court declared it unconstitutional in 1986.

Nevada provides that if a death results from the sale of a controlled substance, the seller shall be prosecuted for murder, in addition to any drug-related offenses.

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

Tennessee authorizes prosecutors to seek a "habitual drug offender" charge against any person convicted of engaging in repeated acts of manufacturing or distributing controlled substances. The punishment for conviction of the charge is 10 years to life in prison and a fine of not more than \$200,000.

Washington authorizes parents of a minor to whom a controlled substance is sold to bring a cause of action against the seller of such drug to recover damages to the minor. Damages include the cost of treatment and rehabilitation of the minor's drug dependency, the proceeds received from the sale of the substance, and reasonable attorney fees.

STATE-BY-STATE SUMMARIES OF CSA PROVISIONS

Introduction

This section of the *Guide* contains state-by-state summaries of major provisions of states' CSA's. Each summary begins with a brief narrative description of the CSA and concludes with comments highlighting or clarifying unique or otherwise noteworthy provisions of the CSA. Specific information concerning provisions contained in all or most CSA's is divided into categories and set out in chart form; similar categories are covered in each chart, and they are outlined in the same order in every chart to facilitate cross-state comparisons of provisions.

Most charts contain eight sections outlining provisions. The first section indicates the method used by the state to categorize, or schedule, specific drugs. The section lists three types of state scheduling systems. If a CSA stipulates that its schedules conform automatically with any additions, deletions, or changes in federal schedules, the chart will indicate "automatic conformity" with federal provisions. State statutes containing such clauses have schedules that generally reflect each change made at the federal level regarding designation of a substance within a short time of the federal action, unless the state legislative or administrative body charged with the oversight of the scheduling process has taken other action concerning that substance.

The second type of scheduling listed refers to the number of categories in a state's scheduling system. State statutes that have a "five-schedule system" similar to that of the federal CSA are so classified. A statute not classified in this category utilizes either a collapsed scheduling system or a system with categories differing from both the UCSA and the federal CSA. Generally, a jurisdiction that does not have a five-schedule system has a sixth schedule dealing only with marijuana.

The third category of scheduling generally covers those state statutes that differ from the federal act in the way they approach substance classification. However, a CSA may contain an "automatic conformity with federal law" clause and still classify certain drugs differently from the federal system if the administrative body or legislature charged with oversight of the schedules has acted to override a federal decision. This situation often results from a state's decision to re-classify a drug into a higher schedule so that offenses involving that drug will carry harsher penalties. For example, although phencyclidine (PCP) is a schedule II substance, allowing for limited medical uses, in the federal system, many states have eliminated all legitimate uses of PCP and have classified it as a schedule I drug. Any inconsistencies between a given state's CSA classification of a drug and the federal system's classification of the drug are explained in the introductory narrative of the state summary.

The sections following scheduling information describe state CSA provisions regarding penalties for use, possession, and manufacturing, delivery, and sale of controlled substances. The charts reflect the fact that most states have divided penalty categories into "possession" and "manufacturing, delivery, and sale;" possession with intent to deliver, as well as transfer or transport, is included in the latter section. However, in the charts for 12 states that have provisions specifically addressing use of substances, penalty provisions regarding use are set out before any possession penalties. In every chart, the sections covering penalties reflect the scheduling system used by the state to classify drugs and consequently to classify offenses involving those drugs. A dash in any chart indicates that the statute does not stipulate a specific penalty for the corresponding category or schedule.

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

In some instances, all penalties for possession of controlled substances are the same, in which case the penalty is listed under the heading, "flat penalty." In all other cases, the penalty for possession of any controlled substance is shown in terms of the range of possible sentences and fines for the offense. The penalties for second and subsequent offenses, where specified by statute, also are included. For those CSA's in which marijuana offenses are penalized differently from those involving other similarly-scheduled substances, an additional category has been included to demonstrate that different treatment.

The enhanced penalties provision section identifies both penalty criteria and the drugs that are subject to the enhanced penalty formula. As used in this *Guide*, "enhanced" has a very restricted meaning; a CSA provides for enhanced penalties only if it specifies that penalties will be higher for offenses involving a particular drug than they would be if the offense involved other substances similarly scheduled. A comment is included in such instances to indicate the types and amount of drugs necessary to trigger heightened penalties for possession, manufacturing, sale, and delivery offenses. The more severe penalties triggered by offenses involving schedule I narcotics, as opposed to non-narcotics, are taken into account in the preceding penalty sections of each chart and are not considered enhanced penalties.

The next section of each chart outlines elements of forfeiture provisions, including which property is forfeitable under state law; whether the forfeiture process involves criminal, civil, or administrative proceedings; and how the state distributes forfeited assets or their proceeds.

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

The final two sections of the chart outline provisions concerning drug paraphernalia and imitation drugs. Each chart indicates whether the CSA addresses "use," "delivery," "possession," and/or "advertisement" of paraphernalia or imitation controlled substances; the term, "delivery" refers to the manufacturing, sale, or delivery of items, while "advertisement" refers to placement of advertisements concerning paraphernalia or imitation controlled substances in newspapers, magazines, handbills, or posters for public display. Again, users of this *Guide* should consult state statutes for specific penalty provisions.

ERRATA

In the section of the Guide containing state-by-state summaries, the following corrections are necessary:

1. Several state summaries incorrectly state that phencyclidine (PCP) is listed in schedule III of the federal CSA; it is listed in federal schedule II. The state summaries affected are Georgia, Idaho, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Oklahoma, Virginia, and Wisconsin.
2. In the Arkansas summary, under the chart section entitled, "penalties for manufacturing, delivery, sale offenses," the penalty entry for the manufacture, delivery, or sale of 400 g. or more of schedule I/II narcotics or schedule III drugs should include a fine of \$100,000.
3. In the Louisiana state summary, under the chart section entitled, "penalties for possession offenses," the word pentazocine, appearing next to the word PCP, should be listed directly under PCP. Pentazocine triggers penalties of two to five years' imprisonment and/or a fine of \$5,000 for a first offense; four to 10 years' imprisonment and/or a fine of \$10,000 for second and subsequent offenses.
4. In the New Mexico state summary, under the chart section entitled, "penalties for possession offenses," the penalty entry for the possession of I/II narcotics should include the possible penalty of one to five years' incarceration in the "first offense" column.
5. In the Oregon summary, under the chart section entitled, "penalties for possession offenses," there should be a listing of a schedule V category, with penalty entries of \$250 in the "first offense" column and dashes under the "second offense" and "subsequent offenses" columns to indicate that the CSA does not specify penalties for those offenses.
6. In the Wyoming summary, under the chart section entitled, "penalties for possession offenses," there should be a "flat penalty" category with penalty entries of up to six months' incarceration and/or a fine of \$750 in the "first offense" column and up to five years' imprisonment and/or a fine of \$5,000 in the "subsequent offenses" column.

ALABAMA

Code 1975 §§ 20-21-1 to 20-2-93

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	1-10; \$5,000	2-20; \$10,000	same
I narcotics			
I non-narcotics			
II narcotics			
II non-narcotics			
III			
IV			
V			
marijuana	0-1; \$2,000	1-10; \$5,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	2-20; \$10,000	4-40; \$20,000	same
I narcotics			
I non-narcotics			
II narcotics			
II non-narcotics			
III			
IV			
V			

ENHANCED PENALTIES

- none
- based on drug
- based on amount

- heroin
- cocaine
- PCP

- meth/amphetamine
- metha-/meclo-qualone

- marijuana
- other(s): hydromorphone, opium

Comments:

For example, cocaine:
28g.-500g.: minimum 3; \$50,000
≥500g.-1 kilo: minimum 5; \$100,000
≥1-10 kilos: minimum 15; \$250,000
≥10 kilos: mandatory life without parole

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Distributed to the fund of the municipal, county, or state government(s) whose law enforcement officials participated in the investigation leading to the seizure.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- Under 1986 amendments, the CSA provides for minimum sentences and fines tied to amounts of five categories of drugs: cannabis; cocaine; methaqualone; hydromorphone; and heroin, opium, and morphine. Any person convicted under these provisions is designated a "trafficker" automatically; any subsequent offense is punishable by life imprisonment without parole. A trafficker is any person who knowingly sells, manufactures, delivers or brings into the state, or is knowingly in actual or constructive possession of, a controlled substance.
- The CSA grants civil immunity to teachers who report minors' drug use to parents, law enforcement officials, or health care providers.

ALASKA

AS §§11.71.010 to 11.71.900, 17.-30.010 to 17.30.900.

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
IA	_____	_____	_____
II A	_____	_____	_____
III A	_____	_____	_____
IV A	_____	_____	_____
V A	_____	_____	_____
VIA	90 days; \$1,000	_____	_____

PENALTIES FOR POSSESSION OFFENSES

flat penalty	_____	_____	_____
IA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
IIA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
IIIA	<25 tablets or <3g.: 0-1; \$5,000 ≥25 tablets or ≥3g.: 0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
IVA	<25 tablets or <3g.: 0-1; \$5,000 ≥25 tablets or ≥3g.: 0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
VA	<50 tablets or <6g.: 0-1; \$5,000 ≥50 tablets or ≥6g.: 0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
VIA	0-4 oz.: \$100 ≥4 oz.-½ lb.: 0-90 days; \$1,000 ≥½ lb.-1 lb.: 0-1; \$5,000 ≥1 lb.: 0-5; \$50,000	2-5; \$50,000	3-5; \$50,000

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
IA	5-20; \$50,000	10-20; \$50,000	15-20; \$50,000
IIA	0-10; \$50,000	4-10; \$50,000	6-10; \$50,000
IIIA	0-10; \$50,000	4-10; \$50,000	6-10; \$50,000
IVA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
VA	0-5; \$50,000	2-5; \$50,000	3-5; \$50,000
VIA	<½ oz.; \$100 ≥½ oz.; 0-1; \$50,000 ≥1 oz.; 0-5; \$50,000	2-5; \$50,000	3-5; \$50,000

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|--|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/mecloqualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Retained by the local agency charged with enforcement of the act.

OFFENSES INVOLVING MINORS

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics | <input checked="" type="checkbox"/> near schools |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> using minor to sell |
| | <input checked="" type="checkbox"/> other age group; under 19 to at least 3 years junior | <input checked="" type="checkbox"/> marijuana | <input checked="" type="checkbox"/> imitation drugs |
| | | <input type="checkbox"/> other(s): | <input type="checkbox"/> drug paraphernalia |

PARAPHERNALIA

- | | | | |
|--|-----------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

The Alaska Supreme Court has found that possession of marijuana by adults at home for personal use is constitutionally protected.

ARIZONA

Ariz. Rev. Stat. Ann. §§ 13-3401 to 13-3415; §§ 13-3451 to 13-3461

The scheduling scheme and offense categories of the Arizona CSA vary substantially from those of the federal CSA and other states' CSA's. Under the Arizona statute, controlled substances are grouped into seven categories: dangerous drugs, narcotic drugs, prescription-only drugs, marijuana, peyote, vapor-releasing substances containing a toxic substance, and precursor chemicals. Dangerous drugs include hallucinogens, such as lysergic acid diethylamide (LSD) and mescaline, as well as many stimulants and depressants. Narcotic drugs include opiates, cocaine, and cannabis extracts. Prescription-only drugs encompass a range of controlled substances not covered under dangerous or narcotic drugs. Vapor-releasing substances containing a toxic substance include paints, varnishes, and glues that release fumes containing certain specified chemicals. Precursor chemicals are substances used in the processing or manufacture of controlled substances. Offenses are divided into the major categories of possession, use, sale, manufacture or production, and transfer or transportation. There also are categories for the offenses of administering, or acquiring or obtaining for administration, a dangerous, narcotic, or prescription-only drug and for possessing equipment or chemicals for the purpose of manufacturing such drugs.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
dangerous drugs	2-5; \$1,000-\$150,000	4-8; \$1,000-\$150,000	8-12; \$1,000-\$150,000
narcotic drugs	2-5; \$2,000-\$150,000	4-8; \$2,000-\$150,000	8-12; \$2,000-\$150,000
prescription-only drugs	0-6 mo.; \$1,000	0-1½; \$1,000	same
marijuana	<1 lb.: 9 mo.-1¼; \$750-\$150,000 ≥1 lb.-8 lbs.: 1-2½; \$750-\$150,000 ≥8 lbs.: 2-5; \$750-\$150,000	1½-3; \$750-\$150,000 2-4; \$750-\$150,000 4-8; \$750-\$150,000	3-4½; \$750-\$150,000 4-6; \$750-\$150,000 8-12; \$750-\$150,000
peyote	9 mo.-1½; \$150,000	1½-3; \$150,000	3-4½; \$150,000
vapor-releasing substances	1-2½; \$150,000	2-4; \$150,000	4-6; \$150,000
precursor chemicals	5½-14; \$150,000	7-21; \$150,000	14-25; \$150,000

PENALTIES FOR MANUFACTURING, SALE, PRODUCTION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
dangerous drugs	3¾-10; \$1,000-\$150,000	5-15; \$1,000-\$150,000	10-20; \$1,000-\$150,000
narcotic drugs	5½-14; \$2,000-\$150,000	7-21; \$2,000-\$150,000	14-25; \$2,000-\$150,000
prescription-only drugs			
sale:	9 mo.-1½; \$1,000	1½-3; \$1,000	3-4½; \$1,000
manufacture:	0-6 mo.; \$1,000	0-1½; \$1,000	same
marijuana			
possess for sale:	<1 lb.: 2-5; \$750-\$150,000 ≤1 lb.: 3¾-10; \$750-\$150,000	4-8; \$750-\$150,000 5-15; \$750-\$150,000	8-12; \$750-\$150,000 10-20; \$750-\$150,000
produce:	<1 lb.: 1-2½; \$750-\$150,000 ≥1 lb.: 3¾-10; \$750-\$150,000	2-4; \$750-\$150,000 5-15; \$750-\$150,000	4-6; \$750-\$150,000 10-20; \$750-\$150,000
peyote	9 mo.-1½; \$150,000	1½-3; \$150,000	3-4½; \$150,000
vapor-releasing substances	1-2½; \$150,000	2-4; \$150,000	4-6; \$150,000
precursor chemicals	5½-14; \$150,000	7-21; \$150,000	14-25; \$150,000

PENALTIES FOR TRANSFERRING, TRANSPORTING OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
dangerous drugs	5½-14; \$1,000-\$150,000	7-21; \$1,000-\$150,000	14-25; \$1,000-\$150,000
narcotic drugs	5½-14; \$2,000-\$150,000	7-21; \$2,000-\$150,000	14-25; \$2,000-\$150,000
prescription-only drugs	9 mo.-1½; \$1,000	1-½-3; \$1,000	3-4½; \$1,000
marijuana	≤1 lb.: 3¾-10; \$750-\$150,000 ≥1 lb.: 5½-14; \$750-\$150,000	5-15; \$750-\$150,000 7-21; \$750-\$150,000	10-20; \$750-\$150,000 14-25; \$750-\$150,000
peyote	9 mo.-1½; \$150,000	1½-3; \$150,000	3-4½; \$150,000
vapor-releasing substances	1-2½; \$150,000	2-4; \$150,000	4-6; \$150,000
precursor chemicals	5½-14; \$150,000	7-21; \$150,000	14-25; \$150,000

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- The CSA includes separate penalty schemes for the offenses of administering dangerous drugs, narcotic drugs, and prescription-only drugs to another person and of "obtaining or procuring the administration of these drugs by fraud, deceit, misrepresentation, or subterfuge." The CSA also includes a separate penalty scheme for offenses involving the possession of equipment and chemicals for the purpose of manufacturing dangerous drugs, narcotic drugs, and prescription-only drugs.
- An individual convicted of transporting dangerous drugs or of selling, manufacturing, administering, or transporting a narcotic drug is ineligible for suspension or commutation of sentence, probation, parole, work release, or early release. An individual convicted of selling, manufacturing, or administering a dangerous drug or more than eight pounds of marijuana is ineligible for any change in or alternative to an imposed sentence of incarceration until he has served two-thirds of that sentence. Generally, drug offenders placed on probation or released prior to expiration of the sentence imposed must perform from 24 to 360 hours of community service, depending upon the nature of the drug laws violation, and must submit to regular drug testing.
- The CSA provides for enhanced sentences of persons convicted of organizing or participating in a continuing enterprise involving felony drug laws violations.
- Under the state's tax revenue code, controlled substances fall under a luxury tax provision that provides for a tax of \$10 per ounce on cannabis and a tax of \$125 per ounce on all other controlled substances.

ARKANSAS

Ark. Stats. §§ 82-2601 to 82-2643

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	2-5; \$10,000	_____	_____
I/II non-narcotics	2-5; \$10,000	_____	_____
III	0-1; \$1,000	0-5; \$10,000	2-10; \$10,000
IV	0-1; \$1,000	0-5; \$10,000	2-10; \$10,000
V	0-1; \$1,000	0-5; \$10,000	2-10; \$10,000
VI	0-1; \$1,000	0-5; \$10,000	2-10; \$10,000

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	<28g.: 10-40; \$25,000 ≥28g.-200g.: 15-40; \$50,000 ≥200g.-400g.: 20-40; \$100,000 ≥400g.: 40; \$250,000	_____	_____
I/II non-narcotics and III	<28g.: 5-20; \$15,000 ≥28g.-400g.: 10-40; \$15,000 ≥400g.: 15-40	_____	For second and subsequent offenses, fines and penalties are twice those otherwise authorized.
IV and V	<200g.: 3-10; \$10,000 ≥200g.-400g.: 10-40; \$50,000 ≥400g.: 15-40; \$50,000	_____	_____
VI	1 oz.-10 lbs.: 4-10; \$25,000 10-100 lbs.: 5-20; \$15,000-\$50,000 ≥100 lbs.: 6-30; \$15,000-\$100,000	_____	_____

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Real property proceeds: 40 percent to the state treasury; 40 percent to the agency perfecting the arrest; and 20 percent to the county responsible for the prosecution. Other property proceeds: deposited into the general fund.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- o Conveyances are not subject to forfeiture in cases involving possession offenses.

CALIFORNIA

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

California's CSA schedules substantially conform to the federal schedules. However, for the assignment of penalties, the California CSA groups the schedules into five divisions: I/II narcotics, I/II non-narcotics, III/IV/V narcotics, III/IV/V non-narcotics, and marijuana. For possession offenses, the state CSA further distinguishes between possession and possession for sale. California has divided offenders into possessors, manufacturers, and transporters/sellers/furnishers. Marijuana is treated separately, with specific possession, cultivation, and manufacturing/sale penalties.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	possession: 16 mo.-3; \$20,000 possession for sale: 2-4; \$20,000	additional three-year term for each prior conviction	same
I/II non-narcotics	possession: 0-1 possession for sale: 16 mo.-3	additional three-year term for each prior conviction	same
III/IV/V narcotics	possession: 16 mo.-3; \$20,000 possession for sale: 2-4; \$20,000	_____	_____
III/IV/V non-narcotics	possession: 0-1 possession for sale: 16 mo.-3	_____	_____
marijuana	possession: ≤28.5g.; \$100 >28.5g.: 0-6 mo.; \$500 possession for sale: 16 mo.-3; \$20,000	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERING AND SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	3-5; \$20,000	additional three-year term for each prior conviction	same
I/II non-narcotics	2-4	_____	_____
III/IV/V narcotics	3-5; \$20,000	additional three-year term for each prior conviction	same
III/IV/V non-narcotics	2-4	_____	_____
marijuana	≤28.5g.: \$100 >28.5g.: 2-4; \$20,000	_____	_____

ENHANCED PENALTIES

- | | | | |
|---|---|--|------------------------------------|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input checked="" type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input checked="" type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- For second and subsequent drug offenses for possession of schedule I-V narcotics, no term of probation or suspended sentence may be imposed.
- For every conviction of a CSA violation, a \$50 fine is imposed as a laboratory fee.
- Every person who manufactures or produces any controlled substance is to be punished by imprisonment for three, five, or seven years.
- California precludes the forfeiture of conveyances in cases involving less than 14.25 grams of heroin or involving 28.5 grams or less of any other schedule I or II controlled substance, excluding marijuana, peyote, or psilocybin, for which at least 10 pounds must be involved for a forfeiture action to take place. In addition, no vehicle may be forfeited if it is the defendant's immediate family's sole means of transportation.

COLORADO

C.R.S. §§ 12-22-301 to 12-22-322

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I	1-4; \$1,000-\$100,000		
II	1-4; \$1,000-\$100,000		
III	0-2; \$500		
IV	0-2; \$500		
V	0-2; \$500		

Comments:

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

PENALTIES FOR POSSESSION OFFENSES

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

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

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

ENHANCED PENALTIES

- | | | | |
|---|---|---|------------------------------------|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input checked="" type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

Comments:

Possession of more than 28 g. of cocaine is punishable by a mandatory fine of \$3,000-\$750,000.

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

10 percent to the state general fund for law enforcement purposes; 1.5 percent to the district attorney; remainder divided among the seizing agency, the victim(s) of acts resulting in forfeiture, and a revolving fund for drug and alcohol abuse programs.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

CONNECTICUT

C.G.S.A. §§ 21a-240 to 21a-308

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

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

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

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

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Not addressed specifically in the statute.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

DELAWARE

16 Del. C. §§ 4701 to 4796

Delaware's schedules, which parallel the federal schedules, are administered by the secretary of the state's Department of Health and Social Services. Controlled substances are added, deleted, or re-scheduled in accordance with similar actions at the federal level. The state CSA establishes substantial mandatory minimum sentences for trafficking in various drugs.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I/II narcotics	0-5; \$3,000	0-10; \$3,000	same
I/II non-narcotics	0-2; \$500	0-7; \$500	same
III	0-2; \$500	0-7; \$500	same
IV	0-2; \$500	0-7; \$500	same
V	0-2; \$500	0-7; \$500	same
marijuana	0-2; \$500	0-7; \$500	same

PENALTIES FOR POSSESSION OFFENSES

flat penalty			
I narcotics	0-5; \$3,000	0-10; \$3,000	same
I non-narcotics	0-2; \$500	0-7; \$500	same
II narcotics	0-5; \$3,000	0-10; \$3,000	same
II non-narcotics	0-2; \$500	0-7; \$500	same
III	0-2; \$500	0-7; \$500	same
IV	0-2; \$500	0-7; \$500	same
V	0-2; \$500	0-7; \$500	same
marijuana	0-2; \$500	0-7; \$500	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II narcotics	by addict: 0-25; \$5,000-\$50,000 by non-addict: 0-30; \$25,000-\$100,000	30-99; \$5,000-\$50,000 30-99; \$25,000-\$100,000	same same
I/II non-narcotics	0-10; \$1,000-\$10,000	1-15; \$10,000	same
III	0-10; \$1,000-\$10,000		
IV	0-10; \$1,000-\$10,000		
V	0-10; \$1,000-\$10,000		

ENHANCED PENALTIES

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input checked="" type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/mecloqualone | <input checked="" type="checkbox"/> other(s): morphine |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

Comments:

A person found guilty of trafficking in minimum amounts and above of the specified controlled substances is subject to a mandatory minimum term of incarceration and a fine based on the type and amount of controlled substance. For example, the penalties for trafficking in cocaine are as follows:

- ≥15g.-100g.: 3; \$50,000
≥100g.-250g.: 5; \$100,000
≥250g.: 15; \$400,000

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- If a death results from a sale of narcotics, the seller (if a non-addict) is subject to life imprisonment with no eligibility for parole for 45 years.
- The mandatory minimum sentences for marijuana, cocaine, methamphetamine, amphetamine, phencyclidine (PCP), heroin, morphine, and opium may not be suspended. In addition, no one convicted under the trafficking provisions is eligible for parole, except in instances where a person convicted provides assistance in convicting his accomplices, accessories, co-conspirators, or principals and the state attorney general moves the sentencing court to reduce or suspend the sentence.
- Penalties for delivery of imitation controlled substances are the same as for the delivery of the substances that the seller represented the imitations to be.
- CSA forfeiture provisions provide for the substitution of forfeitable assets and proceeds for assets that are associated with CSA offenses but that cannot be located, or that have been transferred or sold or placed beyond the jurisdiction of the state.

DISTRICT OF COLUMBIA

D.C. Code 1981 §§ 33-501 to 33-567

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-1; \$1,000	0-2; \$2,000	same
I/II narcotics			
I/II non-narcotics			
III			
IV			
V			

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty		
I/II narcotics	4-15; \$100,000	
I/II non-narcotics	20 mo.-5; \$50,000	
III	20 mo.-5; \$50,000	For second and subsequent offenses, penalties are twice those otherwise authorized
IV	0-3; \$25,000	
V	0-1; \$10,000	
Other: PCP/PCP precursors	4-25; \$200,000	

ENHANCED PENALTIES

- none
- based on drug
- based on amount
- heroin
- cocaine
- PCP
- meth/amphetamine
- metha-/meclo-qualone
- marijuana
- other(s): PCP precursors

FORFEITURE

civil
 criminal
 administrative

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

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

containers
 real property
 imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

Deposited in a fund for rehabilitation programs for addicts, public education, and drug abuse prevention.

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s): PCP, PCP precursors

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed specifically

use
 delivery

possession

advertisement

NOTES

- A person not previously convicted for possession may have judgment deferred pending completion of a probationary period of up to one year. If the person does not violate the conditions of probation, the court may dismiss the case.
- A court may waive mandatory minimum penalties for manufacture and distribution if the violator is a first offender and an addict and if the sale and manufacture of the drugs was to facilitate his personal use of drugs.
- Conveyances are not subject to forfeiture in cases involving possession offenses.

FLORIDA

West's F.S.A. §§ 893.01 to 893.15

Florida maintains schedules identical to the federal schedules. Acknowledging in the CSA the difficulty of staying abreast of the creation of new, so-called "designer drugs," the legislature has vested the power of re-scheduling new controlled substances with the state attorney general. The attorney general also may add, delete, or re-schedule other substances subject to a scientific evaluation by the state's departments of professional regulation and of law enforcement. The CSA contains enhanced penalties for the drug categories of marijuana; cocaine; phencyclidine (PCP); methaqualone; and morphine, opium, and heroin. All penalties for possession and manufacturing of controlled substances, except for 20 grams or less of marijuana or more than 10 grams of schedule I narcotics, are the same. They are listed under "flat penalty" in the chart.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-5; \$5,000	0-10; \$5,000	same
I narcotics	>10g.: 0-30; \$10,000	life; \$15,000	—
I non-narcotics			
II narcotics			
II non-narcotics			
III			
IV			
V			
marijuana	≤20g.: 0-1; \$1,000	same	0-3; \$1,000

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	—	—	—
I narcotics	≤10g.: 0-15; \$10,000 >10g.: 0-30; \$10,000	0-30; \$10,000 life; \$15,000	same same
I non-narcotics	0-5; \$5,000	0-10; \$5,000	same
II	0-15; \$10,000	0-30; \$10,000	same
III	0-5; \$5,000	0-10; \$5,000	same
IV	0-5; \$5,000	0-10; \$5,000	same
V	0-1; \$1,000	same	0-3; \$1,000
marijuana	0-5; \$5,000	0-10; \$5,000	same

ENHANCED PENALTIES

none
 based on drug
 based on amount

heroin
 cocaine
 PCP

meth/amphetamine
 metha./mecloqualone

marijuana
 other(s):

Comments: For example, for cocaine and PCP:

>28g.-200g.: mandatory minimum 3; \$50,000
≥200g.-400g.: mandatory minimum 5; \$100,000
≥400g.: mandatory minimum 15; \$250,000

FORFEITURE

civil
 criminal
 administrative

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

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

containers
 real property
 imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

Deposited into a special law enforcement fund established by the governing body of the municipality where the property was seized. If the seizing agency is a state agency other than the department of law enforcement, the proceeds will be deposited into the general reserve fund. If the seizing agency is the department of law enforcement, the proceeds are to be deposited into the forfeiture and investigative support trust fund.

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed specifically

use
 delivery

possession

advertisement

NOTES

- The flat penalty for possession of any controlled substance does not apply to offenses involving less than 20 grams of marijuana.
- In 1987, the state added the term, "purchase" to the other offenses of "selling, manufacturing, delivering, or possessing with intent to distribute" controlled substances.
- Florida has included in its CSA, a provision stating that any drug whose effects are similar to those of any drugs listed in schedules I and II, but whose chemical structure has been altered so that it is not a scheduled drug, shall carry penalties as if listed in the same schedule as the drug which it imitates.

GEORGIA

O.C.G.A. §§ 16-13-20 to 16-13-55

The state board of pharmacy, in conjunction with the state general assembly, administers scheduling of controlled substances. Although the state CSA schedules conform to the federal schedules in many respects, one factor that makes the state's scheduling different from the federal schedules is that the Georgia system places phencyclidine (PCP) in schedule I, whereas this drug is in schedule III in the federal system. The Georgia system also treats marijuana separately, whereas this drug is part of schedule I under the federal system.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I	2-15	5-30	same
II	2-15	5-30	same
III	1-5	1-10	same
IV	1-5	1-10	same
V	1-5	1-10	same
marijuana	<1 oz.: 0-1; \$1,000 ≥1 oz.: 1-10	same same	same same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I	5-30	life	
II	5-30	life	
III	1-10		
IV	1-10		
V	1-10		
marijuana	1-10		

ENHANCED PENALTIES

- none
- heroin
- meth/amphetamine
- marijuana
- based on drug
- cocaine
- metha-/meclo-qualone
- other(s): morphine, opium
- based on amount
- PCP

Comments:

The fines and penalties for heroin, morphine, and opium are as follows:

- >4g.-14g.: minimum 5; \$150,000
- >14g.-28g.: minimum 10; \$100,000
- >28g.: minimum 25; \$500,000

FORFEITURE

civil
 criminal
 administrative

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

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

containers
 real property
 imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

Comments:

Selling paraphernalia to a minor under 18 years of age is punishable by zero to one year's incarceration for a first offense, one to five years' incarceration and/or \$1,000-\$15,000 for a subsequent offense.

PARAPHERNALIA

not addressed specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed specifically

use
 delivery

possession

advertisement

NOTES

- The district attorney may reduce or suspend a mandatory minimum sentence for an offense involving specific amounts of substances only if a defendant provides substantial assistance in the identification, arrest, and conviction of his accomplices.
- No conveyance is subject to forfeiture in any case involving a CSA violation concerning four ounces or less of marijuana and no other controlled substances.

HAWAII

HRS §§ 329-1 to 329-58

In Hawaii, the state health department, with assistance from an advisory board on drug abuse and controlled substances, has the responsibility for scheduling drugs. The state's CSA schedules substantially conform to the federal schedules. However, for penalty purposes, the state classifies drugs into three categories: "dangerous drugs" consist of federal schedule I and II substances; "harmful drugs" consist of federal schedule III or IV substances; and "detrimental drugs" include federal schedule V substances and marijuana.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
dangerous drugs	<½ oz.: 0-5; \$5,000 ≥½ oz.-2 oz.: 0-10; \$10,000 ≥2 oz.: 0-20; \$10,000	same same same	0-10; \$5,000 0-20; \$10,000 0-life; \$10,000
harmful drugs	<½ oz.: 0-1; \$1,000 ≥½ oz.-1 oz.: 0-10; \$10,000 ≥1 oz.: 0-20; \$10,000	same same same	same 0-20; \$10,000 0-life; \$10,000
detrimental drugs	<½ oz.: 0-30 days; \$500 ≥½ oz.-1 oz.: 0-1; \$1,000 ≥1 oz.: 0-5; \$5,000	same same same	same same 0-10; \$5,000
marijuana	<1 oz.: 0-30 days; \$500 ≥1 oz.-2.2 lbs.: 0-1; \$1,000 ≥2.2 lbs.: 0-5; \$5,000	same same same	same same 0-10; \$5,000

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
dangerous drugs	<½ oz.: 0-10; \$10,000 ≥½ oz.: 0-20; \$10,000	same same	0-20; \$10,000 0-life; \$10,000
harmful drugs	<½ oz.: 0-10; \$10,000 ≥½ oz.: 0-20; \$10,000	same same	0-20; \$10,000 0-life; \$10,000
detrimental drugs	<½ oz.: 0-1; \$1,000 ≥½ oz.: 0-5; \$5,000	same same	same 0-10; \$10,000
marijuana	<2 oz.: 0-1; \$1,000 ≥2 oz.: 0-5; \$5,000	same same	same 0-10; \$10,000

ENHANCED PENALTIES

- none
- based on drug
- based on amount

- heroin
- cocaine
- PCP

- meth/amphetamine
- metha-/meclo-qualone

- marijuana
- other(s): morphine

FORFEITURE

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

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|--|-----------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- o It is unlawful to maintain any store, shop, warehouse, dwelling, building, vehicle, boat, or other structure for using, selling, or keeping controlled substances. These violations are punishable by up to five years' imprisonment, a fine of \$5,000, or both.

IDAHO

I.C. §§ 37-2701 to 37-2751

In Idaho, the state board of pharmacy has responsibility for scheduling drugs. A significant difference between the state's schedules and the federal schedule is that the Idaho system includes phencyclidine (PCP) and its analogs in schedule I, whereas these drugs are under schedule III in federal law. Idaho is one of the few states that differentiates among schedule II, IV, and V controlled substances for manufacturing offenses and penalties. Also, the Idaho system groups schedule I narcotics with all schedule II drugs for penalty purposes for both possession and manufacturing offenses.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I narcotics	0-3; \$5,000	_____	_____
I non-narcotics	0-1; \$1,000	_____	_____
II	0-3; \$5,000	_____	_____
III	0-1; \$1,000	_____	_____
IV	0-1; \$1,000	_____	_____
V	0-1; \$1,000	_____	_____
marijuana	≤3 oz.: 0-1; \$1,000 >3 oz.: 0-5; \$10,000	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I narcotics	0-life; \$25,000	3-life	_____
I non-narcotics	0-5; \$15,000	3-life	_____
II	0-life; \$25,000	3-life	_____
III	0-5; \$15,000	3-life	_____
IV	0-3; \$10,000	3-life	_____
V	0-1; \$5,000	_____	_____

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited into the drug enforcement donation account.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- A person's mere presence at a place where he has knowledge that controlled substances are being used, manufactured, or held for distribution is a misdemeanor punishable by up to 90 days' imprisonment and a \$300 fine.
- Conveyances are not subject to forfeiture in cases involving possession offenses.

ILLINOIS

S.H.A. ch. 56 ½ §§ 1100 to 1603

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity to federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	<200g.: 1-3; \$15,000 ≥200g.: 4-15; \$200,000	1-6; \$30,000 4-30; \$400,000	same same
I/II non-narcotics:	1-3; \$15,000	1-6; \$30,000	same
III	1-3; \$15,000	1-6; \$30,000	same
IV	1-3; \$15,000	1-6; \$30,000	same
V	1-3; \$15,000	1-6; \$30,000	same
marijuana	<2.5g.: 30 days; \$500 2.5g.-10g.: 6 mo; \$500 10g.-30g.: 1; \$1,000 30g.-500g.: 1-3; \$10,000 >500g.: 2-5; \$10,000	1-3; \$10,000 2-5; \$10,000 _____	same same _____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	3-7; \$200,000	3-14; \$400,000	same
I/II non-narcotics:	2-5; \$150,000	2-10; \$300,000	same
III	2-5; \$125,000	2-10; \$250,000	same
IV	2-5; \$100,000	2-10; \$200,000	same
V	2-5; \$75,000	2-10; \$150,000	same
marijuana	<2.5g.: 6 mo; \$500 2.5g.-10g.: 1; \$1,000 10g.-30g.: 1-3; \$10,000 30g.-500g.: 2-5; \$50,000 >500g.: 3-7; \$100,000	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____

ENHANCED PENALTIES

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input checked="" type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input checked="" type="checkbox"/> metha-/meclo-qualone | <input checked="" type="checkbox"/> other(s): LSD, peyote, pentazocine |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

Comments:

For example, possession of cocaine:
<30g.: 1-3; \$15,000
≥30g.: 4-15; \$200,000

manufacturing, delivery of cocaine:
≤10g.: 3-7; \$200,000
>10g.-30g.: 4-15; \$250,000
≥30g.: 6-30; \$500,000

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited into the general fund of the county involved in the seizure.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- o Additional forfeiture provisions exist in the Illinois Narcotics Forfeiture Act. Under that statute, any interest in any property or enterprise acquired or maintained as a result of narcotics racketeering is forfeitable. Proceeds from sale of property along with any forfeited moneys are to be distributed as follows: 50 percent to the investigating unit of local government; 12.5 percent to the county of the prosecuting state's attorney; 12.5 percent to the office of the state's attorney's appellate prosecutor; and 25 percent to the Illinois state police.

INDIANA

West's A.I.C. §§ 35-48-1-1 to 35-48-1-14

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I/II narcotics	<3g.: 2; \$10,000 ≥3g.: 5; \$10,000	same same	10; \$10,000 35; \$10,000
I/II non-narcotics	2; \$10,000	same	10; \$10,000
III	2; \$10,000	same	10; \$10,000
IV	2; \$10,000	same	10; \$10,000
V	2; \$10,000	same	10; \$10,000
marijuana	≤30g.: 0-1; \$5,000 >30g.: 2; \$10,000	2; \$10,000 same	same 10; \$10,000

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II narcotics	<3g.: 10; \$10,000 ≥3g.: 30; \$10,000	same same	40; \$10,000 60; \$10,000
I/II non-narcotics	10; \$10,000	same	40; \$10,000
III	10; \$10,000	same	40; \$10,000
IV	5; \$10,000	same	35; \$10,000
V	2; \$10,000	same	
marijuana	≤30g.: 0-1; \$5,000 >30g.-10 lb.: 2; \$10,000 ≥10 lbs.: 5; \$10,000	same same same	10; \$10,000 same 10; \$10,000

ENHANCED PENALTIES

- none
- based on drug
- based on amount
- heroin
- cocaine
- PCP
- meth/amphetamine
- metha-/meclo-qualone
- marijuana
- other(s):

FORFEITURE

civil
 criminal
 administrative

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

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

containers
 real property
 imitation controlled
 substances

Method of distribution of proceeds after payment of seizure costs:

Deposited with the treasurer of state in the commonwealth fund.

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed
 specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed
 specifically

use
 delivery

possession

advertisement

NOTES

- It is a criminal offense for any person to visit a building, structure, vehicle, or other place to use a controlled substance. The maximum penalty for such an offense is 180 days' incarceration, a \$1,000 fine, or both. Any person maintaining such a place faces incarceration for up to one year.
- Conveyances are not subject to forfeiture in cases involving simple possession, unless the offense is possession of cocaine or a narcotic drug.

IOWA

I.C.A. §§ 204.101 to 204.602

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-1; \$1,000	0-1; \$3,000	same
I/II narcotics			
I/II non-narcotics			
III			
IV			
V			
marijuana	0-6 mo.; \$1,000	same	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II narcotics	3½-10; \$5,000	10-30; \$15,000	same
I/II non-narcotics	1½-5; \$1,000	5-15; \$3,000	same
III	1½-5; \$1,000	5-15; \$3,000	same
IV	0-1; \$1,000	0-3; \$3,000	same
V	0-1; \$1,000	0-3; \$3,000	same
marijuana	<1oz.: 0-6 mo.; \$1,000 ≥1oz.: 3½-10; \$5,000	same 10-30; \$15,000	same

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Not addressed specifically in the statute.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- o Penalties for distribution of imitation controlled substances to a minor are the same as for distribution of the actual substance the imitation is represented to be.

KANSAS

K.S.A. §§ 65-4101 to 65-4140

The state board of pharmacy administers Kansas' schedules, which conform to the federal schedules. However, for penalty purposes, Kansas separates the categories of narcotics from non-narcotics. Kansas also provides separate penalties for manufacturing, delivery, and sale offenses in cases involving hallucinogens, depressants, stimulants, or schedule IV substances.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	1-20; \$10,000	5-20; \$10,000	life
depressants, stimulants, hallucinogens, and IV	0-1; \$2,500	1-10; \$5,000	same
V	0-1; \$2,500	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	1-20; \$10,000	5-20; \$10,000	life
depressants, stimulants, hallucinogens, and IV	manufacture: 0-1; \$2,500 sale: 1-20; \$10,000	1-10; \$5,000	same
V	0-1; \$2,500	_____	_____

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Transferred to the unit of government having custody of the forfeited property or money.

OFFENSES INVOLVING MINORS

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics | <input type="checkbox"/> near schools |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> using minor to sell |
| | <input checked="" type="checkbox"/> other age group: delivery to person under 18 years of age | <input type="checkbox"/> marijuana | <input checked="" type="checkbox"/> imitation drugs |
| | | <input type="checkbox"/> other(s): | <input checked="" type="checkbox"/> drug paraphernalia |

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- A recent amendment to the CSA forfeiture provisions makes real property forfeitable when used in the commission of CSA violations, but the change does not apply in cases where the offense is simple possession or the owner of the property had no knowledge of the illegal activities.

KENTUCKY

KRS §§ 218A.010 to 218A.991

Kentucky's schedules, based largely on the federal scheme, are administered by the state's Cabinet for Human Resources. The state's schedules differ from the federal schedules in that the state classifies lysergic acid diethylamide (LSD) and phencyclidine (PCP) in schedule I, whereas the federal scheme places these drugs in schedule III.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	1-5; \$3,000-\$5,000	5-10; \$5,000-\$10,000	same
I/II non-narcotics	0-1; \$500	same	same
III	0-1; \$500	same	same
IV	0-1; \$500	same	same
V	0-1; \$500	same	same
marijuana	<8 oz.: 0-90 days; \$250	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	5-10; \$5,000-\$10,000	10-20, \$10,000-\$20,000	same
I/II non-narcotics	1-5; \$3,000-\$5,000	5-10; \$5,000-\$10,000	_____
III	1-5; \$3,000-\$5,000	5-10; \$5,000-\$10,000	_____
IV	0-1; \$500	1-5; \$3,000-\$5,000	_____
V	0-1; \$500	1-5; \$3,000-\$5,000	_____
marijuana	<8 oz.: 0-1; \$500 ≥8 oz.-5 lbs.: 1-5; \$10,000 ≥5 lbs.: 5-10; \$5,000-\$10,000	_____	_____

ENHANCED PENALTIES

- none
- based on drug
- based on amount

- heroin
- cocaine
- PCP

- meth/amphetamine
- metha-/meclo-qualone

- marijuana
- other(s):

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Seizing agencies may retain up to \$50,000 or \$100,000 of monies seized, subject to restrictions specified in the statute. Such monies must be used solely for law enforcement purposes related to controlled substances. Excess proceeds are to be deposited into a state fund for drug and alcohol abuse education, prevention, and treatment.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

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

LOUISIANA

LSA-R.S. §§ 40:961 to 40:995

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I narcotics	4-10; \$5,000	8-20; \$10,000	same
I non-narcotics	0-10; \$5,000	0-20; \$10,000	same
II	0-5; \$5,000	0-10; \$10,000	same
III	0-5; \$5,000	0-10; \$10,000	same
IV	0-5; \$5,000	0-10; \$10,000	same
V	0-5; \$5,000	0-10; \$10,000	same
marijuana	<100 lbs.: 0-6 mo.; \$500	0-5; \$2,000	0-20
other: PCP pentazocine	5-20; \$5,000 2-5; \$5,000	10-40; \$10,000 4-10; \$10,000	same same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I narcotics	5-30; \$15,000	10-60; \$30,000	same
I non-narcotics	0-10; \$15,000	0-20; \$30,000	same
II narcotics	5-30; \$15,000	10-60; \$30,000	same
II non-narcotics	0-10; \$15,000	0-20; \$30,000	same
III	0-10; \$15,000	0-20; \$15,000	same
IV	0-10; \$15,000	0-20; \$30,000	same
V	0-5; \$5,000	0-10; \$10,000	same
Other: pentazocine	7-10; \$15,000	14-20; \$30,000	same

ENHANCED PENALTIES

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input checked="" type="checkbox"/> other(s): pentazocine |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

Comments:

For example, cocaine:
≥28g.-200g.: 5-30; \$50,000
≥200g.-400g.: 10-30; \$100,000
≥400g.: 15-30; \$250,000

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:
Deposited in state's Drug Enforcement Seizure and Forfeiture Fund.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- In addition to providing for hard labor prison terms, the CSA states that an offender is ineligible for parole until he has served at least the minimum sentence imposed for cocaine trafficking. However, the district attorney may move for a reduction in a sentence if a defendant cooperates in identifying, arresting, and convicting any accomplices. Similar provisions also exist for offenses involving more than 100 pounds of marijuana.
- An offender may be conditionally discharged at the discretion of the court, for a first offense involving up to 100 pounds of marijuana.
- In 1987, Louisiana increased penalties for manufacture/distribution of schedule I substances and for possession of PCP.
- No probation any term or suspension of sentence is permitted for offenses involving manufacture/distribution of schedule I narcotics.

MAINE

17-A M.R.S.A. §§ 1101 to 1116; 22 M.R.S.A. §§ 2361 to 2380

Maine's schedules are substantially different from the federal schedules. The state arranges controlled substances into groups W, X, Y, and Z. Schedule W consists of amphetamine, methamphetamine, barbituric acid, cocaine, opium, phencyclidine (PCP), and any of their derivatives. Schedule X consists of some other depressants and hallucinogens, such as mescaline, peyote, hashish, and lysergic acid diethylamide (LSD). Schedule Y includes lower-level depressants such as codeine and valium. Finally, schedule Z consists of marijuana and prescription drugs not listed in other schedules.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
W	0-1; \$1,000	_____	_____
X	0-1; \$1,000	_____	_____
Y	0-6 mo.; \$500	_____	_____
Z	\$50-\$1,000	_____	_____
marijuana	<1.5 oz.: \$200 ≥1.5 oz.: \$50-\$1,000	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
W	furnishing: 0-5; \$2,500 trafficking: 0-10; \$10,000	_____	_____
X	furnishing: 0-1; \$1,000 trafficking: 0-5; \$2,500	_____	_____
Y	0-1; \$1,000	_____	_____
Z	0-1; \$1,000	_____	_____
marijuana	furnishing: >1.5 g.: 0-1; \$1,000 trafficking: >2 lbs.-≤1,000 lbs.: 0-5; \$2,500 >1,000 lbs.: 0-10; \$10,000	_____	_____

ENHANCED PENALTIES

- | | | | |
|--|--|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Distributed to state and/or local law enforcement agencies involved in the seizure for use solely for drug enforcement activities.

OFFENSES INVOLVING MINORS

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics | <input type="checkbox"/> near schools |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> using minor to sell |
| | <input checked="" type="checkbox"/> other age group: to person under 16 | <input checked="" type="checkbox"/> marijuana | <input checked="" type="checkbox"/> imitation drugs |
| | | <input type="checkbox"/> other(s): | <input checked="" type="checkbox"/> drug paraphernalia |

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- Mandatory minimum penalties, ranging from one year to four years of incarceration, for aggravated trafficking offenses became effective on Sept. 29, 1987. A person is guilty of aggravated trafficking or furnishing a scheduled drug if he trafficks with or furnishes to a person under 16 years of age.
- A recent amendment to the state CSA stipulates that anyone convicted of unlawful trafficking, aggravated trafficking, unlawful furnishing, or possession of any controlled substance shall be required to pay a fine of not less than the amount equal to the value of the substance, determined by schedules established by the chief of state police.
- A person in possession of more than 1.5 ounces of marijuana is presumed to be unlawfully furnishing a scheduled drug. Any person intentionally or knowingly possessing more than two pounds of marijuana is presumed to be unlawfully trafficking in scheduled drugs.

MARYLAND

Code 1957, art. 27 §§ 276 to 302

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-4; \$25,000	0-8; \$50,000	—
I narcotics			
I non-narcotics			
II narcotics			
II non-narcotics			
III			
IV			
V			
marijuana	0-1; \$1,000	0-2; \$2,000	—

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	—	—	—
I narcotics	0-20; \$25,000	10-20; \$25,000	same
I non-narcotics	0-5; \$15,000	2-5; \$15,000	same
II narcotics	0-20; \$25,000	10-20; \$25,000	same
II non-narcotics	0-5; \$15,000	2-5; \$15,000	same
III	0-5; \$15,000	2-5; \$15,000	same
IV	0-5; \$15,000	2-5; \$15,000	same
V	0-5; \$15,000	2-5; \$15,000	same
other: PCP	0-20; \$20,000	10-20; \$20,000	same

ENHANCED PENALTIES

- none
- based on drug
- based on amount
- heroin
- cocaine
- PCP
- meth/amphetamine
- metha-/meclo-qualone
- marijuana
- other(s): LSD, morphine

Comments:

A person convicted of possessing the listed controlled substances in the following amounts may be fined not more than \$150,000 or imprisoned for not more than 25 years, or both:
≥160 lbs. marijuana, ≥28g. cocaine, ≥4g. morphine/opium, ≥1,000 units LSD, ≥28g. PCP, ≥1,000 units methaqualone, ≥28g. methamphetamine.

FORFEITURE

- civil
- criminal
- administrative

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

- containers
- real property
- imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

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

- narcotics
- non-narcotics
- marijuana
- other(s):

- near schools
- using minor to sell
- imitation drugs
- drug paraphernalia

PARAPHERNALIA

- not addressed specifically

- use
- delivery

- possession

- advertisement

IMITATION DRUGS

- not addressed specifically

- use
- delivery

- possession

- advertisement

MASSACHUSETTS

M.G.L.A. c. 94C, §§ 1 to 48

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
A	0-1; \$1,000	0-2; \$2,000	same
B	0-1; \$1,000	0-2; \$2,000	same
C	0-1; \$1,000	0-2; \$2,000	same
D	0-1; \$1,000	0-2; \$2,000	same
E	0-6 mo; \$500	0-2; \$2,000	same
marijuana	0-6 mo; \$500	0-2; \$2,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
A	10; \$1,000-\$10,000	5-15; \$2,500-\$25,000	same
B	10; \$1,000-\$10,000	3-10; \$2,500-\$25,000	same
C	5; \$500-\$5,000	2½-10; \$1,000-\$10,000	same
D	0-2; \$500-\$5,000	1-2½; \$1,000-\$10,000	same
E	0-9 mo; \$250-\$2,500	0-1½; \$500-\$5,000	same

ENHANCED PENALTIES

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

Comments:

A person found guilty of trafficking in the above-listed controlled substances (except PCP) is sentenced to a mandatory minimum term and a fine based on the type and amount of controlled substance. For example, the penalties for trafficking in cocaine are as follows: ≥28g.-100g.: 3-15; \$2,500-\$25,000
≥100g.-200g.: 5-15; \$5,000-\$50,000
≥200g.: 10-15; \$20,000-\$200,000

The penalties for manufacturing and delivery of phencyclidine (PCP) are 2½-10; a \$1,000-\$10,000 fine, or both.

FORFEITURE

civil
 criminal
 administrative

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

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

containers
 real property
 imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed specifically

use
 delivery

possession

advertisement

NOTES

- o Any person who is convicted for the first time for possession of marijuana or a class E substance and who has not been convicted of any other drug provision is to be placed on probation.
- o Unlike provisions for other substances, enhanced penalties for manufacturing or delivering any amount of phencyclidine (PCP) are automatic; enhanced penalties for other substances are based on the amount involved.
- o Real estate proven to be used in furtherance of illegal drug activity may be forfeited, provided that such real estate is not the principal domicile of the immediate family of a person convicted under the CSA.
- o Conveyances are not subject to forfeiture in cases involving possession of less than 10 pounds of marijuana.
- o Massachusetts defines a counterfeit substance as "a substance that is represented to be a particular controlled drug or substance but which is not in fact that drug or substance"; the definition is similar to that for imitation substances in some other state CSAs.
- o Any person who is knowingly at a place where heroin is kept, or in the company of a person possessing heroin, faces up to a one-year prison term and a \$1,000 fine.

MICHIGAN

M.C.L.A. §§ 333.7101 to 333.7545

In Michigan, the state board of pharmacy has responsibility for scheduling drugs in accordance with the federal schedule unless the board objects and the legislature does not overturn the objections. Michigan divides offenses into three categories: use, possession, and manufacturing/delivery/sale. The state authorizes the use of marijuana in the treatment of glaucoma and chemotherapy patients.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	0-1; \$2,000	_____	_____
I/II non-narcotics	0-1; \$1,000	_____	_____
III	_____	_____	_____
IV	_____	_____	_____
V	_____	_____	_____
marijuana	0-90 days; \$100	_____	_____
other: LSD, peyote, mescaline, dimethyltryptamine, psilocin, psilocybin	0-6 mo.; \$1,000	_____	_____

PENALTIES FOR POSSESSION OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	<50g.: 0-4; \$2,000 ≥50g.-225g.: 10-20 ≥225g.-650g.: 20-30 ≥650g.: life	0-8; \$4,000 life life same	same same same same
I/II non-narcotics	0-2; \$2,000	0-4; \$4,000	same
III	0-2; \$2,000	0-4; \$4,000	same
IV	0-2; \$2,000	0-4; \$4,000	same
V	0-2; \$2,000	0-4; \$4,000	same
marijuana	0-1; \$1,000	0-2; \$2,000	same
other: LSD, peyote, mescaline, psilocin, psilocybin	0-1; \$1,000	0-2; \$2,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II narcotics	<50g.: 0-20; \$25,000 ≥50g.-225g.: 10-20 ≥225g.-650g.: 20-30 ≥650g.: life	0-40; \$50,000 life life same	same same same same
I/II non-narcotics	0-7; \$5,000	0-14; \$10,000	same
III	0-7; \$5,000	0-14; \$10,000	same
IV	0-4; \$2,000	0-8; \$4,000	same
V	0-2; \$2,000	0-4; \$4,000	same
marijuana	0-7; \$5,000	0-14; \$10,000	same

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|--|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/mecloqualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics | <input checked="" type="checkbox"/> near schools |
| <input type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> using minor to sell |
| | <input checked="" type="checkbox"/> other age group: 18 or over to under 18 at least five years junior | <input checked="" type="checkbox"/> marijuana | <input type="checkbox"/> imitation drugs |
| | | <input type="checkbox"/> other(s): | <input type="checkbox"/> drug paraphernalia |

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

Comment:

The creation, delivery, or possession with intent to deliver a counterfeit controlled substance is punishable as follows: for schedule I or II narcotics, up to 10 years' imprisonment and a \$20,000 fine; for other schedule I, II, or III substances, up to five years' imprisonment and a \$5,000 fine; for schedule IV substances, up to four years' imprisonment and a \$2,000 fine; and for schedule V substances, up to two years' imprisonment and a \$2,000 fine.

NOTES

- No conveyances involved in use offenses or other offenses involving lysergic acid diethylamide (LSD), peyote, mescaline, psilocin, psilocybin, or marijuana are subject to forfeiture.

MINNESOTA

M.S.A. §§ 152.01 to 152.20

Minnesota's CSA schedules, administered by the state board of pharmacy and a task force, are amended as necessary to achieve automatic conformity with federal schedules within 30 days of any modifications to the federal schedule. A significant exception to automatic conformity involves the drug phencyclidine (PCP); while it is a schedule III drug under the federal schedule, it is a schedule II non-narcotic under the Minnesota classification scheme.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	—	—	—
I/II narcotics	0-5; \$10,000	0-10; \$20,000	same
I/II non-narcotics	0-3; \$5,000	0-6; \$10,000	same
III	0-3; \$5,000	0-6; \$10,000	same
IV	0-3; \$5,000	0-6; \$10,000	same
V	0-1; \$5,000	0-2; \$10,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	—	—	—
I/II narcotics	<7g. or 10 doses: 0-15; \$40,000 ≥7g. or 10 doses: 0-20; \$60,000	1-30; \$50,000 2-30; \$100,000	same
I/II non-narcotics	0-5; \$30,000	1-10; \$45,000	same
III	0-5; \$30,000	1-10; \$45,000	same
IV	0-3; \$20,000	6 mo-6; \$35,000	same
V	0-1; \$3,000	—	—

ENHANCED PENALTIES

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input checked="" type="checkbox"/> other(s): Schedule I |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | hallucinogens (except
marijuana) |

Comments:

Convictions for manufacture, sale, or delivery of all the above listed substances are as follows:
first offense: <7g. or 10 doses: 0-15; \$40,000 second offense: <7g. or 10 doses: 1-30; \$50,000
≥7g. or 10 doses: 0-20; \$60,000 ≥7g. or 10 doses: 2-30; \$100,000

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

One-third to the state drug abuse authority for treatment programs, one-third to the prosecuting agency with jurisdiction over the criminal offenses, and one-third to the agency investigating the offense.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- A recently-enacted provision makes it a separate offense for a "dealer" to possess marijuana or a controlled substance on which no tax has been paid to the state. Evidence of payment is a stamp furnished by the commissioner of revenue after payment of tax. The defendant has the burden of proving the tax assessment incorrect or invalid. Tax rates are as follows: \$3.50 for each gram of marijuana, \$200 for each gram of controlled substance sold by weight, and \$2,000 for each 50-dosage unit of a controlled substance not sold by weight.
- Possession of a "small amount" of marijuana is a petty misdemeanor punishable by a fine of up to \$100 and participation in a drug education program.
- Possession of more than one-half ounce of marijuana in a motor vehicle is punishable by up to one year in prison and a \$1,000 fine.

MISSISSIPPI

Code 1972, §§ 41-29-101 to 41-29-175

In Mississippi, the bureau of narcotics, which operates under the supervision of the department of public safety, has the responsibility for scheduling drugs. The state's CSA schedule substantially conforms to the federal schedule. A significant exception to automatic conformity involves the drug phencyclidine (PCP); while it is a schedule III drug under the federal schedules, it is a schedule II non-narcotic under the Mississippi classification scheme.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I	0-3; \$1,000-\$30,000	_____	_____
II	0-3; \$1,000-\$30,000	_____	_____
III	0-1; \$5,000	_____	_____
IV	0-1; \$5,000	_____	_____
V	0-1; \$5,000	_____	_____
marijuana	≤1 oz.: \$100-\$250 ≥1 oz.-1 kilo.: 0-1; \$1,000 ≥1 kilo.: see enhanced	5-60 days; \$250	5 days-6 mo.; \$250-\$500

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I	0-30; \$1,000-\$1,000,000	0-60; \$1,000-\$2,000,000	same
II	0-30; \$1,000-\$1,000,000	0-60; \$1,000-\$1,000,000	same
III	0-20; \$1,000-\$250,000	0-40; \$5,000-\$100,000	same
IV	0-20; \$1,000-\$250,000	0-40; \$5,000-\$100,000	same
V	0-10; \$1,000-\$150,000	0-20; \$2,000-\$100,000	same
marijuana	≤1 oz.: 0-3; \$3,000 ≥1 oz.-<1 kilo: 0-20; \$30,000 ≥1 kilo: 0-30; \$1,000-\$1,000,000	0-40; \$1,000-\$100,000 0-60; \$1,000-\$2,000,000	same

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|--|---|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/mecloqualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

Comments:

A person convicted of possessing 1 kilo or more of marijuana may be imprisoned for up to 20 years and fined \$1,000 to \$1 million or both.

FORFEITURE

civil
 criminal
 administrative

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

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

containers
 real property
 imitation controlled
 substances

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed
 specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed
 specifically

use
 delivery

possession

advertisement

NOTES

- Conveyances are not subject to forfeiture in cases involving possession of less than one kilo of marijuana.

MISSOURI

V.A.M.S. §§ 195.010 to 195.320

The division of health administers Missouri's schedules, which substantially conform to the federal schedules. Any additions, deletions, or reschedulings made in the federal schedules automatically become part of the state's schedules.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I	6 mo.-20; \$5,000	5-life; \$5,000	10-life; \$5,000
II	6 mo.-20; \$5,000	5-life; \$5,000	10-life; \$5,000
III	0-10; \$5,000		
IV	0-10; \$5,000		
V	0-10; \$5,000		
marijuana	≤35g.: 0-1; \$1,000 ≥35g.: 0-5; \$1,000	0-5; \$1,000	

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty		
I	5-life; \$5,000	10 life; \$5,000
II	5-life; \$5,000	10-life; \$5,000
III	0-10; \$5,000	
IV	0-10; \$5,000	
V	0-10; \$5,000	

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

NOTES

- o Delivery of less than 25 grams of marijuana for no remuneration is punishable by one year in the county jail and/or a \$1,000 fine.
-

MONTANA

MCA §§ 50-32-101 to 50-32-405

The state board of pharmacy administers Montana's schedules, which conform to the federal schedules. The state's CSA contains separate penalties for possession with intent to sell controlled substances. All penalties for possession of controlled substances, except marijuana and opiates, are the same. They are listed under "flat penalty" in the chart. All penalties for manufacturing, delivery, and sale offenses, except those involving opiates, are the same. They are listed under "flat penalty" in the chart. However, Montana does have separate penalties for second and subsequent offenses involving the manufacturing, delivery, or sale of schedule I or II narcotics.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-5; \$50,000	—	—
I			
II			
III			
IV			
V			
marijuana	≤60g.: 6 mo; \$100-\$500 ≥60g.: 0-5; \$50,000	0-1; \$1,000	same
other: opiates	2-5; \$50,000	—	—

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	1-life; \$50,000	—	—
I		10-life; \$50,000	20-life; \$50,000
II		10-life; \$50,000	20-life; \$50,000
III			
IV			
V			
marijuana			
other: opiates	2-life; \$50,000	—	—

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited into the governing entity of the seizing agency's drug forfeiture account; money from such an account is to be used in the enforcement of drug laws and education concerning drugs.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|-----------------------------------|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- The penalty for possession with intent to sell opiates is two to 20 years' imprisonment and up to a \$50,000 fine. For other controlled substances, the penalty is zero to 20 years and/or up to a \$50,000 fine. A minimum of more than one kilogram must be involved for a conviction of possession with intent to sell.
- Possession of the precursors for making amphetamine, methamphetamine, or phencyclidine (PCP) is punishable by two to 20 years and up to a \$50,000 fine.
- No conveyance or container used to transport less than 250 grams of marijuana is subject to forfeiture.

NEBRASKA

R.R.S. 1943 § 38-401 et seq.

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	3 mo.; \$500	—	—
I	—	—	—
II	—	—	—
III	—	—	—
IV	—	—	—
V	—	—	—

Comment:

For conviction, the state does not need to prove that a person was under the influence of a specific controlled substance; the state must establish that the person manifested the physical and physiological symptoms or reactions caused by use of any controlled substance.

PENALTIES FOR POSSESSION OFFENSES

flat penalty	0-5; \$10,000	—	—
I	—	—	—
II	—	—	—
III	—	—	—
IV	—	—	—
V	—	—	—
marijuana	<1 oz.: \$100 >1 oz.-1 lb.: 0-7 days; \$500 ≥1 lb.: 0-5; \$10,000	0-5 days; \$200	0-7 days; \$300

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	—	—	—
I/II/III	exceptionally hazardous: 1-50 other: 0-20; \$25,000	—	—
IV	0-5; \$10,000	—	—
V	0-5; \$10,000	—	—

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |
-

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited into the state school fund.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

NEVADA

N.R.S. §§ 453.011 to 453.361

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	1-6; \$5,000	_____	_____
I/II non-narcotics	1-6; \$5,000	_____	_____
III	1-6; \$5,000	_____	_____
IV	1-6; \$5,000	_____	_____
V	0-1; \$1,000	_____	_____

PENALTIES FOR POSSESSION OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	1-6; \$5,000	1-10; \$10,000	1-20; \$20,000
I/II non-narcotics	1-6; \$5,000	1-10; \$10,000	1-20; \$20,000
III	1-6; \$5,000	1-10; \$10,000	1-20; \$20,000
IV	1-6; \$5,000	1-10; \$10,000	1-20; \$20,000
V	0-1; \$1,000	1-6; \$5,000	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	1-20 or life; \$20,000	5-20 or life; \$20,000	15-life; \$20,000
I/II non-narcotics	1-20 or life; \$20,000	5-20 or life; \$20,000	15-life; \$20,000
III	1-10 or life; \$10,000	2-15 or life; \$15,000	5-20 or life; \$20,000
IV	1-10 or life; \$10,000	2-15 or life; \$15,000	5-20 or life; \$20,000
V	1-10 or life; \$10,000	2-15 or life; \$15,000	5-20 or life; \$20,000

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Not addressed specifically in the statute.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- Any person under age 21 who is convicted of possession of less than one ounce of marijuana may be sentenced to one to six years' imprisonment and up to a \$20,000 fine, or up to one year's imprisonment, a fine of up to \$1,000, and revocation of his or her driver's license for not more than six months.
- The CSA includes specific provisions for possession with intent to sell substances listed in schedules I through V. The penalty for a first violation of this section with regard to schedule I and II substances is one to 15 years and a \$5,000 fine. The penalty for a first offense with regard to substances listed in schedules III through V is one to 16 years and a \$5,000 fine.
- In addition to criminal penalties, civil penalties also may apply in offenses involving manufacturing, selling, or distributing marijuana or schedule I or II controlled substances.
- The CSA includes specific provisions for trafficking in schedule I and II substances and marijuana. The severity of the penalty is based on the amount of substance involved. For example, penalties for offenses involving schedule I substances are as follows:
 - >4g.-14g.: 3-20; \$50,000
 - ≥14g.-28g.: 10-life; \$100,000
 - ≥28g.: 25-life; \$500,000
- More than \$300 cash found in possession of a person charged with distribution is assumed to be intended for exchange for controlled substances and is subject to forfeiture. A conveyance is not subject to forfeiture in any case where the offense involves less than one kilogram of marijuana.
- Any person who opens or maintains a place for the purpose of selling, giving away, or using controlled substances faces up to 10 years' imprisonment and up to a \$10,000 fine.
- The CSA includes penalties for being under the influence of a controlled substance, unless a medical practitioner has authorized use of such substance.
- If the death of a person is proximately caused by a controlled substance that has been sold to him by another person in violation of provisions of the CSA, the seller is guilty of murder.

NEW HAMPSHIRE

N.H.R.S.A. § 318-B

New Hampshire's CSA schedules, administered by the director of the state's public health division and subject to approval of the state's pharmacy board, substantially conform to the federal schedules. Any addition, deletion, or rescheduling made in the federal schedules automatically becomes part of the state schedule. Although New Hampshire has a five-schedule system, the statute assigns possession penalties based on a narcotics/non-narcotics classification scheme.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
narcotics	0-7; \$5,000	0-15; \$10,000	same
non-narcotics	0-1; \$1,000	0-7; \$5,000	same
marijuana	≥1 lb.: 0-7; \$2,000	0-15; \$2,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I/II	0-10; \$125,000	0-20; \$250,000	same
III	0-5; \$50,000	0-10; \$100,000	same
IV	0-3; \$25,000	0-6; \$50,000	same
V	0-1; \$10,000	0-3; \$25,000	same
marijuana	<50 kilo: 0-5; \$50,000 ≥50 kilo: 0-10; \$125,000	0-10; \$100,000	same

ENHANCED PENALTIES

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input checked="" type="checkbox"/> other(s); LSD |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

Comments:

Enhanced penalties are based on the amount of the above specified drugs. For example, cocaine:

first offense	second offense
500g.-.5 kilos: 0-15; \$250,000	0-30; \$500,000
≥5 kilos: 0-20; \$250,000	0-40; \$500,000

FORFEITURE

- civil
- criminal
- administrative

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

- containers
- real property
- imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

10 percent to the seizing agency; 10 percent (not exceeding \$200,000) to the state alcohol and drug abuse prevention fund; and the remainder (not exceeding \$200,000) to the drug forfeiture fund or the state general fund.

OFFENSES INVOLVING MINORS

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

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

- narcotics
- non-narcotics
- marijuana
- other(s):

- near schools
- using minor to sell
- imitation drugs
- drug paraphernalia

PARAPHERNALIA

- not addressed specifically

- use
- delivery

- possession

- advertisement

IMITATION DRUGS

- not addressed specifically

- use
- delivery

- possession

- advertisement

NOTES

- o Legislation passed in 1987 establishes enhanced penalties for attempts or conspiracies to violate the CSA and for the possession or sale of controlled substances that result in death or serious bodily injury.
- o Legislation pending in 1987 would modify CSA provisions: H. B. 611 would change the procedures for forfeiture, allowing the attorney general to forfeit administratively certain items involved in drug offenses without first petitioning the court for an attachment order. H. B. 346 would establish a tax on illegal drugs and a 100 percent penalty for failure to pay the tax. It also would double the current penalty for distributing controlled substances on or within 1,000 feet of school property.

NEW JERSEY

N.J.S.A. §§ 24:21-1 to 24.21-53

New Jersey's CSA schedules, administered by the state commissioner of health, substantially conform to the federal schedules. Unlike many other states, New Jersey has established penalties for use of controlled substances. Penalties are determined according to the actual purity of the substances involved.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I/II narcotics	May have driver's license suspended up to two years		
I/II non-narcotics			
III			
IV			
V			
marijuana			

Comment:

For conviction, it is not necessary for the court to prove that the accused used controlled substances; instead, it is sufficient to show that the accused manifested physical or physiological symptoms and reactions caused by a controlled substance.

PENALTIES FOR POSSESSION OFFENSES

flat penalty		
I/II narcotics	<1 oz.: 0-5; \$15,000 ≥1 oz.: 0-7; \$15,000	
I/II non-narcotics	0-5; \$15,000	
III	0-5; \$15,000	For second and subsequent offenses, fines and penalties are twice those otherwise authorized.
IV	0-5; \$15,000	
V	0-1; \$5,000	
marijuana	≤25 g.: 0-6; \$250 >25 g.: 0-5; \$15,000	

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty		
I/II narcotics	<1 oz.: 0-12; \$25,000 ≥1 oz.: 0-life; \$25,000	
I/II non-narcotics	0-5; \$15,000	For second and subsequent offenses, fines and penalties are twice those otherwise authorized.
III	0-5; \$15,000	
IV	0-5; \$15,000	
V	0-1; \$5,000	

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |
-

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Distributed to the entity funding the prosecuting agency and shared with the investigative arresting agency "in proportion to its contribution to the arrest."

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

NOTES

- In addition to imposing the specific penalties for possessing 25 grams or less of marijuana or being under the influence of a controlled dangerous substance, a court may revoke a person's driver's license for up to two years upon his conviction of one of these offenses.
 - The offense of being under the influence of any controlled substance is punishable by up to six months' imprisonment and/or a \$250 fine. The state does not need to prove that a person was under the influence of a specific controlled substance; the state must establish that the person manifested the physical and physiological symptoms or reactions caused by use of any controlled substance.
-

NEW MEXICO

NMSA 1978 §§ 30-31-1 to 30-31-40

New Mexico's CSA schedules generally conform to the federal schedules. The CSA provides for automatic addition, deletion, or re-scheduling of any controlled substances to conform to changes in the federal schedules. The state board of pharmacy, which administers the schedules, is responsible only for schedules I through IV; the legislature alone has the authority to change the classification of schedule V substances.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	0-18 mo; \$5,000	_____	_____
I/II non-narcotics	0-1; \$500-\$1,000	_____	_____
III	0-1; \$500-\$1,000	_____	_____
IV	0-1; \$500-\$1,000	_____	_____
V	_____	_____	_____
marijuana	≤1 oz.: 0-15 days; \$50-\$100 >1 oz.-8 oz.: 0-1; \$100-\$1,000 ≥8 oz.: 0-8 mo; \$15,000	0-1; \$100-\$1,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	0-9; \$10,000	18; \$15,000	same
I/II non-narcotics	0-3; \$5,000	9; \$10,000	same
III	0-3; \$5,000	9; \$10,000	same
IV	0-3; \$5,000	9; \$10,000	same
V	6 mo-1 yr; \$100-\$500	_____	same
marijuana	≤100 lbs.: 0-18 mo; \$5,000 >100 lbs: 0-3; \$5,000	0-3; \$5,000 0-9; \$10,000	same

ENHANCED PENALTIES

- | | | | |
|---|---|---|------------------------------------|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

FORFEITURE

- civil
- criminal
- administrative

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

- containers
- real property
- imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

Distributed to general fund of state, county, or municipality of the seizing agency.

OFFENSES INVOLVING MINORS

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

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

- narcotics
- non-narcotics
- marijuana
- other(s):

- near schools
- using minor to sell
- imitation drugs
- drug paraphernalia

PARAPHERNALIA

- not addressed specifically

- use
- delivery

- possession

- advertisement

IMITATION DRUGS

- not addressed specifically

- use
- delivery

- possession

- advertisement

NOTES

- o Conveyances are not subject to forfeiture in any case involving only a misdemeanor.

NEW YORK

McKinney's Public Health Law §§ 3300 to 3396

New York's CSA contains a complex set of penalty provisions based on the amount and type of substance involved. The penalty provisions listed on this chart represent the minimum imprisonment and fine for violation of the act. These penalties may be increased up to life imprisonment, depending on the type and amount of drug involved. The statute should be consulted for determining the appropriate penalty for a violation involving a specific drug and amount.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I	0-1; \$1,000	_____	_____
II	0-1; \$1,000	_____	_____
III	0-1; \$1,000	_____	_____
IV	0-1; \$1,000	_____	_____
V	0-1; \$1,000	_____	_____

PENALTIES FOR POSSESSION WITH INTENT TO SELL AND SALE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I	0-7; \$5,000	_____	_____
II	0-7; \$5,000	_____	_____
III	0-7; \$5,000	_____	_____
IV	0-7; \$5,000	_____	_____
V	0-7; \$5,000	_____	_____

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

Comments:

Because penalties for all substances are based on the amount involved, these penalties are not considered enhanced.

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

To the general fund of the county where the seizure took place, except that proceeds from the sale of forfeited property in the cities of New York, Yonkers, Buffalo, and Rochester are to be deposited in the general funds of those cities.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- Possession of any combination of the precursors for phencyclidine (PCP) or methamphetamine is punishable by up to 15 years' imprisonment.
- No property may be forfeited unless it is involved in a felony offense.

NORTH CAROLINA

G.S. §§ 90-86 to 90-113.8

North Carolina's schedules, administered by the state drug commission, substantially conform to the federal schedules, except that the state has created a schedule VI for marijuana. Enhanced penalties apply for offenses involving certain minimum quantities of controlled substances.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I	0-5; \$5,000	_____	_____
II	0-2; \$2,000	0-5	same
III	0-2; \$2,000	0-5	same
IV	0-2; \$2,000	0-5	same
V	0-6 mo.; \$500	0-2; \$2,000	same
VI	½ oz.-1½ oz.: 0-30 days; \$100 ≥1½ oz.: 0-5; \$5,000	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I	0-10; fine	_____	_____
II	0-10; fine	_____	_____
III	0-5; fine	_____	_____
IV	0-5; fine	_____	_____
V	0-5; fine	_____	_____
VI	<5g.: see note ≥5g.: 0-5; fine	_____	_____

ENHANCED PENALTIES

- none
- based on drug
- based on amount

- heroin
- cocaine
- PCP

- meth/amphetamine
- metha-/meclo-qualone

- marijuana
- other(s): opium derivatives

Comments:

A person convicted of trafficking in the above-listed controlled substances is sentenced to a mandatory minimum term of incarceration and a fine based on the amount and type of controlled substance. For example, penalties for trafficking in cocaine are as follows:

28-100g.: 7; \$50,000
≥200-400g.: 14; \$100,000
≥400g.: 35; \$250,000

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- The transfer of less than five grams of marijuana for no remuneration does not constitute delivery.
- North Carolina's CSA provides for penalties for continuing criminal enterprises; a person convicted under this provision faces up to 50 years' or life imprisonment and forfeits all profits obtained through such an enterprise.
- Conveyances are forfeitable only in cases involving felony violations.

NORTH DAKOTA

NDCC §§ 19-03.1-01 to 19-03.1-43

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I narcotics	0-5; \$5,000		
I non-narcotics			
II narcotics			
II non-narcotics			
III			
IV			
V			
marijuana	½ oz.-1 oz.: 0-1; \$1,000 ≥1 oz.: 0-5; \$5,000		

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	0-20; \$10,000	_____	_____
I/II non-narcotics	0-10; \$10,000	_____	_____
III	0-10; \$10,000	_____	_____
IV	0-5; \$5,000	_____	_____
V	0-1; \$1,000	_____	_____
marijuana	<100 lbs.: 0-2; \$10,000 ≥100 lbs.: 0-20; \$10,000	_____	_____

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Up to a limit of \$500,000 deposited in the assets forfeiture fund, administered by the state attorney general; remainder deposited in the appropriate state, county, or city general fund of the seizing agency.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- A seized conveyance is forfeitable upon a guilty plea, upon conviction at trial, or one month after the property has been seized and the owner has not been located.

OHIO

R.C. §§ 3719.01 to 3719.99

Ohio's CSA schedules substantially conform to the federal schedules. Any additions, deletions, or re-scheduling made in the federal schedules automatically become part of the state schedule. The statute divides trafficking-related offenses into separately-defined categories. The "manufacturing" category, selected as an example for purposes of this chart, is defined as "cultivating, manufacturing, or otherwise engaging in a part of production of a controlled substance." The fines indicated under the manufacturing section of this chart are mandatory minimums.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I	0-6; \$1,000	1-10; \$5,000	same
II	0-6; \$1,000	1-10; \$5,000	same
III	0-60 days; \$500	0-90 days; \$750	same
IV	0-60 days; \$500	0-90 days; \$750	same
V	0-60 days; \$500	0-90 days; \$750	same
marijuana	<100 g.: \$100 ≥100 g.: 0-30 days; \$250		

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I	3-15; \$7,500	5-25; \$15,000	same
II	3-15; \$7,500	5-25; \$15,000	same
III	1-10; \$2,500	2-15; \$5,000	same
IV	1-10; \$2,500	2-15; \$5,000	same
V	1-10; \$2,500	2-15; \$5,000	same
marijuana	½-5; \$2,000	1-10; \$4,000	same

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited in the law enforcement trust fund of the political subdivision of the agency that made the seizure.

OFFENSES INVOLVING MINORS

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics | <input type="checkbox"/> near schools |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> using minor to sell |
| | <input checked="" type="checkbox"/> other age group: 18 or older to under 18 at least 4 years junior | <input type="checkbox"/> marijuana | <input checked="" type="checkbox"/> imitation drugs |
| | | <input type="checkbox"/> other(s): | <input checked="" type="checkbox"/> drug paraphernalia |

PARAPHERNALIA

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|--|-----------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input type="checkbox"/> delivery | | |

NOTES

- Mandatory fines imposed for drug trafficking are to be paid to the agencies responsible for the arrest and prosecution of the offenders.
- Penalties for drug offenses are based on a table of "bulk amounts," which vary depending on the substance. For example, "bulk amounts" include 200 grams of marijuana; 30 grams for 10 unit doses of any schedule I hallucinogen; or 120 grams of schedule III or IV substances. Offenses are classified as follows: 1) cultivation, manufacture, transport, delivery, or distribution; 2) possession of greater than the bulk amount but less than three times the bulk amount; 3) sale of more than the bulk amount but less than three times the bulk amount; 4) possession of greater than three times the bulk amount; 5) sale of greater than three times the bulk amount; and 6) provision to another of funds to acquire greater than three times the bulk amount. Within each of these categories, penalties are assigned according to the type of substance involved.
- It also is an offense for any person to allow any vehicle he owns to be used in the commission of a felony offense or to allow any real estate he owns to be used in the commission of a felony drug offense. This offense is punishable by up to six months' imprisonment and/or up to a \$1,000 fine for the first violation and by six months' to five years' confinement and up to a \$2,500 fine for subsequent violations.
- The state CSA also includes penalties for the offense of "corrupting another with drugs." This offense includes forcing a person to use a controlled substance; providing a person with drugs that lead to his becoming drug dependent; inducing a person to take a controlled substance that results in serious physical harm; or furnishing a controlled substance to a person under 18 who is at least four years the offender's junior.
- Penalties for sale of marijuana paraphernalia to a minor do not apply if a parent sold the paraphernalia to the minor or if a parent accompanied the minor at the time of the purchase.
- Ohio's "paraphernalia" law applies only to syringes and other instruments whose primary use is to administer a dangerous drug.
- Pending legislation would increase penalties for offenses involving large amounts of substances and would modify provisions concerning drug paraphernalia and imitation controlled substances.

OKLAHOMA

63 Okl. St. Ann. §§ 2-101 to 2610 and 2-414 to 2-417

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotics	2-10	4-20	_____
I/II non-narcotics	2-10	4-20	_____
III	0-1	2-10	_____
IV	0-1	2-10	_____
V	0-1	2-10	_____
marijuana	0-1	2-10	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____
I/II narcotics	5-20; \$20,000
I/II non-narcotics	2-10; \$5,000
III	2-10; \$5,000
IV	2-10; \$1,000
V	0-5; \$1,000

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

ENHANCED PENALTIES

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input checked="" type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input checked="" type="checkbox"/> other(s): LSD |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

Comments:

A person found guilty of trafficking in the specified controlled substances is sentenced to imprisonment for three to 20 years for a first offense, six to 50 years for a second or third offense, and not less than life for subsequent offenses. The offender also is subject to fines based on the type and amount of drug involved. For example, cocaine: 28g.-300g.: \$25,000-\$100,000
≥300g.: \$100,000-\$500,000

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited in a revolving fund in the county where the property was seized, with one-third to the arresting office; one-third to a fund that compensates the victim of the crimes for any losses incurred as a result of the acts for which property is forfeited; and one-third to a jail maintenance fund.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- Any person who keeps, maintains, frequents, or remains at a place where controlled substances are used, sold, or kept may face up to one year's imprisonment and/or up to a \$2,500 fine, unless the offense involves less than one ounce of marijuana, in which case the maximum penalty is a \$100 fine.
- Penalties of up to one year's imprisonment and/or up to a \$2,500 fine apply for the offense of permitting a person under the age of 18 to enter or remain in a place where unlawful activity involving controlled substances is conducted or of selling to a person under 18 any device designed to deliver tobacco, marijuana, or cocaine into the body.
- Legislation passed in 1987 requires that transactions involving controlled substance precursors be reported to the state police; failure to report may result in a maximum penalty of one year's imprisonment and a \$2,500 fine.
- A person convicted of unlawfully manufacturing or attempting to manufacture any controlled dangerous substance is punishable by imprisonment for not less than 20 years and not more than \$50,000.
- Fines collected for drug trafficking offenses are divided equally among a revolving fund for enforcing drug laws, the municipality conducting the investigation, a drug abuse education fund, and a court fund.

OREGON

ORS §§ 475.005 to 475.285, 475.992 to 475.995

Oregon's CSA schedules substantially conform to the federal schedules. The state CSA provides for automatic addition, deletion, or re-scheduling of any controlled substance to conform to the federal schedules within 30 days of any change in the federal schedules.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I	0-10; \$100,000	_____	_____
II	0-5; \$100,000	_____	_____
III	0-1; \$2,500	_____	_____
IV	0-30 days; \$500	_____	_____
5marijuana	< 1 oz.: \$100 ≥ 1 oz.: 0-10; \$100,000	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I	0-20; \$10,000	_____	_____
II	0-10; \$100,000	_____	_____
III	0-5; \$100,000	_____	_____
IV	0 6 mo; \$1,000	_____	_____
V	0-30 days; \$500	_____	_____
marijuana	0-10; \$100,000	_____	_____

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

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

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed specifically

use
 delivery

possession

advertisement

PENNSYLVANIA

35 P.S. §§ 780-101 to 780-144

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I narcotics	0-1; \$5,000		
I non-narcotics			
II narcotics			
II non-narcotics			
III			
IV			
V			
marijuana	≤30g.: 0-30 days; \$500 ≥30g.: 0-1; \$5,000	0-3; \$25,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II narcotics	0-15; \$250,000		
I/II non-narcotics	0-5; \$15,000		
III	0-5; \$15,000		
IV	0-3; \$10,000		
V	0-1; \$5,000		

ENHANCED PENALTIES

- | | | | |
|---|---|--|------------------------------------|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input checked="" type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

FORFEITURE

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

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

RHODE ISLAND

Gen. Laws 1956, §§ 21-28-1.01 to 21-28-6.02

Rhode Island's CSA schedules substantially conform to the federal schedules. The state CSA provides for automatic addition, deletion or re-scheduling of any controlled substances to conform to changes as in the federal schedules. All penalties for possession of any controlled substances, except marijuana, are the same. They are listed under "flat penalty" in the chart.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-3; \$5,000	0-6; \$10,000	0-9; \$15,000
I			
II			
III			
IV			
V			
marijuana	0-1; \$500	1-2; \$1,000	0-3; \$1,500

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I	0-life; \$500,000		
II	0-life; \$500,000		
III	0-20; \$40,000		
IV	0-20; \$40,000		
V	0-1; \$10,000		
marijuana	0-30; \$100,000		

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

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

The maximum amount of proceeds that may be retained by a seizing agency per forfeiture and per calendar year depends on the agency involved and the population of the agency's community, with amounts to be allocated as follows: state police — \$1,500 per forfeiture, \$20,000 per year; cities with a population less than or equal to 20,000 — \$500 per forfeiture, \$5,000 per year; cities greater than 20,000 — \$1,000 per forfeiture, \$7,500 per year. The balance of proceeds in each forfeiture goes to the state's general treasury.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- A drug-dependent person convicted of manufacture, distribution, or sale offenses of schedule I or II substances faces imprisonment for up to 30 years and/or a fine up to \$100,000.
- Any person who is convicted or who accepts a plea bargain in relation to an offense involving the sale of a controlled substance automatically is assessed a \$1,000 fine, which is deposited into the state's forfeited property account.

SOUTH CAROLINA

Code 1976, §§ 44-53-110 to 44-53-580

The state Department of Health and Environmental Control administers South Carolina's schedules. The state's CSA contains schedules substantially similar to the federal schedules and provides for automatic conformity of the state schedules with any changes in the federal schedules. The CSA provides for enhanced penalties for specified amounts of marijuana, cocaine, opiates, and methaqualone.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I/II narcotics	0-2; \$5,000	0-3; \$5,000	0-4; \$10,000
I/II non-narcotics	0-6 mo.; \$1,000	0-1; \$2,000	same
III	0-6 mo.; \$1,000	0-1; \$2,000	same
IV	0-6 mo.; \$1,000	0-1; \$2,000	same
V	0-6 mo.; \$1,000	0-1; \$2,000	same
marijuana	<1 oz.: 0-30 days; \$100-\$200 ≥1 oz.: 0-2; \$5,000	0-1; \$200-\$1,000 0-3; \$5,000	same 0-4; \$10,000

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II narcotics	0-5; \$25,000	5-30; \$50,000	5-30; \$50,000
I/II non-narcotics	0-5; \$5,000	0-10; \$10,000	5-20; \$20,000
III	0-5; \$5,000	0-10; \$10,000	5-20; \$20,000
IV	0-3; \$3,000	0-6; \$6,000	same
V	0-1; \$1,000	0-2; \$2,000	same

ENHANCED PENALTIES

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input checked="" type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

Comments:

A person found guilty of trafficking in the above controlled substances is to be sentenced to a mandatory minimum term of incarceration and a fine based on the type and amount of controlled substance. For example, the penalties for trafficking in cocaine are as follows:

- 10-28 g.: 3-10; \$10,000
- ≥28-100 g.: 7-25; \$50,000
- ≥100-200 g.: mandatory 25; \$50,000
- ≥200-400 g.: mandatory 25; \$100,000
- ≥400 g.: mandatory 25-30; \$200,000

The statute also provides for enhanced penalties for possession or trafficking in "crack."

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

25 percent of proceeds to the law enforcement agency that initiated the seizure, except that no agency may receive more than \$100,000 per seizure; the remaining 75 percent to a special state account, a quarter of which is to be used for rehabilitation programs for prisoners. Where cash is forfeited, the first \$1,000 is retained by the seizing agency, and the remaining money is deposited into the special state account.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- o Possession of more than 10 grams of cocaine, 100 milligrams of alpha- or beta-eucaine, 4 grams of opium or morphine, 2 grams of heroin, 1 ounce of marijuana, 10 grams of hashish, 50 micrograms of lysergic acid diethylamide (LSD) or 1 gram of "crack" is prima facie evidence that the possessor had intent to distribute.
- o No motor vehicle is forfeitable unless it is found to contain one pound or more of marijuana or hashish, more than 4 grams of opium or morphine, more than 2 grams of heroin, more than 10 grams of cocaine, or more than 50 micrograms of lysergic acid diethylamide (LSD).
- o Proposed legislation would modify CSA provisions relating to trafficking offenses involving 10 pounds or more of marijuana or designated amounts of other drugs. The penalty for a second offense would be 5-20 years' incarceration and/or up to a \$15,000 fine. Third and subsequent offenses would be punishable by a mandatory term of 25 years and \$25,000. Penalties involving lower levels of drugs also would be increased.
- o H. 2676 would make distribution of controlled substances near schools a felony and would create a 10-year mandatory prison term for violators of the act who are older than 21.
- o H. 2991 would provide that no sentence imposed for possession of a controlled substance may be suspended, and no probation may be granted, if an offender has had at least two prior drug convictions.
- o H. 2408, the South Carolina Contraband Forfeiture Act of 1987, would define forfeitable items and provide that a portion of forfeiture proceeds go to the Law Enforcement Training Council.

SOUTH DAKOTA

SDCL §§ 34-208-1 to 34-208-114

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-5; \$5,000		
I narcotics			
I non-narcotics			
II narcotics			
II non-narcotics			
III			
IV			
marijuana	≤1 oz.: 0-30 days; \$100 >1 oz.: <½ lb.: 0-1; \$1,000 ≥½ lb.: <1 lb.: 0-2; \$2,000 ≥1 lb.: ≤ 10 lbs.: 0-5; \$5,000 ≥10 lbs.: 0-10; \$10,000		

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I	30 days-10; \$10,000	1-10; \$10,000	same
II	30 days-10; \$10,000	1-10; \$10,000	same
III	30 days-5; \$5,000	1-5; \$5,000	same
IV	30 days-2; \$2,000	1-2; \$2,000	same
marijuana	≤1 oz.: 15 days-1; \$1,000 >1 oz.: ½ lb.: 30 days-2; \$2,000 ≥½ lb.: <1 lb.: 30 days-5; \$5,000 ≥1 lb.: 30 days-10; \$10,000	1-2; \$2,000 1-5; \$5,000 1-10; \$10,000	same same same

ENHANCED PENALTIES

- none
- based on drug
- based on amount
- heroin
- cocaine
- PCP
- meth/amphetamine
- metha-/mecloqualone
- marijuana
- other(s):

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited into the state drug control fund.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- o The state's law does not permit forfeiture of a conveyance used in offenses involving less than one-half pound of marijuana.

TENNESSEE

T.C.A. §§ 39-6-401 to 39-6-419, 53-11-301 to 53-11-414

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-1; \$1,000	1-2; \$1,000	2-3; \$1,000
I			
II			
III			
IV			
V			
VI			
VII			

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I	5-15; \$18,000		
II	4-10; \$15,000		
III	3-8; \$10,000		
IV	2-5; \$7,000		
V	1-5; \$5,000		
VI	5 oz.-10 lbs.: 1-5; \$3,000 ≥10 lbs.-70 lbs.: 4-10; \$10,000		
VII	1-5; \$3,000		

ENHANCED PENALTIES

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input checked="" type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input checked="" type="checkbox"/> other(s): morphine, lysergic acid diethylamide (LSD), hydromorphone, pentazocine, triple enameine |
| <input checked="" type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

Comments:

A person found guilty of manufacturing, delivering, selling, or possessing with intent to distribute any of the specific controlled substances indicated above, except marijuana, is to be sentenced to 10 years to life in prison and/or a \$200,000 fine. For marijuana, the sentence is 10 to 20 years and/or \$200,000.

FORFEITURE

civil
 criminal
 administrative

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

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

containers
 real property
 imitation controlled substances

Method of distribution of proceeds after payment of seizure costs:

Deposited into the account of the state, county, or municipal government whose agency instituted the seizure.

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed specifically

use
 delivery

possession

advertisement

NOTES

- o The state has a habitual drug offender law that applies to persons who engage in repeated violations of manufacturing, delivery, or selling.
- o Conveyances may be forfeited in cases involving possession offenses.

TEXAS

Vernon's Ann. Civ. St. art. 4476-15

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
group 1	<28g.: 2-20; \$10,000 28g.-400g.: 5-99, life; \$50,000 ≥400g.: 10-99, life; \$100,000	10-99, life; \$100,000 15-99, life; \$250,000	same same
group 2	28g.: 2-10; \$5,000 28g.-400g.: 5-99, life; \$50,000 ≥400g.: 10-99, life; \$100,000	10-99, life; \$100,000 15-99, life; \$250,000	same same
group 3	<200g.: 0-1; \$2,000 200g.-400g.: 5-99, life; \$50,000 ≥400g.: 10-99, life; \$100,000	10-99, life; \$100,000 15-99, life; \$250,000	same same
group 4	<200g.: 0-180 days; \$1,000 200g.-400g.: 5-99, life; \$50,000 ≥400g.: 10-99, life; \$100,000	10-99, life; \$100,000 15-99, life; \$250,000	same same
marijuana	0-99, life; \$1,000-\$100,000		

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
group 1	<28g.: 5-99; \$20,000 28g.-200g.: 5-99, life; \$50,000 100-400g.: 10-99, life; \$50,000 ≥400g.: 15-99, life; \$250,000	10-99, life; \$100,000 15-99, life; \$250,000 20-99, life; \$500,000	same same same
group 2	28g.: 2-20; \$10,000 28g.-400g.: 5-99, life; \$50,000 ≥400g.: 10-99, life; \$100,000	10-99, life; \$100,000 15-99, life; \$250,000	same same
group 3 and 4	<200g.: 2-10; \$5,000 200g.-400g.: 5-99, life; \$50,000 ≥400g.: 10-99, life; \$100,000	10-99, life; \$100,000 15-99, life; \$250,000	same same
marijuana	0-99, life; \$1,000-\$100,000	0-life; \$1,000-\$100,000	same

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|---|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input checked="" type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

Comments:

Possession of more than 2,000 lbs. of marijuana is punishable by 15-99 years or life in prison, a fine of \$250,000, or both.

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited into a special fund administered by the seizing agency for criminal investigations, with no more than 10 percent to be spent on prevention of drug abuse or treatment of persons with drug-related problems.

OFFENSES INVOLVING MINORS

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> over 18 to under 18 | <input checked="" type="checkbox"/> narcotics | <input type="checkbox"/> near schools |
| <input checked="" type="checkbox"/> over 18 to under 18 at least 3 years junior | <input type="checkbox"/> over 18 to under 21 | <input checked="" type="checkbox"/> non-narcotics | <input type="checkbox"/> using minor to sell |
| | <input checked="" type="checkbox"/> other age group: over 18 to under 17 | <input checked="" type="checkbox"/> marijuana | <input type="checkbox"/> imitation drugs |
| | | <input type="checkbox"/> other(s): | <input checked="" type="checkbox"/> drug paraphernalia |

PARAPHERNALIA

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input checked="" type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|--|-----------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input type="checkbox"/> delivery | | |

NOTES

- Spending funds derived from the sale of more than 28 grams of substances in group one or two or more than 50 pounds of marijuana is itself a crime punishable by five years to life in prison or 99 years and a fine of \$50,000 to \$1 million.
- Texas has included in its CSA, a provision stating that any drug whose effects are similar to those of any drugs listed in schedules I and II, but whose chemical structure has been altered so that it is not a scheduled drug, shall carry penalties as if listed in the same schedule as the drug which it imitates.

UTAH

U.C.A. 1953 §§ 58-37-1 to 58-37-19

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I narcotics	0-6 mo.; \$299		
I non-narcotics		0-1; \$1,000	0-5; \$1,000
II narcotics			
II non-narcotics			
III			
IV			
V			

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II narcotics	1-15; \$15,000	7½-15; \$15,000	same
I/II non-narcotics	1-10; \$10,000	5-10; \$10,000	same
III	0-10; \$10,000	5-10; \$10,000	same
IV	0-5; \$5,000	2½-5; \$5,000	same
V	0-1; \$1,000	½-1; \$1,000	same
marijuana	0-5; \$5,000	2½-5; \$5,000	same

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

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

OFFENSES INVOLVING MINORS

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

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

narcotics
 non-narcotics
 marijuana
 other(s):

near schools
 using minor to sell
 imitation drugs
 drug paraphernalia

PARAPHERNALIA

not addressed specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed specifically

use
 delivery

possession

advertisement

VERMONT

VT. Stat. Ann. tit. 54 §§ 524.84:1 to 524.84:14
VT. Stat. Ann. tit. 18, §§ 4201 to 4248

For penalty purposes, the state has classified controlled substances into depressants, stimulants, narcotics, and hallucinogens. All penalties for manufacturing, delivery, or sale of any controlled substance are the same. They are listed under "flat penalty" in the chart.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
depressants, stimulants, narcotics, hallucinogens	0-1; \$1,000	0-2; \$3,000	same
V	0-6 mo.; \$500	0-2; \$2,000	same
marijuana	0-6 mo.; \$500	0-2; \$2,000	same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	0-5; \$10,000	0-25; \$25,000	same
depressants, stimulants, narcotics, hallucinogens			
V			
marijuana			

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Not addressed specifically in the statute.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

not addressed
specifically

use
 delivery

possession

advertisement

IMITATION DRUGS

not addressed
specifically

use
 delivery

possession

advertisement

NOTES

- Possession with intent to distribute controlled substances in the following amounts is punishable by up to two years' imprisonment and/or up to a \$3,000 fine: less than 500 milligrams of a narcotic, half an ounce of marijuana or raw opium, 100 doses of stimulant or depressant, 500 micrograms of lysergic acid diethylamide (LSD), 50 milligrams of psilocybin, 700 milligrams of mescaline, or 200 milligrams of dimethyltryptamine.
- Penalties up to three years' imprisonment and/or up to a \$3,000 fine apply in cases involving the following amounts: greater than the above amounts but less than one gram of a narcotic, two ounces of opium or marijuana, 300 doses of a stimulant or depressant, 1,000 micrograms of lysergic acid diethylamide (LSD), 100 milligrams of psilocybin, 1.4 grams of mescaline, or 400 milligrams of dimethyltryptamine. Possession with intent to distribute controlled substances in quantities greater than these amounts is punishable by up to five years' imprisonment and/or a fine of up to \$5,000.
- No property may be forfeited in cases where the offense involves less than two ounces of marijuana.
- Vermont has included in its CSA, a provision stating that any drug whose effects are similar to those of any drugs listed in schedules I and II, but whose chemical structure has been altered so that it is not a scheduled drug, shall carry penalties as if listed in the same schedule as the drug which it imitates.

VIRGINIA

Code 1950, § 54-524.1 et seq.

In Virginia, the state board of pharmacy has the responsibility for scheduling drugs. Virginia's CSA schedules substantially conform to the federal schedules. A significant exception to automatic conformity involves the drug phencyclidine (PCP); while it is a schedule III drug under the federal schedules, it is a schedule I drug under the Virginia classification scheme. For penalty purposes, Virginia does not distinguish between narcotics and non-narcotics.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty			
I/II	1-10; \$1,000		
III	0-1; \$1,000		
IV	0-6 mo.; \$500		
V	\$500		
marijuana	<5 lbs: 0-30 days; \$500 ≥5 lbs: 1-10; \$1,000		

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty			
I/II	5-40; \$100,000		
III	0-1; \$1,000		
IV	0-1; \$1,000		
V	0-1; \$1,000		
marijuana	≤½ oz.: 0-1; \$1,000 ½ oz.-5 lbs.: 1-10; \$1,000 ≥5 lbs.: 5-30; \$10,000		

ENHANCED PENALTIES

- | | | | |
|--|----------------------------------|---|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

Deposited into the state literary fund.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

NOTES

- If an offender can prove that he furnished a schedule I or II controlled substance only as an accommodation and not to make a profit, he may be eligible for a reduced sentence of up to 10 years and/or up to a \$1,000 fine.
 - A party in interest to any forfeiture proceeding shall be entitled to reasonable attorney's fees and costs, if the forfeiture proceeding is terminated in favor of the party.
-

WASHINGTON

West's RCWA §§ 69.50.101 to 69.50.608

Washington's CSA schedules generally conform to the federal schedules. The state CSA provides for automatic addition, deletion, or re-scheduling of controlled substances to conform to changes in the federal schedules. All penalties for possession of any controlled substances, except marijuana, are the same. They are listed under "flat penalty" in the chart.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	0-5; \$10,000	0-10; \$20,000	same
I/II narcotics			
I/II non-narcotics			
III			
IV			
V			
marijuana	<40g.: 0-90 days; \$250 ≥40g.: 0-5; \$10,000	0-180 days; \$500 0-10; \$20,000	same same

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty		
I/II narcotics	0-10; \$25,000	
I/II non-narcotics	0-5; \$10,000	
III	0-5; \$10,000	
IV	0-5; \$10,000	
V	0-5; \$10,000	

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

ENHANCED PENALTIES

- | | | | |
|---|--|---|------------------------------------|
| <input type="checkbox"/> none | <input checked="" type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

One-half to the general fund of the local or state government of the seizing agency; one-half to state public safety and education account.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|---|
| <input type="checkbox"/> not addressed specifically | <input checked="" type="checkbox"/> use | <input type="checkbox"/> possession | <input checked="" type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |
-

NOTES

- A person convicted of selling for profit a controlled substance classified in schedule I is subject to imprisonment and a fine calculated to at least eliminate any profits gained by such sale.
 - A parent or legal guardian of a minor to whom a controlled substance has been sold may institute action for damages, including treatment costs and cash expended, against the person who sold the substance.
-

WEST VIRGINIA

Code §§ 60A-1-101 to 60A-6-605

West Virginia's schedules, administered by the state's board of pharmacy, substantially conform to the federal schedules. The state CSA also provides for automatic addition, deletion, or re-scheduling to conform to changes in the federal schedules. All penalties for possession of any controlled substance are the same. They are listed under "flat penalty" in the chart.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	90 days -6 mo; \$1,000		
I			
II			
III			
IV			
V			

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty		
I/II narcotics	1-15; \$25,000	
I/II non-narcotics	1-5; \$15,000	For second and subsequent offenses, fines and penalties are twice those otherwise authorized.
III	1-5; \$15,000	
IV	1-3; \$10,000	
V	6 mo-1; \$5,000	

ENHANCED PENALTIES

- | | | | |
|--|---|--|------------------------------------|
| <input checked="" type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/mecloqualone | <input type="checkbox"/> other(s): |
| <input type="checkbox"/> based on amount | <input checked="" type="checkbox"/> PCP | | |

FORFEITURE

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

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

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

WISCONSIN

W.S.A. §§ 161.001 to 161.62

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

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR POSSESSION OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I/II narcotic	0-1; \$5,000	0-2; \$10,000	0-2; \$10,000
I/II non-narcotic	0-30 days; \$500	_____	_____
III	0-30 days; \$500	_____	_____
IV	0-30 days; \$500	_____	_____
V	0-30 days; \$500	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotic	0-15; \$25,000	_____	_____
I/II non-narcotic	0-5; \$15,000	_____	_____
III	0-5; \$15,000	_____	_____
IV	0-3; \$10,000	_____	_____
V	0-1; \$5,000	_____	_____

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

ENHANCED PENALTIES

- | | | | |
|---|---|---|------------------------------------|
| <input type="checkbox"/> none | <input type="checkbox"/> heroin | <input type="checkbox"/> meth/amphetamine | <input type="checkbox"/> marijuana |
| <input checked="" type="checkbox"/> based on drug | <input checked="" type="checkbox"/> cocaine | <input type="checkbox"/> metha-/meclo-qualone | <input type="checkbox"/> other(s): |
| <input checked="" type="checkbox"/> based on amount | <input type="checkbox"/> PCP | | |

Comments:

For example, for manufacturing/delivering cocaine:

- ≤ 10 g.: 0-5; \$1,000-\$200,000
- >10 g.-30g.: 6 mo.-5; \$1,000-\$250,000
- ≥30g.: 1-15; \$1,000-\$500,000

FORFEITURE

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

Method of distribution of proceeds after payment of seizure costs:

At least 50 percent to the school fund, unless the forfeited property is money, in which case all the money is to be deposited in the school fund.

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|--|-----------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- The state has separate provisions for possession with intent to manufacture or deliver a controlled substance.
- It is unlawful to keep or maintain any store, shop, warehouse, dwelling, boat, building, or other place to use, manufacture, or deliver controlled substances. Such an offense is punishable by up to one year's imprisonment and/or a fine of up to \$25,000.
- A vehicle is not subject to forfeiture in cases involving possession offenses, unless the substance involved is a schedule I or II narcotic.

WYOMING

W.S. 1977, §§ 35-7-1001 to 35-7-1055

Wyoming's schedules, administered by the state attorney general, substantially conform to the federal schedules. The CSA provides for automatic addition, deletion, or re-scheduling of substances to conform to changes in the federal schedules. All penalties for possession of any controlled substances are the same. They are listed under "flat penalty" in the chart. Offenses are divided into the categories of use; possession; and manufacturing, delivery, sale offenses.

MAJOR PROVISIONS OF CSA

SCHEDULING

- automatic conformity with federal law
- five schedule system
- varies from federal scheduling system

PENALTIES FOR USE OFFENSES

	FIRST OFFENSE	SECOND OFFENSE	SUBSEQUENT OFFENSES
flat penalty	_____	_____	_____
I	0-90 days; \$100	_____	_____
II	0-90 days; \$100	_____	_____
III	0-90 days; \$100	_____	_____
IV	_____	_____	_____
V	_____	_____	_____

PENALTIES FOR POSSESSION OFFENSES

I/II narcotics	0-6 mo; \$750	same	0-5; \$5,000
I/II non-narcotics	_____	_____	_____
III	_____	_____	_____
IV	_____	_____	_____
V	_____	_____	_____

PENALTIES FOR MANUFACTURING, DELIVERY, SALE OFFENSES

flat penalty	_____	_____	_____
I/II narcotics	0-20; \$25,000	_____	_____
I/II non-narcotics	0-10; \$10,000	_____	_____
III	0-10; \$10,000	_____	_____
IV	0-2; \$2,500	_____	_____
V	0-1; \$1,000	_____	_____

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

ENHANCED PENALTIES

- none
- heroin
- methamphetamine
- marijuana
- based on drug
- cocaine
- metha-/meclo-qualone
- other(s):
- based on amount
- PCP

FORFEITURE

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

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

OFFENSES INVOLVING MINORS

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

PARAPHERNALIA

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

IMITATION DRUGS

- | | | | |
|---|--|-------------------------------------|--|
| <input type="checkbox"/> not addressed specifically | <input type="checkbox"/> use | <input type="checkbox"/> possession | <input type="checkbox"/> advertisement |
| | <input checked="" type="checkbox"/> delivery | | |

NOTES

- Conveyances are not subject to forfeiture in cases involving possession violations.
- For forfeiture purposes, real property is defined as "those buildings knowingly used or intended for use to store, manufacture, or distribute" controlled substances.

APPENDICES

APPENDIX A

TABLES OF CITATIONS

**FEDERAL DRUG CONTROL STATUTES
STATE CONTROLLED SUBSTANCES ACTS**

TABLE OF CITATIONS

FEDERAL DRUG CONTROL STATUTES

Act of February 23, 1887 (21 U.S.C. §§ 191-193 (1982))

The Harrison Narcotic Drug Act of 1914 (I.R.C. §§ 4701-4736 (1954))

The Narcotic Drugs Import and Export Act of 1922 (21 U.S.C. §§ 171-185 (1982))

The Marijuana Tax Act of 1937 (I.R.C. §§ 4741-4762 (1954))

The Opium Poppy Control Act of 1942 (21 U.S.C. §§ 181-188n (1982))

The Narcotics Manufacturing Act of 1960 (21 U.S.C. §§ 501-517 (1982))

The Controlled Substances Act of 1970 (Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§ 801-970)

The Comprehensive Crime Control Act of 1984 (Pub. L. No. 98-473)

The Anti-Drug Abuse Act of 1986 (Pub. L. No. 99-570)

The Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301-392 (1982))

TABLE OF CITATIONS

STATE CONTROLLED SUBSTANCES ACTS

<u>Jurisdiction</u>	<u>Statutory Citation</u>
Alabama	Code 1975, §§ 20-2-1 to 20-2-93
Alaska	AS 11.71.010 to 11.71.900, 17.30.010 to 17.30.900
Arizona	Ariz. Rev. Stat. Ann. §§ 13-1340 to 13-3415; §§ 13-3451 to 13-3461
Arkansas	Ark. Stats. §§ 82-2601 to 82-2643
California	West's Ann.Cal.Health & Safety Code, §§ 11000 to 11651
Colorado	C.R.S. 12-22-301 to 12-22-322
Connecticut	C.G.S.A. §§ 21a-240 to 21a-308
Delaware	16 Del.C. §§ 4701 to 4796
District of Columbia	D.C. Code 1981, §§ 33-501 to 33-567
Florida	West's F.S.A. §§ 893.01 to 893.15
Georgia	O.C.G.A. §§ 16-13-20 to 16-13-55
Hawaii	HRS §§ 329-1 to 329-58
Idaho	I.C. §§ 37-2701 to 37-2751
Illinois	S.H.A. ch. 56 1/2 §§ 1100 to 1603
Indiana	West's A.I.C. 35-48-1-1 to 35-48-1-14
Iowa	I.C.A. §§ 204.101 to 204.602
Kansas	K.S.A. 65-4101 to 65-4140
Kentucky	KRS 218A.010 to 218A.991
Louisiana	LSA-R.S. 40:961 to 40:995
Maine	17-A M.R.S.A. §§ 1101 to 1116; 22 M.R.S.A. §§ 2361 to 2380
Maryland	Code 1957, art. 27, §§ 276 to 302
Massachusetts	M.G.L.A. c. 94C, §§ 1 to 48
Michigan	M.C.L.A. §§ 333.7101 to 333.7545
Minnesota	M.S.A. §§ 152.01 to 152.20
Mississippi	Code 1972, §§ 41-29-101 to 41-29-175
Missouri	V.A.M.S. §§ 195.010 to 195.320
Montana	MCA 50-32-101 to 50-32-405
Nebraska	R.R.S. 1943, § 28-401 et. seq.
Nevada	N.R.S. 453.011 to 453.361
New Hampshire	N.H.R.S.A. 318-B to 318-B:30
New Jersey	N.J.S.A. 24:21-1 to 24:21-53
New Mexico	NMSA 1978, §§ 30-31-1 to 30-31-40
New York	McKinney's Public Health Law §§ 3300 to 3396
North Carolina	G.S. §§ 90-86 to 90-113.8
North Dakota	NDCC 19-03.1-01 to 19-03.1-43
Ohio	R.C. §§ 3719.01 to 3719.99
Oklahoma	63 Okl.St.Ann. §§ 2-101 to 2-610
Oregon	ORS 475.005 to 475.285, 475.992 to 475.995
Pennsylvania	33 P.S. §§ 780-101 to 780-144
Rhode Island	Gen.Laws 1956, §§ 21-28-1.01 to 21-28-6.02
South Carolina	Code 1976, §§ 44-53-110 to 44-53-580
South Dakota	SDCL 34-20B-1 to 34-20B-114
Tennessee	T.C.A. §§ 39-6-401 to 39-6-419, 53-11-301 to 53-11-414
Texas	Vernon's Ann.Civ.St. art. 4476-15
Utah	U.C.A. 1953, §§ 58-37-1 to 58-37-19
Vermont	VT: Stat. Ann. tit. 54 §§ 524.84:1 to 524.84:14
Virginia	Code 1950, § 54-524.1 et. seq.
Washington	West's RCWA §§ 69.50.101 to 69.50.608
West Virginia	Code 60A-1-101 to 60A-6-605
Wisconsin	W.S.A. 161.001 to 161.62
Wyoming	W.S. 1977, §§ 35-7-1001 to 35-7-1055

APPENDIX B

REFERENCE CHARTS

ELEMENTS OF CONTROLLED SUBSTANCES ACTS

PENALTIES UNDER CONTROLLED SUBSTANCES ACTS

**DRUGS TRIGGERING ENHANCED PENALTIES UNDER
CONTROLLED SUBSTANCES ACTS**

FORFEITABLE ASSETS UNDER CONTROLLED SUBSTANCES ACTS

ELEMENTS OF CONTROLLED SUBSTANCES ACTS

**COMPARISON OF PENALTIES FOR USE, POSSESSION,
SALE -- FIRST OFFENSE**

This chart sets out the range of penalties for first offenses for the use, the possession, and the sale, manufacturing, delivery, or distribution of controlled substances in all state CSA's and the federal CSA. Because the chart lists only the range of possible penalties for offenses, depending upon the category of drugs involved in an offense, it does not depict specific penalties or ranges of penalties triggered by other factors, such as amount of drug. Generally, enhanced penalties are not covered by this chart. In any case where a statute does not specify penalty provisions for an offense category, a dash appears in that place in the chart. In some instances statutory provisions do not correspond precisely to the format of the chart; in such cases, provisions are placed in the chart category that most closely approximates the statutory intent. This chart is intended to provide information for general comparisons only; state statutes and the state-by-state summaries included in the *Guide* should be consulted for more detailed information concerning penalty provisions.

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
<u>Alabama</u>			
I	—	1-10; \$5,000	2-20; \$10,000
II	—	1-10; \$5,000	2-20; \$10,000
III	—	1-10; \$5,000	2-20; \$10,000
IV	—	1-10; \$5,000	2-20; \$10,000
V	—	1-10; \$5,000	2-20; \$10,000
marijuana	—	0-1; \$2,000	2-20; \$10,000
<u>Alaska</u>			
IA	—	0-5; \$50,000	5-20; \$50,000
IIA	—	0-5; \$50,000	0-10; \$50,000
IIIA	—	0-5; \$5,000-\$50,000	0-10; \$50,000
IVA	—	0-5; \$5,000-\$50,000	0-5; \$50,000
VA	—	0-5; \$5,000-\$50,000	0-5; \$50,000
VIA	90 days; \$1,000	0-5; \$100-\$50,000	0-5; \$100-\$50,000
<u>Arizona</u>			
dangerous drugs	2-5; \$1,000-\$150,000	2-5; \$1,000-\$150,000	3 ³ /4-10; \$1,000-\$150,000
narcotic drugs	2-5; \$2,000-\$150,000	2-5; \$2,000-\$150,000	5 ¹ / ₄ -14; \$2,000-\$150,000
prescription-only drugs	0-6mo.; \$1,000	0-6mo.; \$1,000	0-1 ⁹ / ₁₀ ; \$1,000
marijuana	9mo.-5; \$750-\$150,000	9mo.-5; \$750-\$150,000	1-10; \$750-\$150,000
peyote	9mo.-1 ⁹ / ₁₀ ; \$150,000	9mo.-1 ⁹ / ₁₀ ; \$150,000	9mo.-1 ⁹ / ₁₀ ; \$150,000
vapor-releasing substances	1-2 ¹ / ₂ ; \$150,000	1-2 ¹ / ₂ ; \$150,000	1-2 ¹ / ₂ ; \$150,000
precursor chemicals	5 ¹ / ₄ -14; \$150,000	5 ¹ / ₄ -14; \$150,000	5 ¹ / ₄ -14; \$150,000
<u>Arkansas</u>			
I/II narcotics	—	2-5; \$10,000	10-40; \$25,000-\$250,000
I/II non-narcotics	—	2-5; \$10,000	5-40; \$15,000-\$100,000
III	—	0-1; \$1,000	5-40; \$15,000-\$100,000
IV	—	0-1; \$1,000	3-40; \$10,000-\$50,000
V	—	0-1; \$1,000	3-40; \$10,000-\$50,000
VI	—	0-1; \$1,000	4-30; \$15,000-\$100,000
<u>California</u>			
I/II narcotics	—	16mo.-4; \$20,000	3-5; \$20,000
I/II non-narcotics	—	0-3	2-4
III/IV/V narcotics	—	16mo.-4; \$20,000	3-5; \$20,000
III/IV/V non-narcotics	—	0-3	2-4
marijuana	—	0-3; \$100-\$20,000	2-4; \$100-\$20,000
<u>Colorado</u>			
I	1-4; \$1,000-\$100,000	4-16; \$3,000-\$750,000	4-16; \$3,000-\$750,000
II	1-4; \$1,000-\$100,000	4-16; \$3,000-\$750,000	4-16; \$3,000-\$750,000
III	0-2; \$500	2-8; \$2,000-\$500,000	2-8; \$2,000-\$500,000
IV	0-2; \$500	1-4; \$1,000-\$100,000	1-4; \$1,000-\$100,000
V	0-2; \$500	0-2; \$500	0-2; \$500
marijuana	1-4; \$1,000-\$100,000	15days-4; \$100-\$100,000	2-8; \$2,000-\$500,000
<u>Connecticut</u>			
I/II narcotics	—	0-7; \$50,000	0-15; \$50,000
I/II non-narcotics	—	0-1; \$1,000	0-7; \$25,000
III	—	0-1; \$1,000	0-7; \$25,000
IV	—	0-1; \$1,000	0-7; \$25,000
V	—	0-1; \$1,000	0-7; \$25,000
marijuana	—	0-5; \$1,000-\$2,000	0-7; \$25,000
other hallucinogens	—	0-5; \$2,000	0-15; \$50,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,
SALE -- FIRST OFFENSE (Cont'd)**

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
Delaware			
I/II narcotics	0-5;\$3,000	0-5;\$3,000	0-30;\$5,000-\$100,000
I/II non-narcotics	0-2;\$500	0-2;\$500	0-10;\$1,000-\$10,000
III	0-2;\$500	0-2;\$500	0-10;\$1,000-\$10,000
IV	0-2;\$500	0-2;\$500	0-10;\$1,000-\$10,000
V	0-2;\$500	0-2;\$500	0-10;\$1,000-\$10,000
marijuana	0-2;\$500	0-2;\$500	0-10;\$1,000-\$10,000
District of Columbia			
I/II narcotics	--	0-1;\$1,000	4-15;\$100,000
I/II non-narcotics	--	0-1;\$1,000	20mo.-5;\$50,000
III	--	0-1;\$1,000	20mo.-5;\$50,000
IV	--	0-1;\$1,000	0-3;\$25,000
V	--	0-1;\$1,000	0-1;\$10,000
PCP/PCP precursors	--	0-1;\$1,000	4-25;\$200,000
Florida			
I narcotics	--	0-30;\$5,000-\$10,000	0-30;\$10,000
I non-narcotics	--	0-5;\$5,000	0-5;\$5,000
II	--	0-5;\$5,000	0-15;\$10,000
III	--	0-5;\$5,000	0-5;\$5,000
IV	--	0-5;\$5,000	0-5;\$5,000
V	--	0-5;\$5,000	0-1;\$1,000
marijuana	--	0-5;\$1,000-\$5,000	0-5;\$5,000
Georgia			
I	--	2-15	5-30
II	--	2-15	5-30
III	--	1-5	1-10
IV	--	1-5	1-10
V	--	1-5	1-10
marijuana	--	0-10;\$1,000	1-10
Hawaii			
dangerous drugs	--	0-20;\$5,000-\$10,000	0-20;\$10,000
harmful drugs	--	0-20;\$1,000-\$10,000	0-20;\$10,000
detrimental drugs	--	0-5;\$500-\$5,000	0-5;\$1,000-\$5,000
marijuana	--	0-5;\$500-\$5,000	0-5;\$1,000-\$5,000
Idaho			
I narcotics	--	0-3;\$5,000	0-life;\$25,000
I non-narcotics	--	0-1;\$1,000	0-5;\$15,000
II	--	0-3;\$5,000	0-life;\$25,000
III	--	0-1;\$1,000	0-5;\$15,000
IV	--	0-1;\$1,000	0-3;\$10,000
V	--	0-1;\$1,000	0-1;\$5,000
marijuana	--	0-5;\$1,000-\$10,000	0-5;\$15,000
Illinois			
I/II narcotics	--	1-15;\$15,000-\$200,000	3-7;\$200,000
I/II non-narcotics	--	1-3;\$15,000	2-5;\$150,000
III	--	1-3;\$15,000	2-5;\$125,000
IV	--	1-3;\$15,000	2-5;\$100,000
V	--	1-3;\$15,000	2-5;\$75,000
marijuana	--	30days-5;\$500-\$10,000	6mo.-7;\$500-\$100,000
Indiana			
I/II narcotics	--	2-5;\$10,000	10-30;\$10,000
I/II non-narcotics	--	2;\$10,000	10;\$10,000
III	--	2;\$10,000	10;\$10,000
IV	--	2;\$10,000	5;\$10,000
V	--	2;\$10,000	2;\$10,000
marijuana	--	0-2;\$5,000-\$10,000	0-5;\$5,000-\$10,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,
SALE -- FIRST OFFENSE (Cont'd)**

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
Iowa			
I/II narcotics	--	0-1;\$1,000	3 ¹ / ₃ -10;\$5,000
I/II non-narcotics	--	0-1;\$1,000	1 ² / ₃ -5;\$1,000
III	--	0-1;\$1,000	1 ² / ₃ -5;\$1,000
IV	--	0-1;\$1,000	0-1;\$1,000
V	--	0-1;\$1,000	0-1;\$1,000
marijuana	--	0-6mo;,\$1,000	0-10;\$1,000-\$5,000
Kansas			
I/II narcotics	--	1-20;\$10,000	1-20;\$10,000
depressants, stimulants, hallucinogens, and	--	0-1;\$2,500	0-1;\$2,500
IV	--		
V	--	0-1;\$2,500	0-20;\$2,500-\$10,000
Kentucky			
I/II narcotics	--	1-5;\$3,000-\$5,000	5-10;\$5,000-\$10,000
I/II non-narcotics	--	0-1;\$500	1-5;\$3,000-\$5,000
III	--	0-1;\$500	1-5;\$3,000-\$5,000
IV	--	0-1;\$500	0-1;\$500
V	--	0-1;\$500	0-1;\$500
marijuana	--	0-1;\$250-\$5,000	0-10;\$500-\$10,000
Louisiana			
I narcotics	--	4-10;\$5,000	5-30;\$15,000
I non-narcotics	--	0-10;\$5,000	0-10;\$15,000
II narcotics	--	0-5;\$5,000	5-30;\$15,000
II non-narcotics	--	0-5;\$5,000	0-10;\$15,000
III	--	0-5;\$5,000	0-10;\$15,000
IV	--	0-5;\$5,000	0-10;\$15,000
V	--	0-5;\$5,000	0-5;\$5,000
marijuana	--	0-10;\$500-\$5,000	0-10;\$15,000
PCP	--	5-20;\$5,000	0-10;\$15,000
pentazocine	--	2-20;\$5,000	7-10;\$15,000
Maine			
W	--	0-1;\$1,000	0-10;\$2,500-\$10,000
X	--	0-1;\$1,000	0-5;\$1,000-\$2,500
Y	--	0-6mo;,\$500	0-1;\$1,000
Z	--	\$50-\$1,000	0-1;\$1,000
marijuana	--	\$50-\$1,000	0-10;\$1,000-\$10,000
Maryland			
I/II narcotics	--	0-4;\$25,000	0-20;\$25,000
I/II non-narcotics	--	0-4;\$25,000	0-5;\$15,000
III	--	0-4;\$25,000	0-5;\$15,000
IV	--	0-4;\$25,000	0-5;\$15,000
V	--	0-4;\$25,000	0-5;\$15,000
marijuana	--	0-1;\$1,000	0-5;\$15,000
PCP	--	0-4;\$25,000	0-20;\$20,000
Massachusetts			
A	--	0-1;\$1,000	10;\$1,000-\$10,000
B	--	0-1;\$1,000	10;\$1,000-\$10,000
C	--	0-1;\$1,000	5;\$500-\$5,000
D	--	0-1;\$1,000	0-2;\$500-\$5,000
E	--	0-6mo;,\$500	0-9mo;,\$250-\$2,500
marijuana	--	0-6mo;,\$500	0-2;\$500-\$5,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,
SALE -- FIRST OFFENSE (Cont'd)**

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
Michigan			
I/II narcotics	0-1;\$2,000	0-life;\$2,000	0-life;\$25,000
I/II non-narcotics	0-1;\$1,000	0-2;\$2,000	0-7;\$5,000
III	-	0-2;\$2,000	0-7;\$5,000
IV	-	0-2;\$2,000	0-4;\$2,000
V	-	0-2;\$2,000	0-2;\$2,000
marijuana	0-90days;\$100	0-1;\$1,000	0-7;\$5,000
dimethyltryptamine	0-6mo.;\$1,000	0-2;\$2,000	0-7;\$5,000
LSD, peyote, mescaline,psilocin psilocybin	0-6mo.;\$1,000	0-1;\$1,000	0-7;\$5,000
Minnesota			
I/II narcotics	-	0-5;\$10,000	0-20;\$40,000-\$60,000
I/II non-narcotics	-	0-3;\$5,000	0-5;\$30,000
III	-	0-3;\$5,000	0-5;\$30,000
IV	-	0-3;\$5,000	0-3;\$20,000
V	-	0-1;\$5,000	0-1;\$3,000
Mississippi			
I	-	0-3;\$1,000-\$30,000	0-30;\$1,000-\$1,000,000
II	-	0-3;\$1,000-\$30,000	0-30;\$1,000-\$1,000,000
III	-	0-1;\$5,000	0-20;\$1,000-\$250,000
IV	-	0-1;\$5,000	0-20;\$1,000-\$250,000
V	-	0-1;\$5,000	0-10;\$1,000-\$150,000
marijuana	-	0-20;\$1,000-\$1,000,000	0-30;\$1,000-\$1,000,000
Missouri			
I	-	6mo.-20;\$5,000	5-life;\$5,000
II	-	6mo.-20;\$5,000	5-life;\$5,000
III	-	0-10;\$5,000	0-10;\$5,000
IV	-	0-10;\$5,000	0-10;\$5,000
V	-	0-10;\$5,000	0-10;\$5,000
marijuana	-	0-5;\$1,000	5-life;\$5,000
Montana			
I	-	0-5;\$50,000	1-life;\$50,000
II	-	0-5;\$50,000	1-life;\$50,000
III	-	0-5;\$50,000	1-life;\$50,000
IV	-	0-5;\$50,000	1-life;\$50,000
V	-	0-5;\$50,000	1-life;\$50,000
marijuana	-	6mo.-5;\$100-\$50,000	1-life;\$50,000
opiates	-	2-5;\$50,000	2-life;\$50,000
Nebraska			
I	3mo.;\$500	0-5;\$10,000	0-20;\$25,000
II	3mo.;\$500	0-5;\$10,000	0-20;\$25,000
III	3mo.;\$500	0-5;\$10,000	0-20;\$25,000
IV	3mo.;\$500	0-5;\$10,000	0-5;\$10,000
V	3mo.;\$500	0-5;\$10,000	0-5;\$10,000
marijuana	-	0-5;\$100-\$10,000	-
Nevada			
I	1-6;\$5,000	1-6;\$5,000	1-20 or life;\$20,000
II	1-6;\$5,000	1-6;\$5,000	1-20 or life;\$20,000
III	1-6;\$5,000	1-6;\$5,000	1-10 or life;\$10,000
IV	1-6;\$5,000	1-6;\$5,000	1-10 or life;\$10,000
V	0-1;\$1,000	0-1;\$1,000	1-10 or life;\$10,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,
SALE -- FIRST OFFENSE (Cont'd)**

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
New Hampshire			
I narcotics	—	0-7;\$5,000	0-10;\$125,000
I non-narcotics	—	0-1;\$1,000	0-10;\$125,000
II narcotics	—	0-7;\$5,000	0-10;\$125,000
II non-narcotics	—	0-1;\$1,000	0-10;\$125,000
III narcotics	—	0-7;\$5,000	0-5;\$50,000
III non-narcotics	—	0-1;\$1,000	0-5;\$50,000
IV narcotics	—	0-7;\$5,000	0-3;\$25,000
IV non-narcotics	—	0-1;\$1,000	0-3;\$25,000
V narcotics	—	0-7;\$5,000	0-1;\$10,000
V non-narcotics	—	0-1;\$1,000	0-1;\$10,000
marijuana	—	0-7;\$2,000	0-10;\$50,000-\$125,000
New Jersey			
I/II narcotics	May have driver's license suspended for up to two years.	0-7;\$15,000	0-life;\$25,000
I/II non-narcotics	—	0-5;\$15,000	0-5;\$15,000
III	—	0-5;\$15,000	0-5;\$15,000
IV	—	0-5;\$15,000	0-5;\$15,000
V	—	0-1;\$5,000	0-1;\$5,000
marijuana	—	0-6;\$250-\$15,000	0-5;\$15,000
New Mexico			
I/II narcotics	—	0-18mo.;\$5,000	0-9;\$10,000
I/II non-narcotics	—	0-1;\$500-\$1,000	0-3;\$5,000
III	—	0-1;\$500-\$1,000	0-3;\$5,000
IV	—	0-1;\$500-\$1,000	0-3;\$5,000
V	—	—	6mo.-1;\$100-\$500
marijuana	—	0-1;\$50-\$15,000	0-3;\$5,000
New York			
I	—	0-1;\$1,000	0-7;\$5,000
II	—	0-1;\$1,000	0-7;\$5,000
III	—	0-1;\$1,000	0-7;\$5,000
IV	—	0-1;\$1,000	0-7;\$5,000
V	—	0-1;\$1,000	0-7;\$5,000
North Carolina			
I	—	0-5;\$5,000	0-10;fine
II	—	0-2;\$2,000	0-10;fine
III	—	0-2;\$2,000	0-5;fine
IV	—	0-2;\$2,000	0-5;fine
V	—	0-6mo.;\$500	0-5;fine
VI	—	0-5;\$100-\$5,000	0-5;fine
North Dakota			
I/II narcotics	—	0-5;\$5,000	0-20;\$10,000
I/II non-narcotics	—	0-5;\$5,000	0-10;\$10,000
III	—	0-5;\$5,000	0-10;\$10,000
IV	—	0-5;\$5,000	0-5;\$5,000
V	—	0-5;\$5,000	0-1;\$1,000
marijuana	—	0-5;\$1,000-\$5,000	0-20;\$10,000
Ohio			
I	—	0-6;\$1,000	3-15;\$7,500
II	—	0-6;\$1,000	3-15;\$7,500
III	—	0-60days;\$500	1-10;\$2,500
IV	—	0-60days;\$500	1-10;\$2,500
V	—	0-60days;\$500	1-10;\$2,500
marijuana	—	0-30days;\$100-\$250	1/2-5;\$2,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,
SALE -- FIRST OFFENSE (Cont'd)**

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
Oklahoma			
I/II narcotics	--	2-10	5-20; \$20,000
I/II non-narcotics	--	2-10	2-10; \$5,000
III	--	0-1	2-10; \$5,000
IV	--	0-1	2-10; \$1,000
V	--	0-1	0-5; \$1,000
marijuana	--	0-1	2-10; \$5,000
Oregon			
I	--	0-10; \$100,000	0-20; \$10,000
II	--	0-5; \$100,000	0-10; \$100,000
III	--	0-1; \$2,500	0-5; \$100,000
IV	--	0-30days; \$500	0-6mo.; \$1,000
V	--	\$250	0-30days; \$500
marijuana	--	0-10; \$100-\$100,000	0-10; \$100,000
Pennsylvania			
I/II narcotics	--	0-1; \$5,000	0-15; \$250,000
I/II non-narcotics	--	0-1; \$5,000	0-5; \$15,000
III	--	0-1; \$5,000	0-5; \$15,000
IV	--	0-1; \$5,000	0-3; \$10,000
V	--	0-1; \$5,000	0-1; \$5,000
marijuana	--	0-1; \$500-\$5,000	0-5; \$15,000
Rhode Island			
I	--	0-3; \$5,000	0-life; \$500,000
II	--	0-3; \$5,000	0-life; \$500,000
III	--	0-3; \$5,000	0-20; \$40,000
IV	--	0-3; \$5,000	0-20; \$40,000
V	--	0-3; \$5,000	0-1; \$10,000
marijuana	--	0-1; \$500	0-30; \$100,000
South Carolina			
I/II narcotics	--	0-2; \$5,000	0-5; \$25,000
I/II non-narcotics	--	0-6mo.; \$1,000	0-5; \$5,000
III	--	0-6mo.; \$1,000	0-5; \$5,000
IV	--	0-6mo.; \$1,000	0-3; \$3,000
V	--	0-6mo.; \$1,000	0-1; \$1,000
marijuana	--	0-2; \$100-\$5,000	0-5; \$5,000
South Dakota			
I	--	0-5; \$5,000	30days-10; \$10,000
II	--	0-5; \$5,000	30days-10; \$10,000
III	--	0-5; \$5,000	30days-5; \$5,000
IV	--	0-5; \$5,000	30days-2; \$2,000
marijuana	--	0-10; \$100-\$10,000	15days-10; \$1,000-\$10,000
Tennessee			
I	--	0-1; \$1,000	5-15; \$18,000
II	--	0-1; \$1,000	4-10; \$15,000
III	--	0-1; \$1,000	3-8; \$10,000
IV	--	0-1; \$1,000	2-5; \$7,000
V	--	0-1; \$1,000	1-5; \$5,000
VI	--	0-1; \$1,000	1-10; \$3,000-\$10,000
VII	--	0-1; \$1,000	1-5; \$3,000
Texas			
group 1	--	2-99, life; \$10,000-\$100,000	5-99, life; \$20,000-\$250,000
group 2	--	2-99, life; \$5,000-\$100,000	2-99, life; \$10,000-\$100,000
group 3	--	0-99, life; \$2,000-\$100,000	2-99, life; \$5,000-\$100,000
group 4	--	0-99, life; \$1,000-\$100,000	2-99, life; \$5,000-\$100,000
marijuana	--	0-99, life; \$1,000-\$100,000	0-99, life; \$1,000-\$100,000

**COMPARISON OF PENALTIES FOR USE, POSSESSION,
SALE -- FIRST OFFENSE (Cont'd)**

State/Schedule	Use Penalties	Possession Penalties	Sale Penalties
Utah			
I/II narcotics	--	0-6mo.;\$299	1-15;\$15,000
I/II non-narcotics	--	0-6mo.;\$299	1-10;\$10,000
III	--	0-6mo.;\$299	0-10;\$10,000
IV	--	0-6mo.;\$299	0-5;\$5,000
V	--	0-6mo.;\$299	0-1;\$1,000
marijuana	--	0-6mo.;\$299	0-5;\$5,000
Vermont			
depressants, stimulants,narcotics hallucinogens	--	0-1;\$1,000	0-5;\$10,000
V	--	0-6mo.;\$500	0-5;\$10,000
marijuana	--	0-6mo.;\$500	0-5;\$10,000
Virginia			
I/II	--	1-10;\$1,000	5-40;\$100,000
III	--	0-1;\$1,000	0-1;\$1,000
IV	--	0-6mo.;\$500	0-1;\$1,000
V	--	\$500	0-1;\$1,000
marijuana	--	0-10;\$500-\$1,000	0-30;\$1,000-\$10,000
Washington			
I/II narcotics	--	0-5;\$10,000	0-10;\$25,000
I/II non-narcotics	--	0-5;\$10,000	0-5;\$10,000
III	--	0-5;\$10,000	0-5;\$10,000
IV	--	0-5;\$10,000	0-5;\$10,000
V	--	0-5;\$10,000	0-5;\$10,000
marijuana	--	0-5;\$250-\$10,000	0-5;\$10,000
West Virginia			
I/II narcotics	--	90days-6mo.;\$1,000	1-15;\$25,000
I/II non-narcotics	--	90days-6mo.;\$1,000	1-5;\$15,000
III	--	90days-6mo.;\$1,000	1-5;\$15,000
IV	--	90days-6mo.;\$1,000	1-3;\$10,000
V	--	90days-6mo.;\$1,000	6mo.-1;\$5,000
Wisconsin			
I/II narcotics	--	0-1;\$5,000	0-15;\$25,000
I/II non-narcotics	--	0-30days;\$500	0-5;\$15,000
III	--	0-30days;\$500	0-5;\$15,000
IV	--	0-30days;\$500	0-3;\$10,000
V	--	0-30days;\$500	0-1;\$5,000
Wyoming			
I/II narcotics	0-90days;\$100	0-6mo.;\$750	0-20;\$25,000
I/II non-narcotics	0-90days;\$100	0-6mo.;\$750	0-10;\$10,000
III	0-90days;\$100	0-6mo.;\$750	0-10;\$10,000
IV	--	0-6mo.;\$750	0-2;\$2,500
V	--	0-6mo.;\$750	0-1;\$1,000

**DRUGS TRIGGERING ENHANCED PENALTIES UNDER
CONTROLLED SUBSTANCES ACTS**

JURISDICTION	DRUG						OTHER
	None	Heroin	Cocaine	Phencyclidine (PCP)	Meth/Amphetamine	Meth-/Mecloqualone	
ALABAMA	■	■	■		■	■	hydromorphone, opium
ALASKA	■	■	■				
ARIZONA	■	■	■				
ARKANSAS	■	■	■				
CALIFORNIA	■	■	■	■			
COLORADO	■	■	■				
CONNECTICUT	■						
DELAWARE	■	■	■	■	■	■	morphine
DISTRICT OF COLUMBIA				■			
FLORIDA	■	■	■	■		■	
GEORGIA	■	■	■		■		morphine, opium
HAWAII	■	■	■				morphine
IDAHO	■						
ILLINOIS	■	■	■	■	■	■	LSD, peyote, pentazocine
INDIANA	■						
IOWA	■						
KANSAS	■						
KENTUCKY	■						
LOUISIANA			■	■		■	pentazocine
MAINE		■					
MARYLAND	■	■	■	■	■	■	LSD, morphine
MASSACHUSETTS	■	■	■	■		■	
MICHIGAN	■						
MINNESOTA				■			
MISSISSIPPI						■	
MISSOURI	■						
MONTANA	■						
NEBRASKA	■						
NEVADA	■						
NEW HAMPSHIRE	■	■	■		■	■	LSD
NEW JERSEY	■						
NEW MEXICO				■			
NEW YORK	■						
NORTH CAROLINA	■	■	■	■	■	■	opium derivatives
NORTH DAKOTA	■						
OHIO	■						
OKLAHOMA	■	■	■	■	■	■	LSD
OREGON	■						
PENNSYLVANIA			■		■		
RHODE ISLAND	■						
SOUTH CAROLINA	■	■			■	■	
SOUTH DAKOTA	■						
TENNESSEE	■	■	■	■	■	■	morphine, LSD, hydromorphone, pentazocine, tripeleannamine
TEXAS	■						
UTAH	■						
VERMONT	■						
VIRGINIA	■						
WASHINGTON		■					
WEST VIRGINIA	■						
WISCONSIN			■				
WYOMING	■						
FEDERAL	■	■	■	■	■	■	LSD

FORFEITABLE ASSETS UNDER CONTROLLED SUBSTANCES ACTS

PROVISION	JURISDICTION
	ALABAMA ARAKSA ARKANSAS CALIFORNIA COLORADO CONNECTICUT DELAWARE D.C. FLORIDA GEORGIA HAWAII IDAHO ILLINOIS INDIANA IOWA KANSAS KENTUCKY LOUISIANA MAINE MARYLAND MASSACHUSETTS MICHIGAN MINNESOTA MISSISSIPPI MISSOURI MONTANA NEBRASKA NEVADA NEW HAMPSHIRE NEW JERSEY NEW MEXICO NEW YORK NORTH CAROLINA NORTH DAKOTA OHIO OKLAHOMA OREGON PENNSYLVANIA RHODE ISLAND SOUTH CAROLINA SOUTH DAKOTA TENNESSEE TEXAS UTAH VERMONT VIRGINIA WASHINGTON WEST VIRGINIA WISCONSIN WYOMING FEDERAL
	Controlled Substances
	Materials, products, equipment used for manufacturing, compounding, processing, delivering, dispensing, distributing, importing, or exporting any controlled substances
	Books, records, research, including formulas, microfilm, tapes, and data used or intended for use in the manufacture or distribution of a controlled substance
	Conveyances used to facilitate the manufacture, dispensing, or distribution of a controlled substance
	Drug paraphernalia
	Monies or things of value used or intended for use in the procurement, manufacture, compounding, processing, delivery, or distribution of any controlled substance
	Proceeds from monies or sale of things of value used or intended for use in the procurement, manufacture, compounding, processing, delivery, or distribution of any controlled substance
	Containers
	Real estate used in the furtherance of illegal drug activity
	Imitation controlled substances

APPENDIX C

U. S. ATTORNEY GENERAL'S GUIDELINES ON SEIZED AND FORFEITED PROPERTY

THE U.S. ATTORNEY GENERAL'S GUIDELINES ON SEIZED AND FORFEITED PROPERTY

Federal Register (Vol. 52, Dec. 10, 1987)

The Attorney General recently issued Guidelines on Seized and Forfeited Property. The Department of Justice is publishing the text of the *Guidelines* for the information and convenience of the public. The following is the text of the *Guidelines*.

Attorney General's Guidelines on Seized and Forfeited Property

I. Statement of Policy

The following guidelines are designed to implement certain asset forfeiture provisions of the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986 pertaining to the disposition of forfeited property, the management and use of the Department of Justice Assets Forfeiture Fund, and the discontinuance of federal forfeiture actions to permit forfeiture by state or local procedures.

Title 21, United States Code (U.S.C.), section 881(e), authorizes the Attorney General to dispose of criminally or civilly forfeited property by (1) retaining the property for official use; (2) transferring custody or ownership of the property to any federal, state, or local agency pursuant to the Tariff Act of 1930, Title 19, U.S.C., section 1616; or (3) placing the forfeited cash or proceeds of sale of forfeited property in an appropriation called the Department of Justice Assets Forfeiture Fund (hereinafter "the Fund"). Subsection (c) of 19 U.S.C. 1616 authorizes the Attorney General to transfer forfeited property to any other Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

This authority is consistent with the Department of Justice's purpose of promoting cooperative law enforcement efforts in drug trafficking and other investigations. The Department intends to manage its asset forfeiture program in a manner designed to enhance this Federal, State, and local cooperation. Although section 1992 of the Anti-Drug Abuse Act of 1986, Pub. L. 99-750 (October 27, 1986) amended 21 U.S.C. 881(e) by deleting the familiar equitable sharing language directing the Attorney General to ensure equitable transfer of forfeited property to the appropriate state or local law enforcement agency so as to reflect generally the

contribution of any such agency participating directly in any of the acts which led to seizure or forfeiture of such property, this remains the policy of the Department of Justice.

The Law Enforcement Coordinating Committees will assist in informing Federal, State, and local law enforcement agencies about the procedures for requesting an equitable transfer of forfeited property, help facilitate the application for transfer of such property, and promote the implementation of the forfeiture provisions of the Comprehensive Crime Control Act of 1984 and the Anti-Drug

Abuse Act of 1986 in each Federal district.

II. Definitions and Other General Provisions

A. "Department investigative bureau" refers not only to an investigative unit within the Department of Justice but to any other federal agency investigative unit which by law deposits the proceeds of forfeited assets into the Department of Justice Assets Forfeiture Fund.

B. "Head of the Department investigative bureau" means the head of that bureau or his headquarters-level designee.

C. "Placing property into official use" means use of forfeited property by a Department bureau for any official purpose.

D. "Property" means tangible property and cash.

E. "Cash" means currency, negotiable instruments, and securities.

F. "State and local agencies" means state and local law enforcement agencies.

G. "Appraised value" means fair market value.

H. "Drug law enforcement function" means any official activity by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service which materially facilitates enforcement of the drug laws of the United States.

I. "Whenever the term "Deputy Attorney General" is used in these Guidelines, the power or responsibility referred to may be exercised by a duly authorized Acting Deputy Attorney General.

J. Whenever the term "Associate

"Attorney General" is used in these guidelines, the power or responsibility referred to may be exercised by the Deputy Attorney General or by a duly authorized Acting Deputy or Acting Associate Attorney General.

K. Whenever the term "Assistant Attorney General, Criminal Division" is used in these guidelines, the power or responsibility referred to may be exercised by the Deputy Attorney General, the Associate Attorney General, a duly authorized Acting Assistant Attorney General of the Criminal Division, or by any Deputy Assistant Attorney General of the Criminal Division.

L. Whenever any reference is made in these Guidelines to "Criminal Division Section Chief" or the "Director, Asset Forfeiture Office, such reference shall also be deemed to include the Assistant Attorney General of the Criminal Division, any Deputy Assistant Attorney General in the Criminal Division, and any duly authorized Acting Section Chief or Acting Director.

M. Whenever a statute, regulation, or official form cited in these Guidelines is replaced by a substantially identical statute, regulation, or official form designated by a new number, the citation will be deemed to refer to that new statute, regulation, or official form.

III. Use and Transfer of Forfeited Property

A. Retention of Property for Official Use

1. The Attorney General has the authority to retain any civilly or criminally forfeited tangible property for official use by any Department investigative bureau.

2. No forfeited cash, nor any proceeds from sales of forfeited property, may be transferred to, or retained by, any Federal agency under the provisions of 21 U.S.C. 881(e) governing disposition of forfeited property.

3. Payment of liens and mortgages pursuant to an authorization to place property into official use.

a. Liens and mortgages cumulatively amounting to less than one third of the appraised value of the asset and totaling less than \$50,000 will be paid from the Fund at the direction of the head of the Department investigative bureau.

b. Payments of liens or mortgages that, in the aggregate, total \$50,000 or greater or exceed one third of the appraised value of the asset, will be paid from the Fund at the request of the Department investigative bureau subject to the concurrence of the Associate Attorney General.

B. Official Use by Department Investigative Bureau

1. The Attorney General's authority to place tangible property into official use is delegated to the head of the Department investigative bureau responsible for the processing of the forfeiture.

a. Each agency shall develop guidelines for determining the circumstances under which property is to be placed into official use. In no event is property to be placed into official use unless it is to be used for a significant law enforcement purpose as defined by agency guidelines. Such guidelines are to be reviewed and approved by the Associate Attorney General.

b. In making a decision concerning placing forfeited property into official use, the head of the Department investigative bureau must consider the financial status of the Department of Justice Assets Forfeiture Fund and the dollar value of the asset if sold.

c. Exercise of this delegation of authority is subject to concurrence by the Associate Attorney General for all property appraised at \$750,000 to \$2,000,000 and by the Deputy Attorney General for all property appraised at \$2,000,000 or more. For all property appraised at \$20,000 or more a special justification is to be prepared detailing the reasons why the property was placed into official use rather than having been sold. Such a justification is to be retained by the agency for a period of five years.

C. Official Use by Other Department Bureaus

1. If the Department investigative bureau does not choose to place the forfeited property into official use, and, if the property has not been equitably transferred, the Director, United States Marshals Service, will determine appropriate disposal, including ascertaining whether any remaining property is suitable for official use by other Department bureaus.

a. A decision to place such property into official use is subject to concurrence by the Associate Attorney General for all property appraised at \$750,000 to \$2,000,000 or by the Deputy Attorney General for all property appraised at \$2,000,000 or more.

2. After the Department investigative bureau declines to place the forfeited property into official use, and if the property is not equitably transferred, and if more than one Department component wants to retain for official use the same foreclosed property, the

Associate Attorney General will determine which component may place such property into official use.

D. Transfer of Property to Federal, State, or Local Law Enforcement Agencies

1. Attorney General's Authority for Equitable Transfer of Forfeited Property

a. Title 21, U.S.C. 881(e), and Title 19, U.S.C. 1616, as made applicable by 21 U.S.C. 881(d) and other statutes, authorize the Attorney General to transfer forfeited property to any federal agency or to any State or local law enforcement agency that directly participated in the acts which led to the seizure or forfeiture.

b. Property not retained for official use by the Department investigative bureau responsible for the processing of the forfeiture is eligible for equitable transfer.

c. Where a participating law enforcement agency petitions for a transfer of some or all of the forfeited property, the Attorney General shall determine an equitable share that generally reflects the relative contribution of the participating agencies to the investigation leading to its seizure and forfeiture.

2. Procedure for Determining Equitable Transfer

a. Any Federal, State, or local law enforcement agency that participates in the acts leading to a seizure or forfeiture may file a request for an equitable transfer of the property.

b. The criteria for determining the equitable transfer of the property will be the same for all requests.

c. In all cases the final decision-making authority rests with the Attorney General or his designee.

3. Requests from Participating Law Enforcement Agencies

a. Within thirty days following the seizure for forfeiture, a federal, state, or local agency should submit a written request for an equitable transfer of the property subject to forfeiture in order to be assured of consideration, but in any event no later than the date of forfeiture or the disposition of the property, whichever is later.

b. This request must be filed with the local or regional office of the Department investigative bureau responsible for processing the forfeiture.

c. The request must include the following information:

(1) Identification of the property against which the claim is made;

(2) Details regarding the requesting agency's participation, including the amount of money and manpower expended by the Federal, State, or local agency in pursuing the case;

(3) A statement of the intended law enforcement use for the property;

(4) A designation of the proper fiscal entity to which disbursements can be made (which disbursements will not be made in currency);

(5) A designation of the proper official to whom transfer documents should be delivered by the United States;

(6) A designation of the proper party to whom possession should be delivered;

(7) A statement by an appropriate legal officer indicating that the transfer is not prohibited under the applicable Federal, State, or local law.

(8) In instances of a joint application by several federal, state, or local agencies, the relative share of each Federal, State, or local agency;

(9) A statement that all fees and expenses necessary to effect transfer of title will be paid by or on behalf of the requesting agency not later than the time of transfer; and

(10) An assurance that, if requested to do so, a report will be provided as to the actual use of any transferred property or proceeds.

d. The requesting agency must certify that the information contained in 3(c)(2-7) above is true and correct.¹

e. Property will be transferred to state or local agencies only in cases where the tangible property or cash will be credited to the budget of the state or local agency that directly participated in the seizure or forfeiture, resulting in an increase of law enforcement resources for that specific State or local agency.

f. An information copy of any request will be forwarded by the Department investigative bureau to the United States Attorney in the district where the transfer request originated.

4. Procedure for Processing Requests for Equitable Transfer

a. In all cases, the Department investigative bureau field unit receiving the request will prepare a written report that will evaluate the degree of assistance provided by the requesting agency or agencies in the underlying investigation. Such a report shall be prepared and forwarded to the Department investigative bureau headquarters within ten days of receiving the request absent unusual circumstances. Within five days of receipt the Department investigative

bureau headquarters will forward a copy of the request to the Director of the United States Marshals Service.

b. In determining the equitable share for a participating Federal, State, or local agency, the governing factor to be considered is the time and effort contributed by each such agency participating directly in the investigation or other law enforcement activity which led directly or indirectly to the seizure or forfeiture of the property. If the Federal investigative effort is ten percent or less, the determining official will allocate ten percent to the Federal government to compensate for its administrative role and divide the participating agency shares from the remaining ninety percent. If the Department's investigative effort is more than ten percent, the sharing percentages will be based strictly on the contribution by the agency or agencies. This "ten percent rule" will not alter the ability of the United States Marshals Service to recover costs directly from participating agencies or affect their ability to pay appropriate costs from the Assets Forfeiture Fund. For purposes of practicality, the "ten percent rule" does not apply to the transfer of forfeited assets that are not readily divisible, such as a single conveyance.

c. The allocation based on time and effort may be adjusted based upon the following additional, but secondary, factors:

(1) Whether the agency originated the information that led to the ultimate seizure, and whether the agency obtained such information by use of its investigative assets, rather than fortuitously;

(2) Whether the agency provided unique or indispensable assistance;

(3) Whether the agency initially identified the asset for seizure;

(4) Whether or not the state or local agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to State or local law; and

(5) Whether or not the state or local agency could have achieved forfeiture under State law, with favorable consideration given to a State or local agency which could have forfeited the asset(s) on its own but joined forces with the United States to make a more effective investigation.

Decision-makers should seldom increase a time and effort allocation by more than 50% because of these additional factors, but, if they do so, must carefully and precisely explain and justify in the decision document their decisions based on unusual circumstances.

d. Investigative work performed by district attorney or State attorney general personnel (including work done by police personnel detailed to prosecutors' offices) will be considered in calculating equitable shares. A state or local prosecutor's office is eligible for transfers of forfeited property based on such investigative effort in the case, to the extent such an office is allowed to receive money directly from the Federal government or have such money credited to its budget under State or local law.

e. The head of the Department investigative bureau may place tangible property forfeited administratively or judicially into official use in cases in which a Federal, State, or local agency has filed a request for an equitable share of that property.

(1) In making this decision, the head of the Department investigative bureau must consider the following factors:

(a) The relative needs of both the requesting law enforcement agency and the Department investigative bureau for the particular asset;

(b) The uniqueness of the asset and the likely ability to secure such an asset by other seizures in the near future;

(c) The relative significance of the requesting law enforcement agency's participation in the case, as well as all the other factors pertinent to the determination of equitable distribution as set forth in Part III.D.4.b. and c. above;

(d) The potential of, or likelihood that, the requesting agency will be eligible for an equitable share of property from additional seizures arising from the same investigation or from other seizures in the near future;

(e) The impact that a decision to place the property into official use might have on Federal, State, and local relations in that District; and

(f) The past history, volume, and value of previous equitable transfer to the Federal, State, or local agency.

5. Decision-Making Authority for Determining Equitable Transfer

a. The equitable distribution of assets forfeited in an administrative proceeding with an appraised value of \$200,000 or less will be determined by the head of the Department investigative bureau.

(1) The Department investigative bureau's field unit shall forward its report and recommendation to the bureau head for decision.

(2) In making this decision, the head of the Department investigative bureau will consider the report and recommendation forwarded by the field unit and issue to the requesting agency a written ruling on the request.

(3) A copy of the decision document will be forwarded to the United States Attorney, or to the Criminal Division Section Chief in a Department of Justice Criminal Division case, and to the Director, United States Marshals Service.

(4) A copy of the decision document will be made available upon request to the Director, Asset Forfeiture Office, Criminal Division.

b. In the case of assets forfeited in an administrative proceeding with an appraised value greater than \$200,000 and with all judicially forfeited assets, the evaluation and recommendation will be forwarded through the Asset Forfeiture Office to the appropriate United States Attorney or to the Criminal Division Section Chief in a Criminal Division case.

(1) The equitable distribution of assets forfeited in a judicial proceeding with an appraised value of \$200,000 or less will be determined by the United States Attorney or the Criminal Division Section Chief.

(2) In making this decision, the United States Attorney or Criminal Division Section Chief will consider the reports and recommendations forwarded by the head of the Department investigative bureau and will consult with the United States Marshals Service.

(3) The decision document shall be returned to the Director, Asset Forfeiture Office, who will forward the document to the Director, United States Marshals Service, and forward a copy to the Department investigative bureau.

c. In the case of property forfeited in a single proceeding with an appraised value greater than \$200,000, the United States Attorney or Criminal Division Section Chief will forward the evaluation and recommendation of the Department investigative bureau, along with his own recommendation, to the Assistant Attorney General of the Criminal Division, through the Asset Forfeiture Office, who will determine the equitable distribution of those assets if they aggregate less than \$750,000.

(1) In making this decision, the Assistant Attorney General of the Criminal Division will consider the reports and recommendations forwarded by the head of the Department investigative bureau and the United States Attorney or Criminal Division Section Chief and will consult with the United States Marshals Service.

(2) The decision document will be forwarded by the Director, Asset Forfeiture Office, to the United States Marshals Service with copies to the Department investigative bureau, and

the United States Attorney or Criminal Division Section Chief.

d. The Associate Attorney General will make the final determination on the equitable sharing of assets forfeited in a single proceeding with an appraised value of \$750,000 to \$2,000,000. The Deputy Attorney General will make the final determination on the equitable sharing of assets forfeited in a single proceeding with an appraised value of \$2,000,000 or higher.

(1) The request will be processed as in 5.c. above, except that the Assistant Attorney General, Criminal Division, will recommend, to the Deputy Attorney General through the Associate Attorney General, or to the Associate Attorney General, as the case may be, the appropriate equitable distribution of such assets.

(2) The decision document will be returned to the Director, Asset Forfeiture Office, who shall forward it to the Director, United States Marshals Service, and shall copy the United States Attorney or Criminal Division Section Chief, and the Department investigative bureau.

e. In all cases in which judicially forfeited property is located in a judicial district other than where the judicial proceedings are taking place, the party determining the equitable distribution must consult with the respective United States Attorneys prior to determining equitable distribution.

f. Decision-makers should consult each other in situations where inconsistent decisions are possible in factually related forfeiture proceedings that might jeopardize relations between Federal agencies and State or local law enforcement agencies.

g. Once a forfeiture action is concluded and all necessary forms and evaluations have been received by the designated decision-maker, the decision-maker shall endeavor to make his decision within ten days absent unusual circumstances. If a necessary form or evaluation is incomplete as to a material item of information, it is to be returned directly and promptly to the appropriate party for correction and direct return within fifteen days to the decision-maker.

6. Proceeds Placed in the Department of Justice Assets Forfeiture Fund

a. If the federal forfeiture action is concluded successfully, and the property is not placed into official use or transferred to a Federal, State, or local agency, it will be sold and the net proceeds of sale will be placed in the Assets Forfeiture Fund.

b. Forfeited cash will be placed in the Assets Forfeiture Fund.

c. All Department bureaus will promptly notify the United States Marshals Service of any relevant facts affecting seized property. Relevant facts include outstanding bills, invoices, orders of mitigation and remission, orders of transfers to federal, state, or local agencies, orders of designation for official use by Department components, and appraisals. Based upon these and other relevant factors, the United States Marshals Service should appropriately dispose of the property.

7. Disposition of Forfeited Property.

a. State or local agencies may share in seized and forfeited tangible property, and seized and forfeited cash. Federal agencies may receive transfers of tangible property only.

b. Any property that cannot be used for law enforcement purposes must be disposed of in accordance with law.

c. Where tangible property is transferred to qualifying Federal, State, or local agencies, monies from the Assets Forfeiture Fund will not be used to pay liens or mortgages on the property, or to equip the property for law enforcement purposes.

d. The recipient Federal, State, or local agency must pay the liens and mortgages on the forfeited tangible property pursuant to court order or an order of remission or mitigation prior to the transfer of such property.

e. The recipient Federal, State, or local agency may be required to pay direct expenses pertaining to the seizure and forfeiture prior to the transfer of tangible property.

f. In the event of an interlocutory sale of property pending forfeiture, the Director, United States Marshals Service, first must consult with the United States Attorney, Criminal Division Section Chief, or the Director of the Asset Forfeiture Office in the case of judicial forfeitures, or the head of the pertinent Department investigative bureau in the case of administrative forfeitures, to determine the status of any Federal, State, or local law enforcement agency requests for equitable sharing.

8. Transfers to Non-Participating Federal Agencies.

a. All requests by non-participating federal agencies shall be referred to the Director of the United States Marshals Service.

b. In exceptional circumstances, the United States Marshals Service may transfer tangible property to any requesting Federal agency which did not

participate in the acts which led to a seizure or forfeiture.

c. In all such cases, the United States Marshals Service shall consult with the Department investigative bureau responsible for the forfeiture. Where such request is from the United States Department of State for transfer to a foreign government by the Department of State under separate authority, and in any other case it deems appropriate, the United States Marshals Service shall consult also with the Asset Forfeiture Office.

d. Careful consideration shall be given to the value of the property requested, its potential benefit to the United States for law enforcement purposes, and its potential benefit to the Department of Justice Assets Forfeiture Fund.

e. A decision to grant such a request must be approved in writing by the Deputy or Associate Attorney General if the property in question is real property of any value or personal property of an aggregate value exceeding \$25,000. A decision to grant a request for property of lesser value must be approved in writing by the Director of the United States Marshals Service.

f. A report on all such transfers shall be prepared by the United States Marshals Service on a quarterly basis and submitted to the Associate Attorney General.

IV. Department of Justice Assets Forfeiture Fund

A. Administration of the Fund

1. The Attorney General delegates the administration of the Department of Justice Assets Forfeiture Fund to the United States Marshals Service under the general supervision of the Associate Attorney General. It will operate under the following guidelines and in accordance with Department of Justice financial management policy. The Associate Attorney General shall establish an interagency committee to advise him or her on the general supervision of the Fund and administration of the asset forfeiture program. This committee shall be known as the Asset Forfeiture Policy Advisory Committee.

2. The United States Marshals Service shall prepare an annual report on the Fund in accordance with 28 U.S.C. 524(c)(6). Agencies reimbursed in accordance with the provisions of these guidelines shall provide information as may be requested by the Marshals Service.

3. The United States Marshals Service will also submit to the Associate

Attorney General on a monthly basis a financial statement as to the current status of the fund. Copies of the monthly United States Marshals Service statement will be provided to those members of the Asset Forfeiture Policy Advisory Committee with whom the Marshals Service has entered into reimbursement agreements to assist the recipient in making decisions as to the use and transfer of forfeited property.

B. Allowable Reimbursements from the Assets Forfeiture Fund

Reimbursements are permitted in two broad categories: asset-specific expenses and program-related expenses. The former take priority over the latter.

1. *Asset-specific expenses.* The following are allowable asset-specific expenses. Expenses identified in a. and b. below, which are termed "management expenses" for the purposes of administering the Assets Forfeiture Fund, have priority over expenses identified in c., d., e., and f., which are termed "contingent expenses" for the purposes of administering the Assets Forfeiture Fund. These, in turn, have priority over payments identified in g., h., and i. below, which are management expenses which have been assigned a lower priority.

a. Expenses incurred by the Department of Justice or other agencies authorized to be reimbursed from the Fund relative to the detention, inventory, safeguarding, maintenance, or disposal of seized or forfeited property, whether incurred on an asset specific or service contract basis;

b. Expenses relative to the detention, inventory, safeguarding, maintenance, or disposal of seized or forfeited property incurred by other Federal, State, and local agencies which assist in the seizure and forfeiture of the property;

c. Payments of orders of mitigation or remission;

d. Payments of valid liens and mortgages pursuant to court order;

e. Expenses incurred for the normal and customary operations of seized or forfeited businesses;

f. Payments of orders of equitable transfer to State or local law enforcement agencies;

g. Payments for contract services directly related to the processing of and accounting for seizures and forfeitures;

h. Expenses related to the storage, protection, and destruction of controlled substances whether incurred on an asset specific or service contract basis;

i. Other expenses incurred by Department investigative bureaus or

other Department components in the seizure and forfeiture of the property, including such case-specific expenses as forfeiture case-related travel and subsistence; costs to obtain and transcribe depositions; filing fees; translation and court reporter fees; messenger services; expert witness costs; exhibit graphic services; and other types of such expenses as approved by the Associate Attorney General.

2. *Program-related expenses.* The following are allowable program-related expenses. Item a. is the highest priority type of expense; other items are not listed in any priority order.

a. Expenses for the purchase or lease of ADP equipment, and related services, at least 90% of whose use will be dedicated to seizure or forfeiture-related record-keeping;

b. Payments by authorized Department investigative agents for the purchase of controlled substances (identified by 21 U.S.C. 812) as evidence in cases involving violations of the Controlled Substances Act or the Controlled Substances Import and Export Act; (See Part H, *infra*);

c. Expenses incurred to equip any conveyance (whether acquired by forfeiture, purchase, or lease) for drug law enforcement functions; (See Part I, *infra*);

d. Payment of awards in recognition of information or assistance given to a Department investigative bureau pursuant to 20 U.S.C. 524(c)(1)(B); 28 U.S.C. 524(c)(1)(C); or 21 U.S.C. 881(e)(2)(A)(ii); (See Part G, *infra*);

e. Expenses incurred for training related to the execution of seizure or forfeiture-related responsibilities;

f. Expenses incurred for printing program-related training material, such as manuals or handbooks. (Costs for printing legal notices and other case or asset-specific printing costs are considered asset-specific expenses as described in subsection B.1.a. above.)

3. Reimbursement for expenses in categories 1.g., 1.h., and 2. shall not exceed the lesser of \$100 million or whatever amount is authorized by statute in any one fiscal year.

C. Limitations on Use of the Fund

1. The Department of Justice Assets Forfeiture Fund shall not be used to pay any of the following:

a. Salaries of Federal government employees;

b. Expenses in connection with the seizure, detention, and forfeiture of property where the seizure was effected by a Customs officer or where custody

was maintained by the Customs Service, in which case the Customs Assets Forfeiture Fund is available for payment of expenses; or

c. Where property is transferred to state or local law enforcement agencies:

(1) Liens or mortgages on the property; or

(2) Payments to equip the property for law enforcement purposes.

2. Liens and mortgages shall be paid from the Fund only pursuant to an order of remission or mitigation or an order of the court, and when the payment of the lien from the Fund is beneficial to the United States. Otherwise, such amounts shall be paid from the proceeds of the sale of forfeited property. Such payments are beneficial to the United States in two circumstances:

a. Where payment prior to sale will improve the Government's ability to convey title of the property;

b. Where the property is to be placed into official use by a Department investigative bureau or other agency.

3. The United States Marshals Service generally may not pay the claims of unsecured creditors from the Fund, particularly if such payment may jeopardize the legitimate claims of existing lienholders. However, if the United States Marshals Service determines that it is necessary to recognize and satisfy the legitimate claims of unsecured creditors for debts incurred within thirty days before seizure in order to preserve the continued operation of a seized business, it may do so for the following debts:

a. Payment of reasonable salaries and benefits of employees not believed to have been involved in the unlawful activities giving rise to forfeiture and not having an ownership interest in the firm;

b. Payments to third party contractors for goods or services essential to carry on the business of the firm and who continue to provide those goods or services as a regular matter; and

c. Utilities.

All other claims of unsecured creditors shall be determined by the Asset Forfeiture Office under regulations governing the procedures for remission or mitigation of forfeiture contained in 289 CFR 9.1-9.7 and/or by the court.

D. Payment of expenses

1. Expenses incurred by the United States Marshals Service will be paid by Marshals Service district offices from the Fund, in accordance with standard Marshals Service financial management and accounting policies and procedures.

2. Obligations incurred by other agencies will be reimbursed on a monthly basis (where practicable) from the Fund to the agency incurring the costs by means of an inter-agency fund transfer, using Standard Form 1081 (SF-1081), pursuant to a properly executed Reimbursement Agreement Between Agencies (Form DOJ-216).

3. It is the responsibility of the agency incurring the obligation to prepare the DOJ-216 and SF-1081 forms and obtain proper authorization. Each DOJ-216 and SF-1081 form will identify the appropriation to be reimbursed from the Fund.

4. Approved DOJ-216's and SF-1081's will be registered upon receipt at the Marshals Service. Properly authorized requests (SF-1001's) will be processed for payment in order of registration. The Marshals Service will approve the transfer of funds to the appropriation identified if sufficient funds are available, as defined in E.2. below.

5. If an amount requested is in excess of an amount available, as defined in E.2. below, the Marshals Service will not process the request, but will advise the requesting agency of the reason. The Marshals Service and the requesting agency should attempt to agree on deferral or cancellation of the request, as appropriate.

6. If the Marshals Service and the requesting agency cannot agree on deferral or cancellation of the request, the Marshals Service shall inform the Associate Attorney General of such disagreement and provide its recommendation for delayed payment or other appropriate action. The Marshals Service shall provide notice of the action taken by the Associate Attorney General to the agency submitting the SF-1081.

E. Priority Payments

1. Department policy is that reimbursement of asset-specific expenses has priority over reimbursement of program-related expenses. A minimum balance of ten million dollars (\$10 million) will be maintained in the Fund to ensure the reimbursement of asset-specific expenses.

2. Requests for reimbursement for program-related expenses submitted to the Marshals Service under the terms of a reimbursement agreement pursuant to subsection F. below will be processed if:

a. a sufficient amount remains under a current year reimbursement agreement to cover the requested reimbursement; and

b. the Fund balance exceeds by at

least \$10 million the amount of the request.

F. Preparation of Reimbursement Agreements

1. The Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Marshals Service, the Immigration and Naturalization Service, the United States Postal Service, the Executive Office for United States Attorneys, the Criminal Division, and any other agency which anticipates requesting reimbursement for expenses from the Department of Justice Assets Forfeiture Fund will prepare estimates of anticipated expenditures and, after coordination with, and review by, their internal budget and finance staffs, submit them to the Asset Forfeiture Policy Advisory Committee at least three months prior to the fiscal year in which the expenses are anticipated.

2. Anticipated requests for reimbursements shall be divided into each of the separate categories set forth in Parts B.1. and 2. above.

3. The Asset Forfeiture Policy Advisory Committee will evaluate the estimates and recommend a budget for program-related expenses and estimates for asset-specific expenses to the Associate Attorney General.

4. Members of the Asset Forfeiture Policy Advisory Committee may submit to the Associate Attorney General, concurrent with the Committee's recommendations, minority recommendations.

5. The Associate Attorney General will approve a budget for program-related expenses and estimates for asset-specific expenses, if possible, prior to the new fiscal year, which will form the basis for authorizing the establishment of reimbursement agreements between the United States Marshals Service, as administrators of the Fund, and the appropriate agency head or his designee. The budget and the estimates may be for periods of time less than one year (e.g., six months). The Associate Attorney General, or the Committee, retains authority to approve specific types of reimbursement expenses on an individual basis.

6. It is not permissible for a recipient of reimbursement funds to receive funds for reimbursement of program-related expenses in excess of that authorized in the budget for a specific program-related category or in variance with any other limitations imposed by the budget or the Associate Attorney General for program-related expenses. Requests for augmentation or change must be

approved by the Associate Attorney General.

7. Any agency seeking previously unanticipated reimbursement of asset-specific expenses in excess of the amount authorized in the approved estimates for a specific category or in variance with any other limitations imposed by the approved estimates or the Associate Attorney General for asset-specific expenses shall advise the Asset Forfeiture Policy Advisory Committee as soon as the need for such reimbursement is anticipated.

8. The Asset Forfeiture Policy Advisory Committee may recommend adjustments to the budget for program-related expenses and the approved estimates for asset-specific expenses during the fiscal year. The Associate Attorney General may order adjustments to the approved estimates and the budget during the fiscal year based either on appeals, recommendations of the Committee, or his or her own decision.

G. Payments of Awards

1. Application for awards will be accepted on behalf of any individual. The term "individual" encompasses corporations and associations.

2. Awards will not be paid to state or local government entities, or to employees or agents thereof. Any information or assistance provided by a state or local entity will be compensated under rules governing "equitable transfers."

3. Awards pursuant to 28 U.S.C. 524(c)(1)(B) or (C) will be paid only after disposition of forfeited property.

4. Awards pursuant to 28 U.S.C. 524(c)(1) (B) or (C) may not exceed \$150 thousand or one-fourth the "amount realized by the United States from the property forfeited," whichever is less.

a. If forfeited property is sold, then the "amount realized by the United States from the property forfeited" is the gross sale proceeds minus management expenses paid from the Fund.

b. If forfeited property is retained for official use, the "amount realized by the United States from the property forfeited" is the value of the property at the time of seizure minus management expenses paid from the Fund.

5. All applications for awards will be directed to the field office of the Department investigative bureau responsible for processing the forfeiture. Non-DOJ agencies (e.g., task force members such as IRS) should be instructed to direct any inquiries concerning these awards to the Department investigative bureau

responsible for processing the forfeiture.

6. The investigative bureau field unit receiving or initiating an application for an award will prepare a written report that will evaluate the value of the information or assistance provided by the applicant and recommend an amount to be paid.

7. If more than one application for an award pursuant to 28 U.S.C. 524(c)(1) (B) or (C) is received in a single action for forfeiture, the applications should be handled in a consolidated manner. Decisions on all applications should be made at the same time, and should consider the comparative value of information or assistance provided by each applicant and the aggregate amount of award(s) to be made.

8. Requests for reimbursement for awards pursuant to 28 U.S.C. 524(c)(1)(B) shall:

a. Identify the property or properties, including agency and/or federal district court case numbers; and

b. Identify the recommended dollar amount of the award.

9. Approval of awards will be in accordance with 28 U.S.C. 524(c)(2) and any subsequent delegations of authority.

H. Purchase of Evidence

1. Only DEA and FBI may request amounts to be reimbursed for the purchase of evidence.

2. Approval of amounts for the purchase of evidence will be in accordance with 28 U.S.C. 524(c)(3) and any subsequent delegations of authority.

3. The investigating agency is responsible for control over the release of cash to agents and for informing agents of the responsibility to account for the use and recovery of the cash.

4. If a participating agency recovers part or all of the monies that are used to purchase evidence for which it has obtained reimbursement from the Fund, the recovered monies will be credited to the Fund.

I. Payments to Equip Forfeited Conveyances for Drug Law Enforcement Functions

1. Decisions to retrofit a conveyance for drug law enforcement functions shall be made by the organizational component within the agency which is responsible for management of the conveyance to be retained.

2. Unreasonable amounts shall not be spent on equipping (retrofitting) forfeited, leased, or owned conveyances for drug law enforcement purposes. Extensive work to convert a conveyance to heavy duty use should be limited by

considering the estimated useful life of the conveyance and the availability of similarly equipped conveyances.

V. Discontinuance of Federal Forfeiture Actions

A. Deferral of Federal Judicial Forfeiture Proceedings

1. A decision to forego a Federal judicial forfeiture proceeding against any seized asset in favor of a State or local forfeiture proceeding requires the personal approval of the United States Attorney after review of the evaluation and recommendation of the concerned Department investigative bureau.

2. In making this decision, the United States Attorney must consider the financial status of the Department of Justice Assets Forfeiture Fund.

3. Judicial forfeitures foregone in favor of state or local proceedings are to be reported by the United States Attorney in writing, within five days, to the Director, Asset Forfeiture Office, Criminal Division, United States Department of Justice, Washington, DC 20530.

B. Deferral of Federal Administrative Forfeiture Proceedings

1. A decision to forego a federal administrative forfeiture proceeding against any seized asset in favor of a State or local forfeiture proceeding requires the approval of the head of the Department investigative bureau.

2. In making this decision, the head of the Department investigative bureau must consider the financial status of the Assets Forfeiture Fund and, where appropriate, consult with the United States Marshals Service in that regard.

Department investigative bureaus must develop procedures for recording these decisions and providing reports as required.

VI. United States Customs Service Forfeitures

A. Pursuant to Title 28 United States Code, Section 524(c), all proceeds from the forfeiture of property under any law enforced or administered by the Department are to be deposited in the Department of Justice Assets Forfeiture Fund, except as specified in 28 U.S.C. 524(c)(4) and except to the extent that the seizure was effected by a United States Customs Service officer or that custody was maintained by the Customs Service, in which case the provisions of 19 U.S.C. 1613a (Customs Forfeiture Fund) shall apply.

B. To the extent that the United States Marshals Service may have the authority and the capacity to do so, and pursuant to agreement between them and the United States Marshals Service and the Customs Service, the United States Marshals Service may store and maintain seized property for the Customs Service.

1. Where the United States Marshals Service maintains custody of property seized by a Customs officer, the Marshals Service shall seek reimbursement from the Customs Service for the expenses of such custody prior to the deposit of the net proceeds into the Customs Forfeiture Fund.

2. In instances where proceeds are to be deposited in the Department of Justice Assets Forfeiture Fund and the Customs Service, as a substitute custodian, has maintained custody of property seized by the Department, the Department will reimburse the Customs Service for the expenses of such custody.

C. Requests for transfers of forfeited property by federal agencies, or by participating state and local law enforcement agencies, in forfeitures where the seizure was effected by a Customs officer or custody was maintained by the Customs Service should be directed pursuant to 19 U.S.C. 1616 to the Customs Service for evaluation and forwarding to the Assistant Secretary of Treasury for Enforcement with an information copy to the United States Attorney in the district of seizure.

D. In the event of an unresolved dispute concerning whether a given forfeiture constitutes a Customs or Department forfeiture for purposes of cash or proceeds disposition, or for Federal, State, and local transfers, the Associate Attorney General and the Assistant Secretary of Treasury for Enforcement shall resolve the issue. Where appropriate, they may submit the issue to the Organized Crime Drug Enforcement Task Force Working Group for recommendation.

Date: April 9, 1987.

Edwin Meese III,

Attorney General.

Date: November 30, 1987.

Brad Cates,

Director, Asset Forfeiture Office.

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DEPARTMENT OF JUSTICE

Asset Forfeiture Office

Publication of the Attorney General's Guidelines on Seized and Forfeited Property

FOR FURTHER INFORMATION CONTACT:
Director, Asset Forfeiture Office,
Criminal Division, Bond Building, 10th
floor, 1400 New York Avenue, NW,
Washington, DC, 20005. (202) 786-4950.

APPENDIX D
RESOURCES CONSULTED

RESOURCES CONSULTED

National Association of State Controlled Substances Authorities (NASCSA)

The NASCSA, formed in 1985, serves as a mechanism through which states, federal agencies, and others can work to increase the effectiveness and efficiency of state and national efforts to prevent drug abuse and assist in policy development in the control of the licit drug market. The organization is participating in the revision of the uniform controlled substances act being drafted by the National Conference of Commissioners on Uniform State Laws. The NASCSA also publishes a directory of state controlled substances scheduling authorities and federal agency representatives.

President

William L. Marcus
California Department of Justice
Counsel, California Pharmacy Examining Board
3850 Wilshire Boulevard, Suite 800
Los Angeles, CA 90010
(213) 736-2074

Vice President

Ernest J. Sjoblam
Chief, Missouri Bureau of
Narcotics and Dangerous Drugs
Department of Health
P. O. Box 570
Jefferson City, MO 65102
(314) 751-8042

For information on membership and publications, contact

Pam Brinegar
Council of State Governments
P. O. Box 11910
Iron Works Pike
Lexington, KY 40578
(606) 252-2291

The National Conference of Commissioners on Uniform State Laws

The National Conference of Commissioners on Uniform State Laws, representing both state government and the legal profession, is the drafting organization of the Uniform Controlled Substances Act (UCSA). The UCSA currently is undergoing revision, and completion of the revised UCSA is expected sometime in 1988. If you would like a copy of the latest proposed draft of the UCSA or would like other information on the UCSA contact:

John McCabe
Legislative Director
National Conference of Commissioners
on Uniform State Laws
676 North St. Clair Street
Suite 1700
Chicago, IL 60611
(312) 915-0195

U. S. Drug Enforcement Administration (DEA)

The U. S. Drug Enforcement Administration (DEA) enforces the provisions of Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (The Controlled Substances Act). Petitions to initiate procedures for controlling substances under the CSA may come from within the DEA or from outside organizations. Upon receiving a petition, the DEA holds proceedings to determine whether or not the specified substance should be classified under the CSA. The administration also oversees the registration of any persons who handle or intend to handle controlled substances.

For more information regarding diversion of licit drugs into illicit markets, contact:

G. Thomas Gitchel, Chief
State and Industry Section
Office of Diversion Control
Operations Division
U. S. Drug Enforcement Administration (DEA)
1405 Eye Street, NW
Washington, DC 20537
(202) 633-1216

Dennis F. Hoffman, Chief Counsel
U. S. DEA
1405 Eye Street, NW
Washington, DC 20537
(202) 633-1276

Howard McClain, Jr., Chief
Drug Control Section
Office of Diversion Control
Operations Division
U. S. DEA
1405 Eye Street, NW
Washington, DC 20537
(202) 633-1366

Kenneth J. Ronald, Acting Chief
Registration Unit
Office of Diversion Control
U. S. Drug Enforcement Administration
1405 Eye Street, NW
Washington, DC 20537
(202) 254-3508

U. S. Department of Justice

For information regarding forfeiture of drug related property, contact:

Brad Cates
Director, Assets Forfeiture Office
Criminal Division
U. S. Department of Justice
1400 New York Avenue, NW
Washington, DC 20530
(202) 786-4950

APPENDIX E

GLOSSARY OF SELECTED TERMS AND CONTROLLED SUBSTANCES

GLOSSARY OF SELECTED TERMS AND CONTROLLED SUBSTANCES

This glossary provides descriptions of selected terms used in this report. The descriptions are derived in major part from federal controlled substances provisions. Standard reference materials were consulted in instances where no definitions are included in federal provisions.

Terms

Analog

A substance that has a chemical structure substantially similar to the chemical structure of a controlled substance in schedule I of the federal CSA; that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of the federal CSA; or that a particular person represents has, or intends to have, a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of the federal CSA. Analogs also are called "designer drugs."

Barbiturates

Sedative, hypnotic drugs that depress the central nervous system. They are metabolized in the liver and eliminated by kidneys at varying degrees. Having some recognized medical use, barbituates are classified in schedule II, III, and IV of the federal CSA.

Controlled Substance

A drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of the federal CSA or corresponding scheduling scheme of state CSA's. The term does not include alcoholic beverages or tobacco.

Counterfeit Substance

A controlled substance that without authorization, bears, or has a label or container bearing, the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and that thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

Delivery

The actual, constructive, or attempted transfer of a controlled substance, whether or not there exists an agency relationship. Distribution is considered delivery.

Depressant

A drug containing any quantity of barbituric acid or salts of barbituric acid; any derivative of barbituric acid that has habit-forming qualities.

Designer Drugs

Compounds that produce the effects of controlled substances classified under schedule I or II of the federal CSA but that are chemically different from the controlled substance and thus not subject to the CSA provisions. The effect of such a compound can be several hundred times that of the drug it is designed to imitate. Designer drugs also are called analogs.

Dispensing

Delivery of a controlled substance to an user or research subject by a practitioner.

Distribute

To deliver a controlled substance. A "distributor" is a person who delivers a controlled substance.

Flat Penalty

A provision of the federal CSA and some state CSA's setting the same fine and term of imprisonment for all schedules of drugs involved in a given category of offense, whether possession or manufacturing, delivery, or sale.

Forfeiture

Administrative Forfeiture: government action to have property and proceeds forfeited to the government without judicial process. Under the federal CSA, property with a value up to \$100,000 may be forfeited administratively; in state CSA's authorizing administrative forfeiture, other ceilings may be set. The Administrative forfeiture action becomes judicial if an interested party files a claim against the property.

Civil Forfeiture: government action in rem to take possession of property connected with illegal activity, independent of criminal action against any individual. Property subject to civil forfeiture may include instrumentalities of illegal trade; property exchanged or intended to be exchanged for drugs; proceeds traceable to an illegal drug exchange; and money, negotiable instruments, and securities used or intended to be used to facilitate drug laws violations.

Criminal Forfeiture: government action in persona to take possession of an individual's property upon his conviction for a criminal offense. A convicted individual's profits from and interests in a continuing criminal enterprise, as well as property or contractual rights that afford a source of income over the enterprise, may be subject to forfeiture. A statute also may provide for the forfeiture of any interest, security or claim of a convicted individual regarding property or contractual rights of any kind affording a source of influence over any enterprise he participated in or has established, operated, controlled, or conducted.

Hallucinogen

A substance that acts on the central nervous system, causing mood and perceptual changes such as illusions or hallucinations. LSD, mescaline, peyote, DMT, psilocybin, marijuana and tetrahydrocannabinol are all considered hallucinogens. Hallucinogens are classified in schedule I in the federal CSA.

Imitation Controlled Substance

A non-controlled substance, which, by dosage unit; appearance including color, size, shape, and markings; and representations made, would lead a reasonable person to believe that the substance is a controlled substance. Imitation controlled substances also are called "look-alike" drugs.

Manufacture

The production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly, or by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. The term encompasses the act of packaging or repackaging a controlled substance or labeling or relabeling its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use.

Narcotic Drug

Any of the following, whether produced directly or indirectly, by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- o opium, coca leaves, and opiates;
- o a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;
- o a substance or any compound, manufacture, salt, derivative, or preparation thereof, that is chemically identical to any of the substances described above.

note: cocaine is manufactured from the leaves of the coca plant and is classified as a narcotic drug under the federal and all other definitions.

Opiate

Any drug or other substance having an addiction-forming or addiction-sustaining character similar to morphine or capable of being converted into a drug having such addiction-forming or addiction-sustaining liability.

Paraphernalia

Any equipment, product, or material of any kind that is intended or designed primarily for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, inhaling, or otherwise introducing into the human body a controlled substance. In some CSA's "paraphernalia" also may include kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived; kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances; isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled substance; testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance; scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances; dilutants and adulterants, used, intended for use, or designed for use in cutting controlled substances; capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances; containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; hypodermic syringes, needles, and other objects used, intended for use, or designed for use in injecting controlled substances into the human body.

Paregoric Solutions

Opium tinctures (powdered opium dissolved in alcohol) with camphor. These narcotic solutions act on the central nervous systems. Paregoric solutions are classified in schedule III of the federal CSA.

Precursor Ingredient (Immediate Precursor)

A principal compound used, or produced primarily for use, in the manufacture of a controlled substance; an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance.

Production

The manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

Safe House/Rock House

Any place, including buildings, rooms, or enclosures, maintained, managed, or controlled for the purpose of manufacturing, distributing, or using any controlled substance.

Schedule

A classification defining a group of different controlled substances. The federal CSA and the majority of state CSA's have five schedules.

Schoolyard Provision

A provisions in the federal CSA and some state CSA's that prohibits the manufacture, distribution, or use of illegal drugs within a specified distance from a public or private elementary, vocation, or secondary school or a public or private college, junior college, or university.

Stimulant

A drug containing any quantity of amphetamine or any of its optical isomers, any salt of amphetamine or any salt of an optical isomer of amphetamine, or any substance found to have a potential for abuse because of its stimulant effect on the central nervous system.

Third Party Interests

A direct interest in a piece of property against which the government has brought a forfeiture action. If the individual having such an interest is able to prove that the property was not purchased with funds derived from illegal activity and that he had no knowledge of the illegal use to which the property was put, he may defeat the forfeiture action.

Controlled Substances

Amphetamine

A stimulant prescribed medically to reduce appetite and relieve minor depression. Short-term effects include increased alertness, loss of appetite, and insomnia. Long-term effects include delusions, psychosis, malnutrition, exhaustion, and damage to the heart, brain, and circulatory system. The principal groups of amphetamines (followed by trade names) are amphetamine (benzedrine), dextroamphetamine (dexadrine), and methamphetamine (methedrine). Amphetamines are classified in schedule II of the federal CSA.

Cocaine

An alkaloid found in the leaves of the coca bush that is used as a stimulant to the central nervous system. It depresses the appetite, increases alertness, and induces feelings of euphoria. It also is used by doctors as a local anesthetic. The effects of cocaine are similar to those of adrenaline or manufactured amphetamines. Although cocaine is psychologically addictive, users rarely form a physical dependence. Cocaine is classified in schedule II of the federal CSA.

Crack

The most potent, toxic form of cocaine, 90 percent pure. Found in solid rock form, crack differs from cocaine powder in 3 ways:

- a) crack is smoked rather than sniffed, creating a high that lasts less than 15 minutes;
- b) crack produces a more powerful effect than cocaine that is sniffed; crack penetrates directly from lungs to brain
- c) crack ultimately is more expensive to use than cocaine because the high does not last as long and users need larger quantities.

Diazepam (Valium)

A benzodiazepine derivative that depresses the central nervous system and acts on the brain's limbic system. A mild tranquilizer, diazepam is the largest selling drug on the commercial market; doctors use it to treat anxiety, tension, high blood pressure, alcoholism and psychosomatic disorders. Diazepam is classified in schedule IV of the federal CSA.

Heroin

A narcotic diacetylmorphine, alkaloid derived from morphine that depresses the central nervous system, relieves pain, and depresses aggression, appetite, and sex drive. It is classified in schedule I of the federal CSA.

Lysergic Acid Diethylamide (LSD)

A hallucinogenic drug synthesized from a natural grain fungus. It acts on the central nervous system by altering perception and inducing dream-like states of trance. Users also experience "flashbacks"; they may feel LSD effects for weeks or months after using the drug. LSD is classified in schedule I of the federal CSA.

Marijuana

All parts of the plant cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except resin extracted therefrom); or the sterilized seed of the plant, which is incapable of germination. Marijuana is classified in schedule I of the federal CSA.

Mescaline

A natural hallucinogen extracted from the peyote cactus plant. Mescaline is classified in schedule I of the federal CSA.

Methamphetamine (Speed)

An amphetamine derivative that acts as a stimulant. It is used medically to suppress appetite. It is classified in schedule II of the federal CSA.

Morphine

A narcotic analgesic and the principal active component of opium. It acts on the central nervous system, especially the pain receptors. Morphine can be converted into heroin by a chemical process. Morphine is classified in schedule II of the federal CSA.

Peyote (Lophophora Williamsii)

A spineless cactus native to Mexico. The cactus' top crown and bottom contain a natural hallucinogen. It is classified in schedule I of the federal CSA.

Phenobarbital

A long-acting barbiturate used as a sedative hypnotic and anti convulsant. It is classified in schedule IV of the federal CSA.

Phencyclidine (PCP)

A synthetic hallucinogen anesthetic that is easily and inexpensively manufactured. It serves as a substitute for or adulterant in mescaline, psilocybin, lysergic acid diethylamide (LSD), cocaine, and heroin. It is classified in schedule II of the federal CSA.

Psilocybin

An active hallucinogenic ingredient in the mushroom, *Psilocybe Mexicana*. Taken orally, psilocybin is the most rapidly reacting hallucinogen. It is classified in schedule I of the federal CSA.