

Alcohol, Cannabis, Tobacco, and Other Drug Use Policies for Students, Faculty and Staff

Relevant Provisions of Vermont and Federal Law Appendix A

Vermont Penalties

Alcohol

It is a crime for a person under twenty-one years old (minor) to procure, possess, or transport alcohol. Penalties for procuring, possessing, or transporting alcohol include a fine up to \$500 and/or imprisonment up to six months. It is a crime to sell or furnish alcohol to a minor. Penalties for selling or furnishing alcohol to a minor include a fine up to \$1,000 and/or imprisonment up to two years. It is a crime to misrepresent one's age, possess a false identification card, use someone else's identification card, forge or alter an identification card, or loan an identification card to another for the purpose of obtaining alcohol. 7 V.S.A. Chapter 21.

City of Burlington ordinance further prohibits the possession of open containers of alcohol and the consumption of alcohol in public places unless specific advance approval is obtained from the City of Burlington. City of Burlington ordinance prohibits the possession of open containers and the consumption of alcohol in motor vehicles at any time.

Cocaine

It is a crime to knowingly possess, deliver, or sell cocaine. Penalties for possession include a fine up to \$2,000 and/or imprisonment up to one year. Penalties for delivery include a fine up to \$75,000 and/or imprisonment up to three years. Penalties for selling cocaine include fines up to \$100,000 and/or imprisonment up to five years. Penalties for possession, delivery, or sales of 2.5 grams or more include much heavier fines and much longer imprisonment. 18 VSA § 4231.

Heroin

It is a crime to knowingly possess, deliver, or sell heroin. Penalties for possession include a fine up to \$2,000 and/or imprisonment up to one year. Penalties for delivery include a fine up to \$75,000 and/or imprisonment up to three years. Penalties for selling heroin include fines up to \$100,000 and/or imprisonment up to five years. Penalties for possession, delivery, or sales of 200 milligrams or more include much heavier fines and much longer imprisonment. It is a crime to knowingly possess, deliver, or sell depressants, stimulants, and narcotic drugs other than heroin or cocaine. Penalties are very similar to those for heroin or cocaine. 18 VSA § 4234.

LSD

It is a crime to knowingly possess, deliver, or sell LSD. Penalties for possession include a fine up to \$2,000 and/or imprisonment up to one year. Penalties for delivery include a fine up to \$25,000 and/or imprisonment up to three years. Penalties for selling LSD include fines up to \$25,000 and/or imprisonment up to five years. Penalties for possession, delivery, or sales of 100 milligrams or more include much heavier fines and much longer imprisonment. It is a crime to knowingly possess, deliver, or sell hallucinogenic drugs other than LSD. Penalties are very similar to those for LSD. 18 VSA § 4235.

Marijuana

It is a crime, regardless of age, to knowingly and unlawfully possess more than one ounce of marijuana, more than five grams of hashish, or to cultivate more than two mature marijuana plants or four immature marijuana plants. Penalty for a first violation of possession or cultivation includes a referral to the Court Diversion Program, unless it is shown that such referral would not serve the ends of justice. A conviction of a first offense may subject a person to a fine up to \$500, and/or imprisonment up to 6 months, or both.

Conviction of a second violation may result in fines up to \$2,000, imprisonment not more than two years, or both. Possession of more than two ounces of marijuana or more than ten grams of hashish, or cultivation of more than four mature marijuana plants or eight immature marijuana plants, as well as delivering or sales, include much heavier fines e.g. up to \$500,000 and much longer imprisonment, e.g. up to 15 years. Individuals under the age of 21 are prohibited from possessing ANY marijuana or hashish. Penalty for a first violation by an individual under 21 years of age for possession of one ounce or less of marijuana, five grams or less of hashish, two or less mature marijuana plants, or four or less immature marijuana plants, is a civil violation and shall be referred to the Court Diversion Program. Possession of a valid Medical Marijuana registration card from another state does not exempt the holder from criminal and civil penalties in Vermont. Vermont state law applicable to Registered Patients does not provide any protection against a violation of federal law. 18 VSA § 4230.

Protective Custody or "Detox"

Being taken to "detox," as it is often referred, results from consuming dangerous levels of alcohol or other substances. When a law enforcement officer encounters a person who s/he deems to be "incapacitated," the officer is required by law to take the person into "protective custody." "Incapacitation" means that the person appears to be in need of medical care or supervision to assure their safety due to their level of intoxication. This is a civil action to protect the incapacitated person and others, and while it involves handcuffs and other appropriate restraints, it is not necessarily in and of itself an arrest. 18 V.S.A. § 4808.

After the person is taken into protective custody, the officer is required to get the person the appropriate treatment, either at the emergency room or ACT 1, a 24-hour supervised shelter for individuals who are intoxicated and/or incapacitated by drugs or alcohol and who have come to the attention of law enforcement. If ACT 1 is full, or if the individual acts out, refuses to cooperate, or refuses treatment, then they will be taken to the Chittenden County Correctional Facility (jail). Depending upon one's actions during the incident, individuals may be cited for civil and/or criminal violations.

Tobacco

As of September 1, 2019, it is a crime to possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia if under the age of 21, or to misrepresent one's age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. 7 V.S.A. § 1005. As of September 1, 2019, it is also a crime to sell or furnish tobacco products, tobacco substitutes, or tobacco paraphernalia to any person under 21 years of age. 7 V.S.A. § 1007. Penalties may include civil penalty and/or imposition of community service. **Federal Penalties**

Federal Drug Trafficking Penalties (21 USC 841; Sentencing Guidelines, 18 USC Appendix)

Penalties for federal drug trafficking convictions vary according to the quantity of the controlled substance involved in the transaction. The following list is a sample of the range and severity of federal penalties imposed for first convictions. Penalties for subsequent convictions or convictions involving additional circumstances may be much more severe.

If death or serious bodily injury result from the use of a controlled substance which has been illegally distributed, the person convicted on federal charges of distributing the substance may face a mandatory life sentence and fines ranging up to \$8 million.

Persons convicted on federal charges of drug trafficking within 1,000 feet of a University (21 USC 845a) face penalties of prison terms and fines which are twice as high as the regular penalties for the offense, with a mandatory prison sentence of at least 1 year.

| Drug/Substance | Amount | Penalty - 1st Conviction |
|-----------------------|---------------------|--|
| Barbiturates | Any amount | Up to 5 years prison. Fine up to \$250,000 |
| Cocaine | 5 kgs. or more | Not less than 10 years prison, not more than life. Fine up to \$4 million |
| | Less than 500 grams | Up to 20 years prison. Fine up to \$1 million |
| Crack Cocaine | 50 grams or more | Not less than 10 years prison, not more than life. Fine up to \$4 million |
| | 5-49 grams | Not less than 5 years prison, not more than 40 years. Fine up to \$2 million |
| | 5 grams or less | Up to 20 years prison. Fine up to \$1 million |
| Ecstasy | Any amount | Up to 20 years imprisonment. Fine up to \$1 million. 3 years of supervised releases (following prison) |
| GHB | Any amount | Up to 20 years imprisonment. Fine up to \$1 million. 3 years of supervised releases (following prison) |
| Hashish | 10-100 kg | Up to 20 years imprisonment. Fine up to \$1 million. |
| | 10 kg or less | Up to 5 years imprisonment. Fine up to \$250,000 |
| Hash Oil | 1-100 kg | Up to 20 years imprisonment. Fine up to \$1 million. |
| | 1 kg or less | Up to 5 years imprisonment. Fine up to \$250,000 |
| Heroin | 1 kg or more | Not less than 10 years prison, not more than life. Fine up to \$4 million |
| | 100-999 grams | Not less than 5 years prison, not more than 40 years. Fine up to \$2 million |
| | 100 grams or less | Up to 20 years prison. Fine up to \$1 million |
| Ketamine | Any amount | Up to 5 years imprisonment. Fine up to \$250,000. 2 years supervised release |
| LSD | 10 grams or more | Not less than 10 years prison, not more than life. Fine up to \$4 million |
| | 1-10 grams | Not less than 5 years prison, not more than 40 years. Fine up to \$2 million |
| Marijuana* | 1000 kg or more | Not less than 10 years prison, not more than life. Fine up to \$4 million |
| | 100-999 kg | Not less than 5 years prison, not more than 40 years. Fine up to \$2 million |
| | 50-99 kg | Up to 20 years imprisonment. Fine up to \$1 million |
| | 50 kg or less | Up to 5 years imprisonment. Fine up to \$250,000 |
| Methamphetamine | 50 grams or more | Not less than 10 years prison, not more than life. Fine up to \$4 million |
| | 5-49 grams | Not less than 5 years prison, not more than 40 years. Fine up to \$2 million |
| | 5 grams or less | Up to 20 years prison. Fine up to \$1 million |

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| PCP | 100 grams or more | Not less than 10 years prison, not more than life. Fine up to \$4 million |
| | 10-99 grams | Not less than 5 years prison, not more than 40 years. Fine up to \$2 million |
| | 10 grams or less | Up to 20 years. Fine up to \$1 million |
| Rohypnol | 1 gram or more | Up to 20 years imprisonment. Fine up to \$1 million |
| | less than 1 gram | Up to 5 years imprisonment. Fine up to \$250,000 |

** As of December 20, 2018, Hemp was decoupled from Marijuana and is no longer considered a Schedule 1 Drug under the Controlled Substances Act.*

Federal Drug Possession Penalties (21 USC 844)

Persons convicted on Federal charges of possessing any controlled substance face penalties of up to 1 year in prison and a mandatory fine of no less than \$1,000 up to a maximum of \$100,000. Second convictions are punishable by not less than 15 days but not more than 2 years in prison and a minimum fine of \$2,500. Subsequent convictions are punishable by not less than 90 days but not more than 3 years in prison and a minimum fine of \$5,000. Possession of drug paraphernalia is punishable by a minimum fine of \$750.

Special sentencing provisions for possession of crack cocaine impose a mandatory prison term of not less than 5 years but not more than 20 years and a fine up to \$250,000, or both if:

- A. It is a first conviction and the amount of crack possessed exceeds 5 grams;
- B. It is a second conviction and the amount of crack possessed exceeds 3 grams;
- C. It is a third or subsequent crack conviction and the amount exceeds 1 gram.

Civil penalties of up to \$10,000 may also be imposed for possession of small amounts of controlled substances, whether or not criminal prosecution is pursued.

Forfeiture of Personal Property and Real Estate (21 USC 853)

Any person convicted of a federal drug offense punishable by more than one year in prison shall forfeit to the United States any personal or real property related to the violation, including houses, cars, and other personal belongings. A warrant of seizure is issued and property is seized at the time an individual is arrested on charges that may result in forfeiture.