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PART I
POSSESSION

| LOUISISIANA | | | | | |
|--|--------------------------------------|--|-----------------|-------------------------------|--|
| <i>L.S.A-R.S. 40 - §</i> | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
| <i>§40: 966 Penalties for Possession of Schedule I drugs and Marijuana</i> | <i>§ 966 Possession of Marijuana</i> | <i>§ 401 Crime Seriousness Level Table</i> | <i>§ 966</i> | <i>§ 966</i> | <i>§ 40:966(E)(2)(b) Probation, minimum condition – court approved abuse program; four eight hour community service days; any costs paid by offender</i> |
| Simple Possession: <i>§ 966(E)(1)</i> | First Conviction | Violation | Up to 6 mo | Up to \$500 | Parish Jail; either Penalty or Fine or both |
| <i>§ 966(E)(2)(a)</i> | Second Conviction | Level 9 | Up to 5 years | \$250 – \$2000* | W/ or w/o hard labor ; either Penalty or Fine or both |
| <i>§ 966(E)(3)</i> | Subsequent Conviction | Level 9 (<i>§40: 982(B)</i>) | Up to 20 years | Up to \$5000 | W/ or w/o hard labor ; Fine added at judge's discretion |
| Possession: | | | | | <i>§966(G) for convictions under 966(F) – no eligibility for adjudication of guilt , defer/suspend/etc sentence. No parole until min. time served</i> |
| <i>§966(F)(1)</i> | 60 lbs – 2000 lbs | Level 4 | 5 – 30* years | AND \$50,000 – \$100,000* | Hard labor; no parole at least 5 years |
| <i>§966(F)(2)</i> | 2000 lbs – 10,000 lbs | Level 3 | 10 – 40* years | AND \$100,000 – \$400,000* | Hard labor; no parole at least 10 years |
| <i>§966(F)(3)</i> | > 10,000 | Level 2 | 25 – 40* years | AND | Hard labor; No |

| | | | | | |
|--|--|--|--|-----------------------------|-----------------------------|
| | | | | \$400,000 – \$1,000,000* | parole at least 25 years |
|--|--|--|--|-----------------------------|-----------------------------|

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|---|---|----------------------|--|------------------------|---|
| ALABAMA <i>Ala. Code 1975 - §</i> | | | § 13A – 5 – 6 <i>Felonies</i> § 13A – 5 – 7 <i>Misdemeanors</i> | | § 13A – 5 – 6 (a) <i>Felonies shall be for a definite term within specified limits; inclds. hard labor</i> |
| § 13A – 12 – 214 <i>Second Degree</i> | Possession of any marijuana for personal use only | Class A Misdemeanor | Not more than 1 year | Not more than \$6,000 | |
| § 13A – 12 – 213 <i>First Degree</i> | Subsequent conviction; or possession for any reason other than personal | Class C Felony | 366 days – 10* years | Not more than \$15,000 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|--|----------------|----------------------|-----------------|----------------|---|
| Arkansas <i>A.C.A. - §</i> | | | §5-4-401 | §5-4-201 | <i>*No suspension, probation if 2+ prior felony convictions. (§5-4-301)</i> |
| Possession: § 5-64-419.b(5)(i) | < 4oz. | Class A Misdemeanor | Up to 1 year | Up to \$2500 | Higher penalty for inmates |
| § 5-64-419.b(5)(iii) | 4 oz - 10lbs | Class D Felony | Up to 6 years | Up to \$10,000 | Higher penalty for inmates |
| § 5-64-419.b(5)(iv) | 10lbs - 25lbs | Class C Felony | 3-10 yrs | Up to \$10,000 | Higher penalty for inmates |

| | | | | | |
|------------------------|--|----------------|-----------------------------|------------|------------------------------------|
| § 5-64-419.b(5)(v) | 25lbs-100lbs | Class B Felony | 5-20 yrs | \$5,000.00 | Higher penalty for inmates |
| § 5-64-419.b(5)(vi) | 100lbs-500lbs | Class A Felony | 6-30 yrs | \$5,000.00 | Higher penalty for inmates |
| § 5-64-440.b(5) | 500lbs | Class Y Felony | 10-40 yrs; life | | No probation or suspended sentence |
| § 5-64-419.b(5)(ii) | 3rd+ conviction with 1oz-4oz (.031lbs-.25lbs) | Class D Felony | 0-6 yrs; \$0-10,000 fine | | |
| § 5-64-440; § 5-64-408 | Second conviction with 500lbs+ | Class Y Felony | 20-80 yrs; life | | No probation or suspended sentence |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|---|-------------------|--------------------------|-----------------|--------------|--|
| FLORIDA <i>West's FSA - §</i> | | | | | § 775.16 <i>Cannot receive any benefits or recovery options until served entirety of term, with good behavior, must keep regular drug tests afterwards.</i> |
| § 893.13 <i>Prohibited Acts; Penalties</i> | § 893.13 | § 775.08 | § 775.082 | § 775.083 | |
| | 0-20 grams | First Degree Misdemeanor | 1 year max | \$1,000 max. | |
| | 21 grams - 25 lbs | Third Degree Felony | 5 years max | \$5000 max | |
| | < 25 plants | Third Degree Felony | 5 years max | \$5000 max | |
| | > 25 plants | Second Degree Felony | 15 years max | \$10,000 max | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|--|--|----------------------|-----------------|-------------|---|
| GEORGIA <i>Ga. Code. Ann., §</i> | | | | | |
| <i>§ 16-13-2.b</i> | Basic Possession of < 1 oz | Misdemeanor | Up to 1 year | \$1,000.00 | If first conviction, may be sentenced to public works |
| <i>§ 16-13-30.j(1)</i> | Possession; manufacture; distribution; possession w/intent 1oz-10lbs | Felony | 1-10 yrs | | |
| <i>§ 16-13-30.j(1); § 17-10-7.a (enhancements for prisoners)</i> | 2nd+ Conviction while imprisoned | | 10 yrs | | |
| <i>§ 16-13-30.j(1); § 17-10-7.c (enhancements)</i> | 4th+ Conviction | | 10 yrs | | No parole |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|---------------------------------|--|----------------------|-----------------|-------------|---------------------------------|
| KENTUCKY <i>KRS §</i> | | | | | |
| <i>§ 218 A.1422</i> | Possession of Marijuana under 8 oz. (.5 lbs) | | Up to 45 days | Up to \$200 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|--|---|----------------------|---|--------------------------|--|
| MISSISSIPPI <i>Miss. Code Ann. - §</i> | | | <i>Unless otherwise stipulated, the following are for 1st offenses. For subsequent offenses see § 41-29-147: convicted can be sentenced two times the respective amount for 1st offense</i> | | Unless otherwise stipulated, any penalty and fine may be combined (applies to subsequent offenses) |
| | § 41-29-139 | | | | |
| § 41-29-139 <i>Prohibited Acts, Penalties</i> | < 30 grams (1 st Offense) | Violation | N/A | \$100 - \$250 | §41-29-139(c)(2)(A) <i>The court will make a private record of offense; subsequent convictions w/in 2 years of first are combined. Record purged after two years of no subsequent offense</i> |
| | (2 nd Offense) | Violation | 5 – 60 days* | AND \$250.00* | Mandatory participation in drug program |
| | (3 rd Offense) | Misdemeanor | 5 days – 6 mo.* | AND \$250 – \$500.00* | |
| | 30 – 250 grams | Violation | Up to 3 years | Up to \$3,000.00 | §41-29-150(d): <i>If first offense for any of the following there is possibility of deferral and probationary period as conditioned by judge.</i> |
| | 250 – 500 grams | Violation | 2 – 8 years * | Up to \$50,000 | |
| | 500 grams – 1 kg | Violation | 4 – 16 years * | Up to \$250,000 | |
| | 1 kg – 5 kg | Violation | 6 – 24 years * | Up to \$1,000,000 | |
| | > 5 kg | Violation | 10 – 30 years * | Up to \$1,000,000.00 | |
| | 1 – 30 grams in vehicle (not including the trunk) | Misdemeanor | Up to 90 days | Up to \$1,000 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|--|-------------------------------------|----------------------|-----------------|---------------|--|
| <u>NORTH CAROLINA</u> <i>N.C.G.S.A. - §</i> | § 90 – 95 | | | | |
| | < ½ oz | Class 3 Misdemeanor | | | §90 – 95 – (d)(4) <i>Sentence must be suspended</i> §90 – 95 – (e)(7) <i>Subsequent offenses charged as Class 2 Misdemeanor</i> |
| | > ½ oz (1 st Offense) | Class 1 Misdemeanor | N/A | Up to \$200 | §90 – 95 – (e)(6) <i>If subsequent convictions, cumulated by number to increase punishment</i> |
| | (2 nd offense) | Class 1 Felony | 1-45 days | Up to \$1,000 | |
| § 90 – 95 – (h)(1) <i>When amount possessed exceeds 10 lbs, see Trafficking</i> | > 1 ½ oz | Class I Felony | 1 – 45 days | Up to \$1,000 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|--|----------------|----------------------|-----------------|-------------|---------------------------------|
| <u>OKLAHOMA</u> <i>Ok. St. Ann §</i> | | | | | |

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|--|--|-------------|--------------|--------------|---|
| <i>(63 Okl.St. Ann. unless otherwise specified)</i> | | | | | |
| § 2-402.B.2; §2-410.A <i>(Probation availability)</i> | Possession of marijuana | Misdemeanor | Up to 1 year | Up to \$1000 | Probation available for first time offenders at the court's discretion. |
| § 2-402.B.3 <i>Repeat offender</i> | 2nd+ conviction w/in 10 yrs following the end of probation/sentence | Felony | 2-10 yrs | Up to \$5000 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|---|--|----------------------|-----------------|-----------------|---|
| SOUTH CAROLINA <i>Code 1976 §</i> | | | | | |
| | § 44-53-370 | § 16-1-10 | § 16-1-20 | | |
| § 44-53-370 | < 1 oz (1st Offense) | Misdemeanor | Up to 30 days | \$100 – \$200 | Conditional discharge allowed, may assign drug abuse program |
| | (2 nd Offense) | Misdemeanor | Up to 1 year | \$200 – \$1000* | Or both; Eligible for probation, suspended sentence, parole, etc |
| | § 44-53-370(d)(4) <i>Possession of 1 oz or more is prima facie guilty of violating § 44-53-370(a) – see Distribution, etc</i> | | | | |

| Tennessee | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|------------------|----------------|----------------------|-----------------|-------------|---------------------------------|
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|---|------------------------------|------------------------|-----------------------------------|----------------|---|
| <i>T.C.A §</i> | | | | | |
| | | | § 40-35-112 (Sentence range) | | |
| T.C.A. § 39-17-418.; § 39-17-438 (fines for 2nd conviction) | < 1/2 lb | Class A Misdemeanor | Up to 1 year | \$250-500 fine | Drug school/community service. \$500 mandatory minimum fee for second conviction |
| § 39-17-418.D; § 39- 17-438 (enhancement for fines) | 3 rd + Conviction | Class E Felony | 1-2 years; \$1,000- 3,000 fine | | Drug school/community service |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|---|----------------|----------------------------------|--|--|-------------------------------------|
| TEXAS <i>V.T.C.A-§</i> | § 481.121 | § 12.03 - § 12.04 | § 12.21 – §12.23 or § 12.32 – §12.35 | § 12.21 – §12.23 or § 12.32 – §12.35 | |
| § 481.120 <i>Possession of Marijuana</i> | <2 oz | Class B Misdemeanor | Up to 180 days | Up to \$2000 | |
| | 2 – 4 oz | Class A Misdemeanor | 1 year max. | \$4000 max. | |
| | 4 oz – 5 lbs | State Jail Felony | 180 days - 2 years | \$10000 max. | |
| | 5 – 50 lbs | 2 nd Degree Felony | 2 - 10 years | \$10000 max. | |
| | 50 – 2000 lbs | 1 st Degree Felony | 2 - 20 years | \$10000 max. | |
| | >2000 lbs | Felony | 5 - 99 years | AND \$50000 max. | |

PART II

**MANUFACTURE; DISTRIBUTE; POSSES W/ INTENT TO
DISTRIBUTE; CULTIVATE; MISCELLANEOUS**

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/C ONDITIONS</i> |
|---|--|---|-----------------|--------------------------|---|
| LOUISIANA <i>L.A. R.S. - 40...</i> | § 966(A)(1) <i>Distribution, Possession w/ Intent to Distribute</i> | § 401 <i>Crime Seriousness Level Table</i> | § 966 | § 966 | |
| Distribute/ Manufacture; § 966(A)(3) | < 10 lbs | Level 4 | 5 – 30 years * | AND Up to \$50,000.00 | Hard labor; no parole at least 5 years |
| § 981(A) | Persons over 25 to persons under 18 | Level 3 | 10 – 30 years * | ----- | Hard labor |
| § 981(B) | 18 y/o sells to minor at least 3 years junior | Level 3 | 5 – 30 years * | ----- | |
| Possession w/Intent to Distribute § 966(A)(3) | Any Amount | Level 4 | 5 – 30 years * | AND Up to \$50,000.00 | Hard labor; no parole at least 5 years; |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/C ONDITIONS</i> |
|--|---|---|--|---|---|
| ALABAMA <i>Ala. Code 1975 -</i> | § 13A – 12 <i>Article 5 Drug Offenses</i> | § 13A – 5 – 4 <i>Designation of Offenses</i> | § 13A – 5 – 6 <i>Sentences for Felonies</i> | § 13A – 5 – 11 <i>Fines for Felonies</i> | § 13A – 5 – 6 (a) <i>Sentence for Felonies shall incld. hard labor</i> |
| Sale: § 13A – 12 – 211 <i>Unlawful Distribution</i> | Sale or exchange in any amount, or possesses w/ intent to distribute | Class B Felony (stipulations follow) | 2 – 20 years * | \$30,000.00 | |
| § 13A – 12 – 250 <i>Near School</i> | Additional penalty when in 3 mi radius of Educational Facility | Class C Felony | Mandatory 5 years | ----- | Non-eligible for probation |
| Trafficking: | 2.2 lbs – 100 lbs | Felony: | Mandatory 3 | AND | § 13A – 12 – 232 <i>Sentence not to be</i> |

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|--|--|---------------------------------|--------------------|---------------------------|--|
| <i>§ 13A – 12 – 231</i> | | Trafficking in Cannabis | years | \$25,000.00 | <i>altered, suspended, when convicted of trafficking</i> |
| | 100 lbs – 500 lbs | Felony: Trafficking in Cannabis | Mandatory 5 years | AND \$50,000.00 | Non-eligibility for release programs or parole |
| | 500 lbs – 1000 lbs | Felony: Trafficking in Cannabis | Mandatory 15 years | AND \$200,000.00 | Non-eligibility for release programs or parole |
| | > 1000 lbs | Felony: Trafficking in Cannabis | Mandatory Life | ----- | Non-eligibility for release programs or parole |
| Manufacture: <i>§ 13A – 12 – 217 Second Degree</i> | Any amount Manufactured or intended for manufacture. | Class B Felony | 2 – 20* years | Not more than \$30,000 | |
| <i>§ 13A – 12 – 218 First Degree</i> | Subsequent charge and two more conditions committed in conjunction | Class A Felony | 10 - Life* | Not more than \$60,000.00 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/CONDITIONS</i> |
|--|----------------|----------------------|-----------------|----------------|--------------------------------|
| <u>ARKANSAS</u> <i>A.C.A. - §</i> | | | | | |
| Possession with intent: <i>§ 5-64-436.b(1)</i> | < ½ oz | Class A Misdemeanor | Up to 1 year | Up to \$2500 | |
| <i>§ 5-64-436.b(2)</i> | ½ oz – 4 oz | Class D Felony | Up to 6 yrs | Up to \$10,000 | |

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|--|---------------|------------------------|----------------|----------------|--|
| § 5-64-436.b(3) | 4 oz – 25 lbs | Class C Felony | 3 – 10 years * | Up to \$10,000 | |
| § 5-64-436.b(4) | 25 – 100 lbs | Class B Felony | 5 – 20 years * | Up to \$15,000 | |
| § 5-64-436.b(5) | 100 – 500lbs | Class A Felony | 6 – 30 years * | Up to \$15,000 | |
| Delivery: § 5-64-438.b(1) | < ½ oz | Class A Misdemeanor | Up to 1 year | Up to \$2500 | |
| § 5-64-438.b(2) | ½ oz – 4 oz | Class D Felony | Up to 6 years | Up to \$10,000 | |
| § 5-64-438.b(3) | 4 oz – 25 lbs | Class C Felony | 3 – 10 years * | Up to \$10,000 | |
| § 5-64-438.b(4) | 25 – 100 lbs | Class B Felony | 5 – 20 years * | Up to \$15,000 | |
| § 5-64-438.b(5) | 100 – 500 lbs | Class A Felony | 6 – 30 years * | Up to \$15,000 | |
| Manufacture: § 5-64-439.b(1) | < ½ oz | Class A Misdemeanor | Up to 1 year | Up to \$2500 | |
| § 5-64-439.b(2) | ½ oz – 4 oz | Class D Felony | Up to 6 years | Up to \$10,000 | |
| § 5-64-439.b(3) | 4 oz – 25 lbs | Class C Felony | 3 – 10 years * | Up to \$10,000 | |
| § 5-64-439.b(4) | 25 – 100 lbs | Class B Felony | 5 – 20 years * | Up to \$15,000 | |
| § 5-64-439.b(5) | 100 – 500 lbs | Class A Felony | 6 – 30 years * | Up to \$15,000 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/CONDITIONS</i> |
|--|---|-------------------------|-----------------|---------------------|--|
| FLORIDA <i>West's FSA -</i> | § 775.16 | § 775.08 | § 775.082 | § 775.083 | |
| § 893.13 <i>Sell, manufacture, deliver, or possess w/ intent.</i> | < 25 lbs | Third Degree Felony | Up to 5 years | Up to \$5000 | § 775.16 <i>Upon any conviction of Trafficking/Selling - offender is disqualified from applying for any job with state agency, and from being licensed by any agency of the state to pursue or practice any licensed occupation</i> |
| Trafficking: § 893.135 <i>Felony of Trafficking in Cannabis - a species of First Degree Felonies. A categorical nexus articulating particular punishments in respect to offense</i> | 25 – 2000 lbs or 300 – 2000 plants | Trafficking in Cannabis | 3* years | AND \$25,000.00 | |
| | 2000 – 10,000 lbs or 2000 – 10,000 plants | Trafficking in Cannabis | 7* years | AND \$50,000.00 | |
| | > 10,000 lbs or plants | Trafficking in Cannabis | 15 – 30* years | AND \$200,000.00 | |
| | W/in 1000 ft of school, park, specified area | Trafficking in Cannabis | 15* years | \$10,000.00 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/CONDITIONS</i> |
|-----------------|----------------|----------------------|-----------------|-------------|--|
| GEORGIA | | | | | No suspension, probation, deferring, or withholding prior to serving the |
| § 16-13-31.c(1) | | | | | |

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|--|--|--|-----------------|-----------------|---|
| | | | | | minimum sentence. |
| | Possession; manufacture; distribution of 10 – 2,000 lbs | | 5 – 30 years * | Up to \$100,000 | No suspension, probation, deferring, or withholding prior to serving the minimum sentence. |
| <i>§ 16-13-31.c(1); § 17-10-7.a (enhancements for prisoners)</i> | 2nd+ Conviction while imprisoned | | 30 years | \$100,000.00 | |
| <i>§ 16-13-31.c(1); § 17-10-7.c (enhancements)</i> | 4th+ Conviction | | 30 years | \$100,000.00 | No parole |
| <i>§ 16-13-31.c(2)</i> | Possession; manufacture; distribution of 2,000-10,000 lbs | | 7 – 30 years * | \$250,000.00 | No suspension, probation, deferring, or withholding prior to serving the minimum sentence. |
| <i>§ 16-13-31.c(2); § 17- 10-7.a (enhancements for prisoners)</i> | 2nd+ Conviction while imprisoned | | 30 years * | \$100,000.00 | |
| <i>§ 16-13-31.c(2); § 17-10-7.c (enhancements)</i> | 4th+ Conviction | | 30 years * | \$100,000.00 | No parole |
| <i>§ 16-13-31.c(3)</i> | Possession; manufacture; distribution of 10,000+ lbs | | 15 – 30 years * | \$1,000,000.00 | No suspension, probation, deferring, or withholding prior to serving the minimum sentence. |
| <i>§ 16-13-31.c(3); § 17- 10-7.a (enhancements for prisoners)</i> | 2nd+ Conviction while imprisoned | | 30 years * | \$100,000.00 | |

| | | | | | |
|---|--|--------|--------------|--------------|--------------------------------------|
| § 16-13-31.c(3); § 17-10-7.C | 4th+ Conviction | | 30 years | \$100,000.00 | No parole |
| § 16-13-32.4.b(1) (school); § 16-13-32.5.b(1) (parks, playgrounds, recreation centers, housing projects); § 16-13-32.6.b(1) (drug-free recreational zone) | Manufacture, distribute, possess w/intent within 1,000 feet of school, parks, playgrounds, recreational centers, housing projects, and drug-free recreational zone | Felony | 0-20 yrs | \$20,000.00 | |
| | 2 nd + Conviction | | 5 – 40 years | \$40,000 * | Minimum sentence cannot be suspended |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|--|---|----------------------|-------------------------|-------------|---|
| KENTUCKY <i>KRS – §</i> | | | | | |
| 218 A.1422 § 218A.1421(2); §532.090.1 (sentencing) | Manufacture; distribution; possession w/intent under 8oz (.5 lbs) | Class A Misdemeanor | 0-1 yr; \$0-500 | | |
| § 218A.1421(2); § 532.060(2) (Sentencing); 532.070(2) (Court discretion) | 2nd+ conviction | Class D Felony | 1-5 yrs; \$1,000-10,000 | | May be sentenced under 1 year at the court's discretion |
| § 218A.1421(3); § 532.060(2) (Sentencing); 532.070(2) (Court discretion); § 218A.1421(5) | Manufacture; distribution; possession w/intent of .5-5lbs | Class D Felony | 1-5 yrs; \$1,000-10,000 | | May be sentenced under 1 year at the court's discretion; Intent inferred if possession over 8 |

| | | | | | |
|--|--|---------------------|---------------------------|--|---|
| <i>(inference)</i> | | | | | oz (.5lb). |
| § 218A.1421(3); § 532.060(2) <i>(Sentencing)</i> ; § 218A.1421(5) <i>(inference)</i> | 2nd+ conviction | Class C Felony | 5-10 yrs; \$1,000-10,000 | | Intent inferred if possession over 8 oz (.5lb). |
| § 218A.1421(4); § 532.060(2) <i>(Sentencing)</i> ; § 218A.1421(5) <i>(inference)</i> | Manufacture; distribution; possession w/intent of 5lbs+ | Class C Felony | 5-10 yrs; \$1,000-10,000 | | Intent inferred if possession over 8 oz (.5lb). |
| § 218A.1421(4); § 532.060(2) <i>(Sentencing)</i> ; § 218A.1421(5) <i>(inference)</i> | 2nd+ conviction | Class B Felony | 10-20 yrs; \$1,000-10,000 | | Intent inferred if possession over 8 oz (.5lb). |
| § 218A.1423(2); § 532.060(2) <i>(Sentencing)</i> ; § 218A.1423(4) <i>(inference)</i> | Cultivation of 5+ plants | Class D Felony | 1-5 yrs; \$1,000-10,000 | | Intent inferred if possession over 5 plants. |
| § 218A.1423(2); § 532.060(2) <i>(Sentencing)</i> ; § 218A.1423(4) <i>(inference)</i> | 2nd+ conviction | Class C Felony | 5-10 yrs; \$1,000-10,000 | | Intent inferred if possession over 5 plants. |
| § 218A.1423(3); § 532.090 <i>(Sentencing)</i> | Cultivation of 0-5 plants | Class A Misdemeanor | 0-1 yr; \$0-500 | | |
| § 218A.1423(3); § 532.060(2) <i>(Sentencing)</i> | 2nd+ conviction | Class D Felony | 1-5 yrs; \$1,000-10,000 | | |
| § 218A.1411; § 532.060(2) <i>(Sentencing)</i> | Manufacture; distribution; possession w/intent within 1,000 feet of school | Class D Felony | 1-5 yrs; \$1,000-10,000 | | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/CONDITIONS</i> |
|---|---|----------------------|------------------------------|------------------------|--|
| MISSISSIPPI <i>Miss. Code Ann. -</i> | | | | | |
| § 41-29-139 <i>Prohibited Acts, Penalties; Trafficking</i> | § 41-29-139 | | | | |
| Sale: § 41-29-139(b) | < 30 grams | Violation | Up to 3 years | Up to \$3000 | Or both |
| | 1 st Offense 30 grams – 1 Kg | Felony | Up to 20 years | Up to \$30,000 | Or both |
| | 2 nd Offense 30 grams – 1 Kg | Felony | Up to 30 years | \$5000 - \$1,000,000 * | Or both |
| | To a minor; w/in 1500 ft of school, church, or specified area | Felony | May double penalty and fines | | |
| | Any person 21 or older who sells > 10 lbs in 12 mo. | Felony | Life* | ----- | No eligibility for anything unless aid is given to officers resulting in further arrests |
| Trafficking: § 41-29-139(g): <i>“Trafficking in Controlled Substances”; species of First Degree Felonies – A categorical nexus articulating particular punishments in respect to offense</i> | Must engage in 3 or more component offenses [mentioned in § 41-29-139(a) – re “component offenses” see <i>Possession</i>], 2 of which must be in different counties. | Felony | mandatory 30 years | \$5000-\$1,000,000* | No parole, suspended or shortened sentence; must do both fine and penalty |
| | <i>(Manufacturing penalized according to aggregate weight – see Possession)</i> | | | | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/C ONDITIONS</i> |
|---|--|----------------------|----------------------|------------------------------|---|
| <u>NORTH CAROLINA</u> N.C.G.S.A. – | | | | | <i>§90 – 95 – (f) If not sentenced maximum penalty, judge may assign probation w/ conditions; max 5 years probation</i> |
| | <i>§90 – 95</i> | <i>§ 15A-1340.17</i> | <i>§ 15A-1340.17</i> | | |
| <i>§ 90 – 95 (NOTE: < 5 grams w/out remuneration shall not count as sale/delivery/etc)</i> | < 10 lbs | Class H Felony | 5 – 6 mo * | ----- | |
| | To minor: 13 – 16 y/o; To a pregnant woman | Class D Felony | 3 – 8 years * | ----- | <i>§90 – 95 – (e)(5) Ignorance of age or pregnancy not excuse</i> |
| | To minor under 13 | Class C Felony | 58 – 73 mo * | ----- | |
| | Over 21 – sells w/in 1000 ft of school, child care center, park grounds, etc | Class E Felony | 1 – 3 years * | ----- | |
| Trafficking: <i>§90 – 95 – (h)(1) When amount exceeds 10 lbs, specified as “Trafficking in Marijuana” Felony.</i> | 10 – 50 lbs | Class H Felony | 25 – 39 mo * | AND at least \$5,000 | State Prison |
| | 50 – 2000 lbs | Class G Felony | 35 – 51 mo * | AND At least \$25,000.00 | |
| | 2000 – 10,000 lbs | Class F Felony | 70 – 93 mo * | AND At least \$50,000.00 | |
| | > 10,000 lbs | Class D Felony | 175 – 222 mo * | AND at least \$200,000.00 | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/ CONDITIONS</i> |
|---|--|----------------------|-----------------|-----------------|--|
| OKLAHOMA <i>Okl. St. Ann -</i> | | | | | |
| <i>§ 51.1.A.1 (repeat offender)</i> | 2 nd + conviction w/in 10 years following the end of probation/sentence | Felony | | | |
| Manufacture: <i>§ 2-401.G.1, 2; §2-410.A (Probation availability)</i> | < 25 lbs | Felony | 7 – Life * | \$50,000.00 | Probation available for first time offenders at the court's discretion. |
| <i>§ 2-401.G.1, 2; § 2-401.D (enhancement and probation) §51.1.A.1 (repeat offender)</i> | 2 nd + conviction w/in 10 years following the end of probation/sentence | Felony | 10 – Life * | Up to \$100,000 | No statutory provisions for suspended sentences, deferred sentences, or probation. |
| <i>§ 2-401.G.1, 2; § 2-401.D (enhancement and probation); 21 Okl.St. Ann. §51.1.B (repeat offender)</i> | 3 rd + conviction within 10 years | Felony | 20 – Life * | \$100,000.00 * | No statutory provisions for suspended sentences, deferred sentences, or probation. |
| Distribute, transport, possess w/intent: <i>§2-401.B.2; §2-410.A (Probation availability)</i> | Up to 25lbs | Felony | 2 – Life * | Up to \$20,000 | Probation available for first time offenders at the court's discretion. (Unless in department of correction's custody) |

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|---|--|--------|-------------|----------------------------|---|
| §2-401.B.2.; § 2-401.D (enhancement and probation); §51.1.A.3 (repeat offender) | 2nd conviction within 10 years following the end of probation/sentence | Felony | 4 – Life * | \$40,000.00 | No statutory provisions for suspended sentences, deferred sentences, or probation. |
| §2-401.B.2.; § 2-401.D (enhancement and probation); 21 Okl.St. Ann. §51.1.B (repeat offender) | 3 rd conviction within 10 years following the end of probation/sentence | Felony | 20 – Life * | \$40,000.00 | No statutory provisions for suspended sentences, deferred sentences, or probation. |
| § 2-415.C.1.a (fine); § 2-415.D.1 (imprisonment); §2-410.A (Probation availability) | Distribute, manufacture, possess w/intent 25-1,000lbs | | 14 – Life * | \$25,000-100,000 | Probation available for first time offenders at the court's discretion. |
| § 2-415.C.1.a (fine); § 2-415.D.1 (imprisonment); § 2-415.D.2 (Enhancement) | Second conviction | | 21 – Life * | \$25,000 - \$100,000 * | |
| § 2-415.C.1.a (fine); § 2-415.D.1 (imprisonment); § 2-415.D.3 (Enhancement) | Third conviction | | Life * | \$25,000 - \$100,000 | No parole |
| § 2-415.C.1.b (fine); § 2-415.D.1 (imprisonment) | Distribute, manufacture, possess w/intent. 1,000lbs+ | | 14 – Life * | \$100,000-500,000 | 15 years minimum mandatory. Must serve 85% of the sentence before eligible for parole |
| § 2-415.C.1.b (fine); § 2-415.D.1 (imprisonment); § 2-415.D.2 (Enhancement) | Second conviction | | 21 – Life * | AND \$100,000-500,000 * | 15 years minimum mandatory. Must serve 85% of the sentence before eligible for parole |

| | | | | | |
|---|---|--------|--|----------------------------|---|
| § 2-415.C.1.b (fine); § 2-415.D.1 (imprisonment); § 2-415.D.3 (Enhancement) | Third conviction | | Life | AND \$100,000-500,000 * | No parole |
| § 2-401.G.3.g | Manufacture over 1,000 kg. (2,204lbs) | | 20 – Life * | \$50,000.00 | Must serve 85% of the sentence before eligible for parole. If in custody of Department of Corrections, no suspended sentences, deferred sentences, or probation. |
| § 2-401.G.4; 21 Okl.St. Ann. §51.1.A.1 (repeat offender); § 2-401.D (enhancement and probation) | 2nd conviction within 10 years | | 30 – Life * | \$100,000.00 | Must serve 85% of the sentence before eligible for state correctional credits towards completion of the sentence or parole eligibility. If in custody of Department of Corrections, no suspended sentences, deferred sentences, or probation. |
| § 2-401.G.4; 21 Okl.St. Ann. §51.1 (repeat offender); § 2-401.D (enhancement and probation) | 3rd conviction within 10 years | | 40 – Life * | \$100,000.00 | |
| §2-402.C | Possession within 1,000 feet of school, park, presence of a child under 12. | Felony | 2x imprisonment/fine of the corresponding offense. | | 50% mandatory sentence before credit towards sentence completion. |

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| §2-402.C.2 | (Second Conviction) | | 3x imprisonment/fine of the corresponding offense; \$10,000 fine <i>(not verified)</i> | 90% mandatory service before credit towards sentence completion. |
|------------|---------------------|--|---|--|

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/CONDITIONS</i> |
|--|--|--------------------------|-----------------|------------------|---|
| <u>SOUTH CAROLINA</u> | § 44-53-370 | | | | |
| | Possession of > 1 oz | Felony | Up to 5 years | Up to \$5,000.00 | <i>For Sale/Distribution, etc- discretion of court to assign either, or both, imprisonment and fine</i> |
| Sale, Distribution, Possess w/ Intent, etc: § 44-53-370 | < 10 lbs (1 st Offense) | Felony | Up to 5 years | Up to \$5,000.00 | |
| | (2 nd Offense) | Felony | Up to 10 years | Up to \$10,000 | |
| | (3 rd offense) | Felony | 5 – 20 years * | Up to \$20,000 | |
| Trafficking: § 44-53-370(e)(1) <i>When amount exceeds 10 lbs, specified as “Trafficking in Marijuana” Felony.</i> | 10 – 100 lbs (1 st Offense) | Trafficking in Marijuana | 1 – 10 years * | AND \$10,000 | No Eligibility |
| | (2 nd Offense) | Felony | 5 – 20 years * | AND \$15,000.00 | No Eligibility |
| | (3 rd Offense) | Felony | 25 years * | AND \$25,000.00 | No Eligibility |
| | 100 – 2000 lbs or 100 – 1000 plants | Felony | 25 years * | \$25,000.00 | No Eligibility |
| | 1000 – 10,000 lbs | Felony | 25 years * | \$50,000.00 | No Eligibility |
| | > 10,000 | Felony | 25 – 30 years * | \$200,000.00 | No Eligibility |
| | To a Minor, or w/in ½ mile of school, playground, public park. | Felony | 10 years | \$10,000.00 | |

| (NOT VERIFIED) | OFFENSE | OFFENSE CLASS | SENTENCE | FINE | ENHANCEMENTS/C ONDITIONS |
|---|--|----------------|---|---|---|
| TENNESSEE T.C.A. | | (unverified) | (Sentences are accurate but mandatorics and conditionals are unknown) | (Fines are accurate but unknown as to mandatory combination, etc) | |
| § 39-17-417.G(1); § 39-17-438 (enhancement for fines) | Production; Distribution; Possession w/ intent to distribute, .5-10 lbs | Class E Felony | 1-2 years | \$2,000-5,000 | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.G(1); § 40-35-106 (multiple offender); § 39-17-438 (enhancement for fines) | 2-4th conviction | | 2-4 years; | \$3-5,000 | <i>Intent (to distribute) may be inferred. \$5,000 mandatory minimum fine for 3rd+ offense</i> |
| § 39-17-417.G(1); § 40-35-107 (Persistent offender) | 5th conviction | | 4-6 years | \$5,000.00 | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.G(1); § 40-35-108 (Career offender) | 6th+ conviction | | 6 years | \$5,000.00 | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.G(2); ; § 39-17-438 (enhancement for fines) | Production; Distribution; Possession w/ intent to distribute, 10-70 lbs | Class D Felony | 2-4 years | \$1,000-50,000 | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.G(2); § 40-35-106 (multiple offender) ; § 39-17-438 (enhancement for fines) | 2-4th conviction | | 4-8 years | \$3-50,000 | <i>Intent (to distribute) may be inferred. \$5,000 mandatory fine for 3+ convictions</i> |
| § 39-17-417.G(2); § 40-35-107 (Persistent offender) ; § 39-17-438 (enhancement for fines) | 5th conviction | | 8-12 years | \$5,000-50,000 | <i>Intent (to distribute) may be inferred</i> |

| | | | | | |
|--|---|----------------|--------------|----------------------|---|
| § 39-17-417.G(2); § 40-35-108 (Career offender) ; § 39-17-438 (enhancement for fines) | 6th+ conviction | | 12 years; | \$5,000-50,000 fine | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.I(13); § 39-17-438 (enhancement for fines) | Production; Distribution; Possession w/ intent to distribute, 70-300 lbs | Class B Felony | 8-12 years, | \$1,000-200,000 fine | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.I(13); § 40-35-106 (Multiple offender) ; § 39-17-438 (enhancement for fines) | 2nd conviction following a prior conviction for distribution of 300+ lbs | | 12-20 years; | \$3,000-200,000 fine | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.I(13); § 40-35-106 (Multiple offender) ; § 39-17-438 (enhancement for fines) | 3rd conviction | | 12-20 years; | \$5,000-200,000 fine | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.I(13); § 40-17-417.L(3); § 40-35-107 (Career offender) ; § 39-17-438 (enhancement for fines) | 4th+ conviction | | 20-30 years; | \$5,000-200,000 fine | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.I(13); § 40-35-108 (Career Offender) ; § 39-17-438 (enhancement for fines) | 5th+ conviction | | 30 years; | \$5,000-200,000 fine | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.J(13); § 39-17-438 (enhancement for fines) | Production; Distribution; Possession w/ intent to distribute, 300+ lbs | Class A Felony | 15-25 years, | \$1,000-500,000 fine | <i>Intent (to distribute) may be inferred</i> |
| § 39-17-417.J(13); § 40-35-106 (Multiple offender) ; § 39-17-438 (enhancement for fines) | 2nd conviction | | 25-40 years; | \$3,000-500,000 fine | <i>Intent (to distribute) may be inferred</i> |

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|---|---|--|---------------------|---|--|
| <p>§ 39-17-417.J(13); § 40-35-107 (Persistent offender) ; § 39-17-438 (enhancement for fines)</p> | <p>3rd conviction</p> | | <p>40-60 years;</p> | <p>\$5,000-500,000 fine</p> | <p><i>Intent (to distribute) may be inferred</i></p> |
| <p>§ 39-17-417.J(13); § 40-35-108 (Career offender) ; § 39-17-438 (enhancement for fines)</p> | <p>4th+ conviction</p> | | <p>60 years;</p> | <p>\$0-500,000 fine</p> | <p><i>Intent (to distribute) may be inferred</i></p> |
| <p>T.C.A. § 39-27-432</p> | <p>Production/Distribution/Possession w/intent within 1,000 feet of school, creational center, park</p> | | | <p>Enhancement by one punishment classification. (39-17-417) Also, additional fines of \$10,000 (if class E felony), \$20,000 (Class D Felony), \$40,000 (Class C Felony), \$60,000 (Class B Felony), or \$100,000 (Class A Felony)</p> | |

| | <i>OFFENSE</i> | <i>OFFENSE CLASS</i> | <i>SENTENCE</i> | <i>FINE</i> | <i>ENHANCEMENTS/CONDITIONS</i> |
|---|------------------------------------|----------------------------------|--|--|---|
| <u>TEXAS</u> | | | | | |
| <i>(Mfg penalized according to aggregate weight – see Possession)</i> | § 481.120 | § 12.03 - § 12.04 | § 12.21 – §12.23 or § 12.32 – §12.35 | § 12.21 – §12.23 or § 12.32 – §12.35 | |
| Sale or Delivery: | 7 gms or less (no remuneration) | Class B Misdemeanor | 180 days | \$2,000.00 | |
| | 7 gms or less | Class A Misdemeanor | 1 year | \$4,000.00 | |
| | 7 gms – 5 lbs | State Jail Felony | 180 days – 2 years * | \$10,000.00 | |
| | 5 lbs – 50 lbs | 2 nd Degree Felony | 2 – 20 years * | \$10,000.00 | |
| | 50 lbs – 2000 lbs | 1 st Degree Felony | 5 – 99 years * | \$10,000.00 | |
| | > 2000 lbs | Felony | 10 – 99 years * | AND \$100,000.00 | |
| § 481.122 <i>Delivery to Child</i> | To a minor | 2 nd Degree Felony | 2 – 20 years * | \$10,000.00 | § 481.122 <i>If offense committed is otherwise stipulated in this chapter, either or both can be applied</i> |

PART III

STATUTE INDEX

Relevant State Statutes

LOUISIANA

LA. R.S.

§ 966. Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; possession of marijuana, possession of synthetic cannabinoids

A. Manufacture; distribution. Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

- (1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule I;
- (2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule I.

B. Penalties for violation of Subsection A of this Section. Any person who violates Subsection A of this Section with respect to:

- (1) A substance classified in Schedule I which is a narcotic drug (all substances in Schedule I preceded by an asterisk “*”), upon conviction shall be sentenced to imprisonment for not less than five nor more than fifty years at hard labor at least five years of which shall be served without benefit of probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.
- (2) Except as otherwise provided in Paragraph (3) of this Subsection, any other controlled dangerous substance classified in Schedule I, shall upon conviction be sentenced to a term of imprisonment at hard labor for not less than five years nor more than thirty years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and pay a fine of not more than fifty thousand dollars.
- (3) A substance classified in Schedule I which is marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or synthetic cannabinoids shall upon conviction be sentenced to a term of imprisonment at hard labor for not less than five nor more than thirty years, and pay a fine of not more than fifty thousand dollars.

C. Possession. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule I unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

- (1) A substance classified in Schedule I which is a narcotic drug (all substances in Schedule I preceded

by an asterisk), shall be imprisoned at hard labor for not less than four years nor more than ten years and may, in addition, be required to pay a fine of not more than five thousand dollars.

(2) Phencyclidine, shall be sentenced to imprisonment with or without hard labor for not less than five nor more than twenty years and may be sentenced to pay a fine of not more than five thousand dollars, or both.

(3) Any other controlled dangerous substance classified in Schedule I, shall be imprisoned at hard labor for not more than ten years, and may in addition, be required to pay a fine of not more than five thousand dollars.

D. Other penalties for possession.

(1) Except as otherwise authorized in this Part:

(a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of a narcotic drug (all substances in Schedule I preceded by an asterisk “*”), shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty thousand dollars.

(b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of a narcotic drug (all substances in Schedule I preceded by an asterisk “*”), shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years, nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars, nor more than three hundred fifty thousand dollars.

(c) Any person who knowingly or intentionally possesses four hundred grams or more of a narcotic drug (all substances in Schedule I preceded by an asterisk “*”), shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years, nor more than thirty years, and to pay a fine of not less than two hundred fifty thousand dollars, nor more than six hundred thousand dollars.

E. Possession of marijuana, or synthetic cannabinoids. (1) Except as provided in Subsections E and F of this Section, on a first conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be fined not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both.

(2)(a) Except as provided in Subsection F or G of this Section, on a second conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids, the offender shall be fined not less than two hundred fifty dollars, nor more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(b) If the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.

(3) Except as provided in Subsection F or G of this Section, on a third or subsequent conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be sentenced to imprisonment with or without hard labor for not more than twenty years, and may, in addition, be sentenced to pay a fine of

not more than five thousand dollars.

(4) A conviction for the violation of any other statute or ordinance with the same elements as R.S. 40:966(C) prohibiting the possession of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

(5) A conviction for the violation of any other statute or ordinance with the same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana, of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

F. Except as otherwise authorized in this Part:

(1) Any person who knowingly or intentionally possesses sixty pounds or more, but less than two thousand pounds of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars nor more than one hundred thousand dollars.

(2) Any person who knowingly or intentionally possesses two thousand pounds or more, but less than ten thousand pounds of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years nor more than forty years, and to pay a fine of not less than one hundred thousand dollars nor more than four hundred thousand dollars.

(3) Any person who knowingly or intentionally possesses ten thousand pounds or more of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than twenty-five years, nor more than forty years and to pay a fine of not less than four hundred thousand dollars nor more than one million dollars.

G. With respect to any person to whom the provisions of Subsections D and F are applicable, the adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for probation or parole prior to serving the minimum sentences provided by Subsection D or F.

H. Notwithstanding any other provision of law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections serving a life sentence for the production, manufacturing, distribution, or dispensing or possessing with intent to produce, manufacture, or distribute heroin shall be eligible for parole consideration upon serving at least fifteen years of imprisonment in actual custody.

§ 981. Distribution to persons under age eighteen

A. Persons over twenty-five to persons under eighteen. Any person who is at least twenty-five years of age, or more, who violates R.S. 40:966 or R.S. 40:967 by distributing a substance, listed in Schedules I or II, which is a narcotic drug, to a person under eighteen years of age, shall, upon conviction, be punished by imprisonment at hard labor for not less than ten nor more than thirty years.

B. Any person who is at least eighteen years of age who violates R.S. 40:966 or R.S. 40:967 by distributing a substance listed in Schedule I or II which is a narcotic drug to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment of not less than five nor more than thirty years.

C. Any person who is at least eighteen years of age who violates R.S. 40:966 through 970 by distributing any other controlled dangerous substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment up to one and one-half times the longest term of imprisonment authorized by R.S. 40:966 through 970 or by payment of not more than twice the fine authorized by R.S. 40:966 through 970, or both.

§ 982 Second or subsequent offenses

A. Any person convicted of any offense under this part, if the offense is a second or subsequent offense, shall be sentenced to a term of imprisonment that is twice that otherwise authorized or to payment of a fine that is twice that otherwise authorized, or both. If the conviction is for an offense punishable under R.S. 40:966(B), R.S. 40:967(B), R.S. 40:968(B) or R.S. 40:969(B), and if it is the offender's second or subsequent offense, the court may impose in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.

B. For purposes of this section, an offense shall be considered a second or subsequent offense, if, prior to the commission of such offense, the offender had at any time been convicted of any violation of this state, the United States, any other state of or any foreign country, relating to the unlawful use, possession, production, manufacturing, distribution, or dispensation of any narcotic drug, marijuana, depressant, stimulant, or hallucinogenic drugs.

Alabama

Ala. Code 1975 - §....

§ 13A-5-3.

Classification of offenses.

- (a) Offenses are designated as felonies, misdemeanors or violations.
- (b) Felonies are classified according to the relative seriousness of the offense into three categories:
 - (1) Class A felonies;
 - (2) Class B felonies; and
 - (3) Class C felonies.
- (c) Misdemeanors are classified according to the relative seriousness of the offense into three categories:
 - (1) Class A misdemeanors;
 - (2) Class B misdemeanors; and
 - (3) Class C misdemeanors.
- (d) Violations are not classified.

§ 13A-5-4. Designation of offenses.

- (a) The particular classification of each felony defined in this title, except murder under Section 13A-6-2, is expressly designated in the chapter or article defining it. Any offense defined outside this title which is declared by law to be a felony without specification of its classification or punishment is punishable as a Class C felony.
- (b) The particular classification of each misdemeanor defined in this title is expressly designated in the chapter or article defining it. Any offense defined outside this title which is declared by law to be a misdemeanor without specification as to classification or punishment is punishable as a Class C misdemeanor.
- (c) Every violation defined in this title is expressly designated as such. Any offense defined outside this title without specification as to punishment or as to felony or misdemeanor is a violation.

§ 13A-5-6.

Sentences of imprisonment for felonies.

(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:

- (1) For a Class A felony, for life or not more than 99 years or less than 10 years.
- (2) For a Class B felony, not more than 20 years or less than 2 years.
- (3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.
- (4) For a Class A felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 20 years.
- (5) For a Class B or C felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class B felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 10 years.

(b) The actual time of release within the limitations established by subsection (a) of this section shall be determined under procedures established elsewhere by law.

§ 13A-5-7.

Sentences of imprisonment for misdemeanors and violations.

(a) Sentences for misdemeanors shall be a definite term of imprisonment in the county jail or to hard labor for the county, within the following limitations:

- (1) For a Class A misdemeanor, not more than one year.
- (2) For a Class B misdemeanor, not more than six months.
- (3) For a Class C misdemeanor, not more than three months.

(b) Sentences for violations shall be for a definite term of imprisonment in the county jail, not to exceed 30 days.

§ 13A-5-11.

Fines for felonies.

(a) A sentence to pay a fine for a felony shall be for a definite amount, fixed by the court, within the following limitations:

- (1) For a Class A felony, not more than \$60,000;
- (2) For a Class B felony, not more than \$30,000;

- (3) For a Class C felony, not more than \$15,000; or
- (4) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.
- (b) As used in this section, “gain” means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. “Value” shall be determined by the standards established in subdivision (14) of Section 13A-8-1.
- (c) The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.
- (d) This section shall not apply if a higher fine is otherwise authorized by law for a specific crime.

§ 13A-5-12.

Fines for misdemeanors and violations.

- (a) A sentence to pay a fine for a misdemeanor shall be for a definite amount, fixed by the court, within the following limitations:
 - (1) For a Class A misdemeanor, not more than \$6,000;
 - (2) For a Class B misdemeanor, not more than \$3,000;
 - (3) For a Class C misdemeanor, not more than \$500; or
 - (4) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.
- (b) A sentence to pay a fine for a violation shall be for a definite amount, fixed by the court, not to exceed \$200, or any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.
- (c) As used in this section, “gain” means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. “Value” shall be determined by the standards established in subdivision (14) of Section 13A-8-1.
- (d) The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.

§ 13A-12-211.

Unlawful distribution of controlled substances; possession with intent to distribute a controlled substance.

- (a) A person commits the crime of unlawful distribution of controlled substances if, except as otherwise

authorized, he or she sells, furnishes, gives away, delivers, or distributes a controlled substance enumerated in Schedules I through V.

(b) Unlawful distribution of controlled substances is a Class B felony.

(d) Unlawful possession with intent to distribute a controlled substance is a Class B felony.

§ 13A-12-213.

Unlawful possession of marihuana in the first degree.

(a) A person commits the crime of unlawful possession of marihuana in the first degree if, except as otherwise authorized:

(1) He possesses marihuana for other than personal use; or

(2) He possesses marihuana for his personal use only after having been previously convicted of unlawful possession of marihuana in the second degree or unlawful possession of marihuana for his personal use only.

(b) Unlawful possession of marihuana in the first degree is a Class C felony

§ 13A-12-214.

Unlawful possession of marihuana in the second degree.

(a) A person commits the crime of unlawful possession of marihuana in the second degree if, except as otherwise authorized, he possesses marihuana for his personal use only.

(b) Unlawful possession of marihuana in the second degree is a Class A misdemeanor.

§ 13A-12-215.

Sale, furnishing, etc., of controlled substances by persons over age 18 to persons under age 18.

If the offender is over the age of 18 and the offense consists of selling, furnishing or giving such controlled substances as enumerated in Schedules I, II, III, IV and V to a person who has not attained the age of 18 years the offender shall be guilty of a Class A felony. The imposition or execution of sentence shall not be suspended and probation shall not be granted.

§ 13A-12-217.

Unlawful manufacture of controlled substance in the second degree.

- a) A person commits the crime of unlawful manufacture of a controlled substance in the second degree if, except as otherwise authorized in state or federal law, he or she does any of the following:
- (1) Manufactures a controlled substance enumerated in Schedules I to V, inclusive.
 - (2) Possesses precursor substances as determined in Section 20-2-181, in any amount with the intent to unlawfully manufacture a controlled substance.
- (b) Unlawful manufacture of a controlled substance in the second degree is a Class B felony.

§ 13A-12-218.

Unlawful manufacture of controlled substance in the first degree.

- (a) A person commits the crime of unlawful manufacture of a controlled substance in the first degree if he or she violates Section 13A-12-217 and two or more of the following conditions occurred in conjunction with that violation:
- (1) Possession of a firearm.
 - (2) Use of a booby trap.
 - (3) Illegal possession, transportation, or disposal of hazardous or dangerous materials or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment.
 - (4) A clandestine laboratory operation was to take place or did take place within 500 feet of a residence, place of business, church, or school.
 - (5) A clandestine laboratory operation actually produced any amount of a specified controlled substance.
 - (6) A clandestine laboratory operation was for the production of controlled substances listed in Schedule I or Schedule II.
 - (7) A person under the age of 17 was present during the manufacturing process.
- (b) Unlawful manufacture of a controlled substance in the first degree is a Class A felony.

§ 13A-12-231.

Trafficking in cannabis, cocaine, etc.; mandatory minimum terms of imprisonment; trafficking in illegal drugs; trafficking in amphetamine and methamphetamine; habitual felony offender act.

Except as authorized in Chapter 2, Title 20:

- (1) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is

knowingly in actual or constructive possession of, in excess of one kilo or 2.2 pounds of any part of the plant of the genus 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 including the completely defoliated mature stalks of the plant, fiber produced from the stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination is guilty of a felony, which felony shall be known as “trafficking in cannabis.” Nothing in this subdivision shall apply to samples of tetrahydrocannabinols including, but not limited to, all synthetic or naturally produced samples of tetrahydrocannabinols which contain more than 15 percent by weight of tetrahydrocannabinols and which do not contain plant material exhibiting the external morphological features of the plant cannabis. If the quantity of cannabis involved:

- a. Is in excess of one kilo or 2.2 pounds, but less than 100 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of twenty-five thousand dollars (\$25,000).
- b. Is 100 pounds or more, but less than 500 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of fifty thousand dollars (\$50,000).
- c. Is 500 pounds or more, but less than 1,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred thousand dollars (\$200,000).
- d. Is 1,000 pounds or more, the person shall be sentenced to a mandatory term of imprisonment of life without parole.

§ 13A-12-232.

Sentence not to be suspended, deferred, etc., prior to mandatory minimum term; reduction, suspension, etc., of sentence for assistance in arrest, conviction, etc., of accessories, principals, etc.

(a) Notwithstanding the provisions of Chapter 22, Title 15, or any other provision of law, with respect to any person who is found to have violated Section 13A-12-231, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for any type of parole, probation, work release, supervised intensive restitution program, release because of deduction from sentence for good behavior under corrections incentive time act or any other program, furlough, pass, leave, or any other type of early, conditional, or temporary release program, nor shall such person be permitted to leave the penitentiary for any reason whatsoever except for necessary court appearances and for necessary medical treatment, prior to serving the mandatory minimum term of imprisonment prescribed in this article or 15 years, whichever is less. Nothing contained in this section shall be construed in any way to render any inmate eligible for parole, probation, suspended sentence, furlough, pass, leave, or any type or early, conditional, or temporary release program of any type to which the

inmate is not otherwise eligible under other provision of law. Nor shall anything in this section be construed to render any person sentenced to life imprisonment without parole under this or any other act eligible for parole, probation, suspended sentence, furlough, pass, leave, or any type of early, conditional, or temporary release program at any time.

(b) The prosecuting attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of Section 13A-12-231, except where the sentence is life imprisonment without parole, and who provides substantial assistance in the arrest, or in the conviction of any of his accomplices, accessories, coconspirators, or principals. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance. Under no circumstances may the judge reduce or suspend the sentence except upon motion of the prosecuting attorney.

§ 13A-12-250.

Additional penalty if unlawful sale on or near school campus.

In addition to any penalties heretofore or hereafter provided by law for any person convicted of an unlawful sale of a controlled substance, there is hereby imposed a penalty of five years incarceration in a state corrections facility with no provision for probation if the situs of such unlawful sale was on the campus or within a three-mile radius of the campus boundaries of any public or private school, college, university or other educational institution in this state

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§ 5-4-201. Imposition of fines

(a) A defendant convicted of a felony may be sentenced to pay a fine:

- (1) Not exceeding fifteen thousand dollars (\$15,000) if the conviction is of a Class A felony or Class B felony;
- (2) Not exceeding ten thousand dollars (\$10,000) if the conviction is of a Class C felony or Class D felony;
- (3) In accordance with a limitation of the statute defining the felony if the conviction is of an unclassified felony.

(b) A defendant convicted of a misdemeanor may be sentenced to pay a fine:

(1) Not exceeding two thousand five hundred dollars (\$2,500) if the conviction is of a Class A misdemeanor;

(2) Not exceeding one thousand dollars (\$1,000) if the conviction is of a Class B misdemeanor;

(3) Not exceeding five hundred dollars (\$500) if the conviction is of a Class C misdemeanor; or

(4) In accordance with a limitation of the statute defining the misdemeanor if the conviction is of an unclassified misdemeanor.

(c) A defendant convicted of a violation may be sentenced to pay a fine:

(1) Not exceeding one hundred dollars (\$100) if the violation is defined by the Arkansas Criminal Code or defined by a statute enacted subsequent to January 1, 1976, that does not prescribe a different limitation on the amount of the fine; or

(2) In accordance with a limitation of the statute defining the violation if that statute prescribes limitations on the amount of the fine.

(d)(1) Notwithstanding a limit imposed by this section, if the defendant has derived pecuniary gain from commission of an offense, then upon conviction of the offense the defendant may be sentenced to pay a fine not exceeding two (2) times the amount of the pecuniary gain.

(2) As used in this subsection, “pecuniary gain” means the amount of money or the value of property derived from the commission of the offense, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to a lawful authority prior to the time sentence is imposed.

(e) An organization convicted of an offense may be sentenced to pay a fine authorized by subsection (d) of this section or not exceeding two (2) times the maximum fine otherwise authorized upon conviction of the offense by subsections (a), (b), or (c) of this section.

(f)(1) Notwithstanding a limit imposed by this section or the section defining the felony offense, if a defendant has derived pecuniary gain from the commission of a felony offense under [§ 5-68-201 et seq.](#), [§ 5-68-301 et seq.](#), the Arkansas Law on Obscenity, [§ 5-68-401 et seq.](#), or [§ 5-68-501 et seq.](#), then upon conviction of the felony offense, the defendant may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars (\$250,000).

(2) As used in this subsection, “derived pecuniary gain” means that a defendant received income, benefit, property, money, or anything of value from the commission of a felony offense under [§ 5-68-](#)

[201 et seq.](#), [§ 5-68-301 et seq.](#), the Arkansas Law on Obscenity, [§ 5-68-401 et seq.](#), or [§ 5-68-501 et seq.](#)

§ 5-4-301. Crimes for which suspension or probation prohibited--Criteria for suspension or probation in other cases

(a)(1) A court shall not suspend imposition of sentence as to a term of imprisonment or place a defendant on probation for the following offenses:

(A) Capital murder, [§ 5-10-101](#);

(B) Treason, [§ 5-51-201](#);

(C) A Class Y felony, except to the extent suspension of an additional term of imprisonment is permitted in [§ 5-4-104\(c\)](#);

(D) Driving while intoxicated, [§ 5-65-103](#);

(E) Murder in the second degree, [§ 5-10-103](#), except to the extent suspension of an additional term of imprisonment is permitted in [§ 5-4-104\(c\)](#); or

(F) Engaging in a continuing criminal enterprise, [§ 5-64-405](#).

(2) If it is determined pursuant to [§ 5-4-502](#) that a defendant has previously been convicted of two (2) or more felonies, the court shall not:

(A) Suspend imposition of sentence; or

(B) Place the defendant on probation.

(b) In making a determination as to suspension or probation, the court shall consider whether:

(1) There is undue risk that during the period of a suspension or probation the defendant will commit another offense;

(2) The defendant is in need of correctional treatment that can be provided most effectively by his or her commitment to an institution;

(3) Suspension or probation will discount the seriousness of the defendant's offense; or

(4) The defendant has the means available or is so gainfully employed that restitution or compensation

to the victim of the defendant's offense will not cause an unreasonable financial hardship and will be beneficial to the rehabilitation of the defendant.

(c) While not controlling the discretion of the court, the following grounds shall be accorded weight in favor of suspension or probation:

(1) The defendant's conduct neither caused nor threatened serious harm;

(2) The defendant did not contemplate that his or her conduct would cause or threaten serious harm;

(3) The defendant acted under strong provocation;

(4) There was a substantial ground tending to excuse or justify the defendant's conduct, though failing to establish a defense;

(5) The victim of the offense induced or facilitated its commission;

(6) The defendant has compensated or will compensate the victim of the offense for the damage or injury that the victim sustained;

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present offense;

(8) The defendant's conduct was the result of circumstances unlikely to recur;

(9) The character and attitude of the defendant indicate that he or she is unlikely to commit another offense;

(10) The defendant is particularly likely to respond affirmatively to suspension or probation;

(11) The imprisonment of the defendant would entail excessive hardship to the defendant or to a dependent of the defendant;

(12) The defendant is elderly or in poor health; or

(13) The defendant cooperated with law enforcement authorities in his or her own prosecution or in bringing another offender to justice.

(d)(1) When the court suspends the imposition of sentence on a defendant or places him or her on probation, the court shall enter a judgment of conviction only if the court sentences the defendant to:

(A) Pay a fine and suspends imposition of sentence as to imprisonment or places the defendant on probation; or

(B) A term of imprisonment and suspends imposition of sentence as to an additional term of imprisonment.

(2) The entry of a judgment of conviction does not preclude:

(A) The modification of the original order suspending the imposition of sentence on a defendant or placing a defendant on probation following a revocation hearing held pursuant to [§ 16-93-307](#); and

(B) A modification set within the limits of [§§ 16-93-309](#) and [16-93-312](#).

§ 5-4-401. Felonies, incarceration

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

(1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life;

(2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;

(3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years;

(4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;

(5) For a Class D felony, the sentence shall not exceed six (6) years; and

(6) For an unclassified felony, the sentence shall be in accordance with a limitation of the statute defining the felony.

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

(1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;

(2) For a Class B misdemeanor, the sentence shall not exceed ninety (90) days;

(3) For a Class C misdemeanor, the sentence shall not exceed thirty (30) days; and

(4) For an unclassified misdemeanor, the sentence shall be in accordance with a limitation of the statute defining the misdemeanor.

5-64-438. Delivery of a Schedule VI controlled substance

(a) Except as provided by this chapter, it is unlawful for a person to deliver a Schedule VI controlled substance.

(b)(1) A person who delivers fourteen grams (14g) or less by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance upon conviction is guilty of a Class A misdemeanor.

(2) A person who delivers more than fourteen grams (14g) but less than four ounces (4 oz.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance upon conviction is guilty of a Class D felony.

(3) A person who delivers four ounces (4 oz.) or more but less than twenty-five pounds (25 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance upon conviction is guilty of a Class C felony.

(4) A person who delivers twenty-five pounds (25 lbs.) or more but less than one hundred pounds (100 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance upon conviction is guilty of a Class B felony.

(5) A person who delivers one hundred pounds (100 lbs.) or more but less than five hundred pounds (500 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance upon conviction is guilty of a Class A felony.

§ 5-64-439. Manufacture of a Schedule VI controlled substance

(a) Except as provided by this chapter, it is unlawful for a person to manufacture a Schedule VI controlled substance.

(b)(1) A person who manufactures fourteen grams (14g) or less by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance is guilty of a Class A misdemeanor.

(2) A person who manufactures more than fourteen grams (14g) but less than four ounces (4 oz.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance is guilty of a Class D felony.

(3) A person who manufactures four ounces (4 oz.) or more but less than twenty-five pounds (25 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance upon conviction is guilty of a Class C felony.

(4) A person who manufactures twenty-five pounds (25 lbs.) or more but less than one hundred pounds (100 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance upon conviction is guilty of a Class B felony.

(5) A person who manufactures one hundred pounds (100 lbs.) or more by aggregate weight, including an adulterant or diluent, upon conviction is guilty of a Class A felony.

§ 5-64-408. Subsequent convictions--Enhanced penalties

(a) Unless otherwise provided in this chapter, a person convicted of a second or subsequent offense under this chapter shall be imprisoned for a term up to two (2) times the term otherwise authorized, fined an amount up to two (2) times the fine otherwise authorized, or both.

(b) For purposes of this section, an offense is considered a second or subsequent offense if, before his or her conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to a narcotic drug, marijuana, depressant, stimulant, or a hallucinogenic drug.

(c) This section does not apply to an offense under [§ 5-64-419](#) or [§ 5-64-441](#).

§ 5-64-419. Possession of a controlled substance

(a) Except as provided by this chapter, it is unlawful for a person to possess a controlled substance.

(b) A person who violates this section with respect to:

(1) A Schedule I or Schedule II controlled substance that is methamphetamine or cocaine with an aggregate weight, including an adulterant or diluent, of:

(A) Less than two grams (2g) upon conviction is guilty of a Class D felony;

(B) Two grams (2g) or more but less than ten grams (10g) upon conviction is guilty of a Class C felony; or

(C) Ten grams (10g) or more but less than two hundred grams (200g) upon conviction is guilty of a Class B felony;

(2) A Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine with an aggregate weight, including an adulterant or diluent, of:

(A) Less than two grams (2g) upon conviction is guilty of a Class D felony;
(B) Two grams (2g) or more but less than twenty-eight grams (28g) upon conviction is guilty of a Class C felony; or
(C) Twenty-eight grams (28g) or more but less than two hundred grams (200g) upon conviction is guilty of a Class B felony;
(3) A Schedule III controlled substance with an aggregate weight, including an adulterant or diluent, of:

(A) Less than two grams (2g) upon conviction is guilty of a Class A misdemeanor;
(B) Two grams (2g) or more but less than twenty-eight grams (28g) upon conviction is guilty of a Class D felony;
(C) Twenty-eight grams (28g) or more but less than two hundred (200g) upon conviction is guilty of a Class C felony; or
(D) Two hundred grams (200g) or more but less than four hundred grams (400g) upon conviction is guilty of a Class B felony;
(4) A Schedule IV or Schedule V controlled substance with an aggregate weight, including an adulterant or diluent, of:

(A) Less than twenty-eight grams (28g) upon conviction is guilty of a Class A misdemeanor;
(B) Twenty-eight grams (28g) or more but less than two hundred grams (200g) upon conviction is guilty of a Class D felony;
(C) Two hundred grams (200g) or more but less than four hundred grams (400g) upon conviction is guilty of a Class C felony; or
(D) Four hundred grams (400g) or more but less than eight hundred grams (800g) upon conviction is guilty of a Class B felony; or
(5) A Schedule VI controlled substance with an aggregate weight, including an adulterant or diluent, of:

(i) Less than four ounces (4 oz.) upon conviction is guilty of a Class A misdemeanor;
(ii) One ounce (1 oz.) or more but less than four ounces (4 oz.) and the person has two (2) previous convictions under this section or the former § 5-64-401(c) upon conviction is guilty of a Class D felony;
(iii) Four ounces (4 oz.) or more but less than ten pounds (10 lbs.) upon conviction is guilty of a Class D felony;
(iv) Ten pounds (10 lbs.) or more but less than twenty-five pounds (25 lbs.) upon conviction is guilty of a Class C felony;
(v) Twenty-five pounds (25 lbs.) or more but less than one hundred pounds (100 lbs.) upon conviction is guilty of a Class B felony; or
(vi) One hundred pounds (100 lbs.) or more but less than five hundred pounds (500 lbs.) upon conviction is guilty of a Class A felony.

(c) If a person possesses a controlled substance in violation of this section while the person is an inmate in a state criminal detention facility, county criminal detention facility, city criminal detention facility, or juvenile detention facility, the penalty for the offense is increased to the next higher classification as

prescribed by law for the offense.

§ 5-64-436. Possession of a Schedule VI controlled substance with the purpose to deliver

(a) Except as provided by this chapter, it is unlawful if a person possesses a Schedule VI controlled substance with the purpose to deliver the Schedule VI controlled substance. Purpose to deliver may be shown by any of the following factors:

- (1) The person possesses the means to weigh and separate a Schedule VI controlled substance; or
- (2) The person possesses a record indicating a drug-related transaction; or
- (3) The Schedule VI controlled substance is separated and packaged in a manner to facilitate delivery; or
- (4) The person possesses a firearm that is in the immediate physical control of the person at the time of the possession of the Schedule VI controlled substance; or
- (5) The person possesses at least two (2) other controlled substances in any amount; or
- (6) Other relevant and admissible evidence that contributes to the proof that a person's purpose was to deliver a Schedule VI controlled substance.

(b) A person who violates this section upon conviction is guilty of a:

- (1) Class A misdemeanor if the person possessed by aggregate weight, including an adulterant or diluent, fourteen grams (14g) or less of a Schedule VI controlled substance;
- (2) Class D felony if the person possessed more than fourteen grams (14g) but less than four ounces (4 oz.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance;
- (3) Class C felony if the person possessed four ounces (4 oz.) or more but less than twenty-five pounds (25 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance;
- (4) Class B felony if the person possessed twenty-five pounds (25 lbs.) or more but less than one hundred pounds (100 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance; or
- (5) Class A felony if the person possessed one hundred pounds (100 lbs.) or more but less than five hundred pounds (500 lbs.) by aggregate weight, including an adulterant or diluent, of a Schedule VI controlled substance.

§ 5-64-440. Trafficking a controlled substance

(a) Except as provided by this chapter, it is unlawful for a person to engage in trafficking a controlled substance.

(b) A person engages in trafficking a controlled substance if he or she possesses a controlled substance

by aggregate weight, including an adulterant or diluent, in the following amounts:

- (1) Methamphetamine or cocaine, two hundred grams (200g) or more;
 - (2) Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine, two hundred grams (200g) or more;
 - (3) Schedule III controlled substance, four hundred grams (400g) or more;
 - (4) Schedule IV or Schedule V controlled substance, eight hundred grams (800g) or more; or
 - (5) A Schedule VI controlled substance, five hundred pounds (500 lbs.) or more.
- (c) Trafficking a controlled substance is a Class Y felony.

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§775.08. --- (Title XLVI Crimes) Classes and definitions of offenses

When used in the laws of this state:

- (1) The term “felony” shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary. “State penitentiary” shall include state correctional facilities. A person shall be imprisoned in the state penitentiary for each sentence which, except an extended term, exceeds 1 year.
- (2) The term “misdemeanor” shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility, except an extended term, not in excess of 1 year. The term “misdemeanor” shall not mean a conviction for any noncriminal traffic violation of any provision of chapter 316 or any municipal or county ordinance.
- (3) The term “noncriminal violation” shall mean any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense. The term “noncriminal violation” shall not mean any conviction for any violation of any municipal or county ordinance. Nothing contained in this code shall repeal or change the penalty for a violation of any municipal or county ordinance.
- (4) The term “crime” shall mean a felony or misdemeanor.

§775.081. Classifications of felonies and misdemeanors

(1) Felonies are classified, for the purpose of sentence and for any other purpose specifically provided by statute, into the following categories:

- (a) Capital felony;
- (b) Life felony;
- (c) Felony of the first degree;
- (d) Felony of the second degree; and
- (e) Felony of the third degree.

A capital felony and a life felony must be so designated by statute. Other felonies are of the particular degree designated by statute. Any crime declared by statute to be a felony without specification of degree is of the third degree, except that this provision shall not affect felonies punishable by life imprisonment for the first offense.

(2) Misdemeanors are classified, for the purpose of sentence and for any other purpose specifically provided by statute, into the following categories:

- (a) Misdemeanor of the first degree; and
- (b) Misdemeanor of the second degree.

A misdemeanor is of the particular degree designated by statute. Any crime declared by statute to be a misdemeanor without specification of degree is of the second degree.

(3) This section is supplemental to, and is not to be construed to alter, the law of this state establishing and governing criminal offenses that are divided into degrees by virtue of distinctive elements comprising such offenses, regardless of whether such law is established by constitutional provision, statute, court rule, or court decision.

§775.082. Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison

b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), by a term of imprisonment for life.

- (b) For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.
- (c) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.
- (d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

- (a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;
- (b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

(5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

§775.083. Fines

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

(a) \$15,000, when the conviction is of a life felony.

(b) \$10,000, when the conviction is of a felony of the first or second degree.

(c) \$5,000, when the conviction is of a felony of the third degree.

(d) \$1,000, when the conviction is of a misdemeanor of the first degree.

(e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

(f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.

must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

§775.16. Drug offenses; additional penalties

In addition to any other penalty provided by law, a person who has been convicted of sale of or trafficking in, or conspiracy to sell or traffic in, a controlled substance under chapter 893, if such offense is a felony, or who has been convicted of an offense under the laws of any state or country which, if committed in this state, would constitute the felony of selling or trafficking in, or conspiracy to sell or traffic in, a controlled substance under chapter 893, is:

(1) Disqualified from applying for employment by any agency of the state, unless:

(a) The person has completed all sentences of imprisonment or supervisory sanctions imposed by the court, by the Parole Commission, or by law; or

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanctions. The person under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved by the Department of Children and Family Services, unless it is deemed by the program that the person does not have a substance abuse problem.

The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Parole Commission, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections.

(2) Disqualified from applying for a license, permit, or certificate required by any agency of the state to practice, pursue, or engage in any occupation, trade, vocation, profession, or business, unless:

(a) The person has completed all sentences of imprisonment or supervisory sanctions imposed by the court, by the Parole Commission, or by law;

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanction. If the person fails to comply with provisions of these subparagraphs by either failing to maintain treatment or by testing positive for drug use, the department shall notify the licensing, permitting, or certifying agency, which may refuse to reissue or reinstate such license, permit, or certification. The licensee, permittee, or certificateholder under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved or regulated by the Department of Children and Family Services, unless it is deemed by the program that the person does not have a substance abuse problem. The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Parole Commission, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections; or

(c) The person has successfully completed an appropriate program under the Correctional Education Program.

The provisions of this section do not apply to any of the taxes, fees, or permits regulated, controlled, or administered by the Department of Revenue in accordance with the provisions of s. 213.05.

§893.13. Prohibited acts; penalties

(1)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4., commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, it is unlawful to sell or deliver in excess of 10 grams of any

substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302 or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight, or at any time in, on, or within 1,000 feet of real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. For the purposes of this paragraph, the term “community center” means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4., commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years unless the offense was committed within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302.
2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 25 pounds of cannabis, or 300 or more cannabis plants, commits a felony of the first degree, which felony shall be known as “trafficking in cannabis,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of cannabis involved:

1. Is in excess of 25 pounds, but less than 2,000 pounds, or is 300 or more cannabis plants, but not more than 2,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$25,000.
2. Is 2,000 pounds or more, but less than 10,000 pounds, or is 2,000 or more cannabis plants, but not more than 10,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$50,000.
3. Is 10,000 pounds or more, or is 10,000 or more cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$200,000.

For the purpose of this paragraph, a plant, including, but not limited to, a seedling or cutting, is a “cannabis plant” if it has some readily observable evidence of root formation, such as root hairs. To

determine if a piece or part of a cannabis plant severed from the cannabis plant is itself a cannabis plant, the severed piece or part must have some readily observable evidence of root formation, such as root hairs. Callous tissue is not readily observable evidence of root formation. The viability and sex of a plant and the fact that the plant may or may not be a dead harvested plant are not relevant in determining if the plant is a “cannabis plant” or in the charging of an offense under this paragraph. Upon conviction, the court shall impose the longest term of imprisonment provided for in this paragraph.

(2) A person acts knowingly under subsection (1) if that person intends to sell, purchase, manufacture, deliver, or bring into this state, or to actually or constructively possess, any of the controlled substances listed in subsection (1), regardless of which controlled substance listed in subsection (1) is in fact sold, purchased, manufactured, delivered, or brought into this state, or actually or constructively possessed.

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section. A person sentenced to a mandatory minimum term of imprisonment under this section is not eligible for any form of discretionary early release, except pardon or executive clemency or conditional medical release under s. 947.149, prior to serving the mandatory minimum term of imprisonment.

(4) The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of that person's accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if the judge finds that the defendant rendered such substantial assistance.

(5) Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (1) commits a felony of the first degree and is punishable as if he or she had actually committed such prohibited act. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

(6) A mixture, as defined in s. 893.02, containing any controlled substance described in this section includes, but is not limited to, a solution or a dosage unit, including but not limited to, a pill or tablet, containing a controlled substance. For the purpose of clarifying legislative intent regarding the weighing of a mixture containing a controlled substance described in this section, the weight of the controlled substance is the total weight of the mixture, including the controlled substance and any other substance in the mixture. If there is more than one mixture containing the same controlled substance, the weight of the controlled substance is calculated by aggregating the total weight of each mixture.

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§ 16-13-2. Conditional discharge for possession as first offense

(a) Whenever any person who has not previously been convicted of any offense under Article 2 or Article 3 of this chapter or of any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a narcotic drug, marijuana, or stimulant, depressant, or hallucinogenic drug, the court may without entering a judgment of guilt and with the consent of such person defer further proceedings and place him on probation upon such reasonable terms and conditions as the court may require, preferably terms which require the person to undergo a comprehensive rehabilitation program, including, if necessary, medical treatment, not to exceed three years, designed to acquaint him with the ill effects of drug abuse and to provide him with knowledge of the gains and benefits which can be achieved by being a good member of society. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed accordingly. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this Code section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Code section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Code section may occur only once with respect to any person.

(b) Notwithstanding any law to the contrary, any person who is charged with possession of marijuana, which possession is of one ounce or less, shall be guilty of a misdemeanor and punished by imprisonment for a period not to exceed 12 months or a fine not to exceed \$1,000.00, or both, or public works not to exceed 12 months.

(c) Persons charged with an offense enumerated in subsection (a) of this Code section and persons charged for the first time with nonviolent property crimes which, in the judgment of the court exercising jurisdiction over such offenses, were related to the accused's addiction to a controlled substance or alcohol who are eligible for any court approved drug treatment program may, in the discretion of the court and with the consent of the accused, be sentenced in accordance with subsection (a) of this Code section. The probated sentence imposed may be for a period of up to five years. No discharge and dismissal without court adjudication of guilt shall be entered under this subsection until the accused has made full restitution to all victims of the charged offenses. Discharge and dismissal under this Code section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Code section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Code section may not be used to disqualify a person in any application for employment or appointment to office in either the public or private sector.

§ 16-13-30. Possession, manufacturing, etc., of certain controlled substances

<Section effective July 1, 2013. See, also, section effective until July 1, 2013, and section effective July 1, 2014.>

(a) Except as authorized by this article, it is unlawful for any person to purchase, possess, or have under his or her control any controlled substance.

(b) Except as authorized by this article, it is unlawful for any person to manufacture, deliver, distribute, dispense, administer, sell, or possess with intent to distribute any controlled substance.

(c) Except as otherwise provided, any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule I or a narcotic drug in Schedule II shall be guilty of a felony and, upon conviction thereof, shall be punished as follows:

(1) If the aggregate weight, including any mixture, is less than one gram of a solid substance, less than one milliliter of a liquid substance, or if the substance is placed onto a secondary medium with a combined weight of less than one gram, by imprisonment for not less than one nor more than three years;

(2) If the aggregate weight, including any mixture, is at least one gram but less than four grams of a solid substance, at least one milliliter but less than four milliliters of a liquid substance, or if the substance is placed onto a secondary medium with a combined weight of at least one gram but less than four grams, by imprisonment for not less than one nor more than eight years; and

(3)(A) Except as provided in subparagraph (B) of this paragraph, if the aggregate weight, including any mixture, is at least four grams but less than 28 grams of a solid substance, at least four milliliters but less than 28 milliliters of a liquid substance, or if the substance is placed onto a secondary medium with a combined weight of at least four grams but less than 28 grams, by imprisonment for not less than one nor more than 15 years.

(B) This paragraph shall not apply to morphine, heroin, or opium or any salt, isomer, or salt of an isomer; rather, the provisions of [Code Section 16-13-31](#) shall control these substances.

(d) Except as otherwise provided, any person who violates subsection (b) of this Code section with respect to a controlled substance in Schedule I or Schedule II shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 30 years. Upon conviction of a second or subsequent offense, he or she shall be imprisoned for not less than ten years nor more than 40 years or life imprisonment. The provisions of subsection (a) of [Code Section 17-10-7](#) shall not apply to a sentence imposed for a second such offense; provided, however, that the remaining provisions of [Code Section 17-10-7](#) shall apply for any subsequent offense.

(e) Any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule II, other than a narcotic drug, shall be guilty of a felony and, upon conviction thereof, shall be punished as follows:

(1) If the aggregate weight, including any mixture, is less than two grams of a solid substance, less than two milliliters of a liquid substance, or if the substance is placed onto a secondary medium with a combined weight of less than two grams, by imprisonment for not less than one nor more than three years;

(2) If the aggregate weight, including any mixture, is at least two grams but less than four grams of a solid substance, at least two milliliters but less than four milliliters of a liquid substance, or if the substance is placed onto a secondary medium with a combined weight of at least two grams but less than four grams, by imprisonment for not less than one nor more than eight years; and

(3) If the aggregate weight, including any mixture, is at least four grams but less than 28 grams of a solid substance, at least four milliliters but less than 28 milliliters of a liquid substance, or if the substance is placed onto a secondary medium with a combined weight of at least four grams but less than 28 grams, by imprisonment for not less than one nor more than 15 years.

(f) Upon a third or subsequent conviction for a violation of subsection (a) of this Code section with respect to a controlled substance in Schedule I or II or subsection (i) of this Code section, such person shall be punished by imprisonment for a term not to exceed twice the length of the sentence applicable to the particular crime.

(g) Except as provided in subsection (1) of this Code section, any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than three years. Upon conviction of a third or subsequent offense, he or she shall be imprisoned for not less than one year nor more than five years.

(h) Any person who violates subsection (b) of this Code section with respect to a controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(i)(1) Except as authorized by this article, it is unlawful for any person to possess or have under his or her control a counterfeit substance. Any person who violates this paragraph shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than two years.

(2) Except as authorized by this article, it is unlawful for any person to manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute a counterfeit substance. Any person who violates this paragraph shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(j)(1) It shall be unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute marijuana.

(2) Except as otherwise provided in subsection (c) of [Code Section 16-13-31](#) or in [Code Section 16-13-2](#), any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(k) It shall be unlawful for any person to hire, solicit, engage, or use an individual under the age of 17 years, in any manner, for the purpose of manufacturing, distributing, or dispensing, on behalf of the solicitor, any controlled substance, counterfeit substance, or marijuana unless the manufacturing, distribution, or dispensing is otherwise allowed by law. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 20 years or by a fine not to exceed \$20,000.00, or both.

(l)(1) Any person who violates subsection (a) of this Code section with respect to flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than 15 years.

(2) Any person who violates subsection (b) of this Code section with respect to flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 30 years. Upon conviction of a second or subsequent offense, such person shall be punished by imprisonment for not less than ten years nor more than 40 years or life imprisonment. The provisions of subsection (a) of [Code Section 17-10-7](#) shall not apply to a sentence imposed for a second such offense, but that subsection and the remaining provisions of [Code Section 17-10-7](#) shall apply for any subsequent offense.

(m) As used in this Code section, the term “solid substance” means tablets, pills, capsules, caplets, or any variant of such items.

§ 16-13-31. Sale, manufacture, etc., of certain controlled substances

(a)(1) Any person who knowingly sells, manufactures, delivers, or brings into this state or who is knowingly in possession of 28 grams or more of cocaine or of any mixture with a purity of 10 percent or more of cocaine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in cocaine and, upon conviction thereof, shall be punished as follows:

(A) If the quantity of the cocaine or the mixture involved is 28 grams or more, but less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(B) If the quantity of the cocaine or the mixture involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(C) If the quantity of the cocaine or the mixture involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(2) Any person who knowingly sells, manufactures, delivers, or brings into this state or who is knowingly in possession of any mixture with a purity of less than 10 percent of cocaine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in cocaine if the total weight of the mixture multiplied by the percentage of cocaine contained in the mixture exceeds any of the quantities of cocaine specified in paragraph (1) of this subsection. Upon conviction thereof, such person shall be punished as provided in paragraph (1) of this subsection depending upon the quantity of cocaine such person is charged with knowingly selling, manufacturing, delivering, or bringing into this state or knowingly possessing.

(b) Any person who knowingly sells, manufactures, delivers, brings into this state, or has possession of 4 grams or more of any morphine or opium or any salt, isomer, or salt of an isomer thereof, including heroin, as described in Schedules I and II, or 4 grams or more of any mixture containing any such substance in violation of this article commits the felony offense of trafficking in illegal drugs and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of such substances involved is 4 grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$50,000.00;

(2) If the quantity of such substances involved is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$100,000.00; and

(3) If the quantity of such substances involved is 28 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$500,000.00.

(c) Any person who knowingly sells, manufactures, grows, delivers, brings into this state, or has possession of a quantity of marijuana exceeding 10 pounds commits the offense of trafficking in marijuana and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of marijuana involved is in excess of 10 pounds, but less than 2,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$100,000.00;

(2) If the quantity of marijuana involved is 2,000 pounds or more, but less than 10,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of seven years and shall pay a fine of \$250,000.00; and

(3) If the quantity of marijuana involved is 10,000 pounds or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$1 million.

(d) Any person who knowingly sells, manufactures, delivers, or brings into this state 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in paragraph (6) of [Code Section 16-13-25](#), in violation of this article commits the felony offense of trafficking in methaqualone and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of the methaqualone or the mixture involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$50,000.00; and

(2) If the quantity of the methaqualone or the mixture involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$250,000.00.

(e) Any person who knowingly sells, delivers, or brings into this state or has possession of 28 grams or more of methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in methamphetamine or amphetamine and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 28 grams or more, but less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(2) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(3) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(f) Any person who knowingly manufactures methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Schedule II, in violation of this article commits the felony offense of trafficking methamphetamine or amphetamine and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(2) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(3) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(g)(1) Except as provided in paragraph (2) of this subsection and notwithstanding [Code Section 16-13-2](#), with respect to any person who is found to have violated this Code section, adjudication of guilt or imposition of sentence shall not be suspended, probated, deferred, or withheld prior to serving the mandatory minimum term of imprisonment prescribed by this Code section.

(2) The district attorney may move the sentencing court to impose a reduced or suspended sentence upon any person who is convicted of a violation of this Code section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may impose a reduced or suspended sentence if he finds that the defendant has rendered such substantial assistance.

(h) Any person who violates any provision of this Code section shall be punished as provided for in the applicable mandatory minimum punishment and for not more than 30 years of imprisonment and by a fine not to exceed \$1 million.

§ 16-13-32.4. Transactions in controlled substance or marijuana in, on, or within 1,000 feet of real property owned by or leased to public or private school or school board used for elementary or secondary education prohibited

(a) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with intent to distribute a controlled substance or marijuana in, on, or within 1,000 feet of any real property owned by or leased to any public or private elementary school, secondary school, or school board used for elementary or secondary education.

(b) Any person who violates or conspires to violate subsection (a) of this Code section shall be guilty of a felony and upon conviction shall receive the following punishment:

(1) Upon a first conviction, imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both; or

(2) Upon a second or subsequent conviction, imprisonment for not less than five years nor more than 40 years or a fine of not more than \$40,000.00, or both. It shall be mandatory for the court to impose a minimum sentence of five years which may not be suspended unless otherwise provided by law.

A sentence imposed under this Code section shall be served consecutively to any other sentence imposed.

(c) A conviction arising under this Code section shall not merge with a conviction arising under any other provision of this article.

(d) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a school vehicle.

(e) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area on or within 1,000 feet of the real property of a school board or a private or public elementary or secondary school that is used for school purposes, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.

(f) A county school board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of school boards and private or public elementary and secondary schools as "Drug-free School Zones."

(g) It is an affirmative defense to prosecution for a violation of this Code section that the prohibited conduct took place entirely within a private residence, that no person 17 years of age or younger was

present in such private residence at any time during the commission of the offense, and that the prohibited conduct was not carried on for purposes of financial gain. Nothing in this subsection shall be construed to establish an affirmative defense with respect to any offense under this chapter other than the offense provided for in subsection (a) of this Code section.

§ 16-13-32.5. Transactions in controlled substance or marijuana in, on, or within 1,000 feet of parks, playgrounds, recreation centers, or housing projects prohibited

(a) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with intent to distribute a controlled substance or marijuana or a counterfeit substance in, on, or within 1,000 feet of any real property which has been dedicated and set apart by the governing authority of any municipality, county, state authority, or the state for use as a park, playground, recreation center, or for any other recreation purposes, unless the manufacture, distribution, or dispensing is otherwise allowed by law.

(b) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with intent to distribute a controlled substance or marijuana or a counterfeit substance in, on, or within 1,000 feet of any real property of any publicly owned or publicly operated housing project, unless the manufacture, distribution, or dispensing is otherwise allowed by law. For the purposes of this Code section, the term “housing project” means any facilities under the jurisdiction of a housing authority which constitute single or multifamily dwelling units occupied by low and moderate-income families pursuant to Chapter 3 of Title 8.

(c) Any person who violates or conspires to violate subsection (a) or (b) of this Code section shall be guilty of a felony and upon conviction shall receive the following punishment:

(1) Upon a first conviction, imprisonment for not more than 20 years or a fine of not more than \$ 20,000.00, or both; or

(2) Upon a second or subsequent conviction, imprisonment for not less than five years nor more than 40 years or a fine of not more than \$ 40,000.00, or both. It shall be mandatory for the court to impose a minimum sentence of five years which may not be suspended unless otherwise provided by law.

A sentence imposed under this Code section shall be served consecutively to any other sentence imposed.

(d) A conviction arising under this Code section shall not merge with a conviction arising under any other provision of this article.

(e) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area on or within 1,000 feet of the real property of any publicly owned or publicly operated housing project or the real property set apart for use as a park, playground, recreation center, or for any other recreation purposes, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.

(f) The governing authority of a municipality or county may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of any lands or buildings set apart for use as parks, playgrounds, recreation centers, or any other recreation purposes as “Drug-free Recreation Zones” and designating the areas within 1,000 feet of the real property of any publicly owned or publicly operated housing project as “Drug-free Residential Zones.”

(g) It is an affirmative defense to prosecution for a violation of this Code section that the prohibited conduct took place entirely within a private residence, that no person 17 years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct was not carried on for purposes of financial gain. Nothing in this subsection shall be construed to establish an affirmative defense with respect to any offense under this chapter other than the offense provided for in subsections (a) and (b) of this Code section.

§ 16-13-32.6. Transactions in controlled substance or marijuana in, on, or within real property designated as drug-free commercial zone

(a) It shall be unlawful for any person to illegally manufacture, distribute, dispense, or possess with intent to distribute a controlled substance or marijuana in, on, or within any real property which has been designated under this Code section as a drug-free commercial zone.

(b)(1) Any person who violates or conspires to violate subsection (a) of this Code section shall be guilty of a felony and upon conviction shall receive the following punishment:

(A) Upon a first conviction, imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both; or

(B) Upon a second or subsequent conviction, imprisonment for not less than five years nor more than 40 years or a fine of not more than \$40,000.00, or both.

(2) A sentence imposed under this Code section shall be served consecutively to any other sentence imposed.

(3) Any person convicted of a violation of subsection (a) of this Code section may, as a condition of probation or parole, be required by the sentencing court or State Board of Pardons and Paroles to refrain for a period of not more than 24 months from entering or at any time being within the boundaries of the drug-free commercial zone wherein such person was arrested for a violation of this Code section. Any person arrested for violation of his or her terms of probation shall be governed by the provisions of [Code Section 42-8-38](#) and any person arrested for a violation of his or her terms of parole shall be governed by the provisions of Article 2 of Chapter 9 of Title 42.

(c) A conviction arising under this Code section shall not merge with a conviction arising under any other provision of this article.

(d) Any municipality or county may designate one or more commercial areas where there is a high rate of drug related crime as drug-free commercial zones. A drug-free commercial zone may include only an area which the municipality or county has previously zoned commercial pursuant to its planning and zoning powers and any residential area contiguous to such commercially zoned area extending not more than one-half mile from the external boundary of any portion of the commercially zoned area. A municipality or county which designates one or more areas as drug-free commercial zones shall be required to make such designations by ordinance and shall be required to post prominent and conspicuous signs on the boundaries of and throughout any such drug-free commercial zone. A municipality or county shall be required to file with the Department of Community Affairs a copy of each ordinance which shall have attached a clearly defined map describing each drug-free commercial zone and a report evidencing all drug related crimes in such drug-free commercial zone area during the 12 months preceding the enactment of such ordinance. A municipality or county shall also be required to file with the Department of Community Affairs, during the period that a drug-free commercial zone is in effect, annual reports evidencing all drug related crimes in such drug-free commercial zone. Such ordinances, maps, and drug crime reports shall be maintained in a permanent register by such department, and copies of such ordinances, maps, and drug crime reports of drug-free commercial zones shall be made available to the public at a reasonable cost. A drug-free commercial zone shall not be effective and valid for the purposes of this Code section until it has been adopted by the General Assembly by general law. After the General Assembly has adopted one or more drug-free commercial zones, the governing authority of each municipality or county which has such a zone or zones designated and adopted shall be required to have a description of each such zone published in the legal organ of the municipality or county at least once a week for three weeks. A drug-free commercial zone adopted by the General Assembly shall remain in effect for five years and shall expire five years from the effective date of such adoption by the General Assembly. An area which has been a drug-free commercial zone may be continued as or again designated as a drug-free commercial zone upon the enactment of an ordinance and adoption thereof by the General Assembly in accordance with the

provisions of this subsection. No arrest for a violation of this Code section shall be permissible for a period of 30 days immediately following the effective date of the adoption of such drug-free commercial zone by the General Assembly.

(e) In a prosecution under this Code section, a true copy of a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of any drug-free commercial zone and filed and on record at the Department of Community Affairs shall, if certified as a true copy by the custodian of such records at such department, be admissible and shall constitute prima-facie evidence of the location and boundaries of such zone. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county; provided, however, that a revised map shall not become effective and the revised area shall not be a drug-free commercial zone until the revised map has been filed with the Department of Community Affairs and adopted by the General Assembly by general law; provided, further, that the revision of a drug-free commercial zone shall not extend the expiration date of such a drug-free commercial zone. The original copy of every map approved or revised under this subsection or a true copy of such original map shall be filed with the Department of Community Affairs and shall be maintained as an official record of the department. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense.

(f) The General Assembly hereby adopts and incorporates into this Code section all drug-free commercial zones which have been adopted by municipal or county ordinance and entered in the register of the Department of Community Affairs as provided for in subsection (d) of this Code section on or before July 1, 2013.

§ 17-10-7. Repeat offenders

(a) Except as otherwise provided in subsection (b) or (b.1) of this Code section, any person who, after having been convicted of a felony offense in this state or having been convicted under the laws of any other state or of the United States of a crime which if committed within this state would be a felony and sentenced to confinement in a penal institution, commits a felony punishable by confinement in a penal institution, shall be sentenced to undergo the longest period of time prescribed for the punishment of the subsequent offense of which he or she stands convicted, provided that, unless otherwise provided by law, the trial judge may, in his or her discretion, probate or suspend the maximum sentence prescribed for the offense.

(b)(1) As used in this subsection, the term “serious violent felony” means a serious violent felony as defined in subsection (a) of [Code Section 17-10-6.1](#).

(2) Any person who has been convicted of a serious violent felony in this state or who has been convicted under the laws of any other state or of the United States of a crime which if committed in this

state would be a serious violent felony and who after such first conviction subsequently commits and is convicted of a serious violent felony for which such person is not sentenced to death shall be sentenced to imprisonment for life without parole. Any such sentence of life without parole shall not be suspended, stayed, probated, deferred, or withheld, and any such person sentenced pursuant to this paragraph shall not be eligible for any form of pardon, parole, or early release administered by the State Board of Pardons and Paroles or for any earned time, early release, work release, leave, or any other sentence-reducing measures under programs administered by the Department of Corrections, the effect of which would be to reduce the sentence of life imprisonment without possibility of parole, except as may be authorized by any existing or future provisions of the Constitution.

(b.1) Subsections (a) and (c) of this Code section shall not apply to a second or any subsequent conviction for any violation of subsection (a), paragraph (1) of subsection (i), or subsection (j) of [Code Section 16-13-30](#).

(c) Except as otherwise provided in subsection (b) or (b.1) of this Code section, any person who, after having been convicted under the laws of this state for three felonies or having been convicted under the laws of any other state or of the United States of three crimes which if committed within this state would be felonies, commits a felony within this state shall, upon conviction for such fourth offense or for subsequent offenses, serve the maximum time provided in the sentence of the judge based upon such conviction and shall not be eligible for parole until the maximum sentence has been served.

(d) For the purpose of this Code section, conviction of two or more crimes charged on separate counts of one indictment or accusation, or in two or more indictments or accusations consolidated for trial, shall be deemed to be only one conviction.

(e) This Code section is supplemental to other provisions relating to recidivous offenders.

KENTUCKY

KRS

§218A.1411 Trafficking in controlled substance in or near school; exception for misdemeanor salvia offenses; penalty

- (1) Any person who unlawfully traffics in a controlled substance classified in Schedules I, II, III, IV or V, or a controlled substance analogue in any building used primarily for classroom instruction in a school or on any premises located within one thousand (1,000) feet of any school building used primarily for classroom instruction shall be guilty of a Class D felony, unless a more severe penalty is set forth in this chapter, in which case the higher penalty shall apply. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.
- (2) The provisions of subsection (1) of this section shall not apply to any misdemeanor offense relating to salvia.

§ 218A.1421 Trafficking in marijuana; penalties

- (1) A person is guilty of trafficking in marijuana when he knowingly and unlawfully traffics in marijuana.
- (2) Trafficking in less than eight (8) ounces of marijuana is:
 - (a) For a first offense a Class A misdemeanor.
 - (b) For a second or subsequent offense a Class D felony.
- (3) Trafficking in eight (8) or more ounces but less than five (5) pounds of marijuana is:
 - (a) For a first offense a Class D felony.
 - (b) For a second or subsequent offense a Class C felony.
- (4) Trafficking in five (5) or more pounds of marijuana is:
 - (a) For a first offense a Class C felony.
 - (b) For a second or subsequent offense a Class B felony.

(5) The unlawful possession by any person of eight (8) or more ounces of marijuana shall be prima facie evidence that the person possessed the marijuana with the intent to sell or transfer it.

§ 218A.1422 Possession of marijuana; penalty; maximum term of incarceration

(1) A person is guilty of possession of marijuana when he or she knowingly and unlawfully possesses marijuana.

(2) Possession of marijuana is a Class B misdemeanor, except that, KRS Chapter 532 to the contrary notwithstanding, the maximum term of incarceration shall be no greater than forty-five (45) days.

§ 218A.1423 Marijuana cultivation; penalties

(1) A person is guilty of marijuana cultivation when he knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it.

(2) Marijuana cultivation of five (5) or more plants of marijuana is:

(a) For a first offense a Class D felony.

(b) For a second or subsequent offense a Class C felony.

(3) Marijuana cultivation of fewer than five (5) plants is:

(a) For a first offense a Class A misdemeanor.

(b) For a second or subsequent offense a Class D felony.

(4) The planting, cultivating, or harvesting of five (5) or more marijuana plants shall be prima facie evidence that the marijuana plants were planted, cultivated, or harvested for the purpose of sale or transfer.

§ 532.060 Sentence of imprisonment for felony; post-incarceration supervision

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which

shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to [KRS 532.070](#).

- (2) Unless otherwise provided by law, the authorized maximum terms of imprisonment for felonies are:
 - (a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;
 - (b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;
 - (c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and
 - (d) For a Class D felony, not less than one (1) year nor more than five (5) years.
- (3) For any felony specified in KRS Chapter 510, [KRS 530.020](#), [530.064\(1\)\(a\)](#), or [531.310](#), the sentence shall include an additional five (5) year period of postincarceration supervision which shall be added to the maximum sentence rendered for the offense. During this period of postincarceration supervision, if a defendant violates the provisions of postincarceration supervision, the defendant may be reincarcerated for:
 - (a) The remaining period of his initial sentence, if any is remaining; and
 - (b) The entire period of postincarceration supervision, or if the initial sentence has been served, for the remaining period of postincarceration supervision.
- (4) In addition to the penalties provided in this section, for any person subject to a period of postincarceration supervision pursuant to [KRS 532.400](#) his or her sentence shall include an additional one (1) year period of postincarceration supervision following release from incarceration upon expiration of sentence if the offender is not otherwise subject to another form of postincarceration supervision. During this period of postincarceration supervision, if an offender violates the provisions of supervision, the offender may be reincarcerated for the remaining period of his or her postincarceration supervision.
- (5) The actual time of release within the maximum established by subsection (1), or as modified pursuant to [KRS 532.070](#), shall be determined under procedures established elsewhere by law.

§532.070 Court modification of felony sentence

- (1) When a sentence of imprisonment for a felony is fixed by a jury pursuant to [KRS 532.060](#) and the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that the maximum

term fixed by the jury is unduly harsh, the court may modify that sentence and fix a maximum term within the limits provided in [KRS 532.060](#) for the offense for which the defendant presently stands convicted.

- (2) When a sentence of imprisonment for a Class D felony is fixed by a jury pursuant to [KRS 532.060](#) and the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose such a sentence, the court may sentence the defendant to a definite term of imprisonment in a county or a regional correctional institution for a term of one (1) year or less.

§ 532.090 Sentence of imprisonment for misdemeanor

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

- (1) For a Class A misdemeanor, the term shall not exceed twelve (12) months; and
- (2) For a Class B misdemeanor, the term shall not exceed ninety (90) days.

§ 533.060 Probation or conditional release; effect of use of firearm; other felonies

- (1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony and the commission of the offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, the person shall not be eligible for probation, shock probation, or conditional discharge, except when the person establishes that the person against whom the weapon was used had previously or was then engaged in an act or acts of domestic violence and abuse as defined in [KRS 403.720](#) against either the person convicted or a family member as defined in [KRS 403.720](#) of the person convicted. If the person convicted claims to be exempt from this statute because that person was the victim of domestic violence and abuse as defined in [KRS 403.720](#), the trial judge shall conduct a hearing and make findings to determine the validity of the claim and applicability of this exemption. The findings of the court shall be noted in the final judgment.
- (2) When a person has been convicted of a felony and is committed to a correctional detention facility and released on parole or has been released by the court on probation, shock probation, or conditional discharge, and is convicted or enters a plea of guilty to a felony committed while on parole, probation, shock probation, or conditional discharge, the person shall not be eligible for probation, shock probation, or conditional discharge and the period of confinement for that felony shall not run concurrently with any other sentence.

(3) When a person commits an offense while awaiting trial for another offense, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which the person is awaiting trial.

MISSISSIPPI

Miss. Code Ann.

§ 41-29-11 Penalties for violations

Any person violating the provisions of section 41-29-9 shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars, or more than two hundred dollars, or by imprisonment of not more than ninety days, or by both such fine and imprisonment, in the discretion of the court.

§ 41-29-139. Prohibited acts and penalties; indictments for trafficking

(a) Except as authorized by this article, it is unlawful for any person knowingly or intentionally:

(1) To sell, barter, transfer, manufacture, distribute, dispense or possess with intent to sell, barter, transfer, manufacture, distribute or dispense, a controlled substance; or

(2) To create, sell, barter, transfer, distribute, dispense or possess with intent to create, sell, barter, transfer, distribute or dispense, a counterfeit substance.

(b) Except as otherwise provided in subsections (f) and (g) of this section or in Section 41-29-142, any person who violates subsection (a) of this section shall be sentenced as follows:

(1) In the case of controlled substances classified in Schedule I or II, as set out in Sections 41-29-113 and 41-29-115, except thirty (30) grams or less of marihuana or synthetic cannabinoids, and except a first offender as defined in Section 41-29-149(e) who violates subsection (a) of this section with respect to less than one (1) kilogram but more than thirty (30) grams of marihuana or synthetic cannabinoids, such person may, upon conviction, be imprisoned for not more than thirty (30) years and shall be fined not less than Five Thousand Dollars (\$5,000.00) nor more than One Million Dollars (\$1,000,000.00), or both;

(2) In the case of a first offender who violates subsection (a) of this section with an amount less than one (1) kilogram but more than thirty (30) grams of marihuana or synthetic cannabinoids as classified in Schedule I, as set out in Section 41-29-113, such person is guilty of a felony and, upon conviction, may be imprisoned for not more than twenty (20) years or fined not more than Thirty Thousand Dollars (\$30,000.00), or both;

(3) In the case of thirty (30) grams or less of marihuana or synthetic cannabinoids, such person may, upon conviction, be imprisoned for not more than three (3) years or fined not more than Three Thousand Dollars (\$3,000.00), or both;

(4) In the case of controlled substances classified in Schedules III and IV, as set out in Sections 41-29-117 and 41-29-119, such person may, upon conviction, be imprisoned for not more than twenty (20) years and shall be fined not less than One Thousand Dollars (\$1,000.00) nor more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both; and

(5) In the case of controlled substances classified in Schedule V, as set out in Section 41-29-121, such person may, upon conviction, be imprisoned for not more than ten (10) years and shall be fined not less than One Thousand Dollars (\$1,000.00) nor more than Fifty Thousand Dollars (\$50,000.00), or both.

(c)(2)(2) Marihuana or synthetic cannabinoids in the following amounts shall be charged and sentenced as follows:

(A) Thirty (30) grams or less by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00). The provisions of this paragraph shall be enforceable by summons, provided the offender provides proof of identity satisfactory to the arresting officer and gives written promise to appear in court satisfactory to the arresting officer, as directed by the summons. A second conviction under this section within two (2) years shall be punished by a fine of Two Hundred Fifty Dollars (\$250.00) and not less than five (5) days nor more than sixty (60) days in the county jail and mandatory participation in a drug education program, approved by the Division of Alcohol and Drug Abuse of the State Department of Mental Health, unless the court enters a written finding that such drug education program is inappropriate. A third or subsequent conviction under this section within two (2) years is a misdemeanor punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00) and confinement for not less than five (5) days nor more than six (6) months in the county jail. Upon a first or second conviction under this section, the courts shall forward a report of such conviction to the Mississippi Bureau of Narcotics which shall make and maintain a private, nonpublic record for a period not to exceed two (2) years from the date of conviction. The private, nonpublic record shall be solely for the use of the courts in determining the penalties which attach upon conviction under this section and shall not constitute a criminal record for the purpose of private or administrative inquiry and the record of each conviction shall be expunged at the end of the period of two (2) years following the date of such conviction;

(B) Additionally, a person who is the operator of a motor vehicle, who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers, more than one (1) gram, but not more than thirty (30) grams, of marihuana or synthetic cannabinoids is guilty of a misdemeanor and upon conviction may be fined not more than One Thousand Dollars (\$1,000.00) and confined for not more than ninety (90) days in the county jail. For the purposes of this subsection, such area of the vehicle shall not include the trunk of the motor vehicle or the areas not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers;

(C) More than thirty (30) grams but less than two hundred fifty (250) grams may be fined not more than One Thousand Dollars (\$1,000.00), or confined in the county jail for not more than one (1) year, or both; or fined not more than Three Thousand Dollars (\$3,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both;

(D) Two hundred fifty (250) grams but less than five hundred (500) grams, by imprisonment for not less than two (2) years nor more than eight (8) years and by a fine of not more than Fifty Thousand Dollars (\$50,000.00);

(E) Five hundred (500) grams but less than one (1) kilogram, by imprisonment for not less than four (4) years nor more than sixteen (16) years and a fine of less than Two Hundred Fifty Thousand Dollars (\$250,000.00);

(F) One (1) kilogram but less than five (5) kilograms, by imprisonment for not less than six (6) years nor more than twenty-four (24) years and a fine of not more than Five Hundred Thousand Dollars (\$500,000.00);

(G) Five (5) kilograms or more, by imprisonment for not less than ten (10) years nor more than thirty (30) years and a fine of not more than One Million Dollars (\$1,000,000.00).

(d)(1) It is unlawful for a person who is not authorized by the State Board of Medical Licensure, State Board of Pharmacy, or other lawful authority to use, or to possess with intent to use, paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Law. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars (\$500.00), or both; however, no person shall be charged with a violation of this subsection when such person is also charged with the possession of one (1) ounce or less of marihuana or synthetic cannabinoids under subsection (c)(2)(A) of this section.

(2) It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Law. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars (\$500.00), or both.

(3) Any person eighteen (18) years of age or over who violates subsection (d)(2) of this section by delivering or selling paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than one (1) year, or fined not more than One Thousand Dollars (\$1,000.00), or both.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as paraphernalia. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars (\$500.00), or both.

(e) It shall be unlawful for any physician practicing medicine in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anorectics and/or central nervous system stimulants classified in Schedule II, pursuant to Section 41-29-115, for the exclusive treatment of obesity, weight control or weight loss. Any person who violates this subsection, upon conviction, is guilty of a misdemeanor and may be confined for a period not to exceed six (6) months, or fined not more than One Thousand Dollars (\$1,000.00), or both.

(f) Except as otherwise authorized in this article, any person twenty-one (21) years of age or older who knowingly sells, barter, transfers, manufactures, distributes or dispenses during any twelve (12) consecutive month period: (i) ten (10) pounds or more of marihuana or synthetic cannabinoids; (ii) two (2) ounces or more of heroin; (iii) two (2) or more ounces of cocaine or of any mixture containing cocaine as described in Section 41-29-105(s), Mississippi Code of 1972; (iv) two (2) or more ounces of methamphetamine; or (v) one hundred (100) or more dosage units of morphine, Demerol, Dilaudid,

oxycodone hydrochloride or a derivative thereof, or 3,4-methylenedioxymethamphetamine (MDMA) shall be guilty of a felony and, upon conviction thereof, shall be sentenced to life imprisonment and such sentence shall not be reduced or suspended nor shall such person be eligible for probation or parole, the provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the contrary notwithstanding. The provisions of this subsection shall not apply to any person who furnishes information and assistance to the bureau or its designee which, in the opinion of the trial judge objectively should or would have aided in the arrest or prosecution of others who violate this subsection. The accused shall have adequate opportunity to develop and make a record of all information and assistance so furnished.

(g)(1) Any person trafficking in controlled substances shall be guilty of a felony and, upon conviction, shall be imprisoned for a term of thirty (30) years and such sentence shall not be reduced or suspended nor shall such person be eligible for probation or parole, the provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the contrary notwithstanding and shall be fined not less than Five Thousand Dollars (\$5,000.00) nor more than One Million Dollars (\$1,000,000.00).

(2) "Trafficking in controlled substances" as used herein means to engage in three (3) or more component offenses within any twelve (12) consecutive month period where at least two (2) of the component offenses occurred in different counties. A component offense is any act which would constitute a violation of subsection (a) of this section. Prior convictions shall not be used as component offenses to establish the charge of trafficking in controlled substances.

(3) The charge of trafficking in controlled substances shall be set forth in one (1) count of an indictment with each of the component offenses alleged therein and it may be charged and tried in any county where a component offense occurred. An indictment for trafficking in controlled substances may also be returned by the State Grand Jury of Mississippi provided at least two (2) of the component offenses occurred in different circuit court districts.

§ 41-29-142 Proximity to school, enhanced penalty

(1) Except as provided in subsection (f) of Section 41-29-139 or in subsection (2) of this section, any person who violates or conspires to violate Section 41-29-139(a)(1), Mississippi Code of 1972, by selling, bartering, transferring, manufacturing, distributing, dispensing or possessing with intent to sell, barter, transfer, manufacture, distribute or dispense, a controlled substance, in or on, or within one thousand five hundred (1,500) feet of, a building or outbuilding which is all or part of a public or private elementary, vocational or secondary school, or any church, public park, ballpark, public gymnasium, youth center or movie theater or within one thousand (1,000) feet of, the real property comprising such public or private elementary, vocational or secondary school, or any church, public park, ballpark, public gymnasium, youth center or movie theater shall, upon conviction thereof, be punished by the term of imprisonment or a fine, or both, of that authorized by Section 41-29-139(b) and, in the discretion of the court, may be punished by a term of imprisonment or a fine, or both, of up to twice that authorized by Section 41-29-139(b).

(2) Except as otherwise provided in subsection (f) of Section 41-29-139, any person who violates or

conspires to violate Section 41-29-139(a)(1), Mississippi Code of 1972, by selling, bartering, transferring, manufacturing, distributing, dispensing or possessing with intent to sell, barter, transfer, manufacture, distribute or dispense, a controlled substance, in or on, or within one thousand five hundred (1,500) feet of, a building or outbuilding which is all or part of a public or private elementary, vocational or secondary school, or any church, public park, ballpark, public gymnasium, youth center or movie theater or within one thousand (1,000) feet of, the real property comprising such public or private elementary, vocational or secondary school, or any church, public park, ballpark, public gymnasium, youth center or movie theater after a prior conviction under subsection (1) of this section has become final, shall, upon conviction thereof, be punished by a term of imprisonment of not less than three (3) years and not more than life, and in the discretion of the court, may be punished by a term of imprisonment of up to three (3) times that authorized by Section 41-29-139(b), for a first offense, or a fine of up to three (3) times that authorized by Section 41-29-139(b), for a first offense, or both.

NORTH CAROLINA

N.C.G.S.A. § 90-95

§ 90-95. Violations; penalties

(a) Except as authorized by this Article, it is unlawful for any person:

(1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance;

(2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit controlled substance;

(3) To possess a controlled substance.

(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

(1) A controlled substance classified in Schedule I or II shall be punished as a Class H felon, except as follows: (

(2) A controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class I felon, except that the sale of a controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class H felon. The transfer of less than 5 grams of marijuana or less than 2.5 grams of a synthetic cannabinoid or any mixture containing such substance for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).

(c) Any person who violates G.S. 90-95(a)(2) shall be punished as a Class I felon.

(d)(4) A controlled substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any sentence of imprisonment imposed must be suspended and the judge may not require at the time of sentencing that the defendant serve a period of imprisonment as a special condition of probation. If the quantity of the controlled substance exceeds one-half of an ounce (avoirdupois) of marijuana, 7 grams of a synthetic cannabinoid or any mixture containing such substance, or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a Class 1 misdemeanor. If the quantity of the controlled substance exceeds one and one-half ounces (avoirdupois) of marijuana, 21 grams of a synthetic cannabinoid or any mixture containing such substance, or three-twentieths of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony.

(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

(1), (2) Repealed by Laws 1979, c. 760, § 5.

(3) If any person commits a Class 1 misdemeanor under this Article and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be punished

as a Class I felon. The prior conviction used to raise the current offense to a Class I felony shall not be used to calculate the prior record level.

(4) If any person commits a Class 2 misdemeanor, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 1 misdemeanor. The prior conviction used to raise the current offense to a Class 1 misdemeanor shall not be used to calculate the prior conviction level.

(5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under 16 years of age but more than 13 years of age or a pregnant female shall be punished as a Class D felon. Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person who is 13 years of age or younger shall be punished as a Class C felon. Mistake of age is not a defense to a prosecution under this section. It shall not be a defense that the defendant did not know that the recipient was pregnant.

(6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and (e)(4), previous convictions for offenses shall be counted by the number of separate trials at which final convictions were obtained and not by the number of charges at a single trial.

(7) If any person commits an offense under this Article for which the prescribed punishment requires that any sentence of imprisonment be suspended, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 2 misdemeanor.

(8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for a child care center, or for an elementary or secondary school or within 1,000 feet of the boundary of real property used for a child care center, or for an elementary or secondary school shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1). For purposes of this subdivision, a child care center is as defined in G.S. 110-86(3)a., and that is licensed by the Secretary of the Department of Health and Human Services.

(9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal institution or local confinement facility shall be guilty of a Class H felony.

(10) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property that is a public park or within 1,000 feet of the boundary of real property that is a public park shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).

(f) Any person convicted of an offense or offenses under this Article who is sentenced to an active term of imprisonment that is less than the maximum active term that could have been imposed may, in addition, be sentenced to a term of special probation. Except as indicated in this subsection, the administration of special probation shall be the same as probation. The conditions of special probation shall be fixed in the same manner as probation, and the conditions may include requirements for rehabilitation treatment. Special probation shall follow the active sentence. No term of special probation shall exceed five years. Special probation may be revoked in the same manner as probation; upon revocation, the original term of imprisonment may be increased by no more than the difference between the active term of imprisonment actually served and the maximum active term that could have

been imposed at trial for the offense or offenses for which the person was convicted, and the resulting term of imprisonment need not be diminished by the time spent on special probation.

(g) Whenever matter is submitted to the North Carolina State Bureau of Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory or to the Toxicology Laboratory, Reynolds Health Center, Winston-Salem for chemical analysis to determine if the matter is or contains a controlled substance, the report of that analysis certified to upon a form approved by the Attorney General by the person performing the analysis shall be admissible without further authentication and without the testimony of the analyst in all proceedings in the district court and superior court divisions of the General Court of Justice as evidence of the identity, nature, and quantity of the matter analyzed. Provided, however, the provisions of this subsection may be utilized by the State only if:

(1) The State notifies the defendant at least 15 business days before the proceeding at which the report would be used of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and

(2) The defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding that the defendant objects to the introduction of the report into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the report may be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the report.

(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as "trafficking in marijuana" and if the quantity of such substance involved:

a. Is in excess of 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum term of 39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);

b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

d. Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).

§ 15A-1340.23 Punishment limits for each class of offense and prior conviction level

(a) Offense Classification; Default Classifications.--The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines.--Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars (\$200.00) for a Class 3 misdemeanor and one thousand dollars (\$1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described.-- Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; and "A" indicates that an active punishment is authorized; and

(2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

PRIOR CONVICTION LEVELS

**MISDEMEANOR
OFFENSE
CLASS**

LEVEL I
No Prior
Convictions

LEVEL II
One to Four Prior
Convictions

LEVEL III
Five or More
Prior Convictions

| | | | |
|----|-----------------|-----------------|------------------|
| A1 | 1-60 days C/I/A | 1-75 days C/I/A | 1-150 days C/I/A |
| 1 | 1-45 days C | 1-45 days C/I/A | 1-120 days C/I/A |
| 2 | 1-30 days C | 1-45 days C/I | 1-60 days C/I/A |
| 3 | 1-10 days C | 1-15 days C/I | 1-20 days C/I/A. |

OKLAHOMA

63 Okl. St. Ann.

§ 2-401. Prohibited acts A--Penalties

A. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person:

1. To distribute, dispense, transport with intent to distribute or dispense, possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance or to solicit the use of or use the services of a person less than eighteen (18) years of age to cultivate, distribute or dispense a controlled dangerous substance;
2. To create, distribute, transport with intent to distribute or dispense, or possess with intent to distribute, a counterfeit controlled dangerous substance; or
3. To distribute any imitation controlled substance as defined by [Section 2-101](#) of this title, except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services.

B. Any person who violates the provisions of this section with respect to:

1. A substance classified in Schedule I or II which is a narcotic drug, lysergic acid diethylamide (LSD), gamma butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4 butanediol, or gamma-hydroxybutyric acid as defined in [Sections 2-204](#) and [2-208](#) of this title, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment for not less than five (5) years nor more than life and a fine of not more than One Hundred Thousand Dollars (\$100,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any sentence to the custody of the Department of Corrections shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation except when the conviction is for a first offense;
2. Any other controlled dangerous substance classified in Schedule I, II, III, or IV, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment for not less than two (2) years nor more than life and a fine of not more than Twenty Thousand Dollars (\$20,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any sentence to the custody of the Department of Corrections shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation except when the conviction is for a first offense;
3. A substance classified in Schedule V, upon conviction, shall be guilty of a felony and shall be

sentenced to a term of imprisonment for not more than five (5) years and a fine of not more than One Thousand Dollars (\$1,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment; or

4. An imitation controlled substance as defined by [Section 2-101](#) of this title, upon conviction, shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment in the county jail for a period of not more than one (1) year and a fine of not more than One Thousand Dollars (\$1,000.00). A person convicted of a second violation of the provisions of this paragraph shall be guilty of a felony and shall be sentenced to a term of imprisonment for not more than five (5) years and a fine of not more than Five Thousand Dollars (\$5,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

C. 1. Except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services, it shall be unlawful for any person to manufacture, cultivate, distribute, or possess with intent to distribute a synthetic controlled substance.

2. Any person convicted of violating the provisions of this paragraph is guilty of a felony and shall be punished by imprisonment for a term not to exceed life and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

3. A second or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable as a habitual offender pursuant to [Section 51.1 of Title 21 of the Oklahoma Statutes](#).

4. In addition, the violator shall be fined an amount not more than One Hundred Thousand Dollars (\$100,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

D. 1. Any person convicted of a second or subsequent felony violation of the provisions of this section, except for paragraph 4 of subsection B of this section, shall be punished as a habitual offender pursuant to [Section 51.1 of Title 21 of the Oklahoma Statutes](#).

2. In addition, the violator shall be fined twice the fine otherwise authorized, which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

3. Convictions for second or subsequent violations of the provisions of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

E. Any person who is at least eighteen (18) years of age and who violates the provisions of this section by using or soliciting the use of services of a person less than eighteen (18) years of age to distribute, dispense, transport with intent to distribute or dispense or cultivate a controlled dangerous substance or by distributing a controlled dangerous substance to a person under eighteen (18) years of age, is punishable by twice the fine and by twice the imprisonment otherwise authorized.

F. Any person who violates any provision of this section by transporting with intent to distribute or dispense, distributing or possessing with intent to distribute a controlled dangerous substance to a person, or violation of subsection G of this section, in or on, or within two thousand (2,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, public housing project, or child care facility as defined by [Section 402 of Title 10 of the Oklahoma Statutes](#), shall be punished by:

1. For a first offense, a term of imprisonment, or by the imposition of a fine or by both, not exceeding twice that authorized by the appropriate provision of this section and shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of the sentence; or

2. For a second or subsequent offense, a term of imprisonment as provided for a habitual offender pursuant to [Section 51.1 of Title 21 of the Oklahoma Statutes](#). In addition, the violator shall serve eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of the sentence or eligibility for parole.

G. 1. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance or possess any substance listed in [Section 2-322](#) of this title or any substance containing any detectable amount of pseudoephedrine or its salts, optical isomers or salts of optical isomers, iodine or its salts, optical isomers or salts of optical isomers, hydriodic acid, sodium metal, lithium metal, anhydrous ammonia, phosphorus, or organic solvents with the intent to use that substance to manufacture a controlled dangerous substance.

2. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance, or possessing any substance listed in this subsection or [Section 2-322](#) of this title, upon conviction, is guilty of a felony and shall be punished by imprisonment for not less than seven (7) years nor more than life and by a fine of not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. The possession of any amount of anhydrous ammonia in an unauthorized container shall be prima facie evidence of intent to use such substance to manufacture a controlled dangerous substance.

3. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance in the following amounts:

a. one (1) kilogram or more of a mixture or substance containing a detectable amount of heroin,

b. five (5) kilograms or more of a mixture or substance containing a detectable amount of:

(1) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and

derivatives of ecgonine or their salts have been removed,

(2) cocaine, its salts, optical and geometric isomers, and salts of isomers,

(3) ecgonine, its derivatives, their salts, isomers, and salts of isomers, or

(4) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in divisions (1) through (3) of this subparagraph,

c. fifty (50) grams or more of a mixture or substance described in division (2) of subparagraph b of this paragraph which contains cocaine base,

d. one hundred (100) grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP),

e. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),

f. four hundred (400) grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-1-(2-phenylethyl)-4-piperidinyl propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-1-(2-phenylethyl)-4-piperidinyl propanamide,

g. one thousand (1,000) kilograms or more of a mixture or substance containing a detectable amount of marihuana or one thousand (1000) or more marihuana plants regardless of weight, or

h. fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers,

upon conviction, is guilty of aggravated manufacturing a controlled dangerous substance punishable by imprisonment for not less than twenty (20) years nor more than life and by a fine of not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any person convicted of a violation of the provisions of this paragraph shall be required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits towards the completion of the sentence or eligible for parole.

4. Any sentence to the custody of the Department of Corrections for any violation of paragraph 3 of this subsection shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation. A person convicted of a second or subsequent violation of the provisions of paragraph 3 of this subsection shall be punished as a habitual offender pursuant to [Section 51.1 of Title 21 of the Oklahoma Statutes](#) and shall be required to serve a minimum of eighty-five percent (85%) of the

sentence received prior to becoming eligible for state correctional earned credits or eligibility for parole.

5. Any person who has been convicted of manufacturing or attempting to manufacture methamphetamine pursuant to the provisions of this subsection and who, after such conviction, purchases or attempts to purchase, receive or otherwise acquire any product, mixture, or preparation containing any detectable quantity of base pseudoephedrine or ephedrine shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term in the range of twice the minimum term provided for in paragraph 2 of this subsection.

H. Any person convicted of any offense described in the Uniform Controlled Dangerous Substances Act may, in addition to the fine imposed, be assessed an amount not to exceed ten percent (10%) of the fine imposed. Such assessment shall be paid into a revolving fund for enforcement of controlled dangerous substances created pursuant to [Section 2-506](#) of this title.

I. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in [Section 1-2522](#) of this title.

J. For purposes of this section, “public housing project” means any dwelling or accommodations operated as a state or federally subsidized multifamily housing project by any housing authority, nonprofit corporation or municipal developer or housing projects created pursuant to the Oklahoma Housing Authorities Act. [\[FN1\]](#)

K. When a person is found guilty of a violation of the provisions of this section, the court shall order, in addition to any other penalty, the defendant to pay a one-hundred-dollar assessment to be deposited in the Drug Abuse Education and Treatment Revolving Fund created in [Section 2-503.2](#) of this title, upon collection.

§ 2-402. Prohibited acts B--Penalties

A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as otherwise authorized by this act. [\[FN1\]](#)

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act pursuant to [Section 2-313](#) of this title in an amount or within a time interval other than that permitted by [Section 2-313](#) of this title.

3. It shall be unlawful for any person or business to sell, market, advertise or label any product containing ephedrine, its salts, optical isomers, or salts of optical isomers, for the indication of

stimulation, mental alertness, weight loss, appetite control, muscle development, energy or other indication which is not approved by the pertinent federal OTC Final Monograph, Tentative Final Monograph, or FDA-approved new drug application or its legal equivalent. In determining compliance with this requirement, the following factors shall be considered:

- a. the packaging of the product,
- b. the name of the product, and
- c. the distribution and promotion of the product, including verbal representations made at the point of sale.

B. Any person who violates this section with respect to:

1. Any Schedule I or II substance, except marihuana or a substance included in [subsection D of Section 2-206](#) of this title, is guilty of a felony punishable by imprisonment for not less than two (2) years nor more than ten (10) years and by a fine not exceeding Five Thousand Dollars (\$5,000.00). A second or subsequent violation of this section with respect to Schedule I or II substance, except marijuana or a substance included in [subsection D of Section 2-206](#) of this title, is a felony punishable by imprisonment for not less than four (4) years nor more than twenty (20) years and by a fine not exceeding Ten Thousand Dollars (\$10,000.00);

2. Any Schedule III, IV or V substance, marihuana, a substance included in [subsection D of Section 2-206](#) of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act is guilty of a misdemeanor punishable by confinement for not more than one (1) year and by a fine not exceeding One Thousand Dollars (\$1,000.00);

3. Any Schedule III, IV or V substance, marijuana, a substance included in [subsection D of Section 2-206](#) of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act and who, during the period of any court-imposed probationary term or within ten (10) years of the date following the completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than two (2) years nor more than ten (10) years and by a fine not exceeding Five Thousand Dollars (\$5,000.00); or

4. Any Schedule III, IV or V substance, marijuana, a substance included in [subsection D of Section 2-206](#) of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act and who, ten (10) or more years following the date of completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years and by a fine not exceeding Five Thousand Dollars (\$5,000.00).

C. Any person who violates any provision of this section by possessing or purchasing a controlled dangerous substance from any person, in or on, or within one thousand (1,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, public or

private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, or in the presence of any child under twelve (12) years of age, shall be guilty of a felony and punished by:

1. For a first offense, a term of imprisonment, or by the imposition of a fine, or by both, not exceeding twice that authorized by the appropriate provision of this section. In addition, the person shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence; or

2. For a second or subsequent offense, a term of imprisonment not exceeding three times that authorized by the appropriate provision of this section and the person shall serve a minimum of ninety percent (90%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence, and imposition of a fine not exceeding Ten Thousand Dollars (\$10,000.00).

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in [Section 1-2530.9](#) of this title.

§ 2-410. Conditional release for first offense--Effect of expungement--Persons not covered by section

A. Whenever any person who has not previously been convicted of any offense under this act [\[FN1\]](#) or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty or nolo contendere to or is found guilty of a violation of the Uniform Controlled Dangerous Substances Act, the court may, unless otherwise prohibited by law, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable terms and conditions as it may require including the requirement that such person cooperate in a treatment and rehabilitation program of a state-supported or state-approved facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person.

B. Any expunged arrest or conviction shall not thereafter be regarded as an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire or any other public or private purpose; provided, that, any plea of guilty or nolo contendere or finding of guilt to a

violation of the Uniform Controlled Dangerous Substances Act shall constitute a conviction of the offense for the purpose of the Uniform Controlled Dangerous Substances Act or any other criminal statute under which the existence of a prior conviction is relevant for a period of ten (10) years following the completion of any court imposed probationary term; provided, the person has not, in the meantime, been convicted of a misdemeanor involving moral turpitude or a felony.

C. The provisions of this section shall not apply to any person who pleads guilty or nolo contendere to or is found guilty of a violation of the Trafficking in Illegal Drugs Act [\[FN2\]](#) or the Drug Money Laundering and Wire Transmitter Act. [\[FN3\]](#)

§ 2-415. Application--Fines and penalties

A. The provisions of the Trafficking in Illegal Drugs Act shall apply to persons convicted of violations with respect to the following substances:

1. Marihuana;
2. Cocaine or coca leaves;
3. Heroin;
4. Amphetamine or methamphetamine;
5. Lysergic acid diethylamide (LSD);
6. Phencyclidine (PCP);
7. Cocaine base, commonly known as “crack” or “rock”; or
8. 3,4-Methylenedioxy methamphetamine, commonly known as “ecstasy” or MDMA.

B. Except as otherwise authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to:

1. Knowingly distribute, manufacture, bring into this state or possess a controlled substance specified in subsection A of this section in the quantities specified in subsection C of this section;
2. Possess any controlled substance with the intent to manufacture a controlled substance specified in subsection A of this section in quantities specified in subsection C of this section; or
3. Use or solicit the use of services of a person less than eighteen (18) years of age to distribute or manufacture a controlled dangerous substance specified in subsection A of this section in quantities specified in subsection C of this section.

Violation of this section shall be known as “trafficking in illegal drugs”. Separate types of controlled substances described in subsection A of this section when possessed at the same time in violation of any provision of this section shall constitute a separate offense for each substance.

Any person who commits the conduct described in paragraph 1, 2 or 3 of this subsection and represents the quantity of the controlled substance to be an amount described in subsection C of this section shall be punished under the provisions appropriate for the amount of controlled substance represented, regardless of the actual amount.

C. In the case of a violation of the provisions of subsection B of this section, involving:

1. Marihuana:

- a. twenty-five (25) pounds or more of a mixture or substance containing a detectable amount of marihuana, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. one thousand (1,000) pounds or more of a mixture or substance containing a detectable amount of marihuana, such violation shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

2. Cocaine or coca leaves:

- a. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00),
- b. three hundred (300) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves, such violation shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00), or
- c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves, such violation shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

3. Heroin:

- a. ten (10) grams or more of a mixture or substance containing a detectable amount of heroin, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or
- b. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of heroin, such violation shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

4. Amphetamine or methamphetamine:

- a. twenty (20) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, such violation shall be punishable by a fine of not less than Twenty-five

Thousand Dollars (\$25,000.00) and not more than Two Hundred Thousand Dollars (\$200,000.00),

- b. two hundred (200) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, such violation shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00), or
- c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, such violation shall be deemed aggravated trafficking punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

5. Lysergic acid diethylamide (LSD):

- a. one (1) gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), such violation shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), such violation shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Two Hundred Fifty Thousand Dollars (\$250,000.00);

6. Phencyclidine (PCP):

- a. twenty (20) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP), such violation shall be punishable by a fine of not less than Twenty Thousand Dollars (\$20,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or
- b. one hundred fifty (150) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP), such violation shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Two Hundred Fifty Thousand Dollars (\$250,000.00);

7. Cocaine base:

- a. five (5) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. fifty (50) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base, such violation shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);
and

8. Methylenedioxy methamphetamine:

- a. thirty (30) tablets or ten (10) grams of a mixture or substance containing a detectable amount of 3,4-

Methylenedioxy methamphetamine, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or

b. one hundred (100) tablets or thirty (30) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine, such violation shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00).

D. Any person who violates the provisions of this section with respect to a controlled substance specified in subsection A of this section in a quantity specified in subsection C of this section shall, in addition to any fines specified by this section, be punishable by a term of imprisonment as follows:

1. Not less than twice the term of imprisonment provided for in [Section 2-401](#) of this title;
2. If the person has previously been convicted of one violation of this section or has been previously convicted of a felony violation of the Uniform Controlled Dangerous Substances Act arising from separate and distinct transactions, not less than three times the term of imprisonment provided for in [Section 2-401](#) of this title;
3. If the person has previously been convicted of two or more violations of this section or any provision of the Uniform Controlled Dangerous Substances Act which constitutes a felony, or a combination of such violations arising out of separate and distinct transactions, life without parole; and
4. If the person is convicted of aggravated trafficking as provided in subparagraph b of paragraph 1 of subsection C of this section, subparagraph c of paragraph 2 of subsection C of this section or subparagraph c of paragraph 4 of subsection C of this section, a mandatory minimum sentence of imprisonment in the custody of the Department of Corrections for a term of fifteen (15) years of which the person shall serve eighty-five percent (85%) of such mandatory sentence before being eligible for parole consideration or any earned credits.

The terms of imprisonment specified in this subsection shall not be subject to statutory provisions for suspension, deferral or probation, or state correctional institution earned credits accruing from and after November 1, 1989, except for the achievement earned credits authorized by [subsection H of Section 138 of Title 57 of the Oklahoma Statutes](#). To qualify for such achievement credits, such inmates must also be in compliance with the standards for Class level 2 behavior, as defined in [subsection D of Section 138 of Title 57 of the Oklahoma Statutes](#).

Persons convicted of violations of this section shall not be eligible for appeal bonds.

E. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in [Section 1-2530.9](#) of this title and the assessment

pursuant to [Section 2-503.2](#) of this title.

§ 51.1. Second and subsequent offenses after conviction of offense punishable by imprisonment in the state penitentiary

A. Except as otherwise provided in the Elderly and Incapacitated Victim's Protection Program [\[FN1\]](#) and Section 3 of this act, [\[FN2\]](#) every person who, having been convicted of any offense punishable by imprisonment in the State Penitentiary, commits any crime after such conviction, within ten (10) years of the date following the completion of the execution of the sentence, and against whom the District Attorney seeks to enhance punishment pursuant to this section of law, is punishable therefor as follows:

1. If the offense for which the person is subsequently convicted is an offense enumerated in [Section 571 of Title 57 of the Oklahoma Statutes](#) and the offense is punishable by imprisonment in the State Penitentiary for a term exceeding five (5) years, such person is punishable by imprisonment in the State Penitentiary for a term in the range of ten (10) years to life imprisonment.
2. If the offense of which such person is subsequently convicted is such that upon a first conviction an offender would be punishable by imprisonment in the State Penitentiary for any term exceeding five (5) years, such person is punishable by imprisonment in the State Penitentiary for a term in the range of twice the minimum term for a first time offender to life imprisonment. If the subsequent felony offense does not carry a minimum sentence as a first time offender, such person is punishable by imprisonment in the State Penitentiary for a term in the range of two (2) years to life imprisonment.
3. If such subsequent offense is such that upon a first conviction the offender would be punishable by imprisonment in the State Penitentiary for five (5) years, or any less term, then the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding ten (10) years.
4. If such subsequent conviction is for petit larceny, the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years.

B. Every person who, having been twice convicted of felony offenses, commits a subsequent felony offense which is an offense enumerated in [Section 571 of Title 57 of the Oklahoma Statutes](#), within ten (10) years of the date following the completion of the execution of the sentence, and against whom the District Attorney seeks to enhance punishment pursuant to this section of law, is punishable by imprisonment in the State Penitentiary for a term in the range of twenty (20) years to life imprisonment. Felony offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Nothing in this section shall abrogate or affect the punishment by death in all crimes now or hereafter made punishable by death.

C. Every person who, having been twice convicted of felony offenses, commits a subsequent felony offense within ten (10) years of the date following the completion of the execution of the sentence, and against whom the District Attorney seeks to enhance punishment pursuant to this section of law, is punishable by imprisonment in the State Penitentiary for a term in the range of three times the minimum term for a first time offender to life imprisonment. If the subsequent felony offense does not carry a minimum sentence as a first time offender, the person is punishable by imprisonment in the State Penitentiary for a term in the range of four (4) years to life imprisonment. Felony offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Nothing in this section shall abrogate or affect the punishment by death in all crimes now or hereafter made punishable by death.

SOUTH CAROLINA

Code 1976 §...

§ 16-1-10 Categorization of felonies and misdemeanors; exemptions.

(A) Felonies are classified, for the purpose of sentencing, into the following six categories:

- (1) Class A felonies
- (2) Class B felonies
- (3) Class C felonies
- (4) Class D felonies
- (5) Class E felonies
- (6) Class F felonies

(B) Misdemeanors are classified, for the purpose of sentencing, into the following three categories:

- (1) Class A misdemeanors
- (2) Class B misdemeanors
- (3) Class C misdemeanors

(C) All offenses with a term of imprisonment of less than one year are misdemeanors and exempt from the classification system.

§ 16-1-20 Penalties for classes of felonies.

(A) A person convicted of classified offenses, must be imprisoned as follows:

- (1) for a Class A felony, not more than thirty years;
- (2) for a Class B felony, not more than twenty-five years;
- (3) for a Class C felony, not more than twenty years;
- (4) for a Class D felony, not more than fifteen years;
- (5) for a Class E felony, not more than ten years;
- (6) for a Class F felony, not more than five years;
- (7) for a Class A misdemeanor, not more than three years;
- (8) for a Class B misdemeanor, not more than two years;
- (9) for a Class C misdemeanor, not more than one year.

(B) For all offenders sentenced on or after July 1, 1993, the minimum term of imprisonment required by law does not apply to the offenses listed in Sections 16-1-90 and 16-1-100 unless the offense refers to a mandatory minimum sentence or the offense prohibits suspension of any part of the sentence. Offenses listed in Section 16-1-10(C) and (D) are exempt and minimum terms of imprisonment are applicable. No sentence of imprisonment precludes the timely execution of a death sentence.

(C) This chapter does not apply to the minimum sentences established for fines or community service.

§ 38-2-20 Penalties for conviction of misdemeanor.

Any person convicted of a misdemeanor defined in this title must be punished by a fine of not more than two thousand five hundred dollars or by imprisonment for not more than two years, or both, unless another penalty is specifically provided by law.

§ 44-53-370 Prohibited acts A; penalties.

(a) Except as authorized by this article it shall be unlawful for any person:

(1) to manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;

(2) to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

(b) A person who violates subsection (a) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty-five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(2) any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, or, if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or

district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, or, if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(3) a substance classified in Schedule IV except for flunitraze

(d)(2) any other controlled substance classified in Schedules I through V is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than two thousand dollars, or both, except as provided in subsection (d)(4). Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(4) possession of more than: one gram of cocaine, one hundred milligrams of alpha- or beta-eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipicaine, twenty-eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4-methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars.

Conditional discharge may be granted in accordance with the provisions of Section 44-53-450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17-22-10 through 17-22-160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and

sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14-1-206, 14-1-207, or 14-1-208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14-1-205. The assessment portion of the bail must be distributed as provided in Section 14-1-206, 14-1-207, or 14-1-208, whichever is applicable.

(e) Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of: (1) ten pounds or more of marijuana is guilty of a felony which is known as "trafficking in marijuana" and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten pounds or more, but less than one hundred pounds:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;
2. for a second offense, a term of imprisonment of not less than five years nor more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifteen thousand dollars;
3. for a third or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) one hundred pounds or more, but less than two thousand pounds, or one hundred to one thousand marijuanaplants regardless of weight, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(c) two thousand pounds or more, but less than ten thousand pounds, or more than one thousand marijuanaplants, but less than ten thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) ten thousand pounds or more, or ten thousand marijuana plants, or more than ten thousand marijuana plants regardless of weight, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

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§ 39-17-417. Offenses; violations, fines; habitual drug offenders

(a) It is an offense for a defendant to knowingly:

- (1) Manufacture a controlled substance;
- (2) Deliver a controlled substance;
- (3) Sell a controlled substance; or
- (4) Possess a controlled substance with intent to manufacture, deliver or sell the controlled substance.

(b) A violation of subsection (a) with respect to a Schedule I controlled substance is a Class B felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).

(c) A violation of subsection (a) with respect to:

(1) Cocaine or methamphetamine is a Class B felony if the amount involved is point five (.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and

(2)

(A) Any other Schedule II controlled substance, including cocaine or methamphetamine in an amount of less than point five (.5) grams, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); provided, that if the offense involves less than point five (.5) grams of a controlled substance containing cocaine or methamphetamine but the defendant carried or employed a deadly weapon as defined in [§ 39-11-106](#), during commission of the offense or the offense resulted in death or bodily injury to another person, the offense is a Class B felony.

(B) As a part of any sentence imposed for a violation of subdivision (a)(1) involving a controlled substance listed in [§ 39-17-408\(d\)\(2\)](#), the court shall require the defendant to make restitution to any governmental entity for the costs reasonably incurred in cleaning the area in which the offense occurred and in rendering the area safe for human use.

(C) In addition to the requirement that restitution be made to the governmental entity pursuant to subdivision (c)(2)(B), the court shall also require that restitution be made to any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense. In the case of property that was rented or leased, damages may also include the loss of any revenue that occurred because the property was uninhabitable or a crime scene. The type and amount of restitution permitted pursuant to this subdivision (c)(2)(C) shall be determined by the court using the procedure set out in [§ 40-35-304](#).

(d) (1) A violation of subsection (a) with respect to a Schedule III controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).

(2)

(A) Notwithstanding any other provision of law to the contrary, a person charged for the first time with delivering an anabolic steroid or possessing an anabolic steroid with the intent to manufacture, deliver or sell the steroid shall be eligible for pretrial diversion pursuant to title 40, chapter 15, and probation pursuant to title 40, chapter 28 and § 40-35-313.

(B) The inference permitted by the first sentence of [§ 39-17-419](#) does not apply to a person charged under subdivision (a)(4) with possession of an anabolic steroid with intent to sell or deliver the steroid. Unless the state can prove that an actual sale or delivery occurred, the person may only be convicted of simple possession and punished as provided in [§ 39-17-418](#).

(e) A violation of subsection (a) with respect to:

(1) Flunitrazepam is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and

(2) Any other Schedule IV controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).

(f) A violation of subsection (a) with respect to a Schedule V controlled substance is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).

(g)

(1) A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana containing not less than one-half (1/2) ounce (14.175 grams) nor more than ten pounds (10 lbs.) (4535 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds (2 lbs.) (905 grams) of hashish is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).

(2) A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana and containing not less than ten pounds (10 lbs.), one gram (4536 grams) of marijuana nor more than seventy pounds (70 lbs.) (31,696 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than two pounds (2 lbs.), one gram (906 grams) nor more than four pounds (4 lbs.) (1810 grams) of hashish, or a Schedule VI controlled substance classified as **marijuana** consisting of not less than ten (10) **marijuana** plants nor more than nineteen (19) **marijuana** plants, regardless of weight, is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).

3) A violation of subsection (a) with respect to a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than four pounds (4 lbs.), one gram (1811 grams) nor more than eight pounds (8 lbs.) (3620 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than twenty (20) marijuana plants nor more than ninety-nine (99) marijuana plants, regardless of weight, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).

(h) A violation of subsection (a) with respect to a Schedule VII controlled substance is a Class E felony and, in addition, may be fined not more than one thousand dollars (\$1,000).

(i) A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts, is a Class B felony and, in addition, may be fined not more than two hundred thousand dollars (\$200,000):

- (1) Fifteen (15) grams or more of any substance containing heroin;
- (2) Fifteen (15) grams or more of any substance containing morphine;
- (3) Five (5) grams or more of any substance containing hydromorphone;
- (4) Five (5) grams or more of any substance containing lysergic acid diethylamide (LSD);
- (5) Twenty-six (26) grams or more of any substance containing cocaine;
- (6) Five (5) grams or more of any substance containing a combination of pentazocine and tripeleennamine or joint possession of pentazocine and tripeleennamine;
- (7) Thirty (30) grams or more of any substance containing phencyclidine;
- (8) One hundred (100) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
- (9) Fifty (50) grams or more of any substance containing phenmetrazine;
- (10) Twenty-six (26) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
- (11) One thousand (1,000) grams or more of any substance containing peyote;
- (12) Two hundred (200) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(11); or
- (13) Not less than seventy pounds (70 lbs.), (31,697 grams) nor more than three hundred pounds (300 lbs.) (136,050 grams) of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than eight pounds (8 lbs.), one gram (3621 grams) nor more than fifteen pounds (15 lbs.) (6,792 grams) of any substance containing hashish, or not less than one hundred (100) marijuana plants nor more than four hundred ninety-nine (499) marijuana plants, regardless of weight.

(j) A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts is a Class A felony and, in addition, may be fined not more than five hundred thousand dollars (\$500,000):

- (1) One hundred fifty (150) grams or more of any substance containing heroin;
- (2) One hundred fifty (150) grams or more of any substance containing morphine;
- (3) Fifty (50) grams or more of any substance containing hydromorphone;
- (4) Fifty (50) grams or more of any substance containing lysergic acid diethylamide (LSD);
- (5) Three hundred (300) grams or more of any substance containing cocaine;
- (6) Fifty (50) grams or more of any substance containing a combination of pentazocine and tripeleennamine or joint possession of pentazocine and tripeleennamine;
- (7) Three hundred (300) grams or more of any substance containing phencyclidine;
- (8) One thousand (1,000) grams or more of any substance containing a derivative of barbituric

acid or any of the salts of a derivative of barbituric acid;

(9) Five hundred (500) grams or more of any substance containing phenmetrazine;

(10) Three hundred (300) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;

(11) Ten thousand (10,000) grams or more of any substance containing peyote;

(12) Two thousand (2,000) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(11); or

(13)

(A) Three hundred pounds (300 lbs.) (136,050 grams) or more of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.), one gram (6,793 grams) of any substance containing hashish, or five hundred (500) or more marijuana plants, regardless of weight.

(B) Deleted by [2012 Pub.Acts, c. 852, § 1, eff. July 1, 2012.](#)

(k) A violation of this section or a conspiracy to violate this section where the recipient or the intended recipient of the controlled substance is under eighteen (18) years of age shall be punished one (1) classification higher than provided in subsections (b)-(i).

(l)

(1) If the district attorney general believes that a defendant should be sentenced as a habitual drug offender, the district attorney general shall file notice of the defendant's record of prior convictions for violations specified in this subsection (l) in conformity with the provisions of [§ 40-35-202](#).

(2) The trial court, upon the request of the district attorney general, shall enter injunctions, restraining orders, directions or prohibitions, or take other actions, including the acceptance of satisfactory performance bonds, liens on real property, security interests in personal property, for the purpose of collecting any fine imposed pursuant to this entire section.

(3) Any person found guilty of a violation of this section that constitutes a Class A or Class B felony or attempts to commit a Class A or Class B violation of this section or conspiracy to commit a Class A or Class B violation of this section and who has at least three (3) prior Class A or Class B felony convictions or any combination thereof under the provisions of this section or § 39-6-417 (repealed) or under the laws of any other state or jurisdiction, which if committed in this state would have constituted a Class A or Class B felony violation under this section or § 39-6-417 (repealed); provided, that the prior convictions were for violations committed at different times and on separate occasions at least twenty-four (24) hours apart, shall be found to be an habitual drug offender and shall be sentenced to one range of punishment higher than the range of punishment otherwise provided for in [§ 40-35-105](#), and, in addition, shall be fined not more than two hundred thousand dollars (\$200,000).

(m) The offense described in subdivision (a)(1) with respect to any substance defined in [§ 39-17-408\(d\)\(2\)](#) shall include the preparation or compounding of a controlled substance by an individual for the individual's own use.

§ 39-17-418. Simple possession; casual exchange

(a) It is an offense for a person to knowingly possess or casually exchange a controlled substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice.

(b) It is an offense for a person to distribute a small amount of marijuana not in excess of one-half (1/2) ounce (14.175 grams).

(c) Except as provided in subsections (d) and (e), a violation of this section is a Class A misdemeanor.

(d) A violation of subsections (a) or (b), where there is casual exchange to a minor from an adult who is at least two (2) years the minor's senior, and who knows that the person is a minor, is punished as a felony as provided in [§ 39-17-417](#).

(e) A violation under this section is a Class E felony where the person has two (2) or more prior convictions under this section.

(f)(1) In addition to the other penalties provided in this section, any person convicted of violating this section for possession of a controlled substance may be required to attend a drug offender school, if available, or may be required to perform community service work at a drug or alcohol rehabilitation or treatment center.

(2) Any person required to attend a drug offender school pursuant to this subsection (f) shall also be required to pay a fee for attending the school. If the court determines that the person, by reason of indigency, cannot afford to pay a fee to attend the school, the court shall waive the fee and the person shall attend the school without charge. The amount of fee shall be established by the local governmental authority operating the school, but the fee shall not exceed the fee charged for attending an alcohol safety DUI school program if such a program is available in the jurisdiction. All fees collected pursuant to this subsection (f) shall be used by the governmental authority responsible for administering the school for operation of the school.

§ 39-17-432. Drug-free school zones; violations and penalties

(a) It is the intent of this section to create drug-free zones for the purpose of providing vulnerable persons in this state an environment in which they can learn, play and enjoy themselves without the distractions and dangers that are incident to the occurrence of illegal drug activities. The enhanced and mandatory minimum sentences required by this section for drug offenses occurring in a drug-free zone are necessary to serve as a deterrent to such unacceptable conduct.

(b)(1) A violation of [§ 39-17-417](#), or a conspiracy to violate the section, that occurs on the grounds or facilities of any school or within one thousand feet (1,000') of the real property that comprises a public

or private elementary school, middle school, secondary school, preschool, child care agency, or public library, recreational center or park shall be punished one (1) classification higher than is provided in [§ 39-17-417\(b\)-\(i\)](#) for such violation.

(2) In addition to any other penalty imposed by this section, a person convicted of violating this subsection (b) shall also be subject to the following:

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

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

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

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

(E) Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars (\$100,000).

(3) A person convicted of violating this subsection (b), who is within the prohibited zone of a preschool, childcare center, public library, recreational center or park shall not be subject to additional incarceration as a result of this subsection (b) but shall be subject to the additional fines imposed by this section.

(c) Notwithstanding any other provision of law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) shall be required to serve at least the minimum sentence for the defendant's appropriate range of sentence. Any sentence reduction credits the defendant may be eligible for or earn shall not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.

(d) Notwithstanding the sentence imposed by the court, the provisions of title 40, chapter 35, part 5, relative to release eligibility status and parole, shall not apply to or authorize the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(e) Nothing in the provisions of title 41, chapter 1, part 5 shall give either the governor or the board of probation and parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.

(f) Nothing in this section shall be construed as prohibiting the judge from sentencing a defendant who violated subsection (b) to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.

(g) The sentence of a defendant who, as the result of a single act, violates both subsection (b) and [§ 39-17-417\(k\)](#), may only be enhanced one (1) time under those sections for each act. The state must elect under which section it intends to seek enhancement of the defendant's sentence and shall provide notice of the election pursuant to [§ 40-35-202](#).

§ 39-17-438. Salvia divinorum or synthetic cannabinoids; production, distribution, and possession; exceptions; penalty

(a)(1) It is an offense to knowingly produce, manufacture, distribute, possess or possess with intent to produce, manufacture, or distribute the active chemical ingredient in the hallucinogenic plant salvia divinorum or the following synthetic cannabinoids:

(A) (6a,10a)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol ; including, but not limited to HU 210 or HU 211;

(B) Naphthoylindoles being any compound structurally derived from 3-(1-naphthoyl) indole with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-018, JWH-019, JWH-073, or JWH-200;

(C) Naphthylmethylindoles being any compound structurally derived from a 1 H-indole-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-175, JWH-184, or JWH-199;

(D) Naphthoylpyrroles, being any compound structurally derived from 3-(1-naphthoyl) pyrrole with substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl 1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-307;

(E) Naphthylmethylindenes, being any compound structurally derived from 1-(1-naphthylmethyl) indene with substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl ,1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-176;

(F) Phenylacetylindoles, being any compound structurally derived from 3-phenylacetylindole with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent; including, but not limited to JWH-250, JWH-251, or RCS-8;

(G) Cyclohexylphenols, being any compound structurally derived from 2-(3-hydroxycyclohexyl) phenol with substitution at the 5-position of the phenolic ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the whether or not substituted in the cyclohexyl ring to any extent; including, but not limited to CP 47,497, or the dimethylhexyl, dimethyloctyl or dimethylnonyl homologues of CP 47,497;

(H) Tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabiniol or of its tetrahydro derivatives, except where contained in cannabis or cannabis resin;

(I) Benzoylindoles, being any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring with a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent; including, but not limited to AM-694, Pravadoline (WIN 48, 098) or RCS-4; or

(J) WIN-55,212-2 or 2,3-Dihydro-5-methyl-3-(4 Morpholinylmethyl) pyrrolo [1,2,3--de]-1,4--benzoxazin-6-yl]-1-naphthalenylmethanone.

(2) Subdivision (a)(1) concerning synthetic cannabinoids shall not apply to drugs or substances lawfully prescribed or to drugs or substances which have been approved by the federal food and drug administration.

(b) This section shall not apply to the possession, planting, cultivation, growing, or harvesting of the hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes.

(c) This section shall not apply to any dosage form that is legally obtainable from a retail establishment without a prescription and is recognized by the federal food and drug administration as a homeopathic drug.

(d)(1) A first violation of this section is a Class D felony.

(2) A second or subsequent violation of this section is a Class C felony.

(3) If the violation of this section involved the delivery, dispensing or sale of a controlled substance analogue to a minor, the person shall be punished one (1) classification higher than the punishment provided by this subsection (d) for delivering, dispensing or selling to an adult.

§ 40-35-106. Multiple offenders

(a) A multiple offender is a defendant who has received:

(1) A minimum of two (2) but not more than four (4) prior felony convictions within the conviction class, a higher class, or within the next two (2) lower felony classes, where applicable; or

(2) One (1) Class A prior felony conviction if the defendant's conviction offense is a Class A or B felony.

(b) In determining the number of prior convictions a defendant has received:

(1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;

(2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;

(3)(A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless the juvenile was convicted of a felony in a criminal court;

(B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions;

(4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims, or convictions for the offense of aggravated burglary under [§ 39-14-403](#), convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and

(5) Prior convictions include convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.

(c) A defendant who is found by the court beyond a reasonable doubt to be a multiple offender shall receive a sentence within Range II.

(d) The finding that a defendant is or is not a multiple offender is appealable by either party.

§ 40-35-107. Persistent offenders

(a) A persistent offender is a defendant who has received:

(1) Any combination of five (5) or more prior felony convictions within the conviction class or higher or within the next two (2) lower felony classes, where applicable; or

(2) At least two (2) Class A or any combination of three (3) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony.

(b) In determining the number of prior convictions a defendant has received:

(1) Prior conviction means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;

(2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;

(3)(A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to [§ 37-1-134](#) or similar statutes of other states or jurisdictions shall not be considered as a prior conviction for the purposes of this section unless the juvenile was convicted of a felony in a criminal court;

(B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions;

(4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims or convictions for the offense of aggravated burglary under [§ 39-14-403](#), convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and

(5) Prior convictions includes convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.

(c) A defendant who is found by the court beyond a reasonable doubt to be a persistent offender shall receive a sentence within Range III.

(d) The finding that a defendant is or is not a persistent offender is appealable by either party.

§ 40-35-108. Career offenders

(a) A career offender is a defendant who has received:

(1) Any combination of six (6) or more Class A, B or C prior felony convictions, and the defendant's conviction offense is a Class A, B or C felony;

(2) At least three (3) Class A or any combination of four (4) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony; or

(3) At least six (6) prior felony convictions of any classification if the defendant's conviction offense is a Class D or E felony.

(b) In determining the number of prior convictions a defendant has received:

(1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;

(2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;

(3)(A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to [§ 37-1-134](#) or similar statutes of other states or jurisdictions shall not be considered as a prior conviction for the purposes of this section, unless the juvenile was convicted of a felony in a criminal court;

(B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions;

(4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims or convictions for the offense of aggravated burglary under [§ 39-14-403](#), convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and

(5) "Prior convictions" includes convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state,

the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.

(c) A defendant who is found by the court beyond a reasonable doubt to be a career offender shall receive the maximum sentence within the applicable Range III.

(d) The finding that a defendant is or is not a career offender is appealable by either party.

§ 40-35-112. Sentence ranges

(a) A Range I sentence is as follows:

(1) For a Class A felony, not less than fifteen (15) nor more than twenty-five (25) years;

(2) For a Class B felony, not less than eight (8) nor more than twelve (12) years;

(3) For a Class C felony, not less than three (3) nor more than six (6) years;

(4) For a Class D felony, not less than two (2) nor more than four (4) years; and

(5) For a Class E felony, not less than one (1) nor more than two (2) years.

(b) A Range II sentence is as follows:

(1) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years;

(2) For a Class B felony, not less than twelve (12) nor more than twenty (20) years;

(3) For a Class C felony, not less than six (6) nor more than ten (10) years;

(4) For a Class D felony, not less than four (4) nor more than eight (8) years; and

(5) For a Class E felony, not less than two (2) nor more than four (4) years.

(c) A Range III sentence is as follows:

(1) For a Class A felony, not less than forty (40) nor more than sixty (60) years;

(2) For a Class B felony, not less than twenty (20) nor more than thirty (30) years;

(3) For a Class C felony, not less than ten (10) nor more than fifteen (15) years;

(4) For a Class D felony, not less than eight (8) nor more than twelve (12) years; and

(5) For a Class E felony, not less than four (4) nor more than six (6) years.

TEXAS

V.T.C.A., Penal Code

§ 12.02 Classification of Offenses

Offenses are designated as felonies or misdemeanors.

§ 12.03 Classification of Misdemeanors

(a) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

- (1) Class A misdemeanors;
- (2) Class B misdemeanors;
- (3) Class C misdemeanors.

(b) An offense designated a misdemeanor in this code without specification as to punishment or category is a Class C misdemeanor.

(c) Conviction of a Class C misdemeanor does not impose any legal disability or disadvantage.

§ 12.04. Classification of Felonies

(a) Felonies are classified according to the relative seriousness of the offense into five categories:

- (1) capital felonies;
- (2) felonies of the first degree;
- (3) felonies of the second degree;
- (4) felonies of the third degree; and
- (5) state jail felonies.

(b) An offense designated a felony in this code without specification as to category is a state jail felony.

§ 12.21 Class A Misdemeanor

An individual adjudged guilty of a Class A misdemeanor shall be punished by:

- (1) a fine not to exceed \$4,000;
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and confinement.

§ 12.22. Class B Misdemeanor

An individual adjudged guilty of a Class B misdemeanor shall be punished by:

- (1) a fine not to exceed \$2,000;
- (2) confinement in jail for a term not to exceed 180 days; or
- (3) both such fine and confinement.