

ALCOHOL, OTHER DRUGS, AND TOBACCO POLICY

APPENDIX D LEGAL PENALTIES

1. DRUGS

The State of New York Public Health Law prohibits: growing marijuana or knowingly allowing it to be grown without destroying it; selling or possessing a hypodermic needle without a doctor's written prescription; or manufacturing, selling, or possessing with intent to sell an imitation controlled substance. The State of New York Penal Law and federal laws define a wide range of offenses and penalties for possessing or distributing marijuana and other controlled substances. In addition, driving a motor vehicle with ability impaired by drugs is subject to the same New York State law and sanctions as driving while intoxicated. A more complete description of these offenses and penalties is provided below:

a. Possession and Distribution of Marijuana

1. Unlawful Possession

- 1st offense--fine less than \$100
- 2nd offense--fine less than \$200
- 3rd offense--fine less than \$250

2. New York State Penal Law Sanctions for Criminal Possession and Sale *(Degree depends upon amount of substance seized)*

5 th Degree:	Class B Misdemeanor	3 month imprisonment or less
4 th Degree:	Class A Misdemeanor	1 year imprisonment or less
3 rd Degree:	Class E Felony	4 years imprisonment or less
2 nd Degree:	Class D Felony	7 years imprisonment or less
1 st Degree:	Class C Felony	15 years imprisonment or less

3. Federal Sanctions for Sale of Marijuana

- A first offense of trafficking in marijuana in amounts of less than 50 kg may result in imprisonment of not more than 5 years and a fine not to exceed \$250,000. Imprisonment and fine minimums are doubled for a second offense
- Trafficking in marijuana in quantities greater than 1,000 kg may result in not less than 10 years and not more than life imprisonment and/or a fine not to exceed \$4 million (minimums double for a second offense)

b. Possession and Distribution of Other Controlled Substances (methamphetamine, heroin, cocaine base, PCP, LSD, Fentanyl, Fentanyl analogue)

1. State Penal Law Sanctions for Possession and Sale

(Degree depends upon substance, amount of substance, age of purchaser, and prior record)

7 th Degree:	Class A Misdemeanor	1 year imprisonment or less
5 th Degree:	Class D Felony	7 years imprisonment or less
4 th Degree:	Class C Felony	15 years imprisonment or less
3 rd Degree:	Class B Felony	6 to 25 years imprisonment
2 nd Degree:	Class A-II Felony	3 to 8 years to life imprisonment
1 st Degree:	Class A-I Felony	15 to 25 years to life imprisonment

2. Federal Sanction for Possession of a Controlled Substance

- First conviction: Up to one year imprisonment and fine of at least \$1,000 but not more than \$100,000, or both
- After one prior drug conviction: At least 15 days in prison, not to exceed 2 years and fine of at least \$2,500 but not more than \$250,000, or both
- After two or more prior drug convictions: At least 90 days prison, not to exceed 3 years and fine of at least \$5,000 but not more than \$250,000, or both.
- Special sentencing provisions for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years, and fine of up to \$250,000, or both if:
 - 1st conviction and the amount of crack possessed exceeds 5 grams;
 - 2nd conviction and the amount of crack possessed exceeds 3 grams;
 - 3rd or subsequent conviction and the amount of crack exceeds one gram
- Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than one year imprisonment
- Forfeiture of vehicles, boats, aircraft, or any other conveyance used to transport or conceal a controlled substance
- Civil fine up to \$10,000 (pending adoption of final regulations)
- 853a: Denial of federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses
- 922(g): Ineligible to receive or purchase a firearm
- Miscellaneous: Revocation of certain federal licenses and benefits, e.g., pilot licenses, public housing tenancy, etc., are vested within the authorities of individual federal agencies

3. Federal Sanctions for Sale of Controlled Substances

- Penalties range from imprisonment for less than one year and/or a fine of less than \$100,000 for a first offense involving a small quantity of a controlled substance
- For a large quantity, second offense, the penalty may be as severe as 20 years to life imprisonment and a fine of not more than \$8 million.

2. **ALCOHOL**

Alcohol offenses and penalties in New York State are defined by the Alcoholic Beverage Control Law and Penal Law. They include driving while intoxicated, while ability is impaired by alcohol, after consuming alcohol while under age 21, furnishing alcohol to a person under age 21, selling alcohol to an intoxicated person, or providing false identification. The four acceptable forms of I.D. for alcohol service in New York State are a driver's license, a non-driver's I.D., a military I.D., or a passport. In addition, New York State General Obligations Law imposes personal injury liability for damages resulting from furnishing alcohol to persons under age 21 or selling alcohol to an intoxicated person. The city of Syracuse prohibits the consumption of alcohol, or the possession of an open container with intent to consume, in any public place or private property without the owner's permission. A summary of offenses and penalties is provided below:

a. **Serving Alcohol to Persons Under 21:**

- Up to 1 year in jail, \$1,000 fine

b. **Fraudulent Attempt to Purchase Alcohol**

(using false ID or ID of another person):

- Fine up to \$100, community service up to 30 hours, and/or completion of an alcohol awareness program, 90 days license suspension if a New York State drivers license is used as the false I.D.

c. **Possession of Alcohol by Person Under 21:**

- Up to \$50 fine and/or completion of an alcohol awareness program and/or up to 30 hours of community service

d. **Driving While Intoxicated (DWI)**

(.08 blood alcohol content):

- 1st offense--up to 1 year prison, \$500 to \$1,000 fine, minimum 6 months license revocation
- 2nd offense in 10 years--up to 4 years prison, \$1,000 to \$5,000 fine, minimum 1 year license revocation

e. **Driving While Ability Impaired (DWAI)**

(.05-.07 blood alcohol content):

- 1st offense--up to 15 days jail, \$300 to \$500 fine, license 90-day license suspension
- 2nd offense in 5 years--up to 30 days jail, \$500 to \$750 fine, minimum 6-months license revocation
- 3rd offense in 10 years--up to 180 days jail, \$750 to \$1,500 fine, minimum 6-months license revocation

f. **Operating a Motor Vehicle after Consuming Alcohol while under age 21**

- License suspension or revocation and \$125 charge

g. **Possession of Open Container in Public Place:**

- Up to 15 days in jail, \$150 fine

3. **SMOKING**

The New York Public Health Law and the New York State Clean Indoor Air Act prohibit smoking in any indoor area, open to the public, to protect all employees and visitors from

secondhand smoke, an established cause of cancer and respiratory disease. Smoking is not permitted in any indoor locations on University owned, operated, or controlled property including, but not limited to, classrooms; private faculty, staff, student, and administrative offices; computing facilities; laboratories; conference, meeting and seminar rooms; cafeteria areas, lunchrooms, and employee lounges, libraries; stores; health facilities; restrooms; stairwells; elevators; lobbies; reception areas; and University-owned or hired vehicles.

In University stores that sell tobacco products, the law also prohibits the sale of any tobacco products, rolling papers, or pipes to individuals under 18 years of age and requires that proof of age be provided through a driver's license or other governmental photo I.D. card, unless the individual reasonably appears to be at least 25 years of age. Effective February 28, 1997, Federal Food and Drug Administration regulations also prohibit retailers from selling cigarettes, cigarette tobacco, or smokeless tobacco to any person under age 18, and require retailers to check the photo I.D. of every person under age 27 who wishes to purchase such products.

Drug Possession Penalties – State

Drug Possession Penalties – Federal

Penalties for Alcohol-Related Offenses – State