

**Appendix B: NYS Penal Law: Article 220 - Controlled Substances Offenses; Article 221 - Offenses Involving Marihuana; and Article 178 - Criminal Diversion of Prescription Medications and Prescriptions**

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<p align="center"><u><b>NYS Penal Law</b></u> <b>Controlled Substances Offenses</b></p>	<p align="center"><b>Specifics</b></p>	<p align="center"><b>Sentence</b></p>
<p>§ 220.03 Criminal possession of a controlled substance (7<sup>th</sup> degree).</p>	<p>Knowingly and unlawfully possessing a controlled substance (any substance listed in §3306 of the <a href="#">NYS Public Health Law</a> other than marihuana, but including concentrated cannabis as defined in §3302 of <a href="#">NYS Penal Law Article 220</a>).</p>	<p><b>Class A misdemeanor:</b> imprisonment up to one year.</p>
<p>§ 220.06 Criminal possession of a controlled substance (5<sup>th</sup> degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> <li>1. a controlled substance with intent to sell it; or</li> <li>2. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (aggregate weight of ½ oz or more); or</li> <li>3. phencyclidine (50 mg or more); or</li> <li>4. one or more preparations, compounds, mixtures or substances containing concentrated cannabis (aggregate weight of ¼ oz ounce or more); or</li> <li>5. cocaine (500 mg or more); or</li> <li>6. ketamine (more than 1,000 mg); or</li> <li>7. ketamine, and has previously been convicted of possession or the attempt to commit possession of ketamine in any amount; or</li> <li>8. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 28 g or more).</li> </ol>	<p><b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
<p>§ 220.09 Criminal possession of a controlled substance (4<sup>th</sup> degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> <li>1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (an aggregate weight of 1/8 oz or more); or</li> <li>2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (an aggregate weight of ½ oz or more); or</li> <li>3. one or more preparations, compounds, mixtures or substances containing a narcotic preparation (an aggregate weight of 2 oz or more); or</li> <li>4. a stimulant (1 g or more); or</li> <li>5. lysergic acid diethylamide (1 mg or more); or</li> </ol>	<p><b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.</p>

	<ol style="list-style-type: none"> <li>6. a hallucinogen (25 mg or more); or</li> <li>7. a hallucinogenic substance (1 g or more); or</li> <li>8. a dangerous depressant (10 oz or more); or</li> <li>9. a depressant (2 lbs or more); or</li> <li>10. one or more preparations, compounds, mixtures or substances containing concentrated cannabis (an aggregate weight of 1 oz or more); or</li> <li>11. phencyclidine (250 mg or more); or</li> <li>12. methadone 360 mg or more); or</li> <li>13. phencyclidine (50 mg or more) with intent to sell it and has previously been convicted of an offense defined in § 220 or the attempt or conspiracy to commit any such offense); or</li> <li>14. ketamine (4,000 mg or more); or</li> <li>15. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (aggregate weight of 200 g or more).</li> </ol>	
<p>§ 220.16 Criminal possession of a controlled substance (3rd degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> <li>1. a narcotic drug with intent to sell it; or</li> <li>2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide, with intent to sell it and has previously been convicted of an offense defined in § 220 or the attempt or conspiracy to commit any such offense; or</li> <li>3. a stimulant (1 g or more) with intent to sell it; or</li> <li>4. lysergic acid diethylamide (1 mg or more) with intent to sell it; or</li> <li>5. a hallucinogen (25 mg or more) with intent to sell it; or</li> <li>6. a hallucinogenic substance (1 g or more) with intent to sell it; or</li> <li>7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (1/8 oz or more) with intent to sell it; or</li> <li>8. a stimulant (5 g or more); or</li> <li>9. lysergic acid diethylamide (5 mg or more); or</li> <li>10. a hallucinogen (125 mg or more); or</li> <li>11. a hallucinogenic substance (5 g or more); or</li> <li>12. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or</li> <li>13. phencyclidine (1250 mg or more).</li> </ol>	<p><b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2<sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>

<p>§ 220.18 Criminal possession of a controlled substance (2nd degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> <li>1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 4 oz or more); or</li> <li>2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of 2 oz or more); or</li> <li>3. a stimulant (10 g or more); or</li> <li>4. lysergic acid diethylamide (25 mg or more); or</li> <li>5. a hallucinogen (625 mg or more); or</li> <li>6. a hallucinogenic substance (25 g or more); or</li> <li>7. methadone (2850mg or more).</li> </ol>	<p><b>Class A-II felony:</b> imprisonment 3 to 10 years. For a 2<sup>nd</sup> time: offender, imprisonment for 6 to 14 years (may be sentenced to lifetime probation). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 8 to 17 years.</p>
<p>§ 220.21 Criminal possession of a controlled substance (1st degree).</p>	<p>Knowingly and unlawfully possessing:</p> <ol style="list-style-type: none"> <li>1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 8 oz or more); or</li> <li>2. methadone (5760 mg or more).</li> </ol>	<p><b>Class A-I felony:</b> imprisonment for 8 to 20 years. For a 2<sup>nd</sup> time offender: imprisonment for 12 to 24 years. For a 2<sup>nd</sup> time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>
<p>§ 220.25 Criminal possession of a controlled substance (presumption).</p>	<ol style="list-style-type: none"> <li>1. The presence of a controlled substance in an automobile, other than a public omnibus, is presumptive evidence of knowing possession by each and every person in the automobile at the time the substance was found (see <a href="#">§220.25</a> for exceptions).</li> <li>2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such substance is presumptive evidence of knowing possession thereof by each and every person in close proximity to such controlled substance at the time such controlled substance was found (see <a href="#">§220.25</a> for exceptions).</li> </ol>	
<p>§ 220.31 Criminal sale of a controlled substance (5th degree).</p>	<p>Knowingly and unlawfully selling a controlled substance (any substance listed in schedule I, II, III, IV or V of §3306 of the <a href="#">NYS Public Health Law</a> other than marihuana, but including concentrated cannabis as defined in paragraph (a) of subdivision four of §3302 of <a href="#">NYS Penal Law Article 220</a>).</p>	<p><b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>

<p>§ 220.34 Criminal sale of a controlled substance (4<sup>th</sup> degree).</p>	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>1. a narcotic preparation; or</li> <li>2. a dangerous depressant (10 oz or more) or a depressant (2 lbs or more); or</li> <li>3. concentrated cannabis as defined in §3302 of the <a href="#">NYS Public Health Law</a>; or</li> <li>4. phencyclidine (50 mg or more); or</li> <li>5. methadone; or</li> <li>6. phencyclidine (any amount) and previously convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense; or</li> <li>7. ketamine (4,000 mg or more); or</li> <li>8. a controlled substance in violation of section 220.31, when such sale takes place upon school grounds; or the grounds of an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or</li> <li>9. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid (28 g or more), as defined in §3306 of the <a href="#">NYS Public Health Law</a>.</li> </ol>	<p><b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.</p>
<p>§ 220.39 Criminal sale of a controlled substance (3<sup>rd</sup> degree).</p>	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>1. a narcotic drug; or</li> <li>2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide (and previously convicted of an offense defined in §220 or the attempt or conspiracy to commit any such offense; or</li> <li>3. a stimulant (1 g or more); or</li> <li>4. lysergic acid diethylamide (1 mg or more); or</li> <li>5. a hallucinogen (25 mg or more); or</li> <li>6. a hallucinogenic substance (1 g or more); or</li> <li>7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of 1/8 oz or more); or</li> <li>8. phencyclidine (250 mg or more); or</li> <li>9. a narcotic preparation to a person less than 21 years old.</li> </ol>	<p><b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2<sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.</p>
<p>§ 220.41 Criminal sale of a controlled substance (2<sup>nd</sup> degree).</p>	<p>Knowingly and unlawfully selling:</p> <ol style="list-style-type: none"> <li>1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of ½ oz or more); or</li> <li>2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers (aggregate weight of ½ oz or more); or</li> <li>3. a stimulant (5 g or more); or</li> <li>4. lysergic acid diethylamide (5 mg or more); or</li> <li>5. a hallucinogen (125 mg or more); or</li> </ol>	<p><b>Class A-I felony:</b> imprisonment for 8 to 20 years. For a 2<sup>nd</sup> time offender: imprisonment for 12 to 24 years. For a 2<sup>nd</sup> time offender previously convicted of a violent felony, imprisonment for 15 to 30 years.</p>

	6. a hallucinogenic substance (5 g or more); or 7. methadone (360 mg or more).	
§ 220.43 Criminal sale of a controlled substance (1st degree).	Knowingly and unlawfully selling: 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug (aggregate weight of 2 oz or more); or 2. methadone (2880 mg or more).	<b>Class A-II felony:</b> imprisonment 3 to 10 years. For a 2 <sup>nd</sup> time: offender, imprisonment for 6 to 14 years (may be sentenced to lifetime probation). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 8 to 17 years.
§ 220.44 Criminal sale of a controlled substance in or near school grounds.	Knowingly and unlawfully selling: 1. a controlled substance in violation of any one of subdivisions 1– 6-a of §220.34, when such sale takes place upon school grounds; or 2. a controlled substance in violation of any one of subdivisions 1– 8 of §220.39, when such sale takes place upon school grounds; or 3. a controlled substance in violation of any one of subdivisions 1– 6 of §220.34, when such sale takes place upon the grounds of an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or 4. a controlled substance in violation of any one of subdivisions 1–8 of §220.39, when such sale takes place upon the grounds of an educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds.	<b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2 <sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.
§ 220.45 Criminally possessing a hypodermic instrument.	Knowingly and unlawfully possessing or selling a hypodermic syringe or hypodermic needle.	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 220.46 Criminal injection of a narcotic drug.	Knowingly and unlawfully possessing a narcotic drug and intentionally injecting, by means of a hypodermic syringe or hypodermic needle, all or any portion of that drug into the body of another person with the latter’s consent.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.50 Criminally using drug paraphernalia (2 <sup>nd</sup> degree).	Knowingly possessing or selling: 1. diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing,	<b>Class A misdemeanor:</b> imprisonment up to one year.

	<p>compounding, or otherwise preparing any narcotic drug or stimulant; or</p> <ol style="list-style-type: none"> <li>2. gelatine capsules, glassine envelopes, vials, capsules or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for the purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant; or</li> <li>3. scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant.</li> </ol>	
§ 220.55 Criminally using drug paraphernalia (1st degree).	Committing the crime of criminally using drug paraphernalia in the second degree and having previously been convicted of criminally using drug paraphernalia in the 2 <sup>nd</sup> degree.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 220.60 Criminal possession of precursors of controlled substances.	<p>Possessing and at the same time intending to unlawfully manufacture:</p> <ol style="list-style-type: none"> <li>1. a controlled substance; or</li> <li>2. carbamide (urea) and propanedioc and malonic acid or its derivatives; or</li> <li>3. ergot or an ergot derivative and diethylamine or dimethyl-formamide or diethylamide; or</li> <li>4. phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia or formamide or benzaldehyde or nitroethane or methylamine; or</li> <li>5. pentazocine and methyliodide; or</li> <li>6. phenylacetone nitrile and dichlorodiethyl methylamine or dichlorodiethyl benzylamine; or</li> <li>7. diphenylacetone nitrile and dimethylaminoisopropyl chloride; or</li> <li>8. piperidine and cyclohexanone and bromobenzene and lithium or magnesium; or</li> <li>9. 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent.</li> </ol>	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.65 Criminal sale of a prescription for a	When, being a practitioner, as that term is defined in §3302 of the <a href="#">NYS Public Health Law</a> , knowingly and unlawfully selling a prescription for a controlled substance.	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole

controlled substance.		supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.
§ 220.70 Criminal possession of methamphetamine manufacturing material (2 <sup>nd</sup> degree).	Possessing a precursor, a chemical reagent or a solvent with the intent to use or knowing another intends to use such precursor, chemical reagent, or solvent to unlawfully produce, prepare or manufacture methamphetamine.	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 220.71 Criminal possession of methamphetamine manufacturing material (1 <sup>st</sup> degree).	Committing the offense of criminal possession of methamphetamine manufacturing material in the second degree, as defined in § 220.70, and has previously been convicted within the preceding 5 years of criminal possession of methamphetamine manufacturing material in the 2 <sup>nd</sup> degree or a violation of this section.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.72 Criminal possession of precursors of methamphetamine.	Possessing at the same time a precursor and a solvent or chemical reagent, with intent to use or knowing that another intends to use each such precursor, solvent or chemical reagent to unlawfully manufacture methamphetamine.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 220.73 Unlawful manufacture of methamphetamine (3 <sup>rd</sup> degree).	Possessing, with intent to use, or knowing that another intends to use each such product to unlawfully manufacture, prepare or produce methamphetamine two or more items of laboratory equipment and two or more precursors, chemical reagents or solvents in any combination; or one item of laboratory equipment and three or more precursors, chemical reagents or solvents in any combination; or a precursor: (a) mixed together with a chemical reagent or solvent; or (b) with two or more chemical reagents and/or solvents mixed together.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 220.74 Unlawful manufacture of methamphetamine (2 <sup>nd</sup> degree).	1. Commits violation of § 220.73 in the presence of another person under the age of 16, provided, however, that the actor is at least 5 years older than such other person under the age of 16; or 2. Commits violation of § 220.73 and has previously been convicted within the preceding 5 years of the offense of criminal possession of precursors of methamphetamine, criminal possession of methamphetamine manufacturing material in the 1 <sup>st</sup> degree, unlawful disposal of methamphetamine laboratory material, unlawful manufacture of methamphetamine in the 3 <sup>rd</sup> degree, the 2 <sup>nd</sup> degree, or the 1 <sup>st</sup> degree.	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.

§ 220.75 Unlawful manufacture of methamphetamine (1st degree).	Commits the crime of unlawful manufacture of methamphetamine in the 2 <sup>nd</sup> degree after having previously been convicted within the preceding 5 years of unlawful manufacture of methamphetamine in the 3 <sup>rd</sup> degree unlawful manufacture of methamphetamine in the 2 <sup>nd</sup> degree or unlawful manufacture of methamphetamine in the 1 <sup>st</sup> degree.	<b>Class B felony:</b> imprisonment for 1 to 9 years (may be sentenced to probation) [in or near school grounds, 2 to 9 years]. For a 2 <sup>nd</sup> time offender: imprisonment for 3 ½ to 12 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 6 to 15 years.
§ 220.76 Unlawful disposal of methamphetamine laboratory material.	Knowingly disposing of, or possessing with intent to dispose of, hazardous or dangerous material under circumstances that create a substantial risk to human health or safety or a substantial danger to the environment.	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.

<b><u>NYS Penal Law</u> Offenses Involving Marihuana</b>	<b>Specifics</b>	<b>Sentence</b>
§ 221.05 Unlawful possession of marihuana.	Knowingly and unlawfully possessing marihuana is a violation.	A fine of up to \$100.  A fine of up to \$200 if previously convicted of an offense defined in § 220 or § 221, committed within the 3 years immediately preceding such violation.  A fine of up to \$250 or imprisonment up to 15 days or both if previously convicted of two such offenses committed during such period.
§ 221.10 Criminal possession of marihuana (5th degree).	Knowingly and unlawfully possessing marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning or open to public view; or one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 25 g).	<b>Class B misdemeanor:</b> imprisonment up to three months.
§ 221.15 Criminal possession of marihuana (4th degree).	Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 2 oz).	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 221.20 Criminal possession of marihuana (3rd degree).	Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 8 oz).	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.



<p>§ 221.25 Criminal possession of marihuana (2nd degree).</p>	<p>Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 16 oz).</p>	<p><b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
<p>§ 221.30 Criminal possession of marihuana (1st degree).</p>	<p>Knowingly and unlawfully possessing one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 10 lbs).</p>	<p><b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.</p>
<p>§ 221.35 Criminal sale of marihuana (5th degree).</p>	<p>Knowingly and unlawfully selling, without consideration, one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of 2 g or less); or one cigarette containing marihuana.</p>	<p><b>Class B misdemeanor:</b> imprisonment up to three months.</p>
<p>§ 221.40 Criminal sale of marihuana (4th degree).</p>	<p>Knowingly and unlawfully selling marihuana, except as provided in §221.35.</p>	<p><b>Class A misdemeanor:</b> imprisonment up to one year.</p>
<p>§ 221.45 Criminal sale of marihuana (3rd degree).</p>	<p>Knowingly and unlawfully selling one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 25 g ).</p>	<p><b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.</p>
<p>§ 221.50 Criminal sale of marihuana (2nd degree).</p>	<p>Knowingly and unlawfully selling one or more preparations, compounds, mixtures or substances containing marihuana (aggregate weight of more than 4 oz, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than 18 years of age.</p>	<p><b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.</p>
<p>§ 221.55 Criminal sale of marihuana (1st degree).</p>	<p>Knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing (aggregate weight of more than 16 oz).</p>	<p><b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2<sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2<sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.</p>

<a href="#"><u>NYS Penal Law</u></a> <b>Criminal Diversion of Prescriptions &amp; Medications</b>	<b>Specifics</b>	<b>Sentence</b>
See <a href="#"><u>§ 178.00</u></a> for definitions and <a href="#"><u>§ 178.05</u></a> for limitation of criminal diversion of prescription medications and prescriptions.		
§ 178.10 Criminal diversion of prescription medications and prescriptions (4th degree).	A person is guilty of criminal diversion of prescription medications and prescriptions in the 4 <sup>th</sup> degree when he or she commits a criminal diversion act.	<b>Class A misdemeanor:</b> imprisonment up to one year.
§ 178.15 Criminal diversion of prescription medications and prescriptions (3rd degree).	A person is guilty of criminal diversion of prescription medications and prescriptions in the 3rd degree when he or she: <ol style="list-style-type: none"> <li>1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of \$1000; or</li> <li>2. commits the crime of criminal diversion of prescription medications and prescriptions in the 4th degree, and has previously been convicted of the crime of criminal diversion of prescription medications and prescriptions in the 4<sup>th</sup> degree.</li> </ol>	<b>Class E felony:</b> imprisonment 1 to 1 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ and 2 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment 2 to 2 ½ years.
§ 178.20 Criminal diversion of prescription medications and prescriptions (2nd degree).	A person is guilty of criminal diversion of prescription medications and prescriptions in the second degree when he or she commits a criminal diversion act, and the value of the benefit exchanged is in excess of \$3,000.	<b>Class D felony:</b> imprisonment for 1 to 2 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 1 ½ to 4 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony: imprisonment for 2 ½ to 4 ½ years.
§ 178.25 Criminal diversion of prescription medications and prescriptions in the first degree.	A person is guilty of criminal diversion of prescription medications and prescriptions in the first degree when he or she commits a criminal diversion act, and the value of the benefit exchanged is in excess of \$50,000.	<b>Class C felony:</b> imprisonment for 1 to 5 ½ years (may be sentenced to probation). For a 2 <sup>nd</sup> time offender: imprisonment for 2 to 8 years (may be sentenced to parole supervision). For a 2 <sup>nd</sup> time offender previously convicted of a violent felony imprisonment for 3 ½ to 9 years.
<b>Alternative sentence:</b> the court may impose imprisonment of one year or less for a person convicted of a class C, class D or class E felony offense.		

**Note:** *This information is not to be considered legal advice or guaranteed to be a comprehensive inventory of all state laws regarding alcohol and other drugs. The University will attempt to notify campuses of new or revised legislative reporting or disclosure requirements. It is the user's responsibility to check [New York State laws](#) and with [relevant SUNY offices](#) to determine whether changes, additions or substitutions have been made.*

**Federal Law for the unlawful possession or distribution of Illicit Drugs**

<b>Federal Trafficking Penalties for Schedules I, II, III, IV, and V (except Marijuana)</b>				
<b>Schedule</b>	<b>Substance/Quantity</b>	<b>Penalty</b>	<b>Substance/Quantity</b>	<b>Penalty</b>
II	Cocaine 500-4999 grams mixture	<b>First Offense:</b> Not less than 5 yrs. and not more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$5 million if an individual, \$25	Cocaine 5 kilograms or more mixture	<b>First Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$10 million if an individual, \$50
II	Cocaine Base 28-279 grams mixture		Cocaine Base 280 grams or more mixture	
II	Fentanyl 40-399 grams mixture		Fentanyl 400 grams or more mixture	
I	Fentanyl Analogue 10-99 grams mixture		Fentanyl Analogue 100 grams or more mixture	

I	Heroin 100-999 grams mixture	million if not an individual.	Heroin 1 kilogram or more mixture	million if not an individual.
I	LSD 1-9 grams mixture	<b>Second Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.	LSD 10 grams or more mixture	<b>Second Offense:</b> Not less than 20 yrs, and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.  <b>2 or More Prior Offenses:</b> Life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.
II	Methamphetamine 5-49 grams pure or 50-499 grams mixture		Methamphetamine 50 grams or more pure or 500 grams or more mixture	
II	PCP 10-99 grams pure or 100-999 grams mixture		PCP 100 grams or more pure or 1 kilogram or more mixture	
Substance/Quantity		Penalty		
Any Amount Of Other Schedule I & II Substances		<b>First Offense:</b> Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than Life. Fine \$1 million if an individual, \$5 million if not an individual.		
Any Drug Product Containing Gamma Hydroxybutyric Acid		<b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.		
Flunitrazepam (Schedule IV) 1 Gram or less		<b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.		
Any Amount Of Other Schedule III Drugs		<b>First Offense:</b> Not more than 10 yrs. If death or serious bodily injury, not more that 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.  <b>Second Offense:</b> Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.		
Any Amount Of All Other Schedule IV Drugs (other than one gram or more of Flunitrazepam)		<b>First Offense:</b> Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual.  <b>Second Offense:</b> Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.		
Any Amount Of All Schedule V Drugs		<b>First Offense:</b> Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.  <b>Second Offense:</b> Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.		

**Federal Law for the unlawful possession or distribution of Marijuana**

<b>Federal Trafficking Penalties for Marijuana, Hashish and Hashish Oil, Schedule I Substances</b>	
<p>Marijuana 1,000 kilograms or more marijuana mixture or 1,000 or more marijuana plants</p>	<p><b>First Offense:</b> Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.</p> <p><b>Second Offense:</b> Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.</p>
<p>Marijuana 100 to 999 kilograms marijuana mixture or 100 to 999 marijuana plants</p>	<p><b>First Offense:</b> Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.</p> <p><b>Second Offense:</b> Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50million if other than an individual.</p>
<p>Marijuana 50 to 99 kilograms marijuana mixture, 50 to 99 marijuana plants</p>	<p><b>First Offense:</b> Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.</p> <p><b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.</p>
<p>Hashish More than 10 kilograms</p>	
<p>Hashish Oil More than 1 kilogram</p>	
<p>Marijuana less than 50 kilograms marijuana (but does not include 50 or more marijuana plants regardless of weight)</p> <p>1 to 49 marijuana plants</p>	<p><b>First Offense:</b> Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.</p> <p><b>Second Offense:</b> Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual.</p>
<p>Hashish 10 kilograms or less</p>	
<p>Hashish Oil 1 kilogram or less</p>	

### Local Law/Ordinances Involving Illegal Drugs and Alcohol

- Mohawk Valley Community College, Utica Campus:

A summary of the City of Utica Local Law for the unlawful possession or distribution of illicit drugs and alcohol can be found at <http://ecode360.com/UT2994>.

- Mohawk Valley Community College, Rome Campus:

A summary of the City of Rome Local Law for the unlawful possession or distribution of illicit drugs and alcohol can be found at

[https://www2.municode.com/library/ny/rome/codes/code\\_of\\_ordinances?nodeId=10285](https://www2.municode.com/library/ny/rome/codes/code_of_ordinances?nodeId=10285).