

## **LOCAL AND FEDERAL LAWS PERTAINING TO ALCOHOL AND DRUGS**

Following is a brief summary of District of Columbia and federal laws pertaining to alcohol and drugs. This is not an exhaustive list and is subject to change. The law constantly evolves and is subject to different interpretations.

### **I. District of Columbia Crime and Penalties—Alcohol**

#### ***Persons under 21—Possession and Consumption***

Crime 1: No person who is under 21 years of age shall purchase, attempt to purchase, possess, or drink an alcoholic beverage in the District.

Crime 2: No person shall falsely represent his or her age, or possess or present as proof of age an identification document which is in any way fraudulent, for the purpose of purchasing, possessing, or drinking an alcoholic beverage in the District.

For persons under the age of 21, those crimes other than possession or consumption are considered a misdemeanor. For persons under the age of 21, possession and consumption is a civil offense. Both criminal and civil offenses result in the following penalties:

1. First violation, fine of not more than \$300 and suspension of driving privileges in the District for 90 days.
2. Second violation, fine of not more than \$600 and suspension of driving privileges in the District for 180 days.
3. Third and each subsequent violation, fine of not more than \$1,000 and suspension of driving privileges for one year.

Failure to pay fines for the criminal offense can result in imprisonment for a period not exceeding 30 days.

For both criminal and civil offenses, the Mayor can offer a diversion program in lieu of the proceeding penalties. If the person rejects enrollment in, or fails to comply with the requirements of, or fails to complete within 6 months, the diversion program, he or she may continue to be given the applicable penalties for the offense.

Crime 3: A person who is not an ABRA licensee shall not, within the District, purchase an alcoholic beverage for the purpose of delivering the alcoholic beverage to a person who is under 21 years of age.

Crime 4: A person who is an ABRA licensee shall not, within the District, offer, give, provide, or otherwise make available an alcoholic beverage to a person who is under 21 years of age, except if necessary to allow the person to perform lawful employment responsibilities that require the person to have temporary possession of alcoholic beverages (e.g. waiters and waitresses).

Penalties for crimes 3 and 4:

1. First offense, fine of not more than \$1,000, or imprisoned up to 180 days, or both;
2. Second offense committed within 2 years of any such previous offense, fine of not more than \$2,500, or imprisoned up to 180 days, or both;
3. Third or subsequent offense committed within 2 years of any such previous offense, fine of not more than \$5,000, or imprisoned up to 1 year, or both.

Source: D.C. Law § 25-1002

***Drivers under the Influence of Alcohol or Drugs***

Crime 5: No person shall operate or be in physical control of any vehicle in the district when: the person’s alcohol concentration at the time of testing is 0.08 grams or more either per 100 milliliters of blood or per 210 liters of breath or is 0.10 grams or more per 100 milliliters of urine; or while under the influence of intoxicating liquor or any drug or any combination thereof; or if under 21 years of age, when the person’s blood, breath, or urine contains any measurable amount of alcohol.

Penalties for crime 5:

	<u>Blood Alcohol Content (BAC)</u>	<u>Fine</u>	<u>Imprisonment</u>	<u>Other</u>
1 <sup>st</sup> Offense for violating crime 5 and has not been previously convicted for a violation of crime 6	0.08 grams or more but not more than 0.20 grams either per 100 milliliters of blood or per 210 liters of breath 0.10 grams or more but not more than 0.25 grams per 100 milliliters of urine	\$300	May be imprisoned for not more than 90 days	n/a
	0.20 grams or more but not more than 0.25 grams either per 100 milliliters of blood or per 210 liters of breath 0.25 grams ore more but not more than 0.32 grams per 100 milliliters of urine		Penalties above and: Mandatory minimum of 5 days	
	0.25 grams or more either per 100 milliliters of blood or per 210 liters of breath 0.32 grams or more per 100 milliliters of urine		Penalties above and: Mandatory minimum of an additional 10 days	
2 <sup>nd</sup> Offense for violating crime 5 within a 15-year period, or for a first offense following a conviction for crime 6 within a 15-year period	0.08 grams or more but not more than 0.20 grams either per 100 milliliters of blood or per 210 liters of breath 0.10 grams or more but not more than 0.25 grams per 100 milliliters of urine	Not less than \$1,000 and not more than \$5,000	Not less than 5 days and not more than 1 year	Perform at least 30 days of community service
	0.20 grams or more but not more than 0.25 grams either per 100 milliliters of blood or per 210 liters of breath 0.25 grams ore more but not more than 0.32 grams per 100 milliliters of urine		Penalties above and: Mandatory minimum of an additional 10 days	
	0.25 grams or more either per 100 milliliters of blood or per 210 liters of breath 0.32 grams or more per 100 milliliters of urine		Penalties above and: Mandatory minimum of an additional 20 days	
3 <sup>rd</sup> or any subsequent offense of crime 5 within a 15-year period, or for the second offense following a	0.08 grams or more but not more than 0.20 grams either per 100 milliliters of blood or per 210 liters of breath 0.10 grams or more but not more than 0.25 grams per 100 milliliters of urine	Not less than \$2,000 and not more than \$10,000	Not less than 10 days and not more than 1 year	Perform at least 60 days of community service
	0.20 grams or more but not more than 0.25 grams either per 100 milliliters of blood or per 210 liters of breath 0.25 grams ore more but not more than 0.32 grams per		Penalties above and: Mandatory	

previous conviction for crime 6 within a 15-year period	100 milliliters of urine		minimum of an additional 15 days	
	0.25 grams or more either per 100 milliliters of blood or per 210 liters of breath  0.32 grams or more per 100 milliliters of urine		Penalties above and:  Mandatory minimum of an additional 25 days	

Crime 6: No person shall, while the person’s ability to operate a vehicle is impaired by the consumption of intoxicating liquor, operate or be in physical control of any vehicle in the District.

Penalties for crime 6:

	<u>Fine</u>	<u>Imprisonment</u>	<u>Other</u>
1 <sup>st</sup> offense for violating crime 6 and has not been previously convicted for crime 5	Not less than \$200 and not more than \$300	Not more than 30 days	n/a
2 <sup>nd</sup> Offense for violating crime 6 within a 15-year period, or for a first offense following a conviction for crime 5 within a 15-year period	Not less than \$300 and not more than \$500	Not less than a mandatory-minimum of 5 days and not more than 1 year	Perform at least 30 days of community service
3 <sup>rd</sup> or any subsequent offense of crime 5 within a 15-year period, or for the second offense following a previous conviction for crime 6 within a 15-year period	Not less than \$1,000 and not more than \$5,000	Not less than a mandatory-minimum of 10 days and not more than 1 year	Perform at least 60 days of community service

If the person convicted of crime 5 or crime 6 was transporting a person 17 years of age or younger, he/she shall be fined an additional minimum of \$500 and not more than \$1,000 and sentenced to perform 48 hours of community service for the first offense and 80 hours of community service for each subsequent offense.

Any person convicted of violating crimes 5 or 6 who has previously been convicted of violating either crime within a 15- year period, shall receive an assessment of the person's degree of alcohol abuse and treatment, as appropriate.

Source: D.C. Law § 50-2201.05

## II. District of Columbia Crimes and Penalties—Drugs

It is unlawful for any person to knowingly or intentionally manufacture, distribute, or possess, with intent to manufacture or distribute, a controlled substance or drug paraphernalia. A

conviction under local laws may result in imprisonment, a fine or both. The length of prison term and the amount of the fine depend upon the particular type of controlled substances involved. Maximum penalties include 30-year jail terms and/or \$500,000 fines. Subsequent convictions and violations involving distribution to minors carry increased penalties, up to twice the usual sanctions. It is unlawful for any person knowingly or intentionally to possess 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 his or her professional practice. Any person who violates this subsection is guilty of a misdemeanor and upon conviction may be imprisoned for not more than 180 days, fined not more than \$1,000 or both.

Source: DC Law § 48-904

### **III. Federal Drug Crimes and Penalties**

Federal law prohibits the manufacture, distribution, or dispensing, or possession with intent to manufacture, distribute, or dispense, a controlled substance. The following summarizes selected provisions of federal laws which provide criminal and civil penalties for unlawful possession or distribution of drugs. See <http://www.justice.gov/dea/agency/penalties.htm> for updated information.

#### **A. Federal Penalties and Sanctions for Illegal Possession of Controlled Substances**

##### **21 U.S.C. 844(a) Simple Possession:**

1<sup>st</sup> Conviction: Up to one year imprisonment, or fined at least \$1,000, or both.

After one prior drug conviction: At least 15 days in prison, not to exceed 2 years; or fined at least \$2,500; or both.

After two or more prior drug convictions: At least 90 days in prison, not to exceed 3 years; or fined at least \$5,000; or both.

##### **Special sentencing provisions for possession of crack cocaine:**

- Mandatory at least 5 years in prison, not to exceed 20 years; or fined at least \$1,000; or both, if:
  - o 1<sup>st</sup> conviction and the amount of crack possessed exceeds 5 grams.
  - o 2<sup>nd</sup> crack conviction and the amount of crack possessed exceeds 3 grams.
  - o 3<sup>rd</sup> or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.

##### **Special sentencing provisions for possession of flunitrazepam:**

- Imprisonment for not more than 3 years
- Fines as provided in other 844(a) convictions.

Upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense.

##### **21 U.S.C. 881(a)(4) Criminal Forfeiture:**

Forfeiture of vehicles, boats, aircraft or any other conveyance which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of a controlled substance or the raw materials, products, or equipment used to manufacture the controlled substance.

21 U.S.C. 844a Civil Penalty For Possession of Small Amount of Certain Controlled Substances:

Any individual who knowingly possesses a controlled substance that is a personal use amount shall be liable for a fine up to \$10,000.

21 U.S.C. 862 Denial of Benefits:

Denial of federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to one year for first offense, up to five years for second and subsequent offenses for possession of controlled substances. Increased penalties apply if convicted for drug trafficking.

Note: These are only federal penalties and sanctions. Additional local penalties and sanctions may apply.

B. Federal Trafficking Penalties

Updated information about federal drug trafficking penalties for most drugs can be found at the following website: [www.usdoj.gov/dea/agency/penalties.htm](http://www.usdoj.gov/dea/agency/penalties.htm). Information about federal drug trafficking penalties for marijuana, hashish, and hash oil can be found on the same website.

**FEDERAL TRAFFICKING PENALTIES**

CSA	2 <sup>nd</sup> Offense	1 <sup>st</sup> Offense	Quantity	Drug	Quantity	1 <sup>st</sup> Offense	2 <sup>nd</sup> Offense	2 or More Prior Offenses			
I and II	Not less than 10 years. Not more than life.  If death or serious injury, not less than life.  Fine of not more than \$8 million if an individual, \$50 million if not an individual.	Not less than 5 years. Not more than 40 years.	500-4,999 gms mixture	Cocaine	5 kg or more mixture	Not less than 10 years. Not more than life.	Not less than 20 years. Not more than life.	Life Imprisonment			
			28-279 gms mixture	Cocaine Base	280 gms or more mixture						
			40-399 gms mixture	Fentanyl	400 gms or more mixture						
		If death or serious injury, not less than 20 years, or more than life.	10-99 gms mixture	Fentanyl Analogue	100 gms or more mixture	If death or serious injury, not less than 20 years, or more than life.					
			100-999 gms mixture	Heroin	1 kg or more mixture						
		Fine of not more than \$5 million if an individual, \$25 million if not an individual.	1-9 gms mixture	LSD	10 gms or more mixture	Fine of not more than \$10 million if an individual, \$50 million if not an individual.					
			5-49 gms pure or 50-499 gms mixture	Methamphetamine	50 gms or more pure or 500 gms or more mixture						
			10-99 gms pure or 100-999 gms mixture	PCP	100 gms or more pure or 1 kg or more mixture						
			<b>Drug</b>	<b>Quantity</b>	<b>1<sup>st</sup> Offense</b>				<b>2<sup>nd</sup> Offense</b>		
			Others (and any drug product containing Gamma	Any	Not more than 20 years. If death or serious injury, not less than 20				Not more than 30 years. If death or serious injury, not more than 15		

	Hydroxybutyric Acid)		years, not more than life. Fine of not more than \$1 million if an individual, \$5 million if not an individual.	years. Fine of not more than \$2 million if an individual, \$10 million if not an individual.
III	All/Other	Any	Not more than 10 years. If death or serious injury, not more than 15 years. Fine of not more than \$500,000 if an individual, \$2.5 million if not an individual.	Not more than 20 years. If death or serious injury, not more than 30 years. Fine of not more than \$1.5 million if an individual, \$5 million if not an individual.
IV	All	Any	Not more than 5 years.	Not more than 10 years.
	Flunitrazepam	Less than 1 gm	Fine of not more than \$250,000 if an individual, \$1 million if not an individual.	Fine of not more than \$500,000 if an individual, \$2 million if not an individual.
V	All	Any	Not more than 1 year. Fine of not more than \$100,000 if an individual, \$250,000 if not an individual.	Not more than 4 years. Fine of not more than \$200,000 if an individual, \$500,000 if not an individual.

Drug	Quantity	1 <sup>st</sup> Offense	2 <sup>nd</sup> Offense
Marijuana	1,000 kg or more mixture; or 1,000 or more plants	Not less than 10 years, not more than life. If death or serious injury, not less than 20 years, not more than life. Fine not more than \$4 million if an individual, \$10 million if other than an individual.	Not less than 20 years, not more than life. If death or serious injury, mandatory life. Fine not more than \$8 million if an individual, \$20 million if other than an individual.
Marijuana	100 kg to 999 kg mixture; or 100 to 999 plants	Not less than 5 years, not more than 40 years. If death or serious injury, not less than 20 years, not more than life. Fine not more than \$2 million if an individual, \$5 million if other than an individual.	Not less than 10 years, not more than life. If death or serious injury, mandatory life. Fine not more than \$4 million if an individual, \$10 million if other than an individual.
Marijuana	50 to 99 kg mixture; or 50 to 99 plants More than 10 kgs hashish or more than 1 kg of hashish oil	Not more than 20 years. If death or serious injury, not less than 20 years, not more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not more than 30 years. If death or serious injury, mandatory life. Fine \$2 million if an individual, \$10 million if other than individual.
Marijuana	1 to 49 plants; or less than 50 kg	Not more than 5 years. Fine not more than \$250,000, \$1 million other than individual.	Not more than 10 years. Fine \$500,000 if an individual, \$2 million if other than individual.
Hashish	10 kg or less		
Hashish Oil	1 kg or less		

\* The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final is a mandatory term of life imprisonment without release and a fine up to \$8 million if an individual and \$20 million if other than an individual.