

Report for Congress

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Drug Offenses: Maximum Fines and Terms of Imprisonment for Violation of the Federal Controlled Substances Act and Related Laws

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Summary

This is a chart of the maximum fines and terms of imprisonment that may be imposed as a consequence of conviction for violation of the federal Controlled Substances Act (CSA) and other drug supply and drug demand related laws.

It lists the penalties for: heroin, cocaine, crack, PCP, LSD, marihuana (marijuana), amphetamine, methamphetamine, listed (precursor) chemicals, paraphernalia, date rape drugs, rave drugs, designer drugs, ecstasy, drug kingpins, as well as the other substances including narcotics and opiates assigned to Schedule I, Schedule II, Schedule III, Schedule IV, and Schedule V of the Controlled Substances Act and the Controlled Substances Import and Export Act (Title II and Title III of the Comprehensive Drug Abuse and Control Act).

It maps the penalty structure for violations of 21 U.S.C. 841 (drug trafficking), 21 U.S.C. 960 (illicit drug import and export), 21 U.S.C. 962 (recalcitrant drug smugglers), 46 U.S.C. App. 1903 (maritime drug law enforcement), 21 U.S.C. 841(b)(6)(environmental damage from illegal manufacturing), 21 U.S.C. 841(e)(booby traps on federal lands), 21 U.S.C. 842 (regulatory offenses), 21 U.S.C. 843 (communications-related offenses), 21 U.S.C. 844 (simple possession), 21 U.S.C. 846, 963 (attempt and conspiracy), 21 U.S.C. 849 (drug dealing at truck stops), 21 U.S.C. 848 (continuing criminal enterprises (CCE)), 21 U.S.C. 854 (investment of illicit drug profits), 21 U.S.C. 859 (distribution to infants, minors, children, juveniles, and those under 18 years of age), 21 U.S.C. 861 (distribution to pregnant women), 21 U.S.C. 860 (distribution in school zones), 18 U.S.C. 1962 (racketeering (RICO)), 18 U.S.C. 1952 (Travel Act), 18 U.S.C. 924(e) (armed career criminals), 18 U.S.C. 3559(c)(three strikes), 18 U.S.C. 1956 (money laundering), 31 U.S.C. 5322 (currency transaction reporting (smurfing)), 21 U.S.C. 1906 (financial transactions with designated foreign narcotics traffickers), 26 U.S.C. 7201 (tax evasion), 26 U.S.C. 7203 (failure to file required returns), 26 U.S.C. 7206 (fraud and false statements).

It is an excerpt from CRS Report 97-141 A, *Drug Smuggling, Drug Dealing and Drug Abuse: Background and Overview of the Sanctions Under the Federal Controlled Substances Act and Related Statutes*.

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Drug Offenses: Maximum Fines and Terms of Imprisonment for Violation of the Federal Controlled Substances Act and Related Laws

Chart 1

Unlawful distribution, possession with intent to distribute, manufacture, importation and exportation, etc. (21 U.S.C. 841, 960, 962, and 46 U.S.C.App. 1903)¹

1st offense	<u>Substance</u>	<u>Amount</u>	<u>Fine</u>	<u>Imprisonment</u>
	Heroin	One kilogram or more	\$4/10 million	10 years to life
		100 grams to one kilogram	\$2/5 million	5 to 40 years
		Less than 100 grams	\$1/5 million	Up to 20 years
	Coca leaf and derivatives	5 kilograms or more	\$4/10 million	10 years to life
		500 grams to 5 kilograms	\$2/5 million	5 to 40 years
		Less than 500 grams	\$1/5 million	Up to 20 years
	Ecgonine (a cocaine precursor)	5 kilograms or more	\$4/10 million	10 years to life
		100 grams to 5 kilograms	\$2/5 million	5 to 40 years
		Less than 100 grams	\$1/5 million	Up to 20 years
	Coca leaves, cocaine, or ecgonine containing cocaine base ("Crack," etc.)	50 grams or more	\$4/10 million	10 years to life
		5 to 50 grams	\$2/5 million	5 to 40 years
		Less than 5 grams	\$1/5 million	Up to 20 years
	PCP (phencyclidine)	100 grams or more	\$4/10 million	10 years to life
		10 to 100 grams	\$2/5 million	5 to 40 years
		Less than 10 grams	\$1/5 million	Up to 20 years
	Mixture or substance containing detectable amount of PCP	1 kilogram or more	\$4/10 million	10 years to life
		100 grams to 1 kilogram	\$2/5 million	5 to 40 years
		Less than 100 grams	\$1/5 million	Up to 20 years
	LSD (lysergic acid diethylamide)	10 grams or more	\$4/10 million	10 years to life
		1 to 10 grams	\$2/5 million	5 to 40 years
		Less than 10 grams	\$1/5 million	Up to 20 years
	N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide (Fentanyl, i.e., "synthetic heroin")	400 grams or more (or 100 grams or more of a mixture or substance containing a detectable amount of it or any analogue of it)	\$4/10 million	10 years to life

¹ All trafficking offenses are subject to the same imprisonment penalty -- 20 years to life -- if death or serious bodily injury results from the use of the substance involved. Unless otherwise indicated weights apply to any mixture containing a detectable amount of the substance regardless of the weight of the substance in the mixture.

A reference to a fine of "\$4/10 million" means a fine of not less than \$4 million or more than 10 million and a reference to "10 years to life" means a term of imprisonment of not less than 10 years nor more than life.

	40 to 400 grams (or 10 grams of a mixture containing detectable amount)	\$2/5 million	5 to 40 years
	Less than 40 grams	\$1/5 million	Up to 20 years
Marihuana	1000 kilograms or more or 1000 or more plants	\$4/10 million	10 years to life
	100 to 1000 kilograms or 100 to 1000 plants	\$2/5 million	5 to 40 years
	50 to 100 kilograms or 100 plants	\$1/5 million	Up to 20 years
	Under 50 kilograms ² , 10 kilograms of hashish, or one kilogram of hashish oil	\$250,000/\$1 million	Up to 5 years
Methamphetamine ³	50 grams or more or 500 grams or more of a mixture	\$4/10 million	10 years to life
	5 to 50 grams or 50 to 500 grams of a mixture	\$2/5 million	5 to 40 years
	Less than 5 grams or less than 50 grams of a mixture	\$1/5 million	Up to 20 years
Gamma hydroxybutyric acid	any weight	\$1/5 million	Up to 20 years
Flunitrazepam	1 gram	\$1/5 million	Up to 20 years
	30 milligrams	\$250,000/\$1 million	Up to 5 years
Any other Schedule I or II substance ⁴	any weight	\$1/5 million	Up to 20 years
Any Schedule III substance	any weight	\$250,000/\$1 million	Up to 5 years
Any Schedule IV substance	any weight	\$250,000/\$1 million	Up to 3 years
Any Schedule V substance	any weight	\$100,000/\$250,000	Up to 1 year
2nd offense⁵			
Heroin	One kilogram or more	\$8/20 million	20 years to life
	100 grams to one kilogram	\$4/10 million	10 years to life
	Less than 100 grams	\$2/10 million	Up to 30 years
Coca leaf and derivatives	5 kilograms or more	\$8/20 million	20 years to life
	500 grams to 5 kilograms	\$4/10 million	10 years to life
	Less than 500 grams	\$2/10 million	Up to 30 years
Ecgonine (a cocaine precursor)	5 kilograms or more	\$8/20 million	20 years to life
	100 grams to 5 kilograms	\$4/10 million	10 years to life
	Less than 100 grams	\$2/10 million	Up to 30 years
Coca leaves, cocaine, or ecgonine containing cocaine base ("Crack," etc.)	50 grams or more	\$8/20 million	20 years to life
	5 to 50 grams	\$4/10 million	10 years to life
	Less than 5 grams	\$2/10 million	Up to 30 years

² Except in the case of 50 or more marihuana plants regardless of weight, and except that under section 841(b)(4) distribution of a small amount of marihuana for no remuneration is treated as a simple possession offense and punished under section 844, infra.

³ The penalties do not apply to importation or exportation, which are subject to imprisonment for not more than 20 years and a fine of not more than \$1 million for individuals and not more than \$5 million for organizations, regardless of the amount of the controlled substance involved.

⁴ The penalties do not apply to importation or exportation, which are subject to imprisonment for not more than 20 years and a fine of not more than \$2/5 million where the substance involved is under schedule I or II and imprisonment for not more than 5 years and a fine of not more than \$250,000/1 million where it is under III, IV or V.

⁵ A second offense is one committed after a prior conviction for any felony drug offense, under any Federal, State, or foreign law that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.

	PCP (phencyclidine)		
	100 grams or more	\$8/20 million	20 years to life
	10 to 100 grams	\$4/10 million	10 years to life
	Less than 10 grams	\$2/10 million	Up to 30 years
	Mixture or substance containing detectable amount of PCP		
	1 kilogram or more	\$8/20 million	20 years to life
	100 grams to 1 kilogram	\$4/10 million	10 years to life
	Less than 100 grams	\$2/10 million	Up to 30 years
	LSD(lysergic acid diethylamide)		
	10 grams or more	\$8/20 million	20 years to life
	1 to 10 grams	\$4/10 million	10 years to life
	Less than 10 grams	\$2/10 million	Up to 30 years
	N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide (Fentanyl, i.e., "synthetic heroin")		
	400 grams or more (or 100 grams or more of a mixture or substance containing a detectable amount of it or any analogue of it)	\$8/20 million	20 years to life
	40 to 400 grams (or 10 grams of a mixture containing detectable amount)	\$4/10 million	10 years to life
	Less than 40 grams	\$2/10 million	Up to 30 years
	Marihuana		
	1000 kilograms or more or 1000 or more plants)	\$8/20 million	20 years to life
	100 to 1000 kilograms or 100 to 1000 plants)	\$4/10 million	10 yrs. to life
	50 to 100 kilograms or 100 plants	\$2/10 million	Up to 30 years
	Less than 50 kilograms ⁶ , 10 kilograms of hashish, or one kilogram of hashish oil	\$500,000/\$2 million	Up to 10 years
	Methamphetamine ⁷		
	100 grams or more	\$8/20 million	20 years to life
	10 to 100 grams	\$4/10 million	10 years to life
	Less than 10 grams	\$2/10 million	Up to 30 years
	Gamma hydroxybutyric acid		
	any weight	\$2/10 million	Up to 30 years
	Flunitrazepam		
	1 gram	\$2/10 million	Up to 30 years
	30 milligrams	\$500,000/\$2 million	Up to 10 years
	Any other Schedule I or II substance ⁸		
	any weight	\$2/10 million	Up to 30 years
	Any Schedule III substance		
	any weight	\$500,000/\$2 million	Up to 10 years
	Any Schedule IV substance		
	any weight	\$500,000/\$2 million	Up to 6 years
	Any Schedule V substance		
	any weight	\$200,000/\$500,000	Up to 2 year
3rd offense	A Schedule I or II substance singled out for special penalty treatment (as indicated above) in amounts constituting a top level offense	Same as 2d offense	Life, no release

Cultivation on Federal property (21 U.S.C. 841(b)(5))

Any offense

⁶ Except in the case of 50 or more marihuana plants regardless of weight and except that distribution of a small amount of marihuana is punishable as simple possession under section 844, infra.

⁷ The penalties do not apply to importation or exportation, which are subject to imprisonment for not more than 30 years and a fine of not more than \$2 million for individuals and not more than \$10 million for organizations, regardless of the amount of the controlled substance involved.

⁸ The penalties do not apply to importation or exportation, which are subject to imprisonment for not more than 30 years and fines of not more than \$2/10 million where the substance involved is under schedule I or II and imprisonment for not more than 10 years and fines of not more than \$500,000/2 million where it is under III, IV or V.

All substances/all weights	Greater of \$500,000/ \$1 million or the maximum fine for distribution of the substance involved	Maximum term for distribution of the substance involved
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Environmental damage on Federal property resulting from controlled substance manufacturing or distribution (21 U.S.C. 841(b)(6))

Any offense ⁹		
All substances	Up to \$250,000	Up to 5 years

Use of a controlled substance to commit a crime of violence (21 U.S.C. 841(b)(7))

Any offense ¹⁰		
All substances	Up to \$250,000	Up to 20 years

Offenses involving precursor and essential (listed) chemicals, generally (21 U.S.C. 841(d))

Any offense ¹¹		
List I chemicals [under 21 U.S.C. 802(34)]	Up to \$250,000	Up to 20 years
List II chemicals [under 21 U.S.C. 802(35)]	Up to \$250,000	Up to 10 years

Boobytraps on Federal property (21 U.S.C. 841(e))¹²

1st offense	Up to \$10,000	Up to 10 years
2nd offense	Up to \$20,000	Up to 20 years

Wrongful distribution or possession of precursor and essential (listed) chemicals (21 U.S.C. 841(g))

Knowing unlawful distribution		
Listed chemicals [under 21 U.S.C. 802 (34)]	Up to \$250,000	Up to 5 years
Knowing possession of unreported listed chemicals		
Listed chemicals [under 21 U.S.C. 802 (34)]	Up to \$100,000	Up to 1 year

Regulatory offenses & use of communications to facilitate distribution (21 U.S.C. 842, 843)

1st offense		
Generally ¹³	Up to \$100,000	Up to 1 year

⁹ Creating a serious hazard to human or animal life, or harming the environment, or causing water pollution as a result of using poisons, chemicals or other hazardous substances on Federal property while in the course of unlawfully manufacturing or otherwise distributing a controlled substance.

¹⁰ Distributing a controlled substance to another with the intent to commit a crime of violence upon the victim.

¹¹ Possession with intent to use for unauthorized manufacture of a controlled substance; possession or distribution knowing that the chemical will be used for unauthorized manufacture of a controlled substance; or, with intent of causing evasion of the record-keeping or reporting requirements of 21 U.S.C. 830 (or regulations pursuant thereto), receipt or distribution of a reportable amount in units small enough so that the making of records or filing of reports is not required.

¹² Assembly, maintenance, or placement -- in connection with the manufacture, distribution, or dispensing of a controlled substance.

¹³ Knowingly distributing a controlled substance to an unauthorized person by a registrant, removing required labels, unlawful use of information acquired during a controlled substance inspection, failing to keep required records, etc.

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Deception offenses, etc.¹⁴ Up to \$250,000 Up to 4 years
Methamphetamine equipment offenses Up to \$30,000 Up to 10 years

2nd offense
Generally Up to \$250,000 Up to 2 years
Deception offenses, etc. Up to \$250,000 Up to 8 years
Methamphetamine equipment offenses Up to \$60,000 Up to 20 years

Simple possession (21 U.S.C. 844)¹⁵

1st offense
Cocaine base, over 5 grams Up to \$250,000 5 to 20 years
All other Not less than \$1,000 Up to 1 year
2nd offense¹⁶
Cocaine base, over 3 grams Up to \$250,000 5 to 20 years
All other Not less than \$2,500 15 days to 2 years
3rd offense
Cocaine base, over 1 gram Up to \$250,000 5 to 20 years
All other Not less than \$5,000 90 days to 3 years

Any offense
Flunitrazepam Up to \$250,000 Up to 3 years

Attempt and conspiracy (21 U.S.C. 846, 963)

Any offense
All substances Same as penalties for the underlying offense

Manufacturing or Distributing Controlled Substances Within 1000 Feet of a Truck Stop or Highway Rest Area (21 U.S.C. 849)

1st offense
All substances Up to twice the penalties otherwise authorized
2nd offense
All substances Up to three times the penalties otherwise authorized

Continuing Criminal Enterprise (CCE) ("kingpin") (21 U.S.C. 848)¹⁷

1st offense
All substances Up to \$2 million 20 years to life

¹⁴ To knowingly: use fictitious, revoked, suspended or expired registration number; obtain a controlled substance by fraud, forgery, or other form of deceit; provide false information; use labels and other markings to render a drug a counterfeit substance; unlawfully possess certain controlled substance manufacturing equipment; being a registrant, unlawfully distribute a controlled substance in the course of legitimate business; create or receive a mixture containing listed chemicals to evade regulatory requirements.

¹⁵ If convicted of a simple possession offense, the defendant is required, if able, to pay the "reasonable costs" of the investigation and prosecution of the offense. Penalties for simple possession are also applicable to distribution of a "small amount" of marijuana for no remuneration.

¹⁶ For purposes of the section under which the possession penalties are imposed, a prior conviction includes conviction of any offense under the Controlled Substances Act or the Controlled Substances Import and Export Act and any drug or narcotic offense chargeable under State law.

¹⁷ Under the statute, a person is considered to be engaged in a continuing criminal enterprise if (1) he commits any felony violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, (2) the violation is a part of a continuing series of violations of those statutes (A) which are undertaken by the person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and (B) from which such person obtains substantial income or resources.

Note that some violations carry the death penalty as discussed supra.

2nd offense
 All substances Up to \$4 million 30 years to life

Any offense, if the offender is a major participant, involving
 an enterprise that grosses \$10 million a year or more or involving
 300 times the amount of controlled substances required to trigger the
 most severe distribution penalties of 21 U.S.C. 841
 All substances Up to \$4 million life

Establishing manufacturing operations (21 U.S.C. 856)

Opening, maintaining, financing or making available a place for
 unlawful manufacture, distribution or use of controlled substances
 All substances Up to \$500,000 Up to 20 years

Endangering human life while illegally manufacturing a controlled substance (21 U.S.C. 858)

Any offense
 All substances Up to \$250,000 Up to 10 years

**Distribution to persons under age 21 by those age 18 or older
 (21 U.S.C. 859)**

1st offense
 All substances Up to twice the penalties otherwise authorized¹⁸

2nd offense
 All substances Up to three times the penalties otherwise authorized

**Employment of persons under 18 years of age (for violation of the CSA)
 or unauthorized distribution to a pregnant individual (21 U.S.C. 861)**

1st offense
 Generally Up to twice the penalties otherwise authorized for the underlying offense but
 at least 1 year in prison¹⁹

2nd offense
 Generally Up to three times the penalties otherwise authorized for the underlying offense but
 at least 1 year in prison²⁰

Any offense
 Use of person under 14 or distribution to a person under 18 Up to \$50,000 Up to 5 years

**Distribution or manufacturing in or near schools, colleges, or certain
 youth-centered recreational facilities (21 U.S.C. 860)²¹**

1st offense
 All substances Up to twice the penalties otherwise authorized for distribution and
 manufacture but at least 1 year in prison²²

¹⁸ Except that violation carries a mandatory minimum of no less than one year unless the offense involves marihuana in an amount of 5 grams or less.

¹⁹ Also, at least twice any term of supervised release otherwise authorized for a first offense. Any higher mandatory penalty otherwise authorized for the offense would prevail.

²⁰ Also, at least three times any term of supervised release otherwise authorized for a first offense. Penalties for third and subsequent offenses are governed by 21 U.S.C. 841(b)(1)(A).

²¹ The offense includes distribution or manufacturing in or on, or within 1,000 feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility.

²² Also, at least twice any term of supervised released otherwise authorized for a first offense. An exception to the mandatory 1-year minimum is provided with respect to an offense involving 5 grams or less of marihuana. Where the statute provides for a different mandatory penalty, the higher prevails.

2nd offense

All substances Up to three times the penalties otherwise authorized for distribution but at least 3
 years in prison

Trafficking in drug paraphernalia (21 U.S.C. 863)

Interstate or foreign sale and transportation of, or use of the
 mails to sell, drug paraphernalia Up to \$250,000 Up to 3 years

**Violation of regulations proscribing financial transactions
 with significant foreign narcotics traffickers (21 U.S.C.1906)**

Any offense (individual) Up to \$250,000 Up to 10 years
 Any offense (organization) Up to \$10,000,000
 Any offense (organization officer or agent) Up to \$5,000,000 Up to 30 years

**Commission of a pattern of racketeering activity including one or more
 narcotic or dangerous drug felony to invest in, acquire, operate or participate
 in the affairs of an interstate enterprise ((RICO)(18 U.S.C. 1962)**

Any offense
 Narcotic and dangerous drugs Up to \$250,000 Up to 20 years or life
 if the maximum for the
 predicate is life

Compensated crime of violence in aid of RICO (18 U.S.C. 1959)

Any offense
 All substances Up to \$250,000 Death or life in prison
 (murder or kidnapping)
 All substances. Up to \$250,000 Up to 30 years
 (maiming)
 All substances Up to \$250,000 Up to 20 years (serious
 injury)
 All substances Up to \$250,000 Up to 5 years (threats
 injury)
 All substances Up to \$250,000 Up to 10 years
 (attempt or conspiracy
 to murder or kidnap)
 All substances. Up to \$250,000 Up to 3 years (attempt
 or conspiracy to maim
 or commit a serious
 assault)

Aviation smuggling (19 U.S.C. 1590)

Any offense
 All substances Up to \$250,000 Up to 20 years

General smuggling (18 U.S.C. 545)

Any offense
 All substances Up to \$250,000 Up to 5 years

**Travel Act: use of interstate facilities in aid of
 controlled substance violations (18 U.S.C. 1952)**

Any Offense
 All substances Up to \$250,000 Up to 20 years, or any term of years
 or life if death results

Armed career criminal: possession of a firearm by a convicted felon or other disqualified person with 3 or more prior serious controlled substance convictions (drug crimes punishable by imprisonment for 10 years or more) or prior violent crime convictions (18 U.S.C. 924(e))

Any Offense
All substances Up to \$250,000 Not less than 15 years

Three strikes: commission of a serious violent felony by an individual with a prior serious controlled substance conviction (drug kingpin or most seriously punished trafficking offense) and a prior serious violent felony conviction or 2 or more prior serious violent felony convictions (18 U.S.C. 3559(c))

Any Offense
All substances Up to \$250,000 life

Laundering money from controlled substance violations (18 U.S.C. 1956, 1957; 31 U.S.C. 5322)

Laundering (18 U.S.C. 1956)

Any offense
All substances Up to greater of Up to 20 years
\$500,000 or 2X
the amount of \$
laundered

Monetary traffic in property derived from unlawful activity (18 U.S.C. 1957)

Any offense
All substances Up to greater of Up to 10 years
\$250,000 or 2X
the amount of \$
laundered

Currency transaction and transportation reporting (31 U.S.C. 5322)

1st offense
All substances Up to \$250,000 Up to 5 years

2d offense
All substances Up to \$500,000 Up to 10 years

Investment of illicit drug profits (21 U.S.C. 854, 855)

Any offense
All substances Up to the greater of 2X profit/proceeds or \$50,000 Up to 10 years

Prohibited financial transactions in violation of the International Narcotics Trafficking Act (21 U.S.C. 1906)

Any Offense
All substances Up to \$250,000 Up to 10 years

Any Offense by officials of an entity
All substances Up to \$5 million Up to 30 years

Tax Offenses (26 U.S.C. 7201, 7203, 7206)

Attempted evasion [concerning income from controlled substance violations] (26 U.S.C. 7201)

Any offense
All substances Up to \$250,000 Up to 5 years

Willful failure to file return [concerning income for such violations] (26 U.S.C. 7203)

Any offense
All substances Up to \$250,000 Up to 5 years

Fraud and false statements [concerning income from such violations] (26 U.S.C. 7206)

Any offense
All substances Up to \$250,000 Up to 3 years