
PART FIVE — GENERAL OFFENSES CODE

ARTICLE 522 Substance Control

- 522.01 Substance control regulations.**
- 522.02 Counterfeit substance regulations.**
- 522.03 Unlawful prescription possession regulations.**
- 522.04 Imitation controlled substance regulations.**

CROSS REFERENCES

See sectional histories for similar State law.
Uniform Controlled Substance Act—see WV Code 60A
Regulation of controlled substances—see WV 60A-4-401
Authority to prevent public injury—see WV Code 8-12-5(13)
Authority to prevent illegal sale—see WV Code 8-12-5(20)
Authority to promote order—see WV Code 8-12-5(44)
Authority to provide penalties—see WV Code 8-12-5(57)

522.01 Substance control regulations.

Except as authorized by this ordinance it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

Any person who violates this subsection with respect to:

- (a) It is unlawful for any person knowingly or intentionally to possess the controlled substance marijuana, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by the West Virginia Code.
 - (i) A controlled substance classified in Schedule I and II which is a narcotic drug, is guilty of a felony, and upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than fifteen years, or fined not more than twenty-five thousand dollars, or both;
 - (ii) Any other controlled substance classified in Schedule I, II or III, is guilty of a felony, and upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than five years, or fined not more than fifteen thousand dollars, or both;
 - (iii) A substance classified in Schedule IV, is guilty of a felony, and upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both;
 - (iv) A substance classified in Schedule V, is guilty of a misdemeanor, and, upon conviction, may be confined in the county jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both.

522.02 Counterfeit substance regulations.

Except as authorized by this ordinance, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

Any person who violates this subsection with respect to:

- (i) A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a felony, and, upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than fifteen years, or fined not more than twenty-five thousand dollars, or both;
- (ii) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a felony, and upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than five years, or fined not more than fifteen thousand dollars, or both;

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- (iii) A counterfeit substance classified in Schedule IV, is guilty of a felony, and upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both;
- (iv) A counterfeit substance classified in Schedule V, is guilty of a misdemeanor, and, upon conviction, may be confined in the county jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both.

522.03 Unlawful prescription possession regulations.

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 professional practice, or except as otherwise authorized by this ordinance. Any person who violates this subsection is guilty of a misdemeanor, or disposition may be made under section 407 [60A-4-407], subject to the limitations specified in said section 407 [60A-4-407], or upon conviction, such person may be confined to the county jail not less than ninety days nor more than six months, or fined not more than one thousand dollars, or both; provided, that notwithstanding any other provisions of this act to the contrary, and first offense for possession of less than 15 grams of marijuana shall be disposed of under said section 407 [60A-4-407].

522.04 Imitation controlled substance regulations.

It is unlawful for any person knowingly or intentionally:

- (a) To create, distribute or deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or
- (b) To create, possess or sell or otherwise transfer any equipment with the intent that such equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled substance, or in the container or label of a counterfeit substance or an imitation controlled substance.

Any person who violates this subsection is guilty of a misdemeanor, and, upon conviction, may be imprisoned in the county jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both. Any person being eighteen years old or more, who violates subdivision (1) of this subsection, and, in doing so distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than such person, is guilty of a felony, and upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both.

The provisions of subdivision (1) of this subsection shall not apply to a practitioner who administers or dispenses a placebo. (1971, c 54; 1983, c 43. Passed 7-8-2002.)