

Drug Possession with Intent to Distribute or Trafficking Drugs in Texas

Drug possession and/or selling drugs is a serious offense in the state of Texas. The punishments vary depending on the type of drug and quantity. The Texas Health and Safety Code Chapter 481 have categorized each drug into 5 groups and have laid out the penalties for each. Marijuana has its own category.

Below is a description of each group, under the Texas Penal Code, and the penalties involved with being in possession or “selling” the drug according to that Texas Penal Code.

Possession of GROUP 1 (Cocaine, Heroin, Methamphetamine, GHB, Ketamine, Oxycodone, Hydrocodone, Fentanyl)

WEIGHT	CLASSIFICATION	PENALTY
Less than 1 gram	State Jail Felony	180 days to 2 years in a state jail facility and/or a fine not to exceed \$10,000
1 gram or more but less than 4 grams	Third degree felony	2 to 10 years in Texas Department of Corrections (TDC) and/or a fine not to exceed \$10,000
4 grams or more but less than 200 grams	Second degree Felony	2 to 20 years in TDC and/or a fine not to exceed \$10,000
200 grams or more but less than 400 grams	First degree Felony	5 to 99 years in TDC and/or a fine not to exceed \$10,000
400 grams or more	Enhanced First degree Felony	10 to 99 years in TDC and fine not to exceed \$100,000

Manufacture or Delivery of penalty GROUP 1

WEIGHT	CLASSIFICATION	PENALTY
Less than 1 gram	State Jail Felony	180 days to 2 years in state jail facility and/or a fine not to exceed \$10,000
1 gram or more but less than 4 grams	Second degree felony	2 to 20 years in Texas Department of Corrections (TDC) and/or a fine not to exceed \$10,000
4 grams or more but less than 200 grams	First degree Felony	5 to 99 years in TDC and/or a fine not to exceed \$10,000
200 grams or more but less than 400 grams	Enhanced First degree Felony	10 to 99 years in TDC and fine not to exceed \$100,000
400 grams or more	Enhanced First degree Felony	15 to 99 years in TDC and fine not to exceed \$250,000

****If in the presence of a child, penalties are increased****

Possession of Group 1A (LSD)

AMOUNT	CLASSIFICATION	PENALTY
Fewer than 20 units	State Jail Felony	180 days to 2 years in state jail facility and/or a fine not to exceed \$10,000
20 units or more but less than 80 units	Third degree Felony	2 to 10 years in Texas Department of Corrections (TDC) and/or a fine not to exceed \$10,000

80 units or more but less than 4,000 units	Second degree felony	2 to 20 years in TDC and/or a fine not to exceed \$10,000
4,000 units or more but less than 8,000 units	First degree Felony	5 to 99 years in TDC and/or a fine not to exceed \$10,000
8,000 units or more	Enhanced First degree Felony	15 to 99 years in TDC and fine not to exceed \$250,000

Manufacture or Delivery of Penalty Group 1a

AMOUNT	CLASSIFICATION	PENALTY
Fewer than 20 units	State Jail Felony	180 days to 2 years in state jail facility and/or a fine not to exceed \$10,000
20 units or more but less than 80 units	Second degree Felony	2 to 20 years in TDC and/or a fine not to exceed \$10,000
80 units or more but less than 4,000 units	First degree felony	5 to 99 years in TDC and/or a fine not to exceed \$10,000
4,000 units or more	Enhanced First degree Felony	15 to 99 years in TDC and fine not to exceed \$250,000

Possession of Group 2 (Ecstasy (MDMA/Molly), PCP, Mescaline, Marijuana Oil

WEIGHT	CLASSIFICATION	PENALTY
Less than 1 gram	State Jail Felony	180 days to 2 years in state jail facility and/or a fine not to exceed \$10,000

1 gram or more but less than 4 grams	Third degree felony	2 to 10 years in Texas Department of Corrections (TDC) and/or a fine not to exceed \$10,000
4 grams or more but less than 400 grams	Second degree Felony	2 to 20 years in TDC and/or a fine not to exceed \$10,000
400 grams or more	Enhanced First degree Felony	5 to 99 years in TDC and fine not to exceed \$50,000

Manufacture or Delivery of penalty Group 2 and 2A

WEIGHT	CLASSIFICATION	PENALTY
Less than 1 gram	State Jail Felony	180 days to 2 years in state jail facility and/or a fine not to exceed \$10,000
1 gram or more but less than 4 grams	Second degree felony	2 to 20 years in Texas Department of Corrections (TDC) and/or a fine not to exceed \$10,000
4 grams or more but less than 400 grams	First degree Felony	5 to 99 years in TDC and/or a fine not to exceed \$10,000
400 grams or more	Enhanced First degree Felony	10 to 99 years in TDC and fine not to exceed \$100,000

Possession of Group 3 (Valium, Xanax, Ritalin, Peyote) And Group 4 (Compounds Containing Dionine, Motofen, Buprenorphine or Pryovalerone)

WEIGHT	CLASSIFICATION	PENALTY
Less than 28 grams	Class A Misdemeanor	Not more than 1 year in county jail and/or a fine not to exceed \$4,000
28 grams or more but less than 200 grams	Third degree felony	2 to 10 years in Texas Department of Corrections (TDC) and/or a fine not to exceed \$10,000
200 grams or more but less than 400 grams	Second degree felony	2 to 20 years in TDC and/or a fine not to exceed \$10,000
400 grams or more	Enhanced First degree Felony	5 to 99 years in TDC and fine not to exceed \$50,000

Manufacture or delivery of penalty Group 3 or 4

WEIGHT	CLASSIFICATION	PENALTY
Less than 28 grams	State Jail Felony	180 days to 2 years in state jail facility and/or a fine not to exceed \$10,000
28 grams or more but less than 200 grams	Second degree felony	2 to 20 years in Texas Department of Corrections (TDC) and/or a fine not to exceed \$10,000
200 grams or more but less than 400 grams	First degree felony	5 to 99 years in TDC and a fine not to exceed \$50,000
400 grams or more	Enhanced First degree Felony	10 to 99 years in TDC and fine not to exceed \$100,000

Possession of Marijuana

Weight		Classification	Penalty
2 ounces or less		Class B misdemeanor	Not more than 180 days in a county jail and/or a fine not to exceed \$2,000
More than 2 ounces, but less than 4 ounces		Class A misdemeanor	Not more than 1 year in a county jail and/or a fine not to exceed \$4,000
More than 4 ounces, but less than 5 pounds		State Jail Felony	180 days to 2 years in a state jail facility and/or a fine not to exceed \$10,000
More than 5 pounds, but less than 50 pounds		Third degree felony	2 to 10 years in TDC and/or a fine not to exceed \$10,000
More than 50 pounds, but less than 2,000		Second-degree felony	2 to 20 years in TDC and/or a fine not to exceed \$10,000
More than 2,000 pounds		Enhanced First-degree Felony	5 to 99 years in TDC and fine not to exceed \$50,000

Delivery of Marijuana

Weight	Classification	Penalty
1/4 ounce or less and	Class B misdemeanor	Not more than 180 days

does not receive money		in a county jail and/or a fine not to exceed \$2,000
1/4 ounce or less and does receive money	Class A misdemeanor	Not more than 1 year in a county jail and/or a fine not to exceed \$4,000
More than 1/4 ounce but less than 5 pounds	State Jail felony	180 days to 2 years in a state jail facility and/or a fine not to exceed \$10,000
More than 5 pounds, but less than 50 pounds	Second degree felony	2 to 20 years in TDC and/or a fine not to exceed \$10,000
More than 50 pounds, but less than 2,000	First degree felony	5 to 99 years in TDC and/or a fine not to exceed \$10,000
More than 2,000 pounds	Enhanced First degree Felony	10 to 99 years in TDC and fine not to exceed \$100,000

The state of Texas can also suspend your license for up to six months following a conviction on any violation of the Texas Controlled Substances Act.

Forfeitures

The Code of Criminal Procedure also allows police to seize any property used or “intended to be used” in the commission of a drug felony. That means they can take your car, your home, or any other belonging where you are accused of carrying or hiding drugs. The asset forfeiture law is a civil action, not criminal, and you don’t have to be convicted for the state to try to take your property. If you have been charged with a drug crime, it is important you contact an experienced attorney immediately to investigate your case and help you understand your rights. The lawyers at the Law Office of Patrick J McLain,

PLLC can help defend you against various drug crimes and will fight vigorously to protect your legal rights.