

Notice of Drug and Alcohol Laws

The below includes a brief, imperfect summary of potential law violations; it is not meant to be an all-inclusive list. You should *not* rely on the below for any interpretation or accurate summary of the law. If you have questions regarding your circumstances, then you should consult an attorney.

I. Pittsburg, Kansas Local Ordinances

Drug violations

Sec. 54-6 Sale of Ephedrine and Pseudoephedrine restricted. It is unlawful for any person to sell, deliver, provide or distribute ephedrine, pseudoephedrine, and ephedrine containing products. The penalty is a Class A violation.

Alcohol violations

Sec. 6-1 Purchase, possession, or consumption by underage persons. It is unlawful for a person, directly or indirectly, to sell, give away, procure, deliver or permit the sale, gift, procuring or delivery of any alcoholic liquor, cereal malt beverages or enhanced cereal malt to or for any person under 21 years of age. The penalties include but are not limited to, fine, service, suspension of driver's license, or imprisonment.

Sec. 6-141 Consumption on public property. No person shall drink or consume any alcoholic liquor on public property except pursuant to a temporary license agreement issued to a restaurant or other special permits provided under ordinance.

II. Kansas Law

Drug Laws

Under the state of Kansas, it is illegal to be in possession of controlled substances. The State of Kansas classifies controlled substances into one of five schedules based on their potential for abuse and dependence (K.S.A. §65-4105, *et seq.*).

K.S.A. 21-5705 Unlawful cultivation or distribution of controlled substances. It shall be unlawful for any person to distribute or possess with intent to distribute listed controlled substances. The penalties range from misdemeanor to felony with imprisonment and/or fine.

K.S.A. 21-5706 Unlawful possession of controlled substance. It is unlawful for any person to possess designated controlled substances. The penalties range from misdemeanor to felony with imprisonment and/or fine.

K.S.A. 21-5303 Criminal Solicitation. It is unlawful for any person to solicit, encourage or request another person to commit a felony, attempt to commit a felony or aid and abet in the commission of a felony.

Alcohol Laws

K.S.A. §8-1599 Transportation of liquor in open containers. It is unlawful to transport open containers in a vehicle upon a highway or street. The penalty is a misdemeanor with fine and/or imprisonment.

K.S.A. 8-1567 Driving under the influence. It is illegal to operate a motor vehicle with blood or breath alcohol and/or drug concentration (BAC) of 0.08 or more, or if the influence of drugs and/or alcohol render the driver incapable of safely driving a motor vehicle. The penalties range from misdemeanor to felony level charges as well as imprisonment, suspended or revoked driver's license, and/or fine.

Drug Paraphernalia

K.S.A. 21-5709-5710 Unlawful possession or distribution of drug paraphernalia. It is unlawful for any person to distribute or possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances

III. Federal Law

The Drug Enforcement Administration (DEA) is a US Department of Justice (DOJ) agency established by executive order in 1973 and the primary federal agency that enforces provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, commonly referred to as the federal Controlled Substances Act (CSA). The CSA and DEA regulations classify controlled substances into one of five schedules based on their potential for abuse and dependence. DOJ and DEA have authority to impose significant administrative, civil, and criminal enforcement actions and penalties against those violating the CSA and regulations.

The CSA covers the importation, manufacture, possession, distribution, and use of these substances and regulates certain chemicals that are used to manufacture them (21 U.S.C. §§ 801 through 904). The CSA provides for criminal penalties against individuals for knowing and intentional unlawful manufacturing, distributing, dispensing, and other unlawful activities involving controlled substances (21 U.S.C. §§ 841 and 843). The following lists a few specific drug statutes.

21 USC § 841(a)(1) – Distribution/Manufacturing/Possession with intent to Distribute - Statutory maximum generally is 20 years. Enhanced penalties are also available for distribution

to individuals under 21 (21 USC § 859) or distributions near schools, playgrounds, youth centers, arcades, pools, and public housing (21 USC § 860).

21 USC § 843(a)(3) (Obtaining Controlled Substances by Misrepresentation, Fraud, etc.) - Four year maximum for drug diversion offenses.

21 USC § 844 (Simple Possession) - Misdemeanor - One year maximum. Can become felony with higher penalties if prior drug convictions.

21 USC § 846 (Attempt) – Any person who attempts or conspires to commit the above offenses are also subject to the same penalties as those prescribed for the offense.