

# Consequences for Youth Substance Use

This document was prepared by the Scituate FACTS Coalition as a general reference of state, local and school policies. Any errors or omissions are unintentional. Updated June 2018.

## Marijuana

### **Possession of 2 ounces or less in private or public by youth under 21:**

(Physical and internal possession are covered- i.e. being high is enough.)

If 18, 19 or 20 years old, \$100 civil fine in the form of a ticket issued by the local Police Department and confiscation of marijuana.

### **Possession of 2 ounces or less by age 17 and under:**

\$100 civil fine and confiscation of marijuana. Plus completion of a 4-hour drug awareness program sponsored by the Institute for Health and Recovery, and 10 hours of Community Service within a year. If the program is not completed within a year, the fine could increase to \$1,000 with a delinquency (criminal) complaint filed with the court that could result in probation.

Source: [MGL c.94C, s.32L](#) and [MGL c.94C,s.32N](#) Possession of one ounce or less of marijuana. [MGL c.40, s.21D](#) The procedure to be followed in issuing a citation for possession of an ounce or less of marijuana.

### **Criminal public possession of over 2 ounces at any age:**

Immediate arrest and up to 6 months in jail, and/or \$500 fine.

Source: [MGL c.94C, s.34](#)

### **Criminal private possession of over 2 ounces youth under 21:**

#### **1st Offense:**

Immediate arrest + probation or DYS (Department of Youth Services) referral +/or \$500 fine.

**2nd Offense:** Immediate arrest + \$500 fine +/or 6 months incarceration and probation.

### **Criminal possession of over 10 ounces in private by over 21:**

(if not derived from a legal homegrow)

#### **1st Offense:**

House of Correction not more than 6 months +/or \$500 fine.

Source: [MGL c.94C, s.34](#) and [MGL c94G, s7\(a\)\(2\)](#)

**Possession of any amount on school property or at school-related event by student:**

Suspension from school and other conditions may be imposed by school administration, in addition to civil or criminal penalty allowed by law.

**Public Consumption of Marijuana for Age 21 and over:**

\$300 civil fine via ticket. Failure to pay may result in criminal complaint in District Court. Massachusetts town bylaws do not permit police officers to arrest a person who is consuming marijuana in public.

Source: [MGL c.94C, s.32L](#) ; [Scituate local by-law](#).

**Public Consumption of Marijuana for under 21:**

\$300 civil fine via ticket. Failure to pay may result in delinquency complaint in District Court.

**Sell (or intent to sell) any amount of marijuana anywhere -**

Only a marijuana business in possession of a state license may sell.

In order to be considered intent to distribute, the amount, packaging and several other factors (i.e. having the marijuana in separate bags) are considered. Money does not need to be exchanged for it to be considered intent to distribute (i.e. sharing a bowl, splitting a bag).

**Distribution of Marijuana (Class D Substance) for Age 18 and over:**

**1<sup>st</sup> offense:** Up to 2 Years imprisonment; and/or Fine between \$500-\$5,000.

**Subsequent offense:** 1-2.5 Years imprisonment; and/or Fine between \$1,000-\$10,000.

Source: [MGL c.94C](#) *Controlled Substances Act includes penalties for other drugs, trafficking or possession of more than one ounce of marijuana.*

**Distribution of Marijuana in a School Zone for Age 17 and over:**

Even if school is not in session, possession with the intent to sell within 300 feet of a school or within 100 feet of a public park, will result in immediate arrest + mandatory minimum 2 year jail sentence + possible fine up to \$10,000.

**Give marijuana to anyone under 21 at any location, in any amount, for any reason:**

Law prohibits knowing transfer, including house parties. Applies to adults and minors. Immediate arrest + up to two years in jail. +/- or fine up to \$5,000.

**Sell (or intend to sell) marijuana paraphernalia to under 21:**

Includes lamps, pipes, bongs, grow lights and other devices.

Immediate arrest + up to two years in jail, +/- or fine up to \$5,000.

Actual sale to minor under 18 is a felony of up to 5 years in prison.

**Sell nicotine delivery devices to under 21:**

Since March 2014, the sale of nicotine or nicotine delivery products (i.e. vaporizers) to minors under 21 years of age is prohibited in Scituate per Town Bylaw for Tobacco and E-Cigarettes (Scituate Board of Health 3/10/2014. *State Law for Tobacco and E-Cigarettes: Must be 18 years*

*of age or older to purchase tobacco products or e-cigarettes. Source: Code of Massachusetts Regulations 940. Sept. 2015)*

**Medical Marijuana - legal since January 2013:**

Patients Age 18 and over with a debilitating medical condition (such as ALS, HIV, MS, cancer, glaucoma or any other “health condition” certified in writing) who receive certification from a Massachusetts physician may obtain a registration card to purchase marijuana products from a Registered Marijuana Dispensary. Patients (or their designated Personal Caregivers) may possess a 30 day supply, defined here as 10 ounces. The THC content of dispensed marijuana edibles (THC-infused cookies, candies, drinks), resins, and oils count toward the monthly total.

Patients Age 17 and under may obtain a registration card only if diagnosed by two doctors (one must be a pediatrician), and has a parent or guardian as a caregiver.

*Restrictions on public consumption, distribution, location and OUI still apply with Medical Marijuana. Source: Chapter 369 of the Acts of 2012 & 105 CMR 725.000*

**Homemade Marijuana Concentrate of any age:**

No one may process marijuana with a flammable liquid or gas to create “dabs” or any other concentrate.

Immediate arrest + up to two years in jail, +/- or fine up to \$5,000.

High strength concentrate may be charged as a 5 year prison felony.

**Marijuana cultivation/growing in any amount anywhere by youth under 21:**

Only adults 21 and over may grow limited amounts at their primary residence.

Immediate arrest+ up to two years in jail, +/- or fine up to \$5,000.

**Marijuana home cultivation/ growing by 21 and over:**

Called the “homegrow provision” - Adults age 21 and over may possess 10 ounces or less and any marijuana produced by cultivating and processing 6 plants per adults, but no more than 12 plants per premises, at their **primary residence**. Some restrictions apply.

Various fines and forfeiture of plants, depending on type of violation.

**Operating a Motor Vehicle, boat or aircraft while Under the Influence of Marijuana is called “OUI – Drugs”**

Any person convicted of a violation that involves operating a motor vehicle while under the influence of narcotic drugs, depressants, stimulant substances, or the vapors of glue may be ordered to participate in a driver education program or a drug treatment or drug rehabilitation program, or any combination. *Source: MGL Ch 94C s34, MGL Ch 94C Section 32, 32A-E, 32F (Minors), MGL Ch90 s24*

**Note on operating under the influence of marijuana in vehicle for any age:**

Medical marijuana and/or legal possession are no defense. No driver may be high to any degree that might diminish their ability to operate safely. Will result in immediate arrest + 2 years

probation + education program + license suspension of at least 90 days and probably 1 year + fines and fees of at least \$500. See below:

**Penalties for Criminal Conviction (18+):**

- 1st offense: 1 year License Suspension and \$500 Fines
- 2nd offense: 2 years License Suspension and \$700 Fines
- 3rd offense: 8 years License Suspension and \$1,200 Fines
- 4th offense: 10 years License Suspension and \$1, 200 Fines
- 5th offense: Lifetime License Suspension

**Penalties for Criminal Conviction (Under 18):**

License may be suspended until age 21 at the trial judge’s discretion.

**Open container of marijuana in vehicle for any age:**

Any package with marijuana or marijuana products with seal broken or some contents removed or consumed found within the passenger area of the vehicle (not trunk or locked glove box). \$500 civil ticket may be issued to the driver and/or passengers of any age.

**Social Host Law:**

Any person of any age may not intentionally supply, provide or allow (i.e. consciously aware of activity on property) marijuana, marijuana products or accessories (i.e. paraphernalia) to anyone under 21 for their or another’s use. Only exceptions are child or grandchild on premises owned or controlled by suspect; or sale or delivery of medical marijuana pursuant to MGL C94I.

Arrest for breach in presence; otherwise complaint application. Up to one year in jail, and/or fine up to \$2,000.

## **Alcohol**

**Minor in Possession of Alcohol - Under 21:**

Warrantless arrest and a fine of not more than \$50. Mandatory registry action by court will result in an automatic 90-day suspension of right to operate a motor vehicle. This applies to all violators, even if they were not operating a vehicle at the time.

*MGL ch. 138 – 34C*

**Public Drinking or Possession of Alcohol in Public:**

Warrantless arrest and a fine determined by court.

*MGL ch. 272 – 59; Town of Scituate Bylaw*

**Open Container of Alcohol in a Motor Vehicle:**

Driver and any passengers in the vehicle from travelling with an open container of alcohol, even if they car is not being operated at the time of the infraction. Civil fine of \$500.

*MGL ch. 90 – 24I*

**Social Host Law - Selling or Furnishing Alcohol to Person Under 21 in Massachusetts:**

It is illegal for adults to allow underage drinking in their homes, even if they are not home. Under the same state law, it is illegal to buy alcohol for someone under the age of 21. It is dangerous and illegal in Massachusetts to furnish alcohol to a person under age 21; this includes selling, delivering, supplying, giving, ordering at a bar, or otherwise furnishing alcohol to someone under the age of 21. The social host liability law applies to whoever furnishes alcohol even if that person is also under age 21. For example, an 18-year old hosting a drinking party, or sharing their alcohol with someone under age 21, can be criminally charged.

Adults are responsible for underage drinking *even if they are not at home or the place of the event*. The Massachusetts Social Host Liability Law applies any time you believe a party will take place at your home or any place you have control over, such as a hotel room, boat, campsite, party venue, or rental property.

A person hosting a gathering but not providing alcohol can also be held liable if they knowingly allow underage guests to consume alcohol which the underage person brought themselves on a premise under their control, including a campsite or gathering where the adult had the authority or ability to regulate activity on the premises.

The only exception to this law is Parents or Grandparents, meaning they may legally provide alcohol to their own children or grandchildren under the age of 21 only, on their own private property only.

Of course, there are consequences under state law for the person under 21, too, including possible charges for possession, transporting, drinking in public, and operating under the influence of alcohol or drugs.

**Penalties for Criminal Conviction – Social Host:**

Up to \$2,000 in fines, up to one year in jail, or both, as decided by the sentencing judge. Social hosts may also be liable for substantial civil penalties in Massachusetts.

*(MGL ch. 138 § 34)*

## **Juvenile Diversion Program**

The Plymouth County District Attorney has discretion as to whether or not certain cases will be prosecuted once charged. In some circumstances, this discretion is utilized to take eligible juveniles (those under 17) out of the court system and placed into a diversion program of community service administered by the District Attorney's Office. In order to be eligible for the Juvenile Diversion Program, the juvenile must meet certain criteria of:

- No prior criminal record
- The crime must be a non-violent offense
- The juvenile must assume full responsibility for his/her actions
- The juvenile must have a positive attitude towards participation in the program
- The juvenile must demonstrate a willingness to make a positive change in their life

In exchange for not being prosecuted, and more involved in the Massachusetts legal system, the juvenile and his/her parents or guardian must agree to perform community service and make full restitution to the parties injured as a result of the offenses committed by the youth.

The Juvenile Diversion Program at the District Attorney's Office has been very successful in putting the lives of young men and women back on track, and allowing them alternatives to criminal records, probation and the possibility of incarceration.

The staff of the program works diligently with the court system to ensure the offender provides adequate service to the community, while at the same time, taking responsibility for the alleged crime he/she has committed.

## **Adult Diversion Program (ages 17-21):**

The Plymouth County District Attorney has discretion as to whether or not certain cases will be prosecuted. The program is designed to respond to the widespread concern of underage alcohol use. It is offered primarily to adult first time offenders (ages 17-21) who have been arrested or summonsed into court for minor alcohol related offenses.

The offender must appear in court, yet is never formally arraigned before a judge or a clerk magistrate. He or she must agree to sign a contract with the Plymouth County District Attorney's Office. This contract requires the individual to participate in a drug/alcohol educational program which consists of four consecutive classes. In addition, the individual is required to perform community service in his/her hometown or city.

The District Attorney's Office Diversion Officer monitors the contractual plan and reports the progress to the Assistant District Attorney assigned to the case.

Successful completion of a typical 90 day obligation results in the entry of a nolle prosequi (dismissal by the prosecution) in the court case prior to any formal arraignment, thus saving the

offender a criminal record and any further obligation to the court or to the Plymouth County District Attorney's Office.

Failure to comply will result in the individual facing prosecution within the traditional trial process.

### **Scituate Public School Policy on Alcohol, Drugs, Marijuana and E-Cigarettes**

Students are prohibited from using, consuming, possessing, buying/selling, giving away any controlled substance including marijuana and vaporizers. Students in the presence of others who are using, selling, distributing, or in open possession of these substances may be subject to disciplinary action. E-cigarettes and vaporizers are considered tobacco products and thus subject to school regulations.

#### **First Offense:**

- Notification of parents and mandatory parental conference
- Five to ten days suspension
- Mandatory attendance and positive participation in 6 after school counseling sessions with School Adjustment Counselor
- Restriction from all school sponsored social events on or off campus for 18 school weeks
- Loss of parking privileges without reimbursement for 18 school weeks
- Student is required to develop a contract with the building Principal or his/her designee to perform 25 hours of school-related service beyond the school day (not to be counted toward the graduation requirement)
- Participation in graduation ceremonies may be withheld at the Principal's discretion
- School-related service may be required
- Student must relinquish any elected or appointed positions

Source: SPS Student and Student Athlete Handbook 2015/2016

#### **Additional Penalties for Student Athletes:**

In addition to the policies outlines in the SPS Student Handbook, all athletes are governed by the regulations in the Massachusetts Interscholastic Athletic Association's MIAA Chemical Health Policy (excerpt below). Most SHS sports are additionally governed by Patriot League policies.

#### **MIAA Chemical Health Policy**, most recently updated in July 2015:

"From the earliest fall practice date, to the conclusion of the academic year or final athletic event (whichever is latest), a student shall not, regardless of the quantity, use, consume, possess, buy/sell, or give away any beverage containing alcohol; any tobacco product(including

e-cigarettes, vape pens and all similar devices); marijuana (including synthetic); steroids; or any controlled substance. This policy includes products such as “NA or near beer.”

**First violation:**

When the Principal confirms, following an opportunity for the student to be heard, that a violation occurred, the student shall lose eligibility for the next consecutive interscholastic contests (regular season and tournament) totaling 25% of all interscholastic contests in that sport. No exception is permitted for a student who becomes a participant in a treatment program. It is recommended that the student be allowed to remain at practice for the purpose of rehabilitation. During the suspension the disqualified student may not be in uniform and his/her attendance at the competition site is determined by the high school principal. All decimal part of an event will be truncated i.e. all fractional part of an event will be dropped when calculating the 25% of the season and subsequent violations.

**Second or Subsequent violations:**

**Lesser Penalty for Participation in Chemical Dependency Program**

If after the second or subsequent violations, the student, of his/her own volition, becomes a participant in an approved chemical dependency program or treatment program, the student may be certified for reinstatement in MIAA activities after a minimum of 40% of events, provided the student was fully engaged in the program throughout that penalty period. The high school principal in collaboration with a Chemical Dependency Program or Treatment Program must certify that student is attending or issue a certificate of completion. If student does not complete program, penalty reverts back to 60% of the season. All decimal part of an event will be truncated i.e. All fractional part of an event will be dropped when calculating the 40% of the season.

Source: MIAA Chemical Health Policy July 1, 2015

**Patriot League Chemical Health Policy:**

1. A student may not join a sport after the first day of practice/tryouts if they have an existing chemical health violation.
2. A student who has a chemical health violation is ineligible to be elected or serve as captain for one full calendar year from the date of the violation. A student who is ineligible on day one of a season to serve as captain due to a chemical health violation will remain ineligible to serve in that capacity for the entire season.
3. The (Patriot) league will vote on waivers for chemical health as they are requested.

Source: 2017-18 Patriot League Handbook, Page 12

*Reference document updated in June 2018.*

*Please email [SctuateFACTS@gmail.com](mailto:SctuateFACTS@gmail.com) with questions or corrections.*

