

Fed Facts: The Real Deal

Federal Minimum Mandatory Sentences

*Penalties subject to change

CARRYING A FIREARM DURING A DRUG TRAFFICKING CRIME OR CRIME OF VIOLENCE - [18 USC 924(C)]

<u>FIREARM TYPE</u>	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>
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Regular firearm	Possess – 5 years Brandish - 7 years Discharge - 10 years	25 years
Short-barrel shotgun or rifle	10 years	25 years
Machine gun, silencer or destructive device	30 years	Life without parole

Sentences are mandatory and consecutive to any other sentence

DRUG TRAFFICKING SENTENCES – [21 USC 841(b)]

<u>TRAFFICKING IN</u>	<u>10 YEARS TO LIFE</u>	<u>5 TO 40 YEARS</u>
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meth (actual)	50 grams	5 grams
meth (mixture/substance)	500 grams	50 grams
heroin	1 kilogram	100 grams
cocaine	5 kilograms	500 grams
cocaine base	50 grams	5 grams
PCP	100 grams	10 grams
LSD	10 grams	1 grams
fentanyl	400 grams	40 grams
marijuana	1000 kilograms (or 1000 plants)	100 kilograms (or 100 plants)

Any amount of GHB or 1 gram or more of Rohypnol (Roofies) – up to 20 years imprisonment. 30 mg up to 1 gram Roofies up to 5 years imprisonment.

Trafficking includes manufacturing, distributing, dispensing, importing and exporting (or possession with intent to do the same) a controlled substance or a counterfeit substance.

Use of a Communication Facility (21 USC 843(b))

First Offense (each separate use is considered separate offense)

Up to four years imprisonment; up to \$30,000 fine

Second Offense

Up to eight years imprisonment; up to \$60,000 fine

Distribution of a Controlled Substance With Intent to Commit a Crime of Violence (including rape) (21 USC 841(D)(7))

Up to 20 years imprisonment; up to \$250,000 fine

Advertisements 21 USC 843(c)

Unlawful for any person to place an advertisement in any newspaper, magazine, handbill or other publications seeking or offering to illegally receive, buy, or distribute any Schedule I controlled substance.

First Offense

Up to 4 years imprisonment and/or \$250,000 fine

Second Offense – or after a conviction for any state or federal drug law
8 years and/or \$500,000 fine

Methamphetamine Manufacturing Materials (21 USC 843(d)(2))

Unlawful for any person to possess any equipment, material, chemical or product used in the manufacture of methamphetamine.

First Offense

Up to 10 years imprisonment and/or \$250,000 fine

Second Offense - or after a conviction for any state or federal drug law
20 years and/or \$500,000 fine

Establishment of Manufacturing Operations (21 USC 856)

Unlawful for an individual to knowingly open or maintain any place for manufacturing, distributing, or using any controlled substance; or, to manage, control any building, room, or enclosure for the purpose of unlawfully manufacturing, distributing, or using any controlled substance.

Penalty

Up to 20 years imprisonment and/or \$500,000

This statute applies to temporary facilities such as those used for some raves.

Armed Career Criminal (18 USC 924(e))

An individual who has at least three felony convictions (federal or state) for a violent felony and/or a serious drug offense committed on different occasions and is arrested in possession of a firearm and/or ammunition, can be prosecuted under federal law as an Armed Career Criminal.

For previous Utah drug trafficking convictions to qualify, the defendant must have received a sentence with the possibility of at least 10 years in prison, i.e. a second degree felony.

Crimes of violence must be a felony and have included the potential for violence. Examples of these crimes could include arson, rape, murder, aggravated assault, escape, robbery, residential burglary, extortion, kidnapping, and carjacking. (A conviction for possession of a firearm by a restricted person does not count toward the ACC classification.)

Law enforcement officers who encounter individuals who may qualify for prosecution as an armed career criminal should contact the ATF in Utah at 801-524-7000.

Penalty

Minimum mandatory 15-year sentence

Career Offender

Federal law also allows for a sentencing enhancement as a career offender if the present offense is a felony that is either a crime of violence (for example, carjacking) or a controlled substance offense (for example, possession of a controlled substance with intent to distribute) and the defendant has at least two prior violent felony or controlled substance convictions.

For example, if the present offense is for possession of five or more grams of meth with intent to distribute, and the defendant has two prior drug distribution convictions, his sentencing range would likely be 262-327 months or 21 to 27 years in federal prison.

Endangering human life while illegally manufacturing a controlled substance (21 USC 858)

Whoever, while manufacturing or attempting to manufacture a controlled substance, or, transporting or causing to be transported materials, including chemicals to do so, creates a substantial risk of harm to human life.

Penalty

Subject to an enhancement under sentencing guidelines and up to 10 years imprisonment and/or \$250,000 fine

Distribute or manufacturing in or near schools or playgrounds (21 USC 860(a))

Distributing drugs within 1,000 feet of a public or private elementary, vocational, or secondary school or university or within 100 feet of a public or private youth center, public swimming pool, video arcade.

Penalty

Subject to an enhancement under sentencing guidelines and twice the authorized penalties in Section 841(b)

Aggravated identity theft (18 USC 1028A)

Whoever, during and in relation to any felony violation enumerated in this section (including such felonies as mail, bank, and wire fraud and access device fraud) knowingly transfers, possesses or uses a means of identification of another person without authority shall, in addition to the punishment provided for such a felony, be sentenced to a term of imprisonment of 2 years.



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