

## Villanueva, Sandra

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**From:** Office of the President <president@tamiu.edu>  
**Sent:** Thursday, October 15, 2020 4:49 PM  
**To:** All Employees  
**Subject:** Annual Notification to Employees  
**Attachments:** Annual Notification to Employees - 10-14-20.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear TAMIU Employees:

Please take time to review the attached **Annual Notification to Employees** and the links embedded therein. This document contains important information regarding your employment at TAMIU and your responsibilities as an employee required by law and/or System policy. Below is a list of the content in the notification. If you have questions about this notification, please contact the Office of Compliance at ext. 2855.

1. Do the Right Thing! Report Risk, Fraud, Waste Abuse, and Misconduct
2. Civil Rights Compliance Program
3. Annual Security & Fire Safety Report
4. External Employment
5. State Compensatory Time
6. Updating Employee Self-Identification of Disability
7. Updating Employee Emergency Contact Information
8. Reporting to Supervisor Any Arrest, Criminal Charge, or Conviction
9. HIV/AIDS and the Workplace
10. Drug and Alcohol Abuse Prevention and Rehabilitation Program
11. Health Risks Related to Alcohol Use
12. Health Risks Related to Illicit Drug Use
13. On-Campus Resources and Information
14. Off-Campus Resources, Programs, and Information
15. Prevention of Alcohol Abuse & Illicit Drug Use at TAMIU Work Locations



**Pablo Arenaz, Ph.D.**  
**President**



# Annual Notification to Employees

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All Texas A&M International University (TAMIU) employees need to be aware of Federal and State laws as well as System regulations, policies and rules that affect them in the workplace. Please contact your Human Resources representative for additional information regarding the subjects below.

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## **1. DO THE RIGHT THING! REPORT RISK, FRAUD, WASTE, ABUSE, AND MISCONDUCT**

Every Texas A&M University System (TAMUS) employee shares the responsibility of promoting an ethical and safe environment. If you have factual information suggestive of unsafe, fraudulent, wasteful, abusive, or inappropriate activities involving any TAMUS Member, employee, student, or other affiliate, we want you to report it. Examples of reportable issues include: Misuse of A&M System Property, Information, Resources, Violations of Safety Rules or Environmental Laws, Theft, Conflicts of Interest, NCAA Violations, Inappropriate Conduct, Harassment, and Discrimination.

Reports can be made using the risk, fraud, and misconduct hotline called [EthicsPoint](#). *EthicsPoint* is a telephone and web-based reporting system that is independently operated and available 24/7. Employees can submit an anonymous report via the *EthicsPoint* link above (the link is also located at the bottom of all TAMIU webpages) by following the instructions under "File a Report Online" or by calling toll free 1-888-501-3850. *EthicsPoint* reports are forwarded to the appropriate institution or agency official for action. Anonymous reports can also be made to the Texas State Auditor's Office by calling 1-800-892-8348 or submitting an online report at <https://sao.fraud.texas.gov/ReportFraud>. If you have questions about *EthicsPoint*, please contact the Compliance Office at ext. 2855.

## **2. CIVIL RIGHTS COMPLIANCE PROGRAM**

No individual on the basis of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation, or gender identity shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under any University program or activity. All employees are responsible for ensuring their work and educational environments are free from discrimination, sexual harassment, and/or related retaliation. Concerns or complaints regarding any type of discrimination based on a protected status, including sex, should be reported to the Director of Equal Opportunity & Diversity/Title IX Coordinator, Lorissa M. Cortez, 5201 University Boulevard, Killam Library, Room 159B, Laredo, TX 78041, [TitleIX@tamiu.edu](mailto:TitleIX@tamiu.edu), 956-326-2857 and/or the Office of Civil Rights (Dallas Office), U.S. Department of Education, 1999 Bryan Street, Suite 1620, Dallas, TX 75201-6810, 214-661-9600. Reports can also be made anonymously via [Report It](#) and [EthicsPoint](#).

## **3. ANNUAL SECURITY & FIRE SAFETY REPORT**

The Annual Security and Fire Safety Report (ASFSR) is required by law and provided by the University Police Department (UPD). The report is available at the following website: <https://www.tamiu.edu/clery.pdf>. If you would like a copy of the ASFSR, visit UPD at 5201 University Boulevard, Laredo, Texas 78041. Alternatively, you can request a copy be mailed to you by calling UPD at 956-326-2100.

The ASFSR contains information regarding campus security and personal safety and covers topics including crime prevention, fire safety, fire statistics, TAMIU's law enforcement authority, crime-reporting, policies, disciplinary procedures, and other matters of importance related to security and safety on campus. The ASFSR also contains information about crime statistics for 3 previous calendar years for crimes reported occurring on campus; in certain non-campus buildings; on property owned/controlled by TAMIU or a recognized student organization; and on public property within, immediately adjacent, and campus-accessible. Statistics of all reported fires occurring inside on-campus student housing facilities is provided for the 3 most recent calendar years.

#### **4. EXTERNAL EMPLOYMENT**

TAMUS policies and regulations allow both faculty and non-faculty employees to hold an outside job, engage in outside consulting work, and/or have an ownership interest or serve on the board of an entity. The outside employment activity must be approved in advance by the appropriate vice president and must not interfere with the assigned workload and responsibilities of the employee. Employees must complete the [TAMU External Employment Application and Approval Form](#). The activity must be reasonable in amount and conducted according to the standards of conduct prescribed by law. In addition, the activity must avoid unfair competition with private enterprises, must not conflict with the interests of the State of Texas, and must not be represented as having the endorsement or sponsorship of the TAMUS. TAMU prohibits the use of University resources for external employment. For additional information, please review the following policies:

- [System Regulation 31.05.02, External Employment](#)
- [TAMU Rule 31.05.01.L1, Faculty Consulting and External Professional Employment](#)
- [TAMU SAP 33.04.01.Lo.01, Use of TAMU Resources for External Employment](#)

#### **5. STATE COMPENSATORY TIME**

All State agencies are required to notify their employees of the State's policy on State Compensatory Time and how they may use it. State Compensatory Time is available to all non-exempt (hourly) employees. **State Compensatory Time must be used within 12 months of the date that it was accrued or the employee will lose the accrued time.** For additional information, please review the following policies:

- [System Regulation 31.01.09, Overtime](#)
- [TAMU Rule 31.01.09.Lo.01, Overtime](#)

#### **6. UPDATING EMPLOYEE SELF-IDENTIFICATION OF DISABILITY**

TAMU is committed to providing a workplace free from discrimination and one that is inclusive and welcoming. In accordance with Federal instruction, employees are invited to self-identify if they have a disability or have ever had a disability. Self-identification is voluntary, will be kept confidential, and will not be used against you in any way. To self-identify, complete the [Voluntary Self-Identification of Disability Form](#) and submit it to the Office of Human Resources **OR** log on to SSO; select Workday; in the Search bar, search for "change self-identification of disability;" click on "Change Self-Identification of Disability;" click OK; review the information; select your reporting; click Submit; and click Done.

#### **7. UPDATING EMPLOYEE EMERGENCY CONTACT INFORMATION**

Your department will use emergency contact information to inform your family or designee if you are injured or involved in an emergency while working. To keep this information current, employees are urged to update their contact information each year. To access and update your emergency contact information, log on to SSO; select Workday; select the worklet called Personal Information; under the Change box, select Emergency Contacts; click Edit to review and/or update your information; make your updates; click Submit; and click Done.

#### **8. REPORTING TO SUPERVISOR ANY ARREST, CRIMINAL CHARGE, OR CONVICTION**

TAMU employees must report to their supervisor, within 24 hours or at the earliest possibility thereafter, any criminal arrests, criminal charges, or criminal convictions, excluding misdemeanor traffic offenses punishable only by fine. Failure to make the report required by this section shall constitute grounds for disciplinary action, including dismissal. Refer to [System Regulation 33.99.14, Criminal History Record Information—Employees and Applicants](#).

#### **9. HIV/AIDS AND THE WORKPLACE**

The Human Immunodeficiency Virus (HIV) Service Act, Chapter 85, Texas Health and Safety Code, specifies that workplace guidelines be established to ensure that the rights and privileges of individuals infected with HIV are protected. A brochure offered by the Texas Department of State Health Services (DSHS) can be reviewed [online](#). For additional information, please review [System Regulation 34.04.03, HIV/AIDS in the Workplace and Learning Environment](#) and visit the Texas DSHS website at <http://dshs.texas.gov/hivstd/info/hivworkplace.shtm>.

## **10. DRUG AND ALCOHOL ABUSE PREVENTION AND REHABILITATION PROGRAM**

TAMIU is committed to protecting the health and safety of its employees and students. TAMIU is also committed to educating employees and students about alcohol and drug issues, deterring the irresponsible use of alcoholic beverages and prohibiting the unlawful manufacture, use, possession, or distribution of controlled substances. In accordance with the Drug-Free Schools and Communities Act of 1989, TAMIU has established an alcohol and drug-free awareness and prevention program for its employees and students. The program provides information regarding the dangers of alcohol and drug abuse; available alcohol and drug counseling, rehabilitation and employee assistance programs; and the penalties that may be imposed on students and employees for alcohol and drug abuse violations. The policies, rules, and procedures are designed to comply with federal regulations and other applicable legislation. For additional information, please review the following policies:

- [System Policy 34.02, Drug and Alcohol Abuse](#)
- [System Regulation 34.02.01, Drug and Alcohol Abuse and Rehabilitation Programs](#)
- [TAMIU Rule 34.02.01.L1, University Alcohol and Drug Abuse Prevention Program](#)

## **11. HEALTH RISKS RELATED TO ALCOHOL USE**

Alcohol, more than any illegal drug, was found to be closely associated with violent crimes, including murder, rape, assault, and spousal abuse. And, excessive alcohol use has immediate effects that increase the risk of many harmful health conditions. See the lists below. For additional information, please review the Centers for Disease Control and Prevention's [Fact Sheet: Alcohol Use and Your Health](#).

The following are most often the result of binge drinking:

- Injuries, such as motor vehicle crashes, falls, drownings, and burns
- Alcohol poisoning which is a medical emergency that results from high blood alcohol levels
- Risky sexual behaviors, including unprotected sex or sex with multiple partners, which can result in unintended pregnancy or sexually transmitted diseases, including HIV
- Miscarriage and stillbirth or fetal alcohol spectrum disorders (FASDS) among pregnant women

Over time, excessive alcohol use can lead to the development of chronic diseases and other serious problems including:

- High blood pressure, heart disease, stroke, liver disease, and digestive problems
- Cancer of the breast, mouth, throat, esophagus, liver, and colon
- Learning and memory problems, including dementia and poor school performance
- Mental health problems, including depression and anxiety
- Social problems, including lost productivity, family problems, and unemployment
- Alcohol dependence or alcoholism

## **12. HEALTH RISKS RELATED TO ILLICIT DRUG USE**

Although initial drug use might be voluntary, drugs of abuse have been shown to alter gene expression and brain circuitry, which in turn affect human behavior. Once addiction develops, these brain changes interfere with an individual's ability to make voluntary decisions, leading to compulsive drug craving, seeking, and use. Additionally, the impact of addiction can be far-reaching. Cardiovascular disease, stroke, cancer, HIV/AIDS, hepatitis, and lung disease can all be affected by drug abuse. Some of these effects occur when drugs are used at high doses or after prolonged use, however, some may occur after just one use. For additional information, please review the National Institute on Drug Abuse's [Health Consequences of Drug Misuse](#).

Synthetic Cannabinoids, also known as "Synthetic Marijuana" or "fake weed," refer to a growing number of man-made mind altering chemicals that are either sprayed on dried, shredded plant material so they can be smoked or sold as liquids to be vaporized and inhaled in e-cigarettes and other devices. Synthetic Cannabinoids are often marketed as safe, legal alternatives to marijuana, however, they may affect the brain much more powerfully than marijuana. Their actual effects can be unpredictable and, in some cases, severe or life-threatening. For additional information, please review the U.S. Department of Justice Drug Enforcement Administration publication called [Drugs of Abuse \(2017 Edition\)](#).

### **13. ON-CAMPUS RESOURCES AND INFORMATION**

Employee Assistance Program (Work/Life Solutions Program by GuidanceResources®)  
1-866-301-9623 | App: GuidanceNow, Web ID: TAMU | <https://www.guidanceresources.com>

TAMIU Community Counseling Center  
956-326-3120 | <https://www.tamtu.edu/coas/psy/mastercounpsy/CommunityCounselingCenter.shtml>

TAMIU University Police Department  
956-326-2100 | [www.tamtu.edu/adminis/police/index.shtml](http://www.tamtu.edu/adminis/police/index.shtml)

TAMIU Human Resources  
956-326-2365 | [www.tamtu.edu/adminis/ohr](http://www.tamtu.edu/adminis/ohr)

### **14. OFF-CAMPUS RESOURCES, PROGRAMS, AND INFORMATION**

Al-Anon Serenity Group | 956-337-4805 | 4120 San Bernardo Ave., Suite 7 | Hotline - 844-727-4642  
Alcoholics Anonymous - Gratitude Group | 956-722-9001 | 4120 San Bernardo Ave., Suite 4 | [www.aa.org](http://www.aa.org)  
A Healthy Image Counseling Services | 956-724-2345 | 6826 Springfield Ave., Suite 102  
Amor Counseling | 956-568-5857 | 1812 Commerce Drive, Suite 2  
Counseling & Therapy Concepts | 956-723-5523 | 6826 Springfield Ave., Suite 104  
Concilio Hispano Libre | 956-728-0440 and 956-725-0816 | 1205 E. Hillside Rd. and 1520 E. San Pedro  
Daisy Counseling Services | 956-523-0152 | 107 Calle del Norte, Suite 14A  
El Puente Counseling Center | 956-722-0121 | 1501 Corpus Christi St.  
La Familia Consulting & Counseling Services | 956-795-0948 | 1319 Corpus Christi St.  
Recovery Behavioral Program Counseling Services | 956-568-5464 | 2315 E. Saunders, Suite 2  
The Lighthouse Professional Counseling Services | 956-723-4770 | 1319 Corpus Christi St., Suite 3  
PILLAR | 956-723-7457 | 1403 Seymour Ave. | [www.pillarstrong.org](http://www.pillarstrong.org)  
Psychotherapy & Counseling | 956-796-9335 | 1115 Chihuahua St.  
Laredo Police Department – Emergency | 911 | Non-Emergency | 956-795-2800 | 4712 Maher Ave.  
Substance Abuse & Mental Health Services | 1-800-662-HELP | 1-800-487-4889 (TDD) | [findtreatment.samhsa.gov](http://findtreatment.samhsa.gov)  
Webb County Sheriff's Office – Non-Emergency | 956-523-4500 | 902 Victoria St.  
Webb County District Attorney's Office | 956-523-4900 | 1110 Victoria St., Suite 401  
Webb County Sheriff's Office – Non-Emergency | 956-523-4500 | 902 Victoria St.  
Webb County District Attorney's Office | 956-523-4900 | 1110 Victoria St., Suite 401

### **15. PREVENTION OF ALCOHOL ABUSE & ILLICIT DRUG USE AT TAMIU WORK LOCATIONS**

In order to comply with the Drug-Free Schools and Communities Act of 1994 (20 7101 et seq.), required information as outlined in Section 3.2 of [System Regulation 34.02.01, Drug and Alcohol and Rehabilitation Programs](#) is distributed annually to all employees and students. TAMIU is committed to the elimination of alcohol abuse and illicit drug use. Alcohol abuse and illicit drug use disrupt the environment of personal growth all institutions of higher education seek to develop. As such, TAMIU aims to prevent the negative consequences that alcohol abuse and illicit drug use can have on the learning environment. This document provides a summary of standards of conduct, disciplinary sanctions, and legal sanctions (see below), as well as the health risks associated with alcohol and other drug abuse (see above).

**Standards of Conduct:** TAMIU strictly prohibits the unlawful manufacture, distribution, possession, dispensation, or use of alcohol or illicit drugs on TAMIU property and/or while on official duty and/or as part of any TAMIU activities. All employees are expected to abide by State and federal laws pertaining to controlled substances, illicit drugs, and the use of alcohol. Failure to comply may result in additional sanctions from TAMIU including termination, leave with or without pay, and/or written and oral reprimands.

**Legal Sanctions:** An employee who violates any of these alcohol laws will be reported to the appropriate law enforcement agency and will be subject to prosecution in accordance with the law. Legal sanctions for a violation of local, State, and/or federal law may include, but not be limited to fines, probation, jail, or prison sentences.

Penalties Under Texas Law		
Offense	Minimum Punishment	Maximum Punishment
Manufacture or delivery of controlled substances (drugs)	Confinement in jail for a term of not more than 2 years, or less than 180 days, and a fine not to exceed \$10,000	Confinement in TDCJ for life or for a term of no more than 99 years nor less than 15 years, and a fine not to exceed \$250,000
Possession of controlled substance (drugs)	Confinement in jail for a term of not more than 180 days, and a fine not to exceed \$2,000	Confinement in TDCJ for life or for a term of no more than 99 years nor less than 15 years, and a fine not to exceed \$250,000
Delivery of marijuana	Confinement in jail for a term of not more than 180 days, a fine not to exceed \$2,000 or both	Confinement in TDCJ for life or for a term of no more than 99 years nor less than 10 years, and a fine not to exceed \$100,000
Possession of marijuana	Confinement in jail for a term of not more than 180 days, a fine not to exceed \$2,000 or both	Confinement in TDCJ for life or for a term of no more than 99 years nor less than 5 years, and a fine not to exceed \$50,000
Driving while intoxicated (includes intoxication from alcohol, drugs or both)	Confinement in jail for a term of not more than 180 days or less than 72 hours, and a fine not more than \$2,000	Imprisonment for a term of not more than 10 years nor less than 2 years, and a fine not to exceed \$10,000
Public intoxication	A fine not to exceed \$500	Varies with age and number of offenses
Purchase of alcohol by a minor	A fine not to exceed \$500	Varies with age and number of offenses
Consumption or possession of alcohol by a minor	A fine not to exceed \$500	Varies with number of offenses
Purchase of alcohol for or furnishing of alcohol to a minor	A fine not to exceed \$4,000 or confinement in jail for a term not to exceed one year, or both	A fine not to exceed \$4,000 or confinement in jail for a term not to exceed one year, or both

#### Offense of Purchase of Alcohol by a Minor Defined

Texas Alcoholic Beverage Code § 106.02, § 106.071, § 106.115 provide that the offense of the purchase of alcohol by a minor (a person under 21 years of age) is punishable as a Class C misdemeanor and attendance at an alcohol awareness program, and when the person has been previously convicted twice for an alcohol related offense by a minor, the punishment is a fine of not less than \$250 or more than \$2,000; confinement in jail for a term not to exceed 180 days; or both the fine and confinement; community service of 8 to 40 hours; suspension of Texas Driver's License or permit for 30 to 180 days and attendance at an alcohol awareness program.

#### Offense of Manufacture or Delivery of Controlled Substances

These offenses are set out in the Texas Health and Safety Code § 481.112, § 481.1121, § 481.113, and § 481.114, which vary the offense and punishment based upon two factors: the type of drug (which schedule it is listed under) and the quantity of the drug involved in the offense. Texas Health and Safety Code § 481.032 contains long lists of drugs that are in schedules 1, 1-A, 2, 3, 4, and 5. Additional controlled substances are added to these schedules each year. Current controlled substances schedules are available from the Texas Department of State Health Services.

Texas Health and Safety Code § 481.112 deals with manufacture and delivery of controlled substances in Penalty Group 1 drug offenses: less than 1 gram is a State jail felony; more than 1 gram and less than 4 grams is a 2<sup>nd</sup> degree felony; more than 4 grams and less than 200 grams is a 1<sup>st</sup> degree felony; more than 200 grams and less than 400 grams is life imprisonment or a term of 10 to 99 years and up to a \$100,000 fine; more than 400 grams is life imprisonment or a term of 15 to 99 years and up to a \$250,000 fine.

Texas Health and Safety Code § 481.1121 deals with manufacture and delivery of controlled substances in Penalty Group 1-A drug offenses: number of abuse units less than 20 is State jail felony; number of abuse units more than 20 and less than 80 is a 2<sup>nd</sup> degree felony; number of abuse units more than 80 and less than 4000 is a 1<sup>st</sup> degree felony; more than 4000 units is life imprisonment or a term of 15 to 99 years and up to a \$250,000 fine.

Texas Health and Safety Code § 481.113 deals with manufacture and delivery of controlled substances in Penalty Group 2 drug offenses: less than 1 gram is a State jail felony; more than 1 gram and less than 4 grams is a 2<sup>nd</sup> degree felony; more than 4 grams and less than 400 grams is a 1<sup>st</sup> degree felony; and more than 400 grams is life imprisonment or a term of 10 to 99 years and up to a \$100,000 fine.

Texas Health and Safety Code § 481.114 deals with manufacture and delivery of controlled substances in Penalty Group 3 and 4 drug offenses: less than 28 grams is a State jail felony; more than 28 grams and less than 200 grams is a 2<sup>nd</sup> degree felony; more than 200 grams and less than 400 grams is a 1<sup>st</sup> degree felony; and more than 400 grams is life imprisonment or a term of 10 to 99 years and up to a \$100,000 fine.



### **Offense of Possession of Controlled Substances**

These offenses are set out in Texas Health and Safety Code § 481.115, § 481.1151, § 481.116, § 481.117, and § 481.118, which vary the offense and punishment based upon two factors: the type of drug (which schedule it is listed under) and the quantity of the drug involved in the offense. Texas Health and Safety Code § 481.032 contains long lists of drugs that are in schedules 1, 1-A, 2, 3, 4, and 5. Additional controlled substances are added to these schedules each year.

Texas Health and Safety Code § 481.115 deals with possession of controlled substances in Penalty Group 1 drug offenses: less than 1 gram is a State jail felony; more than 1 gram and less than 4 grams is a 3<sup>rd</sup> degree felony; more than 4 grams and less than 200 grams is a 2<sup>nd</sup> degree felony; more than 200 grams and less than 400 grams is a 1<sup>st</sup> degree felony; more than 400 grams is a life imprisonment or a term of 10 to 99 years and up to a \$100,000 fine.

Texas Health and Safety Code § 481.1151 deals with possession of controlled substances in Penalty Group 1-A drug offenses: number of abuse units less than 20 is a State jail felony; number of abuse units more than 20 and less than 80 is a 3<sup>rd</sup> degree felony; number of abuse units more than 80 and less than 4,000 is a 2<sup>nd</sup> degree felony; more than 4,000 units and less than 8,000 units is a 1<sup>st</sup> degree felony; and more than 8,000 units is life imprisonment or a term of 15 to 99 years and up to a \$250,000 fine.

Texas Health and Safety Code § 481.116 deals with possession of controlled substances in Penalty Group 2 drug offenses: less than 1 gram is a State jail felony; more than 1 gram and less than 4 grams is a 3<sup>rd</sup> degree felony; more than 4 grams and less than 400 grams is a 2<sup>nd</sup> degree felony; and more than 400 grams is a life imprisonment or a term of 5 to 99 years and up to a \$50,000 fine.

Texas Health and Safety Code § 481.117 deals with possession of controlled substances in Penalty Group 3 drug offenses: less than 28 grams is a Class A misdemeanor; more than 28 grams is a 3<sup>rd</sup> degree felony; more than 200 grams and less than 400 grams is a 2<sup>nd</sup> degree felony; and more than 400 grams is life imprisonment or a term of 5 to 99 years and up to a \$50,000 fine.

Texas Health and Safety Code § 481.118 deals with possession of controlled substances in Penalty Group 4 drug offenses: less than 28 grams is a Class B misdemeanor; more than 28 grams and less than 200 grams is a 3<sup>rd</sup> degree felony; more than 200 grams and less than 400 grams is a 2<sup>nd</sup> degree felony; more than 5 more than 400 grams is punishable by imprisonment for life or for a term of not more than 99 years or less than five years, and a fine not to exceed \$50,000.

### **Offense of Possession of Alcohol in Motor Vehicle**

Texas Penal Code § 49.031 provides that the penalty for the offense of possession of an open container of an alcoholic beverage in the passenger area of a motor vehicle that is located on a public highway is a Class C misdemeanor.

### **Offense of Delivery of Marijuana**

Texas Health and Safety Code § 481.120 deals with delivery of marijuana offenses: less than one-fourth ounce is a Class B misdemeanor if delivery is without remuneration; less than one-fourth ounce is a class A misdemeanor if delivery is for remuneration; more than one-fourth ounce and less than 5 pounds is a State jail felony; more than 5 pounds and less than 50 pounds is a 2<sup>nd</sup> degree felony; more than 50 pounds and less than 2,000 pounds is a 1<sup>st</sup> degree felony; and more than 2,000 pounds is life imprisonment or a term of 10 to 99 years and a fine not to exceed \$100,000.

### **Offense of Possession of Marijuana**

Texas Health and Safety Code § 481.121 deals with possession of marijuana offenses: less than 2 ounces is a Class B misdemeanor; more than 2 ounces and less than 4 ounces is a Class A misdemeanor; more than 4 ounces and less than 5 pounds is a State jail felony; more than 5 pounds and less than 50 pounds is a 3<sup>rd</sup> degree felony; more than 50 pounds and less than 2,000 pounds is a 2<sup>nd</sup> degree felony; and more than 2,000 pounds is life imprisonment or a term of 5 to 99 years and a fine not to exceed \$50,000.

### **Offense of Delivery of Controlled Substance or Marijuana to Minor**

Texas Health and Safety Code § 481.122 deals with the offense of the delivery of a controlled substance or marijuana to a child (younger than 18 years of age) and is a 2<sup>nd</sup> degree felony which is punishable by imprisonment for a term of not more than 20 years or less than 2 years and a fine not to exceed \$10,000.

### **Offense of Driving While Intoxicated (Drugs or Alcohol)**

Texas Penal Code § 49.04 and § 49.09 provide that the offense of driving while intoxicated is punishable as a Class B misdemeanor with a minimum term of confinement of 72 hours unless the driver had an open container of alcohol in his possession in which case the offense is a Class B misdemeanor with a minimum term of confinement of 6 days in jail. One prior conviction enhances the punishment to a Class A misdemeanor with a minimum term of confinement of 30 days; two prior convictions enhances the punishment to a 3<sup>rd</sup> degree felony. Texas Penal Code § 49.045, Driving While Intoxicated with Child Passenger, provides that if a person operates a motor vehicle in a public place while intoxicated and the vehicle is occupied by a passenger who is under 15 years of age, the person commits an offense that is punishable as a State jail felony. Texas Penal Code § 49.07, Intoxication Assault, provides that if a person, by mistake or accident, causes serious bodily injury to another while operating a motor vehicle in a public place while intoxicated, the offense is punishable as a 3<sup>rd</sup> degree felony. Texas Penal Code § 49.08, Intoxication Manslaughter, provides that if a person operating a motor vehicle in a public place is intoxicated and by reason of the intoxication causes the death of another by accident or mistake, the offense is punishable as a 2<sup>nd</sup> degree felony.

### **Offense of Public Intoxication**

Texas Penal Code § 49.02 provides that the offense of public intoxication in which a person appears in a public place while intoxicated to the degree that the person may endanger himself or another person is punishable as a Class C misdemeanor, unless the person is younger than 21 years old, in which case Sections 106.071 and 106.115, Texas Alcoholic Beverage Code apply and provide for a Class C misdemeanor punishment and attendance at an alcohol awareness program, and if the offender has been previously convicted twice for an alcohol-related offense by a minor, the punishment is a fine of not less than \$250 or more than \$2000; confinement in jail for a term not to exceed 180 days; or both the fine and confinement; community service of 8 to 40 hours; suspension of Texas Driver's License or permit for 30 to 180 days and attendance at an alcohol awareness program.

### **Offense of Consumption of Alcohol by Minor**

Texas Alcoholic Beverage Code § 106.04, § 106.071, § 106.115 provide that the offense of consumption of alcohol by a minor is punishable as a Class C misdemeanor and attendance at an alcohol awareness program, and where the person has been previously convicted twice for an alcohol-related offense by a minor, the punishment is a fine of not less than \$250 or more than \$2000; confinement in jail for a term not to exceed 180 days; or both the fine and confinement; community service of 8 to 40 hours; suspension of Texas Driver's License or permit for 30 to 180 days and attendance at an alcohol awareness program.

### **Offense of Possession of Alcohol by Minor**

Texas Alcoholic Beverage Code § 106.05, § 106.071, § 106.115 provide that the offense of consumption of alcohol by a minor is punishable as a Class C misdemeanor and attendance at an alcohol awareness program, and where the person has been previously convicted twice for an alcohol-related offense by a minor, the punishment is a fine of not less than \$250 or more than \$2000; confinement in jail for a term not to exceed 180 days; or both the fine and confinement; community service to 8 to 40 hours; suspension of Texas Driver's License or permit for 30 to 180 days and attendance at an alcohol awareness program.

### **Offense of Sale of Alcohol to a Minor**

Texas Alcoholic Beverage Code § 106.03 provides that the penalty for selling alcohol to a minor is a Class A misdemeanor.

### **Offense of Purchase of Alcohol for a Minor or Furnishing Alcohol to a Minor**

Texas Alcoholic Beverage Code § 106.06 provides that a person who purchases, or gives, or with criminal negligence, makes available an alcoholic beverage to a minor commits a Class A misdemeanor unless the person is the adult parent, guardian, or spouse of the minor, or an adult in whose custody the minor has been committed by court and such person is present when the minor possesses or consumes the alcoholic beverage.



## Offense of Misrepresentation of Age by a Minor to Person Selling or Serving Alcoholic Beverages

Texas Alcoholic Beverage Code § 106.07, § 106.071, § 106.115 provides that the penalty for misrepresentation of age by a minor to a person selling or service alcoholic beverages is punishable as a Class C misdemeanor and attendance at an alcohol awareness program, and where the offender is a minor previously convicted twice for alcohol-related offenses, a fine of not less than \$250 or more than \$2000; confinement in jail for a term not to exceed 180 days; or both fine and imprisonment; community service of 8 to 40 hours; suspension of Texas Driver’s License for 30 to 180 days and attendance at an alcohol awareness program.

### Terminology

- A **Class C misdemeanor** is punishable by a fine not to exceed \$500 (Texas Penal Code § 12.23).
- A **Class B misdemeanor** is punishable by a fine not to exceed \$2,000; confinement in jail for a term not to exceed 180 days; or both fine and confinement (Texas Penal Code § 12.22).
- A **Class A misdemeanor** is punishable by a fine not to exceed \$4,000; confinement in jail for a term not to exceed 1 years; or both fine and confinement (Texas Penal Code § 12.21).
- A **State jail felony** is punishable by confinement in a state jail for any term of not more than 2 years or less than 180 days and by a fine not to exceed \$10,000 (Texas Penal Code § 12.35; Increased to a 3<sup>rd</sup> degree felony if a deadly weapon is used or exhibited or previously convicted of any felony).
- A **3<sup>rd</sup> degree felony** is punishable by imprisonment for any term of not more than 10 years or less than 2 years and a fine not to exceed \$10,000 (Texas Penal Code § 12.34).
- A **2<sup>nd</sup> degree felony** is punishable by imprisonment for any term of not more than 20 years or less than 2 years and a fine not to exceed \$10,000 (Texas Penal Code § 12.33).
- A **1<sup>st</sup> degree felony** is punishable by imprisonment for life or for any term of not more than 99 years or less than 5 years and a fine not to exceed \$10,000 (Texas Penal Code § 12.32).

The Texas Penal Code further provides for increased penalties for repeat and habitual felony offenders and misdemeanor offenders. Also, the punishment for an offense will be increased to that prescribed for the next highest category of offense in certain instances if controlled substances are used to commit the offense (Texas Penal Code § 12.42, § 12.43, and § 12.49).

### Federal Penalties

The federal penalties quoted in these charts are based upon language contained in the applicable federal statutes creating criminal offenses regarding controlled substances and are subject to change at any time. However, there are additional factors in the federal sentencing system, including various enhancement provisions for prior offenses. Additional penalties may be imposed when a controlled substance is distributed or possessed with an intent to distribute within 1,000 feet of a public university. See United States Code Title 21 Section 860.

Federal Trafficking Penalties for Marijuana, Hashish and Hashish Oil, Schedule I Substances	
Marijuana 1,000 kilograms or more marijuana mixture or 1,000 or more marijuana plants	<b>First Offense:</b> Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.  <b>Second Offense:</b> Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana 100 to 999 kilograms marijuana mixture or 100 to 999 marijuana plants	<b>First Offense:</b> Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.  <b>Second Offense:</b> Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50million if other than an individual.
Marijuana 50 to 99 kilograms marijuana mixture, 50 to 99 marijuana plants	<b>First Offense:</b> Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.
Hashish More than 10 kilograms	<b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Hashish Oil More than 1 kilogram	
Marijuana less than 50 kilograms marijuana (but does not include 50 or more marijuana plants regardless of weight)1 to 49 marijuana plants	<b>First Offense:</b> Not more than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.  <b>Second Offense:</b> Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual.
Hashish 10 kilograms or less	
Hashish Oil 1 kilogram or less	

Federal Trafficking Penalties for Schedules I, II, III, IV, and V (except Marijuana)				
Schedule	Substance/Quantity	Penalty	Substance/Quantity	Penalty
II	Cocaine 500-4999 grams mixture	<b>First Offense:</b> Not less than 5 yrs. and not more than 40 yrs. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual.  <b>Second Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.	Cocaine 5 kilograms or more mixture	<b>First Offense:</b> Not less than 10 yrs. and not more than life. If death or serious bodily injury, not less than 20 yrs. or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual.  <b>Second Offense:</b> Not less than 20 yrs. and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.  <b>2 or More Prior Offenses:</b> Life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.
II	Cocaine Base 28-279 grams mixture		Cocaine Base 280 grams or more mixture	
II	Fentanyl 40-399 grams mixture		Fentanyl 400 grams or more mixture	
I	Fentanyl Analogue 10-99 grams mixture		Fentanyl Analogue 100 grams or more mixture	
I	Heroin 100-999 grams mixture		Heroin 1 kilogram or more mixture	
I	LSD 1-9 grams mixture		LSD 10 grams or more mixture	
II	Methamphetamine 5-49 grams pure or 50-499 grams mixture		Methamphetamine 50 grams or more pure or 500 grams or more mixture	
II	PCP 10-99 grams pure or 100-999 grams mixture	PCP 100 grams or more pure or 1 kilogram or more mixture		

Substance/Quantity	Penalty
Any Amount Of Other Schedule I & II Substances	<b>First Offense:</b> Not more than 20 yrs. If death or serious bodily injury, not less than 20 yrs. or more than Life. Fine \$1 million if an individual, \$5 million if not an individual.  <b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.
Any Drug Product Containing Gamma Hydroxybutyric Acid	
Flunitrazepam (Schedule IV) 1 Gram or less	<b>First Offense:</b> Not more than 10 yrs. If death or serious bodily injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.  <b>Second Offense:</b> Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.
Any Amount Of Other Schedule III Drugs	
Any Amount Of All Other Schedule IV Drugs (other than one gram or more of Flunitrazepam)	
Any Amount Of All Schedule V Drugs	<b>First Offense:</b> Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual.  <b>Second Offense:</b> Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.
	<b>First Offense:</b> Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.  <b>Second Offense:</b> Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.