

## Act 86

### Eliminating Penalties for Possession of Limited Amounts of Marijuana by Adults 21 or Older

For adults 21 and older, the statute legalizes possession of:

- One ounce of marijuana
- Five grams of hashish

And cultivation of:

- Two mature marijuana plants
- Four immature (not yet flowering/no buds) marijuana plants

Harvested marijuana does not count toward the possession limit if:

- it is stored in an indoor facility on the property where it was cultivated, and
- “reasonable precautions” are taken to prevent unauthorized access. (18 V.S.A. §4230e(a)(3))

The law takes effect on July 1, 2018.

#### What Towns Need to Know

It is illegal to consume marijuana in a public place, including any:

- street, alley, park, or sidewalk
- public building (other than individual dwellings)
- place of “public accommodation” as defined in 9 V.S.A. §4501 – this includes:
  - schools, restaurants, and stores
  - any establishment or other facility at which services, facilities, goods, privileges, advantages, benefits, or accommodations are offered to the general public
- place where use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. §1001 is prohibited by law

(18 V.S.A. §4230a(a)(2)(A))

Municipalities may adopt a civil ordinance to provide additional penalties for consuming marijuana in public places. (18 V.S.A. §4230a(b)(2)(D))

#### What Landlords Need to Know

Landlords may ban possession or use of marijuana in lease agreements. (18 V.S.A. §4230a(b)(2)(E)).

Cultivation is permitted only with written consent of the property owner or the person lawfully in possession of the property (e.g., the leaseholder). Therefore, tenants may grow marijuana on rental property unless the lease agreement states that it is not allowed. (18 V.S.A. §4230e(b)(1)(A))

If a landlord decides not to ban marijuana cultivation on their property, renters may grow marijuana in their rental units under the following conditions:

- each dwelling unit is limited to two mature plants and four immature plants, regardless of how many adults 21+ live in the unit
- plants may only be grown in a secured enclosure screened from public view – access must be limited to the cultivator and adults 21+ who have permission from the cultivator
- residents must take “reasonable precautions” to prevent unauthorized access to harvested marijuana and it must be stored in an indoor facility on the property where it was cultivated

(18 V.S.A. §4230e(a)(2), (3), (b)(1)(A),(B))

### What Parents Need to Know

#### How to protect young children

If you have a child enrolled in a childcare or afterschool program, the statute establishes requirements specific to the type of facility.

Type of Childcare Facility	Restrictions on Marijuana Use	Restrictions on Marijuana Cultivation
Licensed childcare center	Not permitted, indoors or outdoors, on premises at any time	Not permitted, indoors or outdoors, on premises at any time
Licensed afterschool program	Not permitted, indoors or outdoors, on premises at any time	Not permitted, indoors or outdoors, on premises at any time
Licensed or registered home day care provider	Not permitted, indoors or in any outdoor area designated for child care, while children are present and in care  If marijuana use occurs on the premises at other times, the day care provider must notify families prior to enrolling	Not permitted
Unregistered/unlicensed home day care provider	No restrictions	No restrictions

#### If you are the parent of a teenager or young adult (under 21)

You can educate your child about what the law says. It is still illegal for persons under 21 to possess, use, or cultivate marijuana. If your child is under 21 and is caught with one ounce or less of marijuana or five grams or less of hashish, they are guilty of a civil violation and will be referred to the Court Diversion Program and must enroll in the Youth Substance Abuse Safety Program. Failure to complete the program successfully will result in fines and a driver’s license suspension.

#### *If your child gives, trades, or sells marijuana*

The chart below summarizes penalties for dispensing marijuana by persons under 21:

If you are age(s):	And you knowingly dispense marijuana to someone age(s):	You will be subject to these penalties:
18, 19, or 20	Under 18 and at least 3 years younger than you	Up to 5 years in prison

<b>If you are age(s):</b>	<b>And you knowingly dispense marijuana to someone age(s):</b>	<b>You will be subject to these penalties:</b>
18, 19, or 20	18, 19, or 20	Civil violation – referral to Court Diversion Program for enrollment in Youth Substance Abuse Safety Program
19	17	Misdemeanor – fine of up to \$500
18	16 or 17	Misdemeanor – fine of up to \$500
Under 18	Under 18	Delinquent act – see 33 V.S.A. ch. 52

18 V.S.A. §4230f(e)(2)

### *Driving and marijuana*

It is illegal to use marijuana in a motor vehicle occupied by a child under 18 and it is illegal for the driver or passengers to use marijuana while the vehicle is in operation. The open container provisions of the law related to alcohol have been expanded to include marijuana, so it is also illegal for a driver or passenger to possess marijuana in an open container while the vehicle is in operation.

### *What happens when youth use marijuana at your house*

The penalties for social hosting related to marijuana are similar to alcohol. If you host a party in your home that is attended by persons under age 21, and marijuana is consumed, you could face criminal and civil penalties.

It is illegal to give marijuana to persons under 21, or to create a “direct and immediate opportunity” for a person under 21 to consume marijuana. Violations carry penalties of up to 2 years in jail and fines of up to \$2,000. As an adult, if you provide marijuana or enable marijuana consumption by a person under 21, and that person has a motor vehicle accident that results in death or serious bodily injury, the penalty is up to 5 years in prison and fines of up to \$10,000. (18 V.S.A. §4230f(a)-(d))

In addition to the criminal penalties, the statute also establishes grounds for civil action for damages by the anyone (including spouses, children, employers, and others) who are injured in “person, property, or means of support” by a person under 21 who is impaired by marijuana. For example, if a teen goes to a friend’s house after school and consumes marijuana, then has an accident on the way home and runs into the side of a house, the owners of that house would have a right of action against any persons who dispensed or enabled marijuana consumption and caused impairment in whole or in part.

### **What Schools Need to Know**

Primary and secondary schools may impose administrative penalties for possession of marijuana on school property. (18 V.S.A. §4230a(b)(2)(C))

### **What Employers Need to Know**

Employers may prohibit or “otherwise regulat[e]” use, consumption, possession, transfer, display, sale, or growing of marijuana in the workplace.

(18 V.S.A. §4230a(e))