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## APPENDIX 2

### SUMMARY OF STATE LAWS CONCERNING ALCOHOL AND DRUGS

(Note: These laws are subject to change.)

*Go to <http://www.scstatehouse.net/code/statmast.htm> for all state laws related to alcohol and drugs.*

**SECTION 56-1-286** – (A) The Department of Motor Vehicles must suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to a person under the age of twenty-one who drives a motor vehicle and has an alcohol concentration of two one-hundredths of one percent or more.

(B) A person under the age of twenty-one who drives a motor vehicle in this State is considered to have given consent to chemical tests of his breath or blood for the purpose of determining the presence of alcohol

**SECTION 61-6-4020** - A person who is twenty-one years of age or older may transport lawfully acquired alcoholic liquors to and from a place where alcoholic liquors may be lawfully possessed or consumed; but if the cap or seal on the container has been opened or broken, it is unlawful to transport the liquors in a motor vehicle, except in the luggage compartment or cargo area. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

**SECTION 61-6-4070** - It is unlawful for a person to transfer or give to a person under the age of twenty-one years for the purpose of consumption alcoholic liquors at any place in the State. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

**SECTION 61-6-4075** - It is unlawful for a person who purchases alcoholic liquors while on licensed premises to give the alcoholic liquors to a person to whom it cannot lawfully be sold on the premises. A person who violates the provisions of this section, upon conviction: (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and (2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

**SECTION 61-6-4080** – (A) A person engaged in the sale of alcoholic liquors who knowingly sells the liquors to a person under the age of twenty-one is guilty of a misdemeanor and must, upon conviction, be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned not less than thirty days nor more than sixty days, or both, in the discretion of the court.

(B) Failure of a person to require identification to verify a person's age is prima facie evidence of the violation of this section.

**SECTION 61-4-60** - It is unlawful for a person to whom beer or wine cannot be lawfully sold to knowingly give false information concerning his age for the purpose of purchasing beer or wine. A person who violates the provisions of this section, upon conviction, must be fined not less than fifty nor more than one hundred dollars or be imprisoned for not more than thirty days.

**SECTION 61-4-80** - It is unlawful for a person who purchases beer or wine while on licensed premises to give the beer or wine to a person to whom beer or wine cannot lawfully be sold, for consumption on the premises. A person who violates this section must, upon conviction, be fined not less than fifty nor more than one hundred dollars or imprisoned for not more than thirty days.

**SECTION 61-4-90** - It is unlawful for a person to transfer or give to a person under the age of twenty-one years for the purpose of consumption beer or wine at any place in the State. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. A person found guilty of a violation of Section 61-6-4070 and this section may not be sentenced under both sections for the same offense.

**SECTION 61-4-110** - It is unlawful for a person to have in his possession, except in the trunk or luggage compartment, beer or wine in an open container in a motor vehicle of any kind while located upon the public highways or highway rights of way of this State.

**SECTION 61-6-4720** - A person who drinks alcoholic liquors in a public conveyance in this State is considered guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned not more than thirty days. This section does not apply to a railroad dining or club car or to an aircraft of a commercial airline transporting passengers for hire.

**SECTION 56-5-2930.** - It is unlawful for a person to drive a motor vehicle within this State while: (1) under the influence of alcohol to the extent that the person's faculties to drive are materially and appreciably impaired; (2) under the influence of any other drug or a combination of other drugs or substances which cause impairment to the extent that the person's faculties to drive are materially and appreciably impaired; or (3) under the combined influence of alcohol and any other drug or drugs or substances which cause impairment to the extent that the person's faculties to drive are materially and appreciably impaired.

**SECTION 56-5-2933** - It is unlawful for a person to drive a motor vehicle within this State while his alcohol concentration is eight one-hundredths of one percent or more. A person who violates the provisions of this section is guilty of the offense of Driving With An Unlawful Alcohol Concentration. A person may be charged for a violation of Section 56-5-2930 but prosecuted pursuant to this section if the original testing of the person's breath or collection of other bodily fluids was performed within two hours of the time of arrest and articulable suspicion existed to justify the traffic stop. This section does not apply to cases arising out of a stop at a traffic roadblock or driver's license checkpoint. A person shall not be prosecuted for both a violation of Section 56-5-2930 and a violation of this section for the same incident. A person who violates the provisions of this section is entitled to a jury trial and is afforded the right to challenge certain factors including, but not limited to, the following: (1) whether or not the person was lawfully arrested or detained; (2) whether or not articulable suspicion existed to justify the stop; (3) the period of time between arrest and testing; (4) whether or not the person was advised in writing of the rights enumerated in Section 56-5-2950; (5) whether the person consented to taking a test pursuant to Section 56-5-2950, and the: (a) reported alcohol concentration at the time of testing was eight one-hundredths of one percent or more; (b) individual who administered the test or took samples was qualified pursuant to Section 56-5-2950; (c) tests administered and samples obtained were conducted pursuant to Section 56-5-2950 and regulations adopted pursuant to Section 56-5-2951(Q) and Section 56-5-2953(F); and (d) machine was working properly. Nothing contained in this section prohibits the introduction of: (1) the results of any additional tests of the person's breath or other bodily fluids; (2) any evidence that may corroborate or question the validity of the breath or bodily fluid test result including, but not limited to: (a) evidence of field sobriety tests; (b) evidence of the amount of alcohol consumed by the person; and (c) evidence of the person's driving; (3) a videotape of the person's conduct

at the incident site and breath testing site taken pursuant to Section 56-5-2953 which is subject to redaction under the South Carolina Rules of Evidence; or (4) any other evidence of the state of a person's faculties to drive which would call into question the results of a breath or bodily fluid test.

At trial, a person charged with a violation of this section is entitled to a jury instruction stating that the factors enumerated above and the totality of the evidence produced at trial may be used by the jury to determine guilt or innocence.

A person charged with a violation of this section must be given notice of intent to prosecute under the provisions of this section at least fourteen days before his trial date.

**SECTION 56-5-2945 – (Felony DUI)** (A) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a vehicle and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony and upon conviction must be punished: (1) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results; (2) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty-five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results. A part of the mandatory sentences required to be imposed by this section must not be suspended, and probation must not be granted for any portion. (B) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. The Department of Motor Vehicles must suspend the driver's license of a person who is convicted or who receives sentence upon a plea of guilty or nolo contendere pursuant to this section for a period to include a term of imprisonment plus three years.

(C) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.

**SECTION 44-53-445 –** (A) It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

**SECTION 44-53-40. -** (A) It is unlawful for a person to obtain or attempt to obtain a drug or device as defined by Section 39-23-20, or any pharmaceutical preparation, chemical, or chemical compound that is restricted in regard to its sale at retail by:

(1) fraud, deceit, misrepresentation, or subterfuge; (2) forgery or alteration of a prescription; (3) falsification in any manner of any record of sale required by law; (4) use of a false name or the giving of a false address; (5) concealment of a material fact; or (6) falsely assuming the title of or representing himself to be a person authorized by the laws of this State to possess such drugs, pharmaceutical preparations, chemicals, chemical compound, or devices.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than two years, or both for a first offense. Conviction for a second or subsequent offense is a felony and the person must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

**SECTION 44-53-370** – (a) It shall be unlawful for any person to (1) manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue; (2) to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

(b) A person who violates this subsection shall receive the following penalties:

<b>Marijuana – Hashish – Methaqualone - Amphetamine</b>	
<b>Offense</b>	<b>Penalty</b>
Possession of 1 ounce or less of marijuana or 10 grams or less of hashish	1 <sup>st</sup> offense – Not more than 30 days or not less than \$100 nor more than \$200. 2 <sup>nd</sup> or subsequent offenses – Not more than 1 year and/or \$200 to \$1,000
Possession of methaqualone, amphetamine, or more than 1 ounce of marijuana, or more than 10 grams of hashish	1 <sup>st</sup> offense – Not more than 6 months and/or not more than \$1,000 2 <sup>nd</sup> offense or subsequent offenses – Not more than 1 year and/or not more than \$2,000
Manufacture, distribution or possession with the intent to distribute	1 <sup>st</sup> offense – Not more than 5 years and/or not more than \$5,000 2 <sup>nd</sup> offense – Not more than 10 years and/or not more than \$10,000 3 <sup>rd</sup> or subsequent offenses – Not less than 5 years nor more than 20 years and/or not more than \$20,000
<b>LSD – Heroin – Cocaine</b>	
<b>Offense</b>	<b>Penalty</b>
Possession	1 <sup>st</sup> offense – Not more than 2 years and/or not more than \$5,000 2 <sup>nd</sup> offense – Not more than 5 years and/or not more than \$5,000 3 <sup>rd</sup> or subsequent offenses – Not more than 5 years and/or not more than \$10,000
Manufacture, distribution or possession with the intent to distribute	1 <sup>st</sup> offense – Not more than 15 years and/or not more than \$25,000 2 <sup>nd</sup> offense – Not less than 5 years nor more than 30 years and/or not more than \$50,000 3 <sup>rd</sup> or subsequent offenses – Not less than 15 years nor more than 30 years and/or not more than \$50,000
<b>Ice – Crank – Crack Cocaine</b>	
<b>Offense</b>	<b>Penalty</b>
Possession of less than 1 gram	1 <sup>st</sup> offense – Not more than 5 years and not less than \$5,000 2 <sup>nd</sup> offense – Not more than 10 years and not less than \$10,000 3 <sup>rd</sup> or subsequent offenses – Not less than 10 years nor more than 15 years and not less than \$15,000
Manufacture, distribution, purchase or possession with intent to distribute (more than 1 gram)	1 <sup>st</sup> offense – Not more than 15 years and not less than \$25,000 2 <sup>nd</sup> offense – Not more than 25 years and not less than \$50,000 3 <sup>rd</sup> offense – Not more than 30 years and not less than \$100,000