

Chart of Cannabis Criminal Charges

ACTIVITY	UNDER 18	18 - 20	21 & OVER
Smoking / Ingesting cannabis in public place ¹	Infraction 11362.3(a)(1) H&S	Infraction 11362.3(a)(1) H&S	Infraction 11362.3(a)(1) H&S
Smoking cannabis within 1000 feet of a school, day care center, or youth center when children are present	Infraction 11362.3(a)(3) H&S	Infraction 11362.3(a)(3) H&S	Infraction 11362.3(a)(3) H&S
Possess/Smoke/Ingest cannabis or cannabis products on grounds of school, day care center, or youth center when children are present	Infraction 11362.3(a)(5) H&S	Misdemeanor 11362.3(a)(5) H&S	Misdemeanor 11362.3(a)(5) H&S
Operating a vehicle under the influence of drugs	Misdemeanor 23152(f) CVC	Misdemeanor 23152(f) CVC	Misdemeanor 23152(f) CVC
Operating a vehicle under the influence of drugs in combination with alcohol (g)	Misdemeanor 23152(g) CVC	Misdemeanor 23152(g) CVC	Misdemeanor 23152(g) CVC
Smoking or ingesting any cannabis or cannabis product, while driving (a) or occupying (b) a motor vehicle upon a highway	Infraction 23221(a)VC 23221(b) VC	Infraction 23221(a)VC 23221(b) VC	Infraction 23221(a)VC 23221(b) VC
Possession, on the person, of an "open container" ² , unless exemption applies ³	Infraction 23222(b) VC	Infraction 23222(b) VC	Infraction 23222(b) VC
Possession of concentrated cannabis, 8 grams or less	Infraction 11357(a)(1) H&S	Infraction 11357(a)(2) H&S	LEGAL ⁴
Possession of 28.5 grams or less of cannabis or 8 grams or less of concentrated cannabis on K-12 school grounds during school hours	Infraction 11362.3(a)(5) H&S	Misdemeanor 11362.3(a)(5) H&S	Misdemeanor 11362.3(a)(5) H&S
Possession of 28.5 grams or less of cannabis	Infraction 11357(a)(1) H&S	Infraction 11357(a)(2) H&S	LEGAL
Possession of more than 28.5 grams of cannabis	Infraction 11357(b)(1) H&S	Misdemeanor 11357(b)(2) H&S	Misdemeanor 11357(b)(2) H&S

¹ Smoke means to inhale, exhale, burn, or carry any lighted or heated device or pipe...Includes electronic smoking devices that creates an aerosol or vapor, in any manner or form, or the use of any oral smoking device for purposes of circumventing the prohibition of smoking in a public place.

² Any receptacle containing any cannabis or cannabis product which has been opened or has a seal broken, or loose cannabis flower not in a container.

³ No violation if driver is a qualified patient or person with an identification card, under Section 11362.7 H&S, and if BOTH of the following apply (1) Driver is carrying a current identification card or physician's recommendation; (2) The cannabis or cannabis product is in a container or receptacle that is sealed, resealed, or closed and there is no loose cannabis flower not in a container. The described container can be in the truck or driver's compartment of the vehicle as per AB 133.

⁴ Misdemeanor if more than 8 grams.

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Cultivation of 6 plants or less and possession of the cannabis produced by the plants	Infraction 11358(a) H&S	Infraction 11358(b) H&S	LEGAL If in compliance with restrictions ⁵
Cultivation of more than 6 plants ⁶ (* Potential FELONY if Aggravating Factors exist)	Infraction 11358(a) H&S	Misdemeanor 11358(c) H&S *	Misdemeanor 11358(c) H&S *
Possession of cannabis for sales ⁷ (* Potential FELONY if Aggravating Factors exist)	Infraction 11359(a) H&S	Misdemeanor 11359(b) H&S *	Misdemeanor 11359(b) H&S *
Transport for purpose of import/export/sell/furnish/give away/offer to do any of the same activities 28.5 grams or less of cannabis other than concentrated cannabis ⁸ (* Potential FELONY if Aggravating Factors exist)	Infraction 11360(a)(1) H&S	Misdemeanor 11360(a)(2) H&S *	Misdemeanor 11360(a)(2) H&S *
Give away/offer to give away/transport/offer or attempt to transport for sale not more than 28.5 grams of cannabis, other than concentrated cannabis ⁹	Infraction 11360(b) H&S	Infraction 11360(b) H&S	Infraction 11360(b) H&S
Opening or Maintaining a Drug House for dispensing controlled substance(s) if certain circumstances exist (11366.5 for property owner)	Felony 11366 H&S Wobbler	Felony 11366 H&S Wobbler	Felony 11366 H&S Wobbler
Manufacture of concentrated cannabis using a volatile solvent, unless pursuant to state license and local license and in accordance with 11362.775(b) ¹⁰	Felony 11379.6 H&S	Felony 11379.6 H&S	Felony 11379.6 H&S

⁵ Restrictions: Must comply with local ordinances and be upon residential grounds, in a locked space, and not visible from public space. Violation of any of these restrictions is an infraction under 11362.2(a) H&S.

⁶ Except as authorized by law. For instance, commercial cultivation activity may be authorized under state and local law beginning January 1, 2018. May charge felony if aggravating factors from H&S 11358(d)(1)-(3) are present.

⁷ Except as authorized by law. For instance, commercial sale activity may be authorized under state and local law beginning January 1, 2018. May charge felony if aggravating factors from H&S 11359(c) or (d) are present.

⁸ Except as authorized by law. May charge felony if aggravating factors from H&S 11360(a)(3)(A)-(C) are present or if provided to a person under the age of 14. H&S 11360(a)(3)(D) addresses the offense involving the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of cannabis.

⁹ Except as authorized by law. For instance, commercial cultivation activity may be authorized under state and local law beginning January 1, 2018. May charge felony if aggravating factors from H&S 11358(d)(1)-(3) are present. In any case in which a person arrested for a violation of H&S 11360(b) does not demand to be taken before a magistrate, that person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subject to booking.

¹⁰ Concentrated cannabis includes butane honey oil (BHO). Manufacturing activity may be authorized under state and local law beginning January 1, 2018.