

## **Possession of Analogues**

Analogues, also known as “designer drugs,” are substances with a similar chemical structure to a Schedule I or Schedule II controlled substance (heroin, cocaine, marijuana). The federal Drug Enforcement Agency (DEA) has been given the authority to immediately issue a ruling for certain analogues to become illegal. These laws were created in response to state and federal laws that only regulated illicit drugs. Drug users wanted the same sensation that the prohibited controlled substances provided, but without the fear of prosecution. Users quickly found out that they could use designer drugs (analogues) which were similar enough in their chemical compound to give them a faux sensation. It was a way to have the fun without the fear of going to jail. That is, until the legislatures became aware of this attempt to out maneuver the system and passed laws against the designer drugs as well. The most common examples of analogues that defendants get charged with are Vicodin and Oxycontin.

Most people have never even heard the term until they find themselves being charged. Also, many do not realize that analogues can be just as strong and even stronger than the illicit drugs they imitate. The common scenario on how someone gets charged with this offense is when they have been given somebody else's lawfully prescribed pain medication to help them deal with their back pain or whatever. Even if that is true, it is still no legal defense to being in possession of these pills that they were not prescribed. Similar crimes involve obtaining medicine without a prescription or prescription fraud. Desperate individuals will write fake prescriptions on fake prescription pads or phony “call ins” in an attempt to unlawfully obtain prescription medicine.

### **Penalties:**

Possession of Analogues-- Punishable by up to two years in prison and \$2,000 in fines.

Use of Analogues-- punishable by up to one year in jail with \$1,000 in fines.

Creation, Manufacturing, or Delivery (Possession with Intent to Deliver)-- punishable by up to 15 years in prison and \$250,000 in fines.

### **Mandatory Driver's License Suspension**

Also, keep in mind that all drug convictions in Michigan (even marijuana possession) have mandatory driver's license suspensions meaning that upon conviction, you will automatically lose your driver's license for a period of time. That is mandatory by statute and the judge has no discretion to sentence around it.

### **Enhanced Sentences**

There are enhanced sentences for each subsequent offense as well as for delivering to a minor or delivering within a certain distance of a school, house, bus, park, or church.

### **How I Approach a Possession of Analogues Case**

As a Michigan drug crimes lawyer, my approach to analogues or drug charge is to first review the police report to see if there are any grounds to challenge the stop of either the vehicle or

person. The initial contact with the defendant is crucial because the police must have certain criteria for initiating contact with someone. This is very fact specific and depends heavily on the "totality of the circumstances" surrounding the encounter. It also determines what legal rules and Constitutional standards apply. The next order of business is to scrutinize the search or the discovery of the drugs. In order to perform a search on a person, vehicle, or home, the police need either a search warrant or a valid exception to the search warrant requirement. There may be chain of custody issues or problems with the lab analysis as well. This is always the first place to start when deciding on whether they are valid search and seizure issues that can be raised to either get the case dismissed or to be used as leverage in plea negotiations with the prosecutor to get the charges reduced or a better deal than what is being offered. It will also help us decide whether the preliminary examination needs to be run or waived.

If the case is solid or cannot be dismissed, then the next phase is what I call mitigating the damage. As I tell my clients, usually we can't just outright prevent any bad things from happening, but we can contain the damage or minimize the pain. That is accomplished by successful plea negotiations which can render a reduction in charges, a sentencing agreement which limits or eliminates jail, or reduces the charge so the defendant is eligible for a deferred sentencing option such as 7411 which not helps him earn a non-public record, but prevents the mandatory driver's license sanctions.

As you can see, possession of analogues or any controlled substance case, is very complex with a lot of variables that factor into it. Prosecutors treat these cases very seriously and often will not be willing to offer good plea deals, especially for repeat or habitual offenders. That is why you need an experienced Michigan drug lawyer representing you. Contact Austin Legal Services, PLC today to speak to a Michigan drug crimes lawyer at (517) 614-1983.

**Defending drug crimes throughout Michigan in the counties of: Ingham, Eaton, Clinton, Jackson, Barry, Shiawassee, Washtenaw, Livingston, Kent in the cities of: Lansing, East Lansing, Charlotte, Jackson, St. Johns, Bath, Haslett, Mason, Okemos, Ann Arbor, Grand Rapids**