

R 8-8-1 Defeating Drug/Alcohol Screening Tests (Criminal Penalties)

Criminal penalties may be imposed upon persons who:

- ❖ Knowingly sells, gives away, distributes or markets any substance or product in this state or transports such a substance or product into this state with the intent that the substance or product will be used to defeat a drug or alcohol screening test;
- ❖ Attempts to defeat a drug or alcohol screening test by the substitution of a false sample;
- ❖ Knowingly advertises for sale or distribution any substance or product the advertised purpose of which is to defeat a bodily fluid screening test for drugs or alcohol;
- ❖ Adulterates a bodily fluid sample with the intent to defeat a drug or alcohol screening test;
- ❖ Knowingly possesses adulterants for the purpose of defeating a drug or alcohol screening test; or
- ❖ Knowingly sells adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defeating a drug or alcohol screening test.

A person who violates a provision of §60A-4-412(a):

- ❖ For a first offense is guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars (\$1,000);
- ❖ For a second offense is guilty of a misdemeanor and, upon conviction, be fined not more than five thousand dollars (\$5,000);
- ❖ For a third or subsequent offense is guilty of a misdemeanor and, upon conviction, be fined not more than ten thousand dollars (\$10,000) or confined in the regional jail for not more than one year, or both.

As defined in the code, "adulterate" means a substance that is not expected to be in human fluids but that is a concentration so high that it is not consistent with human bodily fluids, including, but not limited to: Bleach; chromium; creatinine; detergent; glutaraldehyde; glutaraldehyde/squalene; hydrochloric acid; hydroiodic acid; iodine; nitrite; peroxidase; potassium dichromate; potassium nitrate; pyridinium chlorochromate; and sodium nitrite.

(WVC §60-4-412 (a)(b))