

WASHINGTON COUNTY JUSTICE COURT, WASHINGTON COUNTY, UTAH  
**NOTIFICATION OF ENHANCEMENT – CONTROLLED SUBSTANCE OFFENSES**

Defendant: \_\_\_\_\_, Case No. \_\_\_\_\_

**IF YOU ARE CONVICTED of the offense of Possession or Use of Controlled Substance, or other Controlled Substance Offense checked below, this conviction may be used to make a later charge more serious by raising the classification of that offense. This form provides notification of the current provisions of Utah State Law regarding enhancement; minimum/maximum penalties applicable to the different classifications of offenses; and the specific elements of your current charges. It does not notify you of other collateral consequences.**

**ELEMENTS**

**Class B misdemeanor – Possession or Use of Controlled Substance** 58-37-8(2)(a)(i): It is unlawful for any person knowingly and intentionally to possess or use . . . a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person’s professional practice, or as otherwise authorized by this chapter. A controlled substance punishable as a class B misdemeanor under this subsection may include: any Schedule III, IV or V controlled substance as defined in 58-37-8; any controlled substance listed in 58-37-4.2 [*commonly known as spice, bath salts, etc.*]; or marijuana.

**Class B misdemeanor – Possession of Marijuana, Spice, Controlled Substance** 58-37-8(2)(d): Any person who violates Section 58-37-8(2)(a)(i) [*“Possession or Use of Controlled Substance”*] with respect to all other controlled substances not punishable as a felony or class A misdemeanor, including a Schedule III, IV or V controlled substance, any controlled substance listed in 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

**Class B misdemeanor – Knowingly Being Present When Controlled Substance is Used** 58-37-8-(2)(a) (ii): It is unlawful for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations

**Class B misdemeanor - Possession of an Altered or Forged Prescription** 58-37-8-(2)(a) (iii): It is unlawful for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

**Attempt** 76-4-101: A person is guilty of an attempt to commit a crime if he engages in conduct constituting a substantial step toward commission of the crime; and (a) intends to commit the crime, or (b) when causing a particular result is an element of the crime, he acts with an awareness that his conduct is reasonably certain to cause that result. An attempted class B misdemeanor offense is a class C misdemeanor. An attempted class A misdemeanor offense is a class B misdemeanor.

**ENHANCEMENT / PENALTIES**

58-37-8(2)(d): Upon a third conviction of “Possession or Use of a Controlled Substance” [*punishable as a class B misdemeanor*] the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

58-37-8(2)(f): Any person convicted of “Knowingly Being Present When Controlled Substance is Used” or “Possession of an Altered or Forged Prescription” is: on a first conviction, guilty of a class B misdemeanor; on a second conviction guilty of a class A misdemeanor; and on a third or subsequent conviction guilty of a third degree felony.

58-37-8(6): A plea of guilty or no contest to a violation or attempted violation or a plea held in abeyance is the equivalent of a conviction, even if subsequently reduced or dismissed. A prior conviction used for enhancement shall be from a conviction that is separate from any other conviction used for enhancement purposes.

**53-3-220 The Driver License Division shall immediately suspend for six months the driver license of a person convicted of controlled substance.**

**Minimum/Maximum Sentences**

Class C misdemeanor:	0 days to 90 days jail	AND/OR	\$0 to \$1,475 in fines and surcharges, plus interest
Class B Misdemeanor:	0 days to 6 months jail	AND/OR	\$0 to \$1,950 in fines and surcharges, plus interest
Class A Misdemeanor:	0 days to 1 year jail	AND/OR	\$0 to \$4,793 in fines and surcharges, plus interest
3 <sup>rd</sup> Degree Felony:	0 days to 5 years jail	AND/OR	\$0 to \$9,543 in fines and surcharges, plus interest

*I understand the foregoing Notification of Enhancement as explained here and as orally explained to me.*

\_\_\_\_\_ (Date) \_\_\_\_\_ (Defendant’s signature)