

APPENDIX B

This appendix sets forth a survey of state laws as they existed in 1986. The survey details the mens rea requirement in each state for drug trafficking offenses such as manufacturing, distribution, and possession with the intent to manufacture or distribute a controlled substance. The mens rea requirement is identified either by the plain terms of the state's statute or through judicial interpretation. Forty-seven states (and the District of Columbia) required a mens rea element, generally identified as knowledge of the nature or identity of the substance. Only one state did not require a mens rea element. See *State v. Rippley*, 319 N.W.2d 129, 133 (N.D. 1982) (strict liability). Research was inconclusive for two states – Arkansas and Idaho.

ALABAMA – *Harris v. State*, 826 So. 2d 897, 898 (Ala. 2000) (quoting Ala. Code § 13A-12-231(2) (1975)).

ALASKA – *Carranza v. State*, No. A-2216, 1989 WL 1594957 (Alaska Ct. App. May 31, 1989) (citing AS 11.81.610(b)(1) (unpublished)); see also *Lampkin v. State*, 141 P.3d 362, 365 (Alaska Ct. App. 2006) (citing AS 11.81.610(b)(1) (“knowingly”)).

ARIZONA – *State v. Salinas*, 887 P.2d 985, 987 (Ariz. 1994) (en banc) (citing *State v. Arce*, 483 P.2d 1395, 1399 (Ariz. 1971)).

CALIFORNIA – *People v. Daniels*, 537 P.2d 1232, 1235 (Calif. 1975) (en banc).

COLORADO – *People v. Cagle*, 751 P.2d 614, 619 (Colo. 1988) (en banc) (quoting 8 C.R.S. § 18-18-105(1)(a) (Supp. 1983)).

CONNECTICUT – *State v. Avila*, 353 A.2d 776, 779-80 (Conn. 1974).

DELAWARE – *Pryor v. State*, 453 S.2d 98, 100 (Del. 1982); see also *Traylor v. State*, 458 A.2d 1170, 1176 n.6 (Del. 1983) (quoting Del. Code Ann. § 4753A(a)(3)).

DISTRICT OF COLUMBIA – *Briscoe v. United States*, 528 A.2d 1243, 1245 (D.C.

1987) (quoting D.C. Code § 33-541(a)(1)-(2), (D) (1986 Supp.)).

FLORIDA – *State v. Dominguez*, 509 So. 2d 917, 917-18 (citing Fla. Stat. § 893.135(1)(b), (1985)).

GEORGIA – *Blount v. State*, 352 S.E.2d 220, 222 (Ga. Ct. App. 1986) (quoting OCGA § 16-13-31).

HAWAII – *State v. Shifill*, 621 P.2d 364, 368 (Haw. 1980) (citing Haw. Rev. Stat. § 712-1241 (1976 & Supp. 1979)).

ILLINOIS – *People v. Lev*, 519 N.E.2d 1168, 1171 (Ill. Ct. App. 1988) (quoting Ill. Rev. Stat. ch. 56 ½, par. 1401 (1985)).

INDIANA – *Sherlis v. State*, 498 N.E. 2d 973, 975 (Ind. 1986) (quoting Ind. Code 35-48-4-1).

IOWA – *State v. Osmundson*, 241 N.W.2d 892, 893 (Iowa 1976).

KANSAS – *State v. Faulkner*, 551 P.2d 1247, 1251-52 (Kan. 1976); *State v. Justice*, 704 P.2d 1012, 1018 (Kan. Ct. App. 1985).

KENTUCKY – *Byrd v. Commonwealth*, 709 S.W.2d 844, 845 (Ky. Ct. App. 1986) (quoting Ky. Rev. Stat. 218A.990(1)).

LOUISIANA – *State v. Banks*, 307 So. 2d 594, 596-97 (La. 1975) (quoting La. Rev. Stat. 40:966).

MAINE – *State v. Mansir*, 440 A.2d 6, n.1 (Me. 1982) (quoting A.M.R.S.A. § 1103 (Supp. 1981)).

MARYLAND – *Waller v. State*, 284 A.2d 446, 447-48 (Md. 1971).

MASSACHUSETTS – *Commonwealth v. Perry*, 464 N.E.2d 389, 392 n.2 (Mass. 1984) (quoting Mass. Gen. L. c. 94c, §§ 32-32G).

MICHIGAN – *People v. Delgado*, 273 N.W.2d 395, 399 (Mich. 1978).

MINNESOTA – *State v. Dick*, 253 N.W.2d 277, 279 (Minn. 1977).

MISSISSIPPI – *Applegate v. State*, 301 So. 2d 853, 855 (Miss. 1974); see also *Coyne v. State*, 484 So. 2d 1018, 1021 (Miss. 1986) (quoting Miss. Code Ann. § 41-29-139 (Supp. 1985)).

MISSOURI – *State v. Pilchak*, 655 S.W.2d 646, 650-51 (Mo. Ct. App. 1983).

MONTANA – *State v. Starr*, 664 P.2d 893, 897-98 (Mont. 1983); see also *State v. Anderson*, 498 P.2d 295, 298-99 (Mont. 1972).

NEBRASKA – *State v. Anderson*, 427 N.W.2d 764, 769 (Neb. 1988) (quoting Neb. Rev. Stat. § 28-416(1)(a) (cum. supp. 1986)).

NEW HAMPSHIRE – *State v. Renfrew*, 444 A.2d 527, 529-30 (N.H. 1982) (citing N.H. Rev. Stat. Ann. 318-B:26 I(a) (Supp. 1981)).

NEW JERSEY – *State v. Brown*, 404 A.2d 1111, 1118 (N.J. 1979).

NEW MEXICO – *Martinez v. State*, 580 P.2d 968, 970 (N.M. 1978) (quoting N.M. Stat. Ann. § 54-11-20(B) (Supp. 1975)).

NEW YORK – *People v. Tramuta*, 109 A.D.2d 765, 766 (N.Y. App. Div. 1985); *People v. Rosenthal*, 398 N.Y.S.2d 639, 640-41 (N.Y. Sup. Ct. 1977).

NORTH CAROLINA – *State v. Weldon*, 333 S.E.2d 701, 702 (N.C. 1985); *State v. Siler*, 314 S.E.2d 547, 549 (N.C. 1984).

OHIO – *State v. Patterson*, 432 N.E.2d 802, 803 (Ohio 1982) (citing Ohio Rev. Code 2925.03(A)(1)).

OKLAHOMA – *Rudd v. State*, 649 P.2d 791, 794-95 (Okla. Crim. App. 1982).

OREGON – *State v. Rainey*, 693 P.2d 635, 637 n.1 (Or. 1978) (en banc) (citing Or. Rev. Stat. 475.922(2)(a), 475.005(8), 161.095(2)).

PENNSYLVANIA – *Commonwealth v. Rambo*, 412 A.2d 535, 537 (Pa. 1980) (quoting 35 P.S. 780-113(a)(30)).

RHODE ISLAND – *State v. Jenison*, 442 A.2d 866, 875 (R.I. 1982); *Sharbuno v. Moran*, 429 A.2d 1294, 1296 (R.I. 1981).

SOUTH CAROLINA – *State v. Wise*, 252 S.E.2d 294 (S.C. 1979); *State v. Ferguson*, 395 S.E.2d 182, 184 n.4 (S.C. 1990) (quoting S.C. Code Ann. § 44-53-370(a) (1985)).

SOUTH DAKOTA – *State v. Barr*, 237 N.W.2d 888, 890-91 (S.D. 1976).

TENNESSEE – *State v. Ash*, 729 S.W.2d 275, 279 (Tenn. Crim. App. 1984) (quoting Tenn. Code Ann. § 39-6-417(c)(1)(D) (Supp. 1986)).

TEXAS – *Stewart v. State*, 718 S.W.2d 286, 287-88 n.1 (Tex. Crim. App. 1986) (en banc) (quoting V.A.C.S., Art. 4476-15, § 4.03(a)).

UTAH – *State v. Fox*, 709 P.2d 316, 318-19 (Utah 1985); *State v. Gray*, 717 P.2d 1313, 1315, n.1, 1316 (Utah 1986).

VERMONT – *State v. Neale*, 491 A.2d 1025, 1030 (Vt. 1985); *State v. Bressette*, 388 A.2d 395, 396 (Vt. 1978).

VIRGINIA – *Sharp v. Commonwealth*, 192 S.E.2d 217, 218 (Va. 1972) (quoting Va. Stat. § 54-524.101(a)).

WASHINGTON – *State v. Boyer*, 588 P.2d 1151, 1152 (Wash. 1979) (en banc).

WEST VIRGINIA – *State v. Barnett*, 284 S.E.2d 622, 623 (W. Va. 1981); *State v. Dunn*, 246 S.E.2d 245, 252 (W. Va. 1978).

WISCONSIN – *State v. Gladney*, 313 N.W.2d 279, at *1 (Wisc. Ct. App. 1981); *Lunde v. State*, 270 N.W.2d 180 (Wisc. 1978).

WYOMING – *Dorador v. State*, 573 P.2d 839, 843 (Wyo. 1978).