

Senate Engrossed

drug paraphernalia; definition; testing equipment

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1486

AN ACT

AMENDING SECTION 13-3415, ARIZONA REVISED STATUTES; RELATING TO DRUG
PARAPHERNALIA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3415, Arizona Revised Statutes, is amended to
3 read:

4 13-3415. Possession, manufacture, delivery and advertisement
5 of drug paraphernalia; classification; civil
6 forfeiture; factors; definitions

7 A. It is unlawful for any person to use, or to possess with intent
8 to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest,
9 manufacture, compound, convert, produce, process, prepare, test, analyze,
10 pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise
11 introduce into the human body a drug in violation of this chapter. Any
12 person who violates this subsection is guilty of a class 6 felony.

13 B. It is unlawful for any person to deliver, possess with intent to
14 deliver or manufacture with intent to deliver drug paraphernalia knowing,
15 or under circumstances where one reasonably should know, that it will be
16 used to plant, propagate, cultivate, grow, harvest, manufacture, compound,
17 convert, produce, process, prepare, test, analyze, pack, repack, store,
18 contain, conceal, inject, ingest, inhale or otherwise introduce into the
19 human body a drug in violation of this chapter. Any person who violates
20 this subsection is guilty of a class 6 felony.

21 C. It is unlawful for a person to place in a newspaper, magazine,
22 handbill or other publication any advertisement knowing, or under
23 circumstances where one reasonably should know, that the purpose of the
24 advertisement, in whole or in part, is to promote the sale of objects
25 designed or intended for use as drug paraphernalia. Any person who
26 violates this subsection is guilty of a class 6 felony.

27 D. All drug paraphernalia is subject to forfeiture pursuant to
28 chapter 39 of this title. The failure to charge or acquittal of an owner
29 or anyone in control of drug paraphernalia in violation of this chapter
30 does not prevent a finding that the object is intended for use or designed
31 for use as drug paraphernalia.

32 E. In determining whether an object is drug paraphernalia, a court
33 or other authority shall consider, in addition to all other logically
34 relevant factors, the following:

35 1. Statements by an owner or by anyone in control of the object
36 concerning its use.

37 2. Prior convictions, if any, of an owner, or of anyone in control
38 of the object, under any state or federal law relating to any drug.

39 3. The proximity of the object, in time and space, to a direct
40 violation of this chapter.

41 4. The proximity of the object to drugs.

42 5. The existence of any residue of drugs on the object.

43 6. Direct or circumstantial evidence of the intent of an owner, or
44 of anyone in control of the object, to deliver it to persons whom he

1 knows, or should reasonably know, intend to use the object to facilitate a
2 violation of this chapter.

3 7. Instructions, oral or written, provided with the object
4 concerning its use.

5 8. Descriptive materials accompanying the object ~~which~~ THAT explain
6 or depict its use.

7 9. National and local advertising concerning its use.

8 10. The manner in which the object is displayed for sale.

9 11. Whether the owner, or anyone in control of the object, is a
10 legitimate supplier of like or related items to the community, such as a
11 licensed distributor or dealer of tobacco products.

12 12. Direct or circumstantial evidence of the ratio of sales of the
13 object to the total sales of the business enterprise.

14 13. The existence and scope of legitimate uses for the object in
15 the community.

16 14. Expert testimony concerning its use.

17 F. ~~in~~ FOR THE PURPOSES OF this section, ~~unless the context~~
18 ~~otherwise requires:~~

19 1. "Drug" means any narcotic drug, dangerous drug, marijuana or
20 peyote.

21 2. "Drug paraphernalia" means all equipment, products and materials
22 of any kind ~~which~~ THAT are used, intended for use or designed for use in
23 planting, propagating, cultivating, growing, harvesting, manufacturing,
24 compounding, converting, producing, processing, preparing, testing,
25 analyzing, packaging, repackaging, storing, containing, concealing,
26 injecting, ingesting, inhaling or otherwise introducing into the human
27 body a drug in violation of this chapter. ~~It~~ DRUG PARAPHERNALIA includes:

28 (a) Kits used, intended for use or designed for use in planting,
29 propagating, cultivating, growing or harvesting any species of plant ~~which~~
30 THAT is a drug or from which a drug can be derived.

31 (b) Kits used, intended for use or designed for use in
32 manufacturing, compounding, converting, producing, processing or preparing
33 drugs.

34 (c) Isomerization devices used, intended for use or designed for
35 use in increasing the potency of any species of plant ~~which~~ THAT is a
36 drug.

37 (d) Testing equipment used, intended for use or designed for use in
38 identifying or analyzing the strength, effectiveness or purity of drugs,
39 OTHER THAN NARCOTIC DRUG TESTING PRODUCTS THAT ARE USED TO DETERMINE
40 WHETHER A CONTROLLED SUBSTANCE CONTAINS FENTANYL OR A FENTANYL ANALOG.

41 (e) Scales and balances used, intended for use or designed for use
42 in weighing or measuring drugs.

43 (f) Diluents and adulterants, such as quinine hydrochloride,
44 mannitol, mannite, dextrose and lactose, used, intended for use or
45 designed for use in cutting drugs.

- 1 (g) Separation gins and sifters used, intended for use or designed
2 for use in removing twigs and seeds from, or in otherwise cleaning or
3 refining, marijuana.
- 4 (h) Blenders, bowls, containers, spoons and mixing devices used,
5 intended for use or designed for use in compounding drugs.
- 6 (i) Capsules, balloons, envelopes and other containers used,
7 intended for use or designed for use in packaging small quantities of
8 drugs.
- 9 (j) Containers and other objects used, intended for use or designed
10 for use in storing or concealing drugs.
- 11 (k) Hypodermic syringes, needles and other objects used, intended
12 for use or designed for use in parenterally injecting drugs into the human
13 body.
- 14 (l) Objects used, intended for use or designed for use in
15 ingesting, inhaling or otherwise introducing marijuana, a narcotic drug, a
16 dangerous drug, hashish or hashish oil into the human body, such as:
- 17 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes
18 with or without screens, permanent screens, hashish heads or punctured
19 metal bowls.
- 20 (ii) Water pipes.
- 21 (iii) Carburetion tubes and devices.
- 22 (iv) Smoking and carburetion masks.
- 23 (v) Roach clips, meaning objects used to hold burning material,
24 such as a marijuana cigarette, that has become too small or too short to
25 be held in the hand.
- 26 (vi) Miniature cocaine spoons and cocaine vials.
- 27 (vii) Chamber pipes.
- 28 (viii) Carburetor pipes.
- 29 (ix) Electric pipes.
- 30 (x) Air-driven pipes.
- 31 (xi) Chillums.
- 32 (xii) Bongs.
- 33 (xiii) Ice pipes or chillers.