

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 104

H. P. 67 House of Representatives, January 6, 1981
Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Paradis of Old Town.

Cosponsors: Mr. Matthews of Caribou, Mrs. Prescott of Bangor and Mr. D. Brown of Livermore Falls.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Prohibit the Sale and Use of Drug Paraphernalia.

Be it enacted by the People of the State of Maine, as follows:

17-A MRSA § 1111-A is enacted to read:

§ 1111-A. Sale and use of drug paraphernalia

1. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter. It includes, but is not limited to:

A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived;

B. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs;

C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a scheduled drug;

- D. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs;**
- E. Scales and balances used, intended for use or designed for use in weighing or measuring scheduled drugs;**
- F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting scheduled drugs;**
- G. Separation gins and sifters, used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;**
- H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding scheduled drugs;**
- I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of scheduled drugs;**
- J. Containers and other objects used, intended for use or designed for use in storing or concealing scheduled drugs;**
- K. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting scheduled drugs into the human body; and**
- L. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:**
 - (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;**
 - (2) Water pipes;**
 - (3) Carburetion tubes and devices;**
 - (4) Smoking and carburetion masks;**
 - (5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;**
 - (6) Miniature cocaine spoons and cocaine vials;**
 - (7) Chamber pipes;**
 - (8) Carburetor pipes;**
 - (9) Electric pipes;**
 - (10) Air-driven pipes;**

- (11) Chillums;
- (12) Bongs; or
- (13) Ice pipes or chillers.

2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- A. Statements by an owner or by anyone in control of the object concerning its use;
 - B. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any scheduled drug;
 - C. The proximity of the object, in time and space, to a direct violation of this chapter;
 - D. The proximity of the object to scheduled drugs;
 - E. The existence of any residue of scheduled drugs on the object;
 - F. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
 - G. Instructions, oral or written, provided with the object concerning its use;
 - H. Descriptive materials accompanying the object which explain or depict its use;
 - I. National and local advertising concerning its use;
 - J. The manner in which the object is displayed for sale;
 - K. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
 - L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
 - M. The existence and scope of legitimate uses for the object in the community; and
 - N. Expert testimony concerning its use.
3. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store,

contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter.

4. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter.

5. Any person 18 years of age or over who violates subsection 4 by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his junior is guilty of a separate offense.

6. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

7. A violation of any provision of this section is a Class E crime.

8. Any drug paraphernalia possessed in violation of this section is declared to be contraband and may be seized and confiscated by the State.

STATEMENT OF FACT

This bill is modeled after the Drug Paraphernalia Act drafted by the federal Drug Enforcement Administration. It is designed to deal specifically with the widely recognized problem of controlling the sale of devices used or intended for use in conjunction with illegal controlled substances. The bill makes the possession of paraphernalia, when accompanied by an intent to use it with illicit drugs, a crime. Manufacturing and delivering paraphernalia under circumstances which clearly indicate it will be used with illicit drugs is also made a crime. The delivery of paraphernalia to a child by an adult is made a special offense. And the publication of commercial advertisements promoting the sale of paraphernalia is made unlawful.