

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1393 Session of 2021

INTRODUCED BY STRUZZI, HILL-EVANS, POLINCHOCK, SMITH, CIRESI, ROWE, D. MILLER, BOBACK, HANBIDGE, RIGBY, BRIGGS, T. DAVIS, KRAJEWSKI, SAMUELSON, SHUSTERMAN, BENHAM, LEE, SCHLOSSBERG, PISCIOTTANO, DEASY, FRANKEL, COVINGTON, ABNEY, A. DAVIS AND C. WILLIAMS, MAY 14, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 15, 2022

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 definitions.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definition of "drug paraphernalia" in section
15 2(b) of the act of April 14, 1972 (P.L.233, No.64), known as The
16 Controlled Substance, Drug, Device and Cosmetic Act, is amended
17 to read:

18 Section 2. Definitions.--* * *

19 (b) As used in this act:

20 * * *

1 "Drug paraphernalia" means all equipment, products and
2 materials of any kind which are used, intended for use or
3 designed for use in planting, propagating, cultivating, growing,
4 harvesting, manufacturing, compounding, converting, producing,
5 processing, preparing, testing, analyzing, packaging,
6 repackaging, storing, containing, concealing, injecting,
7 ingesting, inhaling or otherwise introducing into the human body
8 a controlled substance in violation of this act. It includes,
9 but is not limited to:

10 (1) Kits used, intended for use or designed for use in
11 planting, propagating, cultivating, growing or harvesting of any
12 species of plant which is a controlled substance or from which a
13 controlled substance can be derived.

14 (2) Kits used, intended for use or designed for use in
15 manufacturing, compounding, converting, producing, processing or
16 preparing controlled substances.

17 (3) Isomerization devices used, intended for use or designed
18 for use in increasing the potency of any species of plant which
19 is a controlled substance.

20 (4) Testing equipment used, intended for use or designed for
21 use in identifying or in analyzing the strength, effectiveness
22 or purity of controlled substances.

23 (5) Scales and balances used, intended for use or designed
24 for use in weighing or measuring controlled substances.

25 (6) Diluents and adulterants, such as quinine hydrochloride,
26 mannitol, mannite, dextrose and lactose, used, intended for use
27 or designed for use in cutting controlled substances.

28 (7) Separation gins and sifters used, intended for use or
29 designed for use in removing twigs and seeds from or in
30 otherwise cleaning or refining marihuana.

1 (8) Blenders, bowls, containers, spoons and mixing devices
2 used, intended for use or designed for use in compounding
3 controlled substances.

4 (9) Capsules, balloons, envelopes and other containers used,
5 intended for use or designed for use in packaging small
6 quantities of controlled substances.

7 (10) Containers and other objects used, intended for use or
8 designed for use in storing or concealing controlled substances.

9 (11) Hypodermic syringes, needles and other objects used,
10 intended for use, or designed for use in parenterally injected
11 controlled substances into the human body.

12 (12) Objects used, intended for use or designed for use in
13 ingesting, inhaling or otherwise introducing marihuana, cocaine,
14 hashish or hashish oil into the human body, such as:

15 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic
16 pipes with or without screens, permanent screens, hashish heads
17 or punctured metal bowls.

18 (ii) Water pipes.

19 (iii) Carburetion tubes and devices.

20 (iv) Smoking and carburetion masks.

21 (v) Roach clips; meaning objects used to hold burning
22 material such as a marihuana cigarette, that has become too
23 small or too short to be held in the hand.

24 (vi) Miniature cocaine spoons and cocaine vials.

25 (vii) Chamber pipes.

26 (viii) Carburetor pipes.

27 (ix) Electric pipes.

28 (x) Air-driven pipes.

29 (xi) Chillums.

30 (xii) Bongs.

1 (xiii) Ice pipes or chillers.

2 In determining whether an object is drug paraphernalia, a
3 court or other authority should consider, in addition to all
4 other logically relevant factors, statements by an owner or by
5 anyone in control of the object concerning its use, prior
6 convictions, if any, of an owner, or of anyone in control of the
7 object, under any State or Federal law relating to any
8 controlled substance, the proximity of the object, in time and
9 space, to a direct violation of this act, the proximity of the
10 object to controlled substances, the existence of any residue of
11 controlled substances on the object, direct or circumstantial
12 evidence of the intent of an owner, or of anyone in control of
13 the object, to deliver it to persons who he knows, or should
14 reasonably know, intend to use the object to facilitate a
15 violation of this act, the innocence of an owner or of anyone in
16 control of the object, as to a direct violation of this act
17 should not prevent a finding that the object is intended for use
18 or designed for use as drug paraphernalia, instructions, oral or
19 written, provided with the object concerning its use,
20 descriptive materials accompanying the object which explain or
21 depict its use, national and local advertising concerning its
22 use, the manner in which the object is displayed for sale,
23 whether the owner, or anyone in control of the object, is a
24 legitimate supplier of like or related items to the community,
25 such as a licensed distributor or dealer of tobacco products,
26 direct or circumstantial evidence of the ratio of sales of the
27 objects to the total sales of the business enterprise, the
28 existence and scope of legitimate uses for the object in the
29 community, and expert testimony concerning its use.

30 This definition does not include testing products utilized

1 for personal use in determining whether a controlled substance <--
2 contains chemicals, toxic substances or hazardous compounds in
3 quantities which can cause physical harm or death. The term
4 "testing products" shall include, but is not limited to,
5 fentanyl test strips.

6 * * *

7 Section 2. This act shall take effect in 60 days.