
SENATE BILL 5022

State of Washington

68th Legislature

2023 Regular Session

By Senators Muzzall and Cleveland

Prefiled 12/06/22.

1 AN ACT Relating to exempting fentanyl testing equipment from the
2 definition of drug paraphernalia; and amending RCW 69.50.102.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 69.50.102 and 2022 c 16 s 52 are each amended to
5 read as follows:

6 ~~((a))~~ (1) As used in this chapter, "drug paraphernalia" means
7 all equipment, products, and materials of any kind which are used,
8 intended for use, or designed for use in planting, propagating,
9 cultivating, growing, harvesting, manufacturing, compounding,
10 converting, producing, processing, preparing, testing, analyzing,
11 packaging, repackaging, storing, containing, concealing, injecting,
12 ingesting, inhaling, or otherwise introducing into the human body a
13 controlled substance, except as provided under this section. It
14 includes, but is not limited to:

15 ~~((1))~~ (a) Kits used, intended for use, or designed for use in
16 planting, propagating, cultivating, growing, or harvesting of any
17 species of plant which is a controlled substance or from which a
18 controlled substance can be derived;

19 ~~((2))~~ (b) Kits used, intended for use, or designed for use in
20 manufacturing, compounding, converting, producing, processing, or
21 preparing controlled substances;

1 ~~((3))~~ (c) Isomerization devices used, intended for use, or
2 designed for use in increasing the potency of any species of plant
3 which is a controlled substance;

4 ~~((4))~~ (d) Testing equipment used, intended for use, or designed
5 for use in identifying or in analyzing the strength, effectiveness,
6 or purity of controlled substances, except as provided under
7 subsection (3) of this section;

8 ~~((5))~~ (e) Scales and balances used, intended for use, or
9 designed for use in weighing or measuring controlled substances;

10 ~~((6))~~ (f) Diluents and adulterants, such as quinine
11 hydrochloride, mannitol, mannite, dextrose, and lactose, used,
12 intended for use, or designed for use in cutting controlled
13 substances;

14 ~~((7))~~ (g) Separation gins and sifters used, intended for use,
15 or designed for use in removing twigs and seeds from, or in otherwise
16 cleaning or refining, cannabis;

17 ~~((8))~~ (h) Blenders, bowls, containers, spoons, and mixing
18 devices used, intended for use, or designed for use in compounding
19 controlled substances;

20 ~~((9))~~ (i) Capsules, balloons, envelopes, and other containers
21 used, intended for use, or designed for use in packaging small
22 quantities of controlled substances;

23 ~~((10))~~ (j) Containers and other objects used, intended for use,
24 or designed for use in storing or concealing controlled substances;

25 ~~((11))~~ (k) Hypodermic syringes, needles, and other objects
26 used, intended for use, or designed for use in parenterally injecting
27 controlled substances into the human body;

28 ~~((12))~~ (l) Objects used, intended for use, or designed for use
29 in ingesting, inhaling, or otherwise introducing cannabis, cocaine,
30 hashish, or hashish oil into the human body, such as:

31 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
32 pipes with or without screens, permanent screens, hashish heads, or
33 punctured metal bowls;

34 (ii) Water pipes;

35 (iii) Carburetion tubes and devices;

36 (iv) Smoking and carburetion masks;

37 (v) Roach clips: Meaning objects used to hold burning material,
38 such as a cannabis cigarette, that has become too small or too short
39 to be held in the hand;

40 (vi) Miniature cocaine spoons, and cocaine vials;

1 (vii) Chamber pipes;
2 (viii) Carburetor pipes;
3 (ix) Electric pipes;
4 (x) Air-driven pipes;
5 (xi) Chillums;
6 (xii) Bongs; and
7 (xiii) Ice pipes or chillers.

8 ~~((b))~~ (2) In determining whether an object is drug
9 paraphernalia under this section, a court or other authority should
10 consider, in addition to all other logically relevant factors, the
11 following:

12 ~~((1))~~ (a) Statements by an owner or by anyone in control of the
13 object concerning its use;

14 ~~((2))~~ (b) Prior convictions, if any, of an owner, or of anyone
15 in control of the object, under any state or federal law relating to
16 any controlled substance;

17 ~~((3))~~ (c) The proximity of the object, in time and space, to a
18 direct violation of this chapter;

19 ~~((4))~~ (d) The proximity of the object to controlled substances;

20 ~~((5))~~ (e) The existence of any residue of controlled substances
21 on the object;

22 ~~((6))~~ (f) Direct or circumstantial evidence of the intent of an
23 owner, or of anyone in control of the object, to deliver it to
24 persons whom he or she knows, or should reasonably know, intend to
25 use the object to facilitate a violation of this chapter; the
26 innocence of an owner, or of anyone in control of the object, as to a
27 direct violation of this chapter shall not prevent a finding that the
28 object is intended or designed for use as drug paraphernalia;

29 ~~((7))~~ (g) Instructions, oral or written, provided with the
30 object concerning its use;

31 ~~((8))~~ (h) Descriptive materials accompanying the object which
32 explain or depict its use;

33 ~~((9))~~ (i) National and local advertising concerning its use;

34 ~~((10))~~ (j) The manner in which the object is displayed for
35 sale;

36 ~~((11))~~ (k) Whether the owner, or anyone in control of the
37 object, is a legitimate supplier of like or related items to the
38 community, such as a licensed distributor or dealer of tobacco
39 products;

1 (~~(12)~~) (l) Direct or circumstantial evidence of the ratio of
2 sales of the object(s) to the total sales of the business enterprise;
3 (~~(13)~~) (m) The existence and scope of legitimate uses for the
4 object in the community; and
5 (~~(14)~~) (n) Expert testimony concerning its use.
6 (3) "Drug paraphernalia" does not include testing equipment used,
7 intended for use, or designed to determine whether a controlled
8 substance or controlled substance analog contains fentanyl.

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