

1 HB305
2 211114-3
3 By Representatives Hall and Coleman
4 RFD: Judiciary
5 First Read: 03-FEB-21

1 "(1) Kits used, intended for use, or designed for
2 use in planting, propagating, cultivating, growing, or
3 harvesting of any species of plant which is a controlled
4 substance or from which a controlled substance can be derived;

5 "(2) Kits used, intended for use, or designed for
6 use in manufacturing, compounding, converting, producing,
7 processing, or preparing controlled substances;

8 "(3) Isomerization devices used, intended for use,
9 or designed for use in increasing the potency of any species
10 of plant which is a controlled substance;

11 "(4) Testing equipment used, intended for use, or
12 designed for use in identifying, or in analyzing the strength,
13 effectiveness, or purity of controlled substances;

14 "(5) Scales and balances used, intended for use, or
15 designed for use in weighing or measuring controlled
16 substances;

17 "(6) Dilutants and adulterants, such as quinine
18 hydrochloride, mannitol, mannite, dextrose and lactose, used,
19 intended for use, or designed for use in cutting controlled
20 substances;

21 "(7) Separation gins and sifters used, intended for
22 use, or designed for use in removing twigs and seeds from, or
23 in otherwise cleaning or refining, marihuana;

24 "(8) Blenders, bowls, containers, spoons and mixing
25 devices used, intended for use, or designed for use in
26 compounding controlled substances;

1 "(9) Capsules, balloons, envelopes and other
2 containers used, intended for use, or designed for use in
3 packaging small quantities of controlled substances;

4 "(10) Containers and other objects used, intended
5 for use, or designed for use in storing or concealing
6 controlled substances;

7 "(11) Hypodermic syringes, needles and other objects
8 used, intended for use, or designed for use in parenterally
9 injecting controlled substances into the human body;

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

14 "a. Metal, wooden, acrylic, glass, stone, plastic,
15 or ceramic pipes with or without screens, permanent screens,
16 hashish heads, or punctured metal bowls;

17 "b. Water pipes;

18 "c. Carburetion tubes and devices;

19 "d. Smoking and carburetion masks;

20 "e. Roach clips: Meaning objects used to hold
21 burning material, such as a marihuana cigarette, that has
22 become too small or too short to be held in the hand;

23 "f. Miniature cocaine spoons, and cocaine vials;

24 "g. Chamber pipes;

25 "h. Carburetor pipes;

26 "i. Electric pipes;

27 "j. Air-driven pipes;

1 "k. Chillums;

2 "l. Bongs;

3 "m. Ice pipes or chillers;

4 "n. Glass tubes which are hollow, cylindrical items
5 made of glass which are smaller than three-quarters of an inch
6 in diameter, shorter than 12 inches in length, and which are
7 not sealed with glass at both ends.

8 "(b) Factors in determining whether object is drug
9 paraphernalia. In determining whether an object is drug
10 paraphernalia, a court or other authority shall consider, in
11 addition to all other logically relevant factors, the
12 following:

13 "(1) Statements by an owner or by anyone in control
14 of the object concerning its use;

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

18 "(3) The proximity of the object, in time and space,
19 to a direct violation of this section or to a controlled
20 substance;

21 "(4) The existence of any residue of controlled
22 substances on the object;

23 "(5) Direct or circumstantial evidence of the intent
24 of an owner, or of anyone in control of the object, to deliver
25 it to persons whom he knows intend to use the object to
26 facilitate a violation of the controlled substances laws of
27 this state; the innocence of an owner, or of anyone in control

1 of the object, as to a direct violation of such laws shall not
2 prevent a finding that the object is intended for use, or
3 designed for use as drug paraphernalia;

4 "(6) Instructions, oral or written, provided with
5 the object concerning its use;

6 "(7) Descriptive materials accompanying the object
7 which explain or depict its use;

8 "(8) National and local advertising concerning its
9 use;

10 "(9) The manner in which the object is displayed for
11 sale;

12 "(10) Whether the owner, or anyone in control of the
13 object, is a legitimate supplier of like or related items to
14 the community, such as a licensed distributor or dealer of
15 tobacco products;

16 "(11) Direct or circumstantial evidence of the ratio
17 of sales of the object or objects to the total sales of the
18 business enterprise;

19 "(12) The existence and scope of legitimate uses for
20 the object in the community;

21 "(13) Expert testimony concerning its use.

22 "(c) Use or possession with intent to use. It shall
23 be unlawful for any person to use, or to possess with intent
24 to use, or to use to inject, ingest, inhale or otherwise
25 introduce into the human body, drug paraphernalia to plant,
26 propagate, cultivate, grow, harvest, compound, convert,
27 produce, process, prepare, test, analyze, pack, repack, store,

1 contain or conceal a controlled substance in violation of the
2 controlled substances laws of this state. Any person who
3 violates this subsection is guilty of a Class A misdemeanor
4 and upon conviction shall be punished as prescribed by law.

5 "(d) (1) It shall be unlawful for any person to use,
6 deliver, or sell, possess with intent to deliver or sell, or
7 manufacture with intent to deliver or sell, or to possess with
8 intent to use, drug paraphernalia to manufacture a controlled
9 substance in violation of the controlled substances laws of
10 this state.

11 "(2) Any person who violates this subsection is
12 guilty of a Class C felony. If a person is in violation of
13 this subsection and is in possession of a firearm at the time
14 of the offense, the person shall be guilty of a Class B
15 felony.

16 "(e) Delivery or sale.

17 "(1) It shall be unlawful for any person to deliver
18 or sell, possess with intent to deliver or sell, or
19 manufacture with intent to deliver or sell drug paraphernalia,
20 knowing that it will be used to plant, propagate, cultivate,
21 grow, harvest, compound, convert, produce, process, prepare,
22 test, analyze, pack, repack, store, contain, conceal, inject,
23 ingest, inhale, or otherwise introduce into the human body a
24 controlled substance in violation of the controlled substances
25 laws of this state. Any person who violates this section is
26 guilty of a Class A misdemeanor and upon conviction shall be
27 punished as prescribed by law. A person who is convicted of a

1 subsequent violation of this subsection shall be guilty of a
2 Class C felony and punished as prescribed by law. Any person
3 convicted of violating this subsection who previously has been
4 convicted of violating subdivision (2) of this subsection
5 shall be subject to the same penalties specified for
6 subsequent violations of this subsection.

7 "(2) Any person 18 years of age or over who violates
8 subdivision (1) of this subsection by delivering drug
9 paraphernalia to a person under 18 years of age who is at
10 least three years his junior shall be guilty of a Class B
11 felony and upon conviction shall be punished as prescribed by
12 law.

13 "(3) In addition to any other penalties, there is
14 imposed a fine of two hundred fifty dollars (\$250) if the
15 unlawful delivery or sale was conducted on the campus or
16 within a 1,000 foot radius of the campus boundaries of any
17 public or private school, college, university, or other
18 educational institution, or church in this state.

19 "(f) Contraband; forfeiture. All drug paraphernalia
20 used in violation of this section shall be contraband and
21 subject to the forfeiture laws of this state and Section
22 20-2-93 as amended, in particular."

23 Section 2. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 03-FEB-21

Read for the second time and placed
on the calendar with 1 substitute
and..... 03-MAR-21

Read for the third time and passed
as amended..... 20-APR-21

Yeas 93, Nays 0, Abstains 1

Jeff Woodard
Clerk