

CHAPTER 46. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE VII. Offenses Related to Drug Paraphernalia

Section 46-160 Drug Paraphernalia.

Pursuant to authority granted by Minnesota Statutes, Section 152.205

- (a) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Drug Paraphernalia. All equipment, products, and materials of any kind which are used, primarily used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introduce into the human body a controlled substance in violation of M.S. Ch. 152, as it may be amended from time to time. Drug paraphernalia does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes. The term drug paraphernalia includes, but is not limited to:

- (1) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (2) 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;
- (3) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which controlled substances can be derived;
- (4) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (5) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (6) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- (7) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (8) Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances;
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances;

- (11) 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, which shall include, but not be limited to the following:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Objects commonly referred to as roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette, which has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers; and

- (12) Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, methamphetamine precursor drugs, or lawfully dispensed controlled substances.

(b) *Factors to be considered in determining if an object is drug paraphernalia.* In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner or of anyone in control of the object under any state or federal law relating to any controlled substance and/or drug paraphernalia;
- (3) The proximity of the object, in time and space, to a direct violation of this section;
- (4) The proximity of the object to any controlled substance;
- (5) The existence of any residue of a controlled substance on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to any person whom he or she knows, or should reasonably know, intends to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation, of this act shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;

- (10) The manner in which the object is displayed for sale;
 - (11) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
 - (12) The existence and scope of any legitimate use for the object in the community;
 - (13) Expert testimony concerning its use;
 - (14) Whether the owner, or any one in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products; and
 - (15) The actual or constructive possession by the owner or a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing-a controlled substance.
- (c) *Possession of drug paraphernalia prohibited.* 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 controlled substance in violation of M.S. Ch. 152, as it may be amended from time to time. Any violation of this section is a petty misdemeanor.
- (d) *Manufacture or delivery of drug paraphernalia prohibited.* It is unlawful for any person to deliver, possess with intent to deliver, sell, possess with intent to sell, or manufacture with intent to deliver or sell, drug paraphernalia, if that person knows, or under circumstances where one reasonably should know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of M.S. Ch. 152. Any violation of this section is a misdemeanor.