

REFERENCE TITLE: drug paraphernalia; classification

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1615**

Introduced by  
Senators Marsh: Shope

### **AN ACT**

AMENDING SECTION 13-3415, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 222, SECTION 5; REPEALING SECTION 13-3415, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 372, SECTION 1; RELATING TO DRUG PARAPHERNALIA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3415, Arizona Revised Statutes, as amended by  
3 Laws 2021, chapter 222, section 5, is amended to read:

4 13-3415. Possession, manufacture, delivery and advertisement  
5 of drug paraphernalia; violation; classification;  
6 civil forfeiture; factors; definitions

7 A. Except as provided in section 36-2852 and section 36-2853,  
8 subsection C, it is unlawful for any person to use, or to possess with  
9 intent to use, drug paraphernalia to plant, propagate, cultivate, grow,  
10 harvest, manufacture, compound, convert, produce, process, prepare, test,  
11 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or  
12 otherwise introduce into the human body a drug in violation of this  
13 chapter. Any person who violates this subsection is guilty of a class  
14 ~~6-felony~~ 3 MISDEMEANOR.

15 B. Except as provided in section 36-2852 and section 36-2853,  
16 subsection C, it is unlawful for any person to deliver, possess with  
17 intent to deliver or manufacture with intent to deliver drug paraphernalia  
18 knowing, or under circumstances where one reasonably should know, that it  
19 will be used to plant, propagate, cultivate, grow, harvest, manufacture,  
20 compound, convert, produce, process, prepare, test, analyze, pack, repack,  
21 store, contain, conceal, inject, ingest, inhale or otherwise introduce  
22 into the human body a drug in violation of this chapter. Any person who  
23 violates this subsection is guilty of a class 1 MISDEMEANOR, EXCEPT THAT  
24 IT IS A CLASS 6 felony IF EITHER OF THE FOLLOWING APPLIES:

25 1. THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF THIS  
26 SUBSECTION OR SUBSECTION C OF THIS SECTION.

27 2. THE PERSON DELIVERS, POSSESSES WITH INTENT TO DELIVER OR  
28 MANUFACTURES WITH INTENT TO DELIVER DRUG PARAPHERNALIA TO A MINOR AND THE  
29 PERSON IS AT LEAST EIGHTEEN YEARS OF AGE AND IS AT LEAST THREE YEARS OLDER  
30 THAN THE MINOR AT THE TIME THE DRUG PARAPHERNALIA IS DELIVERED, POSSESSED  
31 OR MANUFACTURED.

32 C. It is unlawful for a person to place in a newspaper, magazine,  
33 handbill or other publication any advertisement knowing, or under  
34 circumstances where one reasonably should know, that the purpose of the  
35 advertisement, in whole or in part, is to promote the sale of objects  
36 designed or intended for use as drug paraphernalia. Any person who  
37 violates this subsection is guilty of a class 1 MISDEMEANOR, EXCEPT THAT  
38 IT IS A CLASS 6 felony IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF A  
39 VIOLATION OF THIS SUBSECTION OR SUBSECTION B OF THIS SECTION.

40 D. All drug paraphernalia is subject to forfeiture pursuant to  
41 chapter 39 of this title. The failure to charge or acquittal of an owner  
42 or anyone in control of drug paraphernalia in violation of this chapter  
43 does not prevent a finding that the object is intended for use or designed  
44 for use as drug paraphernalia.

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

4 1. Statements by an owner or by anyone in control of the object  
5 concerning its use.

6 2. Prior convictions, if any, of an owner, or of anyone in control  
7 of the object, under any state or federal law relating to any drug.

8 3. The proximity of the object, in time and space, to a direct  
9 violation of this chapter.

10 4. The proximity of the object to drugs.

11 5. The existence of any residue of drugs on the object.

12 6. Direct or circumstantial evidence of the intent of an owner, or  
13 of anyone in control of the object, to deliver it to persons whom he  
14 knows, or should reasonably know, intend to use the object to facilitate a  
15 violation of this chapter.

16 7. Instructions, oral or written, provided with the object  
17 concerning its use.

18 8. Descriptive materials accompanying the object that explain or  
19 depict its use.

20 9. National and local advertising concerning its use.

21 10. The manner in which the object is displayed for sale.

22 11. Whether the owner, or anyone in control of the object, is a  
23 legitimate supplier of like or related items to the community, such as a  
24 licensed distributor or dealer of tobacco products.

25 12. Direct or circumstantial evidence of the ratio of sales of the  
26 object to the total sales of the business enterprise.

27 13. The existence and scope of legitimate uses for the object in  
28 the community.

29 14. Expert testimony concerning its use.

30 F. For the purposes of this section, ~~unless the context otherwise~~  
31 ~~requires:~~

32 1. "Drug" means any narcotic drug, dangerous drug, marijuana or  
33 peyote.

34 2. "Drug paraphernalia" means all equipment, products and materials  
35 of any kind that are used, intended for use or designed for use in  
36 planting, propagating, cultivating, growing, harvesting, manufacturing,  
37 compounding, converting, producing, processing, preparing, testing,  
38 analyzing, packaging, repackaging, storing, containing, concealing,  
39 injecting, ingesting, inhaling or otherwise introducing into the human  
40 body a drug in violation of this chapter. Drug paraphernalia includes:

41 (a) Kits used, intended for use or designed for use in planting,  
42 propagating, cultivating, growing or harvesting any species of plant that  
43 is a drug or from which a drug can be derived.

- 1 (b) Kits used, intended for use or designed for use in  
2 manufacturing, compounding, converting, producing, processing or preparing  
3 drugs.
- 4 (c) Isomerization devices used, intended for use or designed for  
5 use in increasing the potency of any species of plant that is a drug.
- 6 (d) Testing equipment used, intended for use or designed for use in  
7 identifying or analyzing the strength, effectiveness or purity of drugs,  
8 OTHER THAN NARCOTIC DRUG TESTING PRODUCTS THAT ARE USED TO DETERMINE  
9 WHETHER A CONTROLLED SUBSTANCE CONTAINS FENTANYL OR A FENTANYL ANALOG.
- 10 (e) Scales and balances used, intended for use or designed for use  
11 in weighing or measuring drugs.
- 12 (f) Diluents and adulterants, such as quinine hydrochloride,  
13 mannitol, mannite, dextrose and lactose, used, intended for use or  
14 designed for use in cutting drugs.
- 15 (g) Separation gins and sifters used, intended for use or designed  
16 for use in removing twigs and seeds from, or in otherwise cleaning or  
17 refining, marijuana.
- 18 (h) Blenders, bowls, containers, spoons and mixing devices used,  
19 intended for use or designed for use in compounding drugs.
- 20 (i) Capsules, balloons, envelopes and other containers used,  
21 intended for use or designed for use in packaging small quantities of  
22 drugs.
- 23 (j) Containers and other objects used, intended for use or designed  
24 for use in storing or concealing drugs.
- 25 (k) Hypodermic syringes, needles and other objects used, intended  
26 for use or designed for use in parenterally injecting drugs into the human  
27 body.
- 28 (l) Objects used, intended for use or designed for use in  
29 ingesting, inhaling or otherwise introducing marijuana, a narcotic drug, a  
30 dangerous drug, hashish or hashish oil into the human body, such as:
- 31 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes  
32 with or without screens, permanent screens, hashish heads or punctured  
33 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 marijuana cigarette, that has become too small or too short to  
39 be held in the hand.
- 40 (vi) Miniature cocaine spoons and cocaine vials.
- 41 (vii) Chamber pipes.

1 (viii) Carburetor pipes.

2 (ix) Electric pipes.

3 (x) Air-driven pipes.

4 (xi) Chillums.

5 (xii) Bongs.

6 (xiii) Ice pipes or chillers.

7 Sec. 2. Repeal

8 Section 13-3415, Arizona Revised Statutes, as amended by Laws 2021,  
9 chapter 372, section 1, is repealed.