

REFERENCE TITLE: drug paraphernalia; testing; analyzing; repeal

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1159

Introduced by
Senators Marsh: Shope

AN ACT

AMENDING SECTION 13-3415, ARIZONA REVISED STATUTES; RELATING TO DRUGS.

(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, is amended to
3 read:

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

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 6 felony.

24 C. It is unlawful for a person to place in a newspaper, magazine,
25 handbill or other publication any advertisement knowing, or under
26 circumstances where one reasonably should know, that the purpose of the
27 advertisement, in whole or in part, is to promote the sale of objects
28 designed or intended for use as drug paraphernalia. Any person who
29 violates this subsection is guilty of a class 6 felony.

30 D. All drug paraphernalia is subject to forfeiture pursuant to
31 chapter 39 of this title. The failure to charge or acquittal of an owner
32 or anyone in control of drug paraphernalia in violation of this chapter
33 does not prevent a finding that the object is intended for use or designed
34 for use as drug paraphernalia.

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

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

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

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

44 4. The proximity of the object to drugs.

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

- 1 6. Direct or circumstantial evidence of the intent of an owner, or
- 2 of anyone in control of the object, to deliver it to persons whom he
- 3 knows, or should reasonably know, intend to use the object to facilitate a
- 4 violation of this chapter.
- 5 7. Instructions, oral or written, provided with the object
- 6 concerning its use.
- 7 8. Descriptive materials accompanying the object that explain or
- 8 depict its use.
- 9 9. National and local advertising concerning its use.
- 10 10. The manner in which the object is displayed for sale.
- 11 11. Whether the owner, or anyone in control of the object, is a
- 12 legitimate supplier of like or related items to the community, such as a
- 13 licensed distributor or dealer of tobacco products.
- 14 12. Direct or circumstantial evidence of the ratio of sales of the
- 15 object to the total sales of the business enterprise.
- 16 13. The existence and scope of legitimate uses for the object in
- 17 the community.
- 18 14. Expert testimony concerning its use.
- 19 F. For the purposes of this section:
- 20 1. "Drug" means any narcotic drug, dangerous drug, marijuana or
- 21 peyote.
- 22 2. "Drug paraphernalia" means all equipment, products and materials
- 23 of any kind that are used, intended for use or designed for use in
- 24 planting, propagating, cultivating, growing, harvesting, manufacturing,
- 25 compounding, converting, producing, processing, preparing, ~~testing,~~
- 26 ~~analyzing,~~ packaging, repackaging, storing, containing, concealing,
- 27 injecting, ingesting, inhaling or otherwise introducing into the human
- 28 body a drug in violation of this chapter. Drug paraphernalia includes:
- 29 (a) Kits used, intended for use or designed for use in planting,
- 30 propagating, cultivating, growing or harvesting any species of plant that
- 31 is a drug or from which a drug can be derived.
- 32 (b) Kits used, intended for use or designed for use in
- 33 manufacturing, compounding, converting, producing, processing or preparing
- 34 drugs.
- 35 (c) Isomerization devices used, intended for use or designed for
- 36 use in increasing the potency of any species of plant that is a drug.
- 37 ~~(d) Testing equipment used, intended for use or designed for use in~~
- 38 ~~identifying or analyzing the strength, effectiveness or purity of drugs,~~
- 39 ~~other than narcotic drug testing products that are used to determine~~
- 40 ~~whether a controlled substance contains fentanyl or a fentanyl analog.~~
- 41 ~~(e)~~ (d) Scales and balances used, intended for use or designed for
- 42 use in weighing or measuring drugs.
- 43 ~~(f)~~ (e) Diluents and adulterants, such as quinine hydrochloride,
- 44 mannitol, mannite, dextrose and lactose, used, intended for use or
- 45 designed for use in cutting drugs.

- 1 ~~(g)~~ (f) Separation gins and sifters used, intended for use or
2 designed for use in removing twigs and seeds from, or in otherwise
3 cleaning or refining, marijuana.
- 4 ~~(h)~~ (g) Blenders, bowls, containers, spoons and mixing devices
5 used, intended for use or designed for use in compounding drugs.
- 6 ~~(i)~~ (h) Capsules, balloons, envelopes and other containers used,
7 intended for use or designed for use in packaging small quantities of
8 drugs.
- 9 ~~(j)~~ (i) Containers and other objects used, intended for use or
10 designed for use in storing or concealing drugs.
- 11 ~~(k)~~ (j) Hypodermic syringes, needles and other objects used,
12 intended for use or designed for use in parenterally injecting drugs into
13 the human body.
- 14 ~~(l)~~ (k) Objects used, intended for use or designed for use in
15 ingesting, inhaling or otherwise introducing marijuana, a narcotic drug, a
16 dangerous drug, hashish or hashish oil into the human body, such as:
- 17 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes
18 with or without screens, permanent screens, hashish heads or punctured
19 metal bowls.
- 20 (ii) Water pipes.
- 21 (iii) Carburetion tubes and devices.
- 22 (iv) Smoking and carburetion masks.
- 23 (v) Roach clips, meaning objects used to hold burning material,
24 such as a marijuana cigarette, that has become too small or too short to
25 be held in the hand.
- 26 (vi) Miniature cocaine spoons and cocaine vials.
- 27 (vii) Chamber pipes.
- 28 (viii) Carburetor pipes.
- 29 (ix) Electric pipes.
- 30 (x) Air-driven pipes.
- 31 (xi) Chillums.
- 32 (xii) Bongs.
- 33 (xiii) Ice pipes or chillers.