

**SALE OF DRUG PARAPHERNALIA;
POSSESSION WITH INTENT TO SELL DRUG PARAPHERNALIA**

DEFINITION OF “DRUG PARAPHERNALIA”

Excerpt from General Laws chapter 94C, section 1,
as amended by St. 1998, c. 50, § 1, and by St. 2006, c. 172, § 1

“Drug paraphernalia’ [includes] all equipment, products, devices and materials of any kind which are primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of [the law governing controlled substances]. It includes, but is not limited to:

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

(2) kits used, primarily intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) isomerization devices used, primarily intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) testing equipment used, primarily intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) scales and balances used, primarily intended for use or designed for use in weighing or measuring controlled substances;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, primarily intended for use or designed for use in cutting controlled substances;

(7) separation gins and sifters used, primarily intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(8) blenders, bowls, containers, spoons and mixing devices used, primarily intended for use or designed for use in compounding controlled substances;

(9) capsules, balloons, envelopes and other containers used, primarily intended for use or designed for use in packaging small quantities of controlled substances;

(10) containers and other objects used, primarily intended for use or designed for use in storing or concealing controlled substances;

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[There is no clause (11).]

(12) objects used, primarily intended for use or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, which pipes may or may not have screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips; meaning objects used to hold burning material, such as a marihuana cigarette that 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;

(n) wired cigarette papers;

(o) cocaine freebase kits.

In determining whether an object is drug paraphernalia, a [jury] should consider, in addition to all other logically relevant factors, the following:

(a) the proximity of the object, in time and space, to a direct violation of [the law governing controlled substances];

(b) the proximity of the object to controlled substances;

(c) the existence of any residue of controlled substances on the object;

(d) instructions, oral or written, provided with the object concerning its use;

(e) descriptive materials accompanying the object which explain or depict its use;

(f) national and local advertising concerning its use;

(g) the manner in which the object is displayed for sale;

(h) whether the owner, or anyone in control of the object, is a supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(i) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(j) the existence and scope of legitimate uses for the object in the community;

(k) expert testimony concerning its use.

For purposes of this definition, the phrase “primarily intended for use” shall mean the likely use which may be ascribed to an item by a reasonable person.

For purposes of this definition, the phrase “designed for use” shall mean the use a reasonable person would ascribe to an item based on the design and features of said item.