

**Stricken language would be deleted from and underlined language would be added to the law as it existed
prior to this session of the General Assembly.
Act 199 of the Regular Session**

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

SENATE BILL 272

5 By: Senator T. Smith
6 By: Representative Reep
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For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS CODE § 5-64-101(14) TO
INCLUDE ALL CONTROLLED SUBSTANCES IN THE
DEFINITION OF CERTAIN DRUG PARAPHERNALIA OBJECTS;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS CODE § 5-64-101(14) TO
INCLUDE ALL CONTROLLED SUBSTANCES IN THE
DEFINITION OF CERTAIN DRUG PARAPHERNALIA
OBJECTS.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 5-64-101(14), concerning the definition of
25 "drug paraphernalia", is amended to read as follows:

26 (14)(A) "Drug paraphernalia" means any equipment, product, and
27 material of any kind that are used, intended for use, or designed for use in
28 planting, propagating, cultivating, growing, harvesting, manufacturing,
29 compounding, converting, producing, processing, preparing, testing,
30 analyzing, packaging, repackaging, storing, containing, concealing,
31 injecting, ingesting, inhaling, or otherwise introducing into the human body
32 a controlled substance in violation of this chapter.

33 (B) "Drug paraphernalia" includes, but is not limited to:

34 (i) A kit used, intended for use, or designed for
35 use in planting, propagating, cultivating, growing, or harvesting any species



1 of plant that is a controlled substance or from which a controlled substance
2 can be derived;

3 (ii) A kit used, intended for use, or designed for
4 use in manufacturing, compounding, converting, producing, processing, or
5 preparing a controlled substance;

6 (iii) An isomerization device used, intended for
7 use, or designed for use in increasing the potency of any species of plant
8 that is a controlled substance;

9 (iv) Testing equipment used, intended for use, or
10 designed for use in identifying or in analyzing the strength, effectiveness,
11 or purity of a controlled substance;

12 (v) A scale or balance used, intended for use, or
13 designed for use in weighing or measuring a controlled substance;

14 (vi) A diluent or adulterant, such as quinine
15 hydrochloride, mannitol, mannite, dextrose, and lactose used, intended for
16 use, or designed for use in cutting a controlled substance;

17 (vii) A separation gin or sifter used, intended for
18 use, or designed for use in removing a twig or seed from, or in otherwise
19 cleaning or refining, marijuana;

20 (viii) A blender, bowl, container, spoon, or mixing
21 device used, intended for use, or designed for use in compounding a
22 controlled substance;

23 (ix) A capsule, balloon, envelope, or other
24 container used, intended for use, or designed for use in packaging a small
25 quantity of a controlled substance;

26 (x) A container or other object used, intended for
27 use, or designed for use in storing or concealing a controlled substance;

28 (xi) A hypodermic syringe, needle, or other object
29 used, intended for use, or designed for use in parenterally injecting a
30 controlled substance into the human body; and

31 (xii) An object used, intended for use, or designed
32 for use in ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine,~~
33 ~~hashish, or hashish oil~~ a controlled substance into the human body, such as:

34 (a) A metal, wooden, acrylic, glass, stone,
35 plastic, or ceramic pipe with or without a screen, permanent screen, hashish
36 head, or punctured metal bowl;

- 1 (b) A water pipe;
- 2 (c) A carburetion tube or device;
- 3 (d) A smoking or carburetion mask;
- 4 (e) A roach clip, meaning an object used to
- 5 hold burning material, such as a marijuana cigarette that has become too
- 6 small or too short to be held in the hand;
- 7 (f) A miniature cocaine spoon or cocaine vial;
- 8 (g) A chamber pipe;
- 9 (h) A carburetor pipe;
- 10 (i) An electric pipe;
- 11 (j) An air-driven pipe;
- 12 (k) A chillum;
- 13 (l) A bong; ~~and~~
- 14 (m) An ice pipe or chiller; and
- 15 (n) An aluminum foil boat.

16 (C) In determining whether an object is "drug
 17 paraphernalia", a court or other authority should consider, in addition to
 18 any other logically relevant factor, the following:

- 19 (i) A statement by an owner or by anyone in control
- 20 of the object concerning its use;
- 21 (ii) A prior conviction, if any, of an owner or of
- 22 anyone in control of the object under any state or federal law relating to
- 23 any controlled substance;
- 24 (iii) The proximity of the object in time and space
- 25 to a direct violation of this chapter;
- 26 (iv) The proximity of the object to a controlled
- 27 substance;
- 28 (v) The existence of any residue of a controlled
- 29 substance on the object;
- 30 (vi)(a) Direct or circumstantial evidence of the
- 31 intent of an owner or of anyone in control of the object to deliver it to a
- 32 person whom he or she knows, or should reasonably know, intends to use the
- 33 object to facilitate a violation of this chapter.

34 (b) The innocence of an owner or of anyone in
 35 control of the object as to a direct violation of this chapter does not
 36 prevent a finding that the object is intended for use or designed for use as

1 "drug paraphernalia";

2 (vii) An oral or written instruction provided with
3 the object concerning its use;

4 (viii) Descriptive materials accompanying the object
5 that explain or depict its use;

6 (ix) National and local advertising concerning the
7 object's use;

8 (x) The manner in which the object is displayed for
9 sale;

10 (xi) Whether the owner or anyone in control of the
11 object is a legitimate supplier of a like or related item to the community,
12 such as a licensed distributor or dealer of a tobacco product;

13 (xii) Direct or circumstantial evidence of the ratio
14 of sales of the objects to the total sales of the business enterprise;

15 (xiii) The existence and scope of legitimate uses
16 for the object in the community; and

17 (xiv) Expert testimony concerning the object's use;

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19 APPROVED: 3/5/2007

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