

CHAPTER 43

DRUG PARAPHERNALIA

43.01 Definitions

43.02 Determination as Paraphernalia - Factors

43.03 Drug Paraphernalia Prohibited

43.04 Manufacture or Delivery of Drug Paraphernalia

43.01 DEFINITIONS. Unless otherwise expressly stated, or the context indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings in this section.

1. “Controlled substance” has the same meaning as contained in the *Uniform Controlled Substance Act*, Chapter 124 of the *Code of Iowa*.
2. “Drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of Chapter 124 of the *Code of Iowa*, commonly known as the *Uniform Controlled Substances Act*. It includes, but is not limited to:
 - A. Kits used, 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.
 - B. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
 - C. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
 - D. Testing equipment used, intended for use, or designed for use in identifying, in analyzing the strength, effectiveness, or purity of controlled substances except for such equipment of a peace officer or any person acting as an agent of or under the direction of any police agency.
 - E. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
 - F. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, or lactose, used, intended for use, or designed for use in cutting controlled substances.
 - G. 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.
 - H. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
 - I. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

J. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

K. Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

L. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, methamphetamine, hashish, or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(2) Water pipes, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, bongs, ice pipes, or chillers.

(3) Carburetion tubes and devices.

(4) Smoking and carburetion masks.

(5) Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand.

(6) Miniature cocaine spoons and cocaine vials.

3. "Persons" means any individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

43.02 DETERMINATION AS PARAPHERNALIA - FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

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.
3. The proximity of the object, in time and space, to a direct violation of the *Uniform Controlled Substance Act*, Chapter 124 of the *Code of Iowa*.
4. The proximity of the object to controlled substances.
5. The existence of any residue of controlled substances 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 persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the *Uniform Controlled Substances Act*, Chapter 124 of the *Code of Iowa*. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the *Uniform Controlled Substances Act*, Chapter 124 of the *Code of Iowa*, should 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. The manner in which the object is displayed for sale.
10. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
11. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise.
12. The existence and scope of legitimate uses for the object in the community.
13. Expert testimony concerning its use.

43.03 DRUG PARAPHERNALIA PROHIBITED. No person shall use, or 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 the *Uniform Controlled Substance Act*, Chapter 124 of the *Code of Iowa*.

43.04 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA. No person shall deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know, that it will be used, or knowing that it is designed for use 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 the *Uniform Controlled Substances Act*, Chapter 124 of the *Code of Iowa*.

[The next page is 269]