

§1111-A. Use of drug paraphernalia

1. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing or concealing a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess cannabis for medical use pursuant to Title 22, chapter 558-C, to the extent the drug paraphernalia is used for that person's medical use of cannabis; to a person who is authorized to possess cannabis pursuant to Title 28-B, to the extent the drug paraphernalia is used for that person's adult use of cannabis; or to a cannabis store licensed pursuant to Title 28-B, to the extent that the drug paraphernalia relates to the sale or offering for sale of cannabis by the cannabis store. It includes, but is not limited to:

A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived; [PL 1981, c. 531, §2 (AMD).]

B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug; [PL 2001, c. 383, §135 (AMD); PL 2001, c. 383, §156 (AFF).]

D. [PL 2021, c. 434, §6 (RP).]

E. Scales and balances used or intended for use in weighing or measuring scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

F. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs; [RR 2015, c. 1, §11 (COR).]

G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; [PL 1981, c. 531, §2 (AMD).]

H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs; and [PL 2021, c. 434, §6 (AMD).]

J. Containers and other objects used or intended for use in storing or concealing scheduled drugs. [PL 2021, c. 434, §6 (AMD).]

K. [PL 2021, c. 434, §6 (RP).]
[PL 2021, c. 669, §1 (AMD).]

2. For purposes of this section, drug paraphernalia does not include hypodermic apparatuses. [PL 2021, c. 434, §7 (AMD).]

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

A. Statements by an owner or by anyone in control of the object concerning its use; [PL 1981, c. 266 (NEW).]

B. One or more prior convictions, if any, of an owner, or of anyone in control of the object, for any offense under this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction; [PL 2007, c. 476, §44 (AMD).]

C. The proximity of the object, in time and space, to a direct violation of this chapter; [PL 1981, c. 266 (NEW).]

- D. The proximity of the object to scheduled drugs; [PL 1981, c. 266 (NEW).]
 - E. The existence of any residue of scheduled drugs on the object; [PL 1981, c. 266 (NEW).]
 - F. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the owner knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter may not prevent a finding that the object is intended for use as drug paraphernalia; [PL 2001, c. 383, §136 (AMD); PL 2001, c. 383, §156 (AFF).]
 - G. Instructions, oral or written, provided with the object concerning its use; [PL 1981, c. 266 (NEW).]
 - H. Descriptive materials accompanying the object which explain or depict its use; [PL 1981, c. 266 (NEW).]
 - I. National and local advertising concerning its use; [PL 1981, c. 266 (NEW).]
 - J. The manner in which the object is displayed for sale; [PL 1981, c. 266 (NEW).]
 - K. 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; [PL 1981, c. 266 (NEW).]
 - L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise; [PL 1981, c. 266 (NEW).]
 - M. The existence and scope of legitimate uses for the object in the community; and [PL 1981, c. 266 (NEW).]
 - N. Expert testimony concerning its use. [PL 1981, c. 266 (NEW).]
- [PL 2007, c. 476, §44 (AMD).]

4.

[PL 2011, c. 464, §20 (RP).]

4-A. Except as provided in Title 22, chapter 558-C or in Title 28-B, a person is guilty of use of drug paraphernalia if:

A. The person trafficks in or furnishes drug paraphernalia knowing, or under circumstances when that person reasonably should know, that it will be used 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 scheduled drug in violation of this chapter or Title 22, section 2383, and the person to whom that person is trafficking or furnishing drug paraphernalia is:

- (1) At least 16 years of age. Violation of this subparagraph is a Class E crime; or
- (2) Less than 16 years of age. Violation of this subparagraph is a Class D crime; or [PL 2011, c. 464, §20 (NEW).]

B. The person places in a newspaper, magazine, handbill or other publication an advertisement knowing, or under circumstances when that person reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects intended for use as drug paraphernalia. Violation of this paragraph is a Class E crime. [PL 2011, c. 464, §20 (NEW).]

[PL 2017, c. 409, Pt. B, §7 (AMD).]

4-B. Except as provided in Title 22, chapter 558-C or in Title 28-B, a person commits a civil violation if:

A. The person in fact uses 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 scheduled drug in violation of this chapter or Title 22, section 2383. Violation of this paragraph is a civil violation for which a fine of \$300 must be adjudged, none of which may be suspended; or [PL 2011, c. 464, §20 (NEW).]

B. The person possesses 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 scheduled drug in violation of this chapter or Title 22, section 2383. Violation of this paragraph is a civil violation for which a fine of \$300 must be adjudged, none of which may be suspended. [PL 2011, c. 464, §20 (NEW).]

[PL 2017, c. 409, Pt. B, §7 (AMD).]

5.

[PL 2001, c. 383, §138 (RP); PL 2001, c. 383, §156 (AFF).]

6.

[PL 2001, c. 383, §139 (RP); PL 2001, c. 383, §156 (AFF).]

7.

[PL 2001, c. 383, §140 (RP); PL 2001, c. 383, §156 (AFF).]

8.

[PL 2001, c. 383, §140 (RP); PL 2001, c. 383, §156 (AFF).]

9. Drug paraphernalia possessed in violation of this section is declared to be contraband and may be seized and confiscated by the State.

[PL 2001, c. 383, §141 (AMD); PL 2001, c. 383, §156 (AFF).]

10. It is an affirmative defense to prosecution under this section that the drug paraphernalia used or possessed is used or possessed for the propagation, cultivation or processing of hemp.

[PL 2019, c. 12, Pt. B, §10 (AMD).]

SECTION HISTORY

PL 1981, c. 266 (NEW). PL 1981, c. 531, §§1-5 (AMD). IB 1999, c. 1, §§4,5 (AMD). PL 2001, c. 383, §§135-141 (AMD). PL 2001, c. 383, §156 (AFF). PL 2003, c. 61, §8 (AMD). PL 2005, c. 386, §DD1 (AMD). PL 2005, c. 527, §§10,11 (AMD). PL 2007, c. 476, §44 (AMD). IB 2009, c. 1, §2 (AMD). RR 2009, c. 2, §39 (COR). PL 2011, c. 464, §20 (AMD). RR 2015, c. 1, §11 (COR). PL 2017, c. 409, Pt. B, §§6, 7 (AMD). PL 2019, c. 12, Pt. B, §10 (AMD). PL 2021, c. 434, §§6, 7 (AMD). PL 2021, c. 669, §1 (AMD).

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