

*Judiciary*

SENATE FILE 267  
BY VANDE HOEF

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the use, possession, delivery, manufacture, or  
2 advertisement of objects commonly used or intended for use in  
3 connection with an illegal use of a controlled substance and  
4 providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*5-17-14*

1 Section 1. NEW SECTION. 204.701 DRUG-RELATED OBJECTS  
2 USED IN VIOLATION OF CHAPTER.

3 1. As used in this section, "drug-related object" means a  
4 raw material, instrument, device, article, contrivance, or  
5 other object commonly used or intended to be used to plant,  
6 propagate, cultivate, grow, harvest, manufacture, compound,  
7 convert, produce, process, prepare, test, analyze, pack,  
8 repack, store, contain, conceal, inject, ingest, inhale, or  
9 otherwise introduce into the human body a controlled  
10 substance. Drug-related object includes but is not limited  
11 to:

12 a. Kits commonly used or intended for use in planting,  
13 propagating, cultivating, growing, or harvesting a species of  
14 plant which is a controlled substance or from which a  
15 controlled substance can be derived.

16 b. Kits commonly used or intended for use in  
17 manufacturing, compounding, converting, producing, processing,  
18 or preparing controlled substances.

19 c. Isomerization devices commonly used or intended for use  
20 in increasing the potency of a species of plant which is a  
21 controlled substance.

22 d. Testing equipment commonly used or intended for use in  
23 identifying, or in analyzing the strength, effectiveness, or  
24 purity of a controlled substance.

25 e. Scales and balances commonly used or intended for use  
26 in weighing or measuring a controlled substance.

27 f. Diluents and adulterants, such as quinine  
28 hydrochloride, mannitol, mannite, dextrose, and lactose,  
29 commonly used or intended for use in cutting a controlled  
30 substance.

31 g. Separation gins and sifters commonly used or intended  
32 for use in removing twigs and seeds from, or in otherwise  
33 cleaning or refining, marijuana.

34 h. Blenders, bowls, containers, spoons, and mixing devices  
35 commonly used or intended for use in compounding a controlled

1 substance.

2 i. Capsules, balloons, envelopes, and other containers  
3 commonly used or intended for use in packaging small  
4 quantities of a controlled substance.

5 j. Containers and other objects commonly used or intended  
6 for use in storing or concealing a controlled substance.

7 k. Hypodermic syringes, needles, and other objects  
8 commonly used or intended for use in parenterally injecting a  
9 controlled substance into the human body.

10 l. Objects commonly used or intended for use in ingesting,  
11 inhaling, or otherwise introducing marijuana, cocaine,  
12 hashish, or hashish oil into the human body, such as:

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

16 (2) Water pipes.

17 (3) Carburetion tubes and devices.

18 (4) Smoking and carburetion masks.

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

22 (6) Miniature cocaine spoons, and cocaine vials.

23 (7) Chamber pipes.

24 (8) Carburetor pipes.

25 (9) Electric pipes.

26 (10) Air-driven pipes.

27 (11) Chillums.

28 (12) Bongs.

29 (13) Ice pipes or chillers.

30 2. In determining whether an object is commonly used or is  
31 intended to be used in connection with a controlled substance,  
32 a court or other authority may consider, in addition to all  
33 other logically relevant factors, the following:

34 a. Statements by an owner or by anyone in control of the  
35 object concerning its use.

1 b. A prior conviction of an owner or of anyone in control  
2 of the object under a state or federal law relating to a  
3 controlled substance.

4 c. The proximity of the object, in time and space, to a  
5 direct violation of this chapter.

6 d. The proximity of the object to a controlled substance.

7 e. The existence of a residue of a controlled substance on  
8 the object.

9 f. Direct or circumstantial evidence of the intent of an  
10 owner, or of anyone in control of the object, to deliver the  
11 object to a person, whom the owner or the person in control of  
12 the object knows, or should reasonably know, intends to use  
13 the object in violation of this section.

14 g. Instructions, oral or written, provided with the object  
15 concerning its use.

16 h. Descriptive materials accompanying the object which  
17 explain or depict its use.

18 i. National and local advertising concerning its use.

19 j. The manner in which the object is displayed for sale.

20 k. Whether the owner, or anyone in control of the object,  
21 is a legitimate supplier of similar or related items to the  
22 community, such as a licensed distributor or dealer of tobacco  
23 products.

24 l. Direct or circumstantial evidence of the ratio of sales  
25 of the object to the total sales of the business enterprise.

26 m. The existence and scope of legitimate uses for the  
27 object in the community.

28 n. Expert testimony concerning its use.

29 3. a. A person shall not use or possess with intent to  
30 use a drug-related object to plant, propagate, cultivate,  
31 grow, harvest, manufacture, compound, convert, produce,  
32 process, prepare, test, analyze, pack, repack, store, contain,  
33 conceal, inject, ingest, inhale, or otherwise introduce into  
34 the human body a controlled substance in violation of this  
35 chapter. A person who violates this paragraph is guilty of a

1 simple misdemeanor.

2     b. A person shall not deliver, possess with intent to  
3 deliver, or manufacture with intent to deliver, a drug-related  
4 object intending that the object will be used, and knowing, or  
5 under circumstances where one reasonably should know, that the  
6 object will be used to plant, propagate, cultivate, grow,  
7 harvest, manufacture, compound, convert, produce, process,  
8 prepare, test, analyze, pack, repack, store, contain, conceal,  
9 inject, ingest, inhale, or otherwise introduce into the human  
10 body a controlled substance in violation of this chapter. A  
11 person eighteen years of age or older who violates this  
12 paragraph by delivering a drug-related object to a person  
13 under eighteen years of age who is at least eight years  
14 younger than the person delivering the drug-related object is  
15 guilty of an aggravated misdemeanor. Any other person who  
16 violates this paragraph is guilty of a serious misdemeanor.

17     c. A person shall not deliver, possess with intent to  
18 deliver, or manufacture with intent to deliver, a drug-related  
19 object which has no common use other than its use in  
20 connection with the use of a controlled substance in violation  
21 of this chapter, knowing, or under circumstances where one  
22 reasonably should know, that the object will be used to plant,  
23 propagate, cultivate, grow, harvest, manufacture, compound,  
24 convert, produce, process, prepare, test, analyze, pack,  
25 repack, store, contain, conceal, inject, ingest, inhale, or  
26 otherwise introduce into the human body a controlled substance  
27 in violation of this chapter. A person eighteen years of age  
28 or older who violates this paragraph by delivering a drug-  
29 related object, which has no common use other than its use in  
30 connection with the use of a controlled substance in violation  
31 of this chapter, to a person under eighteen years of age who  
32 is at least eight years younger than the person delivering the  
33 drug-related object is guilty of an aggravated misdemeanor.  
34 Any other person who violates this paragraph is guilty of a  
35 serious misdemeanor.

1 d. A person shall not place an advertisement in a  
2 newspaper, magazine, handbill, or other publication,  
3 intending, and knowing, or under circumstances where one  
4 reasonably should know, that the purpose of the advertisement,  
5 taken as a whole, is to promote the sale in this state of a  
6 drug-related object that will be used to plant, propagate,  
7 cultivate, grow, harvest, manufacture, compound, convert,  
8 produce, process, prepare, test, analyze, pack, repack, store,  
9 contain, conceal, inject, ingest, inhale, or otherwise  
10 introduce into the human body a controlled substance in  
11 violation of this chapter. A person who violates this  
12 paragraph is guilty of a serious misdemeanor.

13 4. The innocence of an owner, or of anyone in control of  
14 the object as to a violation of this section shall not prevent  
15 a finding that the object is intended for use, or designed for  
16 use, as drug paraphernalia.

17 Sec. 2. NEW SECTION. 204.702 FORFEITURE OF DRUG-RELATED  
18 OBJECTS.

19 Drug-related objects, as defined in section 204.701, used,  
20 possessed with intent to use, delivered, or possessed or  
21 manufactured with the intent to deliver, in connection with  
22 the use of a controlled substance in violation of section  
23 204.701, are subject to forfeiture as provided in chapter 809.

24 EXPLANATION

25 This bill is a modified version of the model drug  
26 paraphernalia Act as drafted by the drug enforcement  
27 administration of the United States department of justice.  
28 The bill amends the uniform controlled substances Act (chapter  
29 204) to prohibit the following four major types of activity  
30 concerning drug-related objects: (1) use or possession, with  
31 intent to use, of a drug-related object in connection with an  
32 illegal use of a controlled substance; (2) delivery (sale) or  
33 possession or manufacture, with intent to deliver (sell), of a  
34 drug-related object intending and knowing or having  
35 constructive knowledge that the object will be used in

1 connection with an illegal use of a controlled substance; (3)  
2 delivery (sale), or possession or manufacture, with intent to  
3 deliver (sell), of a drug-related object which has no  
4 legitimate common use, knowing or having constructive  
5 knowledge that the object will be used in connection with an  
6 illegal use of a controlled substance; (4) placement of a  
7 public advertisement intending and knowing or having  
8 constructive knowledge that the purpose of the advertisement,  
9 taken as a whole, is to promote the sale in Iowa of a drug-  
10 related object that will be used in connection with an illegal  
11 use of a controlled substance.

12 A drug-related object is defined as any object commonly  
13 used or intended for use with controlled substances. A  
14 nonexclusive list of common drug-related objects is provided  
15 in the bill. A nonexclusive list of factors which may be  
16 considered in determining whether an object is drug-related is  
17 also provided in the bill.

18 Penalties are provided. Use or possession with intent to  
19 use is a simple misdemeanor. Delivery, or possession or  
20 manufacture with intent to deliver, is a serious misdemeanor,  
21 except that delivery, or possession or manufacture with intent  
22 to deliver, by an adult to a minor at least eight years  
23 younger than the adult is an aggravated misdemeanor. Public  
24 advertisement promoting the sale of drug-related objects in  
25 violation of the bill is a serious misdemeanor.

26 Drug-related objects are subject to forfeiture as provided  
27 in chapter 809.

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