

2/2/00 Indefinitely Postponed

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JUDICIARY

HOUSE FILE **2130**

BY ARNOLD, TEIG, and WEIDMAN

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act establishing a criminal offense related to drug
 2 paraphernalia.
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2130

1 Section 1. NEW SECTION. 124.414 DRUG PARAPHERNALIA.

2 As used in this section, "drug paraphernalia" means all
3 equipment, products, and materials of any kind which are used,
4 intended for use, or designed for use, in growing, harvesting,
5 compounding, converting, producing, processing, preparing,
6 analyzing, packaging, repackaging, storing, concealing,
7 containing, injecting, ingesting, inhaling, or otherwise
8 introducing into the human body a controlled substance.

9 1. "Drug paraphernalia" includes but is not limited to the
10 following objects:

11 a. Containers used as capsules, balloons, envelopes, and
12 other containers used for or designed for intended use in
13 packaging small quantities of a controlled substance.

14 b. Dilutents and adulterants such as quinine
15 hydrochloride, mannitol, mannite, dextrose, and lactose, used
16 for or designed for intended use in cutting a controlled
17 substance.

18 c. Growing kits such as kits used for or designed for
19 intended use in planting, propagating, cultivating, growing,
20 or harvesting of any species of plant which is a controlled
21 substance, or from which a controlled substance can be
22 derived.

23 d. Hypodermic syringes, needles, and other objects used
24 for or designed for intended use in parenterally injecting a
25 controlled substance into the human body.

26 e. Items used for or designed for intended use in
27 ingesting, inhaling, or otherwise introducing marijuana,
28 cocaine, hashish, or hashish oil into the human body which
29 includes the following:

30 (1) Any pipe with or without a screen and any air-driven,
31 carburetor, chamber, electronic, water, or ice pipe or
32 chiller.

33 (2) Bongs.

34 (3) Cans.

35 (4) Carburetion tubes and devices.

- 1 (5) Chillumes.
2 (6) Cocaine vials.
3 (7) Miniature cocaine spoons.
4 (8) Punctured metal bowls.
5 (9) Roach clips or objects used to hold burning material
6 which has become too small to hold in the hand.
7 (10) Smoking or carburetion masks.
- 8 f. Isomerization devices peculiar to and marketed for use
9 or designed for intended use in increasing the potency of any
10 species of plant which is cannabis or a controlled substance.
- 11 g. Processing kits used for or designed for intended use
12 in manufacturing, compounding, converting, producing,
13 processing, or preparing a controlled substance.
- 14 h. Scales used for or designed for intended use in
15 weighing or measuring a controlled substance.
- 16 i. Separation gins and sifters used for or designed for
17 intended use in removing twigs and seeds from or cleaning or
18 refining marijuana.
- 19 j. Storage containers used for or designed for intended
20 use in storing or concealing a controlled substance.
- 21 2. It is unlawful to sell, give, use, or possess drug
22 paraphernalia. A person who violates this section commits a
23 simple misdemeanor.
- 24 3. This section does not apply to the following:
- 25 a. A person who sells, gives, uses, or possesses drug
26 paraphernalia which is used or intended to be used in
27 combination with the lawful use of a controlled substance.
- 28 b. Objects that are marketed for use in the preparation,
29 compounding, packaging, labeling, or use of cannabis or other
30 controlled substances as an incident to lawful research,
31 teaching, or chemical analysis.
- 32 c. Objects that are marketed for, or historically and
33 customarily used in connection with, the planting,
34 propagating, cultivating, growing, harvesting, manufacturing,
35 compounding, converting, producing, processing, preparing,

1 testing, analyzing, packaging, repackaging, storing,
2 containing, concealing, injecting, ingesting, or inhaling of
3 tobacco or any other lawful substance.

4 d. Objects which have been rendered completely inoperable
5 or incapable of being used as drug paraphernalia.

6 4. In determining whether an object is drug paraphernalia,
7 the trier of fact may consider but is not limited to the
8 following:

9 (1) The proximity of the object in time and space to a
10 violation of chapter 124, 124A, 124B, or 453B.

11 (2) The existence of any residue of a controlled
12 substance..

13 (3) Instructions both oral or written that are provided
14 with the object concerning the use of the object.

15 (4) Descriptive materials accompanying the object which
16 explain or depict the use of the object.

17 (5) Advertising concerning the use of the object.

18 (6) The manner in which the object is displayed for sale.

19 (7) Whether the owner or person in possession of the
20 object is a legitimate supplier of similar or related items or
21 can lawfully sell tobacco products.

22 (8) The ratio of sales of the object to the total sales of
23 the business enterprise.

24 (9) The existence of a legitimate use of the object in the
25 community.

26 EXPLANATION

27 This bill creates a new criminal offense related to drug
28 paraphernalia.

29 The bill provides that a person shall not sell, give, use,
30 or possess drug paraphernalia. The bill generally defines
31 drug paraphernalia to include any object used, intended for
32 use, or designed for use in manufacturing, processing, or
33 ingesting a controlled substance. The bill excludes objects
34 used in combination with the lawful use of a controlled
35 substance. The bill also excludes objects that have

1 historically or customarily been used in manufacturing,
2 processing, or ingesting a lawful substance. The bill further
3 excludes objects that are used in the lawful research or
4 testing of a controlled substance and excludes objects that
5 are inoperable or incapable of being used in violation of this
6 bill.

7 The bill provides that in determining whether an object is
8 drug paraphernalia, the court or jury if tried before a jury
9 may generally consider the proximity of the object to the
10 commission of a drug offense, whether residue of a controlled
11 substance exists on the object, whether the person in
12 possession of the object is a legitimate supplier of related
13 objects or is a tobacco products supplier, and whether a
14 legitimate use of the object exists in the community.

15 A person who commits a violation of this bill commits a
16 simple misdemeanor. A simple misdemeanor is punishable by
17 confinement for no more than 30 days or a fine of at least \$50
18 but not more than \$500 or by both.

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