CHAPTER 132: DRUG PARAPHERNALIA

Section

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§ 132.01 OFFENSES RELATED TO DRUG PARAPHERNALIA.

(A) It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.

(B) A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, 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 M.S. Chapter 152, as it may be amended from time to time. Any violation of this section is a misdemeanor.

(Ord. 12-01, passed 1-23-2012) Penalty, see § 10.99

§ 132.02 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DRUG PARAPHERNALIA.

(1) Except as otherwise provided in division (2) below, 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, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of M.S. Chapter 152, as it may be amended from time to time.
(2) **DRUG PARAPHERNALIA** does not include the possession, manufacture, delivery or sale of hypodermic needles or syringes.

(3) The term **PARAPHERNALIA** includes, without limitation:

   (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 or in analyzing the strength, effectiveness or purity of controlled substances;

   (e) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

   (f) Diluents and adulterants, including quinine hydrochloride, mannitol, dextrose and 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, grinders and mixing devices used, intended for use or designed for use in compounding, manufacturing, producing, processing or preparing 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 or products or materials used or intended for use in manufacturing, producing, processing or preparing controlled substances;

   (k) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including:

       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;
3. Carburetion tubes and devices;
4. Smoking and carburetion masks;
5. Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand;
6. Miniature cocaine spoons and cocaine vials;
7. Chamber pipes;
8. Carburetor pipes;
9. Electric pipes;
10. Air-driven pipes;
11. Chillums;
12. Bongs; and
13. Ice pipes or chillers.

(I) Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, methamphetamine precursor drugs or lawfully dispensed controlled substances.

(Ord. 12-01, passed 1-23-2012)

§ 132.03 DRUG PARAPHERNALIA GUIDELINES.

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

(A) Statements by an owner or by anyone in control of the object concerning its use;

(B) 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;

(C) The proximity of the object, in time and space, to a direct violation of this section;
(D) The proximity of the object to controlled substances;

(E) The existence of any residue of controlled substances on the object;

(F) Direct or circumstantial evidence of the intent of an owner, or of any person in control of the object, to deliver the object to another person whom the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of this section. The innocence of an owner, or of any person in control of the object, as to a direct violation of this chapter may not prevent a finding that the object is intended or designed for use as drug paraphernalia;

(G) Instructions, oral or written, provided with the object concerning the object’s use;

(H) Descriptive materials accompanying the object, which explain or depict the object’s use;

(I) National and local advertising concerning the object’s use;

(J) The manner in which the object is displayed for sale;

(K) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products;

(L) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;

(M) The existence and scope of legitimate uses for the object in the community;

(N) Expert testimony concerning the object’s use; and

(O) The actual or constructive possession by the owner or by a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing or analyzing a controlled substance.

(Ord. 12-01, passed 1-23-2012)

§ 132.04 FORFEITURE.

All drug paraphernalia as defined in this chapter are subject to forfeiture under M.S. §§ 609.531 to 609.5318, as they may be amended from time to time. All drug paraphernalia possessed, transferred, sold or offered for sale, in violation of this chapter are hereby defined as contraband for purposes of M.S. § 609.5316, subd. 1, as it may be amended from time to time.

(Ord. 12-01, passed 1-23-2012)