

TITLE III ALCOHOLIC BEVERAGES & CONTROLLED SUBSTANCES

CHAPTER 4 DRUG PARAPHERNALIA PROHIBITED

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3-4-1 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings in this chapter.

1. "Controlled Substance" has the same meaning as contained in the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

2. "Drug Paraphernalia" means all equipment, products and material 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 the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

a. Growing Kits. 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. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

c. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any plant that is a controlled substance.

d. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances except for such equipment of a peace officers or any person acting as an agent of or under the direction of any police agency.

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

f. Dilutents. Dilutents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose or lactose used, intended for use, or designed for use in cutting controlled substances.

g. Separators. 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. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

i. Containers. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

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

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

l. Ingesting or Inhaling Device. 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, bonds, 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.

3-4-2 DETERMINING 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. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. 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. Proximity to Violation. 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. Proximity to Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.

6. Evidence of Intent. Direct 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. Instructions, either oral or written, provided with the object concerning its use.

8. Descriptive Materials. Descriptive materials accompanying the object, which explain or depict its use.

9. Manner Displayed. The manner in which the object is displayed for sale.

10. Licensed Distributor or Dealer. 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. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

11. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

12. Expert Testimony. Expert testimony concerning its use.

3-4-3 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 Substances Act, Chapter 124 of the Code of Iowa.

3-4-4 MANUFACTURE OR DELIEVERLY OF DRUG PARAPHERNALIA PROHIBITED. 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, 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.

3-4-5 PENALITIES FOR VIOLATION. Any person convicted of a violation of any provisions of this chapter shall be guilty of public offenses or misdemeanors. Misdemeanors are and shall be referred to as simple misdemeanors within Chapter 708 of the Code of Iowa. The penalty for violation and being found guilty upon a misdemeanor are public offenses subject to a penalty of 30 days in jail and/or a fine of at least \$200.00 but not more than \$500.00 or any part thereof as determined by a court of law.