

58-37a-4 Considerations in determining whether object is drug paraphernalia.

In determining whether an object is drug paraphernalia, the trier of fact, in addition to all other logically relevant factors, should consider:

- (1) statements by an owner or by anyone in control of the object concerning its use;
- (2) prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to a controlled substance;
- (3) the proximity of the object, in time and space, to a direct violation of this chapter;
- (4) the proximity of the object to a controlled substance;
- (5) the existence of any residue of a controlled substance on the object;
- (6) instructions whether oral or written, provided with the object concerning its use;
- (7) descriptive materials accompanying the object which explain or depict its use;
- (8) national and local advertising concerning its use;
- (9) the manner in which the object is displayed for sale;
- (10) 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;
- (11) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (12) the existence and scope of legitimate uses of the object in the community;
- (13) whether the object is subject to Section 58-37a-5; and
- (14) expert testimony concerning its use.

Amended by Chapter 101, 2011 General Session