

**Senator Jen Plumb** proposes the following substitute bill:

**DRUG PARAPHERNALIA AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

House Sponsor: Steve Eliason

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**LONG TITLE**

**General Description:**

This bill concerns possession of certain types of drug paraphernalia.

**Highlighted Provisions:**

This bill:

- ▶ creates an affirmative defense to a charge of possession of certain types of drug paraphernalia under specified conditions; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-37a-5**, as last amended by Laws of Utah 2011, Chapter 101

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **58-37a-5** is amended to read:

**58-37a-5. Unlawful acts.**



26 (1) (a) It is unlawful for any person to use, or to possess with intent to use, drug  
27 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
28 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,  
29 inhale or otherwise introduce a controlled substance into the human body in violation of this  
30 chapter.

31 (b) Any person who violates Subsection (1)(a) is guilty of a class B misdemeanor.

32 (2) (a) It is unlawful for any person to deliver, possess with intent to deliver, or  
33 manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia  
34 will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
35 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,  
36 inhale, or otherwise introduce a controlled substance into the human body in violation of this  
37 act.

38 (b) Any person who violates Subsection (2)(a) is guilty of a class A misdemeanor.

39 (3) Any person 18 years ~~of age~~ old or older who delivers drug paraphernalia to a  
40 person younger than 18 years ~~of age~~ old and who is three years or more younger than the  
41 person making the delivery is guilty of a third degree felony.

42 (4) (a) It is unlawful for any person to place in this state in any newspaper, magazine,  
43 handbill, or other publication any advertisement, knowing that the purpose of the advertisement  
44 is to promote the sale of drug paraphernalia.

45 (b) Any person who violates Subsection (4)(a) is guilty of a class B misdemeanor.

46 (5) (a) A person may not be charged with distribution of hypodermic syringes as drug  
47 paraphernalia if at the time of sale or distribution the syringes are in a sealed sterile package  
48 and are for a legitimate medical purpose, including:

49 (i) injection of prescription medications as prescribed by a practitioner; or

50 (ii) the prevention of disease transmission.

51 (b) A person may not be charged with possession of hypodermic syringes as drug  
52 paraphernalia if the syringe is unused and is in a sealed sterile package.

53 (6) In a prosecution under Subsection (1) for possession of a hypodermic syringe or  
54 needle, it is an affirmative defense if:

55 (a) the hypodermic syringe or needle is stored in a sealed puncture-resistant container  
56 such as a medical sharps disposal container; and

57 (b) the person is currently enrolled or participating in ~~Ŝ~~→ [an established hypodermic  
58 syringe or needle exchange program.] a syringe exchange program under Section 26-7-8. ←~~Ŝ~~  
59 [(6)] (7) A person may be charged and sentenced for a violation of this section,  
60 notwithstanding a charge and sentence for a violation of any other section of this chapter.