

DRUG PARAPHERNALIA AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor: _____

LONG TITLE

General Description:

This bill concerns drug paraphernalia.

Highlighted Provisions:

This bill:

▶ modifies the definition of "drug paraphernalia" to exclude an object used to parenterally inject a controlled substance into the human body; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37a-3, as last amended by Laws of Utah 2011, Chapter 101

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

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

Section 1. Section **58-37a-3** is amended to read:

58-37a-3. "Drug paraphernalia" defined.

(1) As used in this chapter, "drug paraphernalia" means any equipment, product, or



28 material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture,
29 compound, convert, produce, process, prepare, test, analyze, package, repack, store, contain,
30 conceal, [~~inject,~~] ingest, inhale, or to otherwise introduce a controlled substance into the human
31 body in violation of [~~Title 58, Chapter 37, Utah Controlled Substances Act, and includes, but is~~
32 ~~not limited to:~~] Chapter 37, Utah Controlled Substances Act.

33 (2) "Drug paraphernalia" includes:

34 [(1)] (a) kits used, or intended for use, in planting, propagating, cultivating, growing, or
35 harvesting any species of plant which is a controlled substance or from which a controlled
36 substance can be derived;

37 [(2)] (b) kits used, or intended for use, in manufacturing, compounding, converting,
38 producing, processing, or preparing a controlled substance;

39 [(3)] (c) isomerization devices used, or intended for use, to increase the potency of any
40 species of plant which is a controlled substance;

41 [(4)] (d) testing equipment used, or intended for use, to identify or to analyze the
42 strength, effectiveness, or purity of a controlled substance;

43 [(5)] (e) scales and balances used, or intended for use, in weighing or measuring a
44 controlled substance;

45 [(6)] (f) diluents and adulterants, such as quinine hydrochloride, mannitol, mannited,
46 dextrose and lactose, used, or intended for use to cut a controlled substance;

47 [(7)] (g) separation gins and sifters used, or intended for use to remove twigs, seeds, or
48 other impurities from marihuana;

49 [(8)] (h) blenders, bowls, containers, spoons and mixing devices used, or intended for
50 use to compound a controlled substance;

51 [(9)] (i) capsules, balloons, envelopes, and other containers used, or intended for use to
52 package small quantities of a controlled substance;

53 [(10)] (j) containers and other objects used, or intended for use to store or conceal a
54 controlled substance; and

55 [(11) ~~hypodermic syringes, needles, and other objects used, or intended for use to~~
56 ~~parenterally inject a controlled substance into the human body, except as provided in Section~~
57 ~~58-37a-5; and]~~

58 [(12)] (k) objects used, or intended for use to ingest, inhale, or otherwise introduce a

59 controlled substance into the human body, including but not limited to:

60 ~~[(a)]~~ (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
61 screens, permanent screens, hashish heads, or punctured metal bowls;

62 ~~[(b)]~~ (ii) water pipes;

63 ~~[(c)]~~ (iii) carburetion tubes and devices;

64 ~~[(d)]~~ (iv) smoking and carburetion masks;

65 ~~[(e)]~~ (v) roach clips: meaning objects used to hold burning material, such as a
66 marijuana cigarette, that has become too small or too short to be held in the hand;

67 ~~[(f)]~~ (vi) miniature cocaine spoons and cocaine vials;

68 ~~[(g)]~~ (vii) chamber pipes;

69 ~~[(h)]~~ (viii) carburetor pipes;

70 ~~[(i)]~~ (ix) electric pipes;

71 ~~[(j)]~~ (x) air-driven pipes;

72 ~~[(k)]~~ (xi) chillums;

73 ~~[(l)]~~ (xii) bongs; and

74 ~~[(m)]~~ (xiii) ice pipes or chillers.

75 (3) "Drug paraphernalia" does not include a hypodermic syringe, needle, or other object
76 used, or intended for use, to parenterally inject a controlled substance into the human body.

77 Section 2. Section **58-37a-5** is amended to read:

78 **58-37a-5. Unlawful acts.**

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

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

85 (2) (a) It is unlawful for any person to deliver, possess with intent to deliver, or
86 manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia
87 will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
88 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ~~[inject,]~~ ingest,
89 inhale, or otherwise introduce a controlled substance into the human body in violation of this

90 act.

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

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

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

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

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

102 ~~[(i) injection of prescription medications as prescribed by a practitioner; or]~~

103 ~~[(ii) the prevention of disease transmission.]~~

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

106 ~~[(6)]~~ (5) A person may be charged and sentenced for a violation of this section,
107 notwithstanding a charge and sentence for a violation of any other section of this chapter.