

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

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

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, that is clearly marked on the outside of the

57 container with a warning that identifies the container as containing medical waste; and
58 (b) the person is currently enrolled or participating in a syringe exchange program
59 under Section [26-7-8](#).

60 [~~6~~] (7) A person may be charged and sentenced for a violation of this section,
61 notwithstanding a charge and sentence for a violation of any other section of this chapter.