

SB0122S02 compared with SB0122

~~text~~ shows text that was in SB0122 but was deleted in SB0122S02.

text shows text that was not in SB0122 but was inserted into SB0122S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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:

- ▶ ~~modifies the definition of "~~creates an affirmative defense to a charge of possession of certain types of drug paraphernalia~~" to exclude an object used to parenterally inject a controlled substance into the human body~~ under specified conditions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

SB0122S02 compared with SB0122

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}~~58-37a-5 is amended to read:

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

~~———— (1) As used in this chapter, "drug paraphernalia" means any equipment, product, or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal, [inject,] ingest, inhale, or to otherwise introduce a controlled substance into the human body in violation of [Title 58, Chapter 37, Utah Controlled Substances Act, and includes, but is not limited to:] Chapter 37, Utah Controlled Substances Act.~~

~~———— (2) "Drug paraphernalia" includes:~~

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

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

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

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

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

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

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

SB0122S02 compared with SB0122

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

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

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

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

~~—— [(12)] (k) objects used, or intended for use to ingest, inhale, or otherwise introduce a controlled substance into the human body, including but not limited to:~~

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

~~—— [(b)] (ii) water pipes;~~

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

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

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

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

~~—— [(g)] (vii) chamber pipes;~~

~~—— [(h)] (viii) carburetor pipes;~~

~~—— [(i)] (ix) electric pipes;~~

~~—— [(j)] (x) air-driven pipes;~~

~~—— [(k)] (xi) chillums;~~

~~—— [(l)] (xii) bongs; and~~

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

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

~~—— Section 2. Section 58-37a-5 is amended to read:~~

‡ **58-37a-5. Unlawful acts.**

(1) (a) It is unlawful for any person to use, or to possess with intent to use, drug

SB0122S02 compared with SB0122

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 a controlled substance into the human body in violation of this chapter.

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

(2) (a) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used 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 a controlled substance into the human body in violation of this act.

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

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

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

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

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

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

~~§§~~(ii) the prevention of disease transmission. ~~§§~~

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

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

(a) the hypodermic syringe or needle is stored in a sealed puncture-resistant container, such as a medical sharps disposal container, that is clearly marked on the outside of the container with a warning that identifies the container as containing medical waste; and

SB0122S02 compared with SB0122

(b) the person is currently enrolled or participating in a syringe exchange program under Section 26-7-8.

[(6)] ~~(5)~~7 A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.