

AN ACT in relation to criminal law.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Drug Paraphernalia Control Act is
amended by changing Sections 2, 4, and 6 as follows:

(720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

Sec. 2. As used in this Act, unless the context
otherwise requires:

(a) The term "cannabis" shall have the meaning ascribed
to it in Section 3 of the "Cannabis Control Act", as if that
definition were incorporated herein.

(b) The term "controlled substance" shall have the
meaning ascribed to it in Section 102 of the "Illinois
Controlled Substances Act", as if that definition were
incorporated herein.

(c) "Deliver" or "delivery" means the actual,
constructive or attempted transfer of possession, with or
without consideration, whether or not there is an agency
relationship.

(d) "Drug paraphernalia" means all equipment, products
and materials of any kind which are intended to be used
unlawfully ~~peculiar--to--and--marketed--for--use~~ in planting,
propagating, cultivating, growing, harvesting, manufacturing,
compounding, converting, producing, processing, preparing,
testing, analyzing, packaging, repackaging, storing,
containing, concealing, injecting, ingesting, inhaling or
otherwise introducing into the human body cannabis or a
controlled substance in violation of the "Cannabis Control
Act" or the "Illinois Controlled Substances Act". It
includes, but is not limited to:

(1) Kits intended to be used unlawfully ~~peculiar--to--and~~

~~marketed--for--use~~ in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;

(2) Isomerization devices intended to be used unlawfully ~~peculiar--to--and--marketed--for--use~~ in increasing the potency of any species of plant which is cannabis or a controlled substance;

(3) Testing equipment intended to be used unlawfully in ~~a peculiar-to-and--marketed--for~~ private home for use--in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;

(4) Diluents and adulterants intended to be used unlawfully ~~peculiar-to-and--marketed~~ for cutting cannabis or a controlled substance by private persons;

(5) Objects intended to be used unlawfully ~~peculiar-to and--marketed--for--use~~ in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:

- (A) water pipes;
- (B) carburation tubes and devices;
- (C) smoking and carburation masks;
- (D) miniature cocaine spoons and cocaine vials;
- (E) carburetor pipes;
- (F) electric pipes;
- (G) air-driven pipes;
- (H) chillums;
- (I) bongs;
- (J) ice pipes or chillers;

(6) Any item whose purpose, as announced or described by the seller, is for use in violation of this Act.

(Source: P.A. 82-1032.)

Sec. 4. Exemptions. This Act does ~~shall~~ not apply to:

(a) Items used ~~marketed--for--use~~ in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(b) Items ~~marketed-for,~~ ~~or~~ historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette-rolling papers.

(c) Items listed in Section 2 of this Act which are used ~~marketed~~ for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Act.

In determining whether or not a particular item is exempt under this subsection, the trier of fact should consider, in addition to all other logically relevant factors, the following:

(1) the general, usual, customary, and historical use to which the item involved has been put;

(2) expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;

(3) any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;

(4) any oral instructions provided by the seller of the item at the time and place of sale or commercial

delivery;

(5) any national or local advertising concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;

(6) the manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;

(7) 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;

(8) the existence and scope of legitimate uses for the object in the community.

(Source: P.A. 91-357, eff. 7-29-99.)

(720 ILCS 600/6) (from Ch. 56 1/2, par. 2106)

Sec. 6. This Act is intended to be used solely for the suppression of the commercial traffic in and possession of items that, within the context of the sale or offering for sale, or possession, are clearly and beyond a reasonable doubt intended marketed for the illegal and unlawful use of cannabis or controlled substances. To this end all reasonable and common-sense inferences shall be drawn in favor of the legitimacy of any transaction or item.

(Source: P.A. 88-677, eff. 12-15-94.)

Section 99. Effective date. This Act takes effect upon becoming law.