

1 AN ACT in relation to criminal law.

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

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

6 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

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

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

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

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

20 (d) "Drug paraphernalia" means all equipment, products  
21 and materials of any kind, home made or manufactured, which  
22 are associated with peculiar-to or and marketed for use in  
23 planting, propagating, cultivating, growing, harvesting,  
24 manufacturing, compounding, converting, producing,  
25 processing, preparing, testing, analyzing, packaging,  
26 repackaging, storing, containing, concealing, injecting,  
27 ingesting, inhaling or otherwise introducing into the human  
28 body cannabis or a controlled substance in violation of the  
29 "Cannabis Control Act" or the "Illinois Controlled Substances  
30 Act". It includes, but is not limited to:

31 (1) Kits, home made or manufactured, associated with

1 peculiar--to or and marketed for use in manufacturing,  
2 compounding, converting, producing, processing or preparing  
3 cannabis or a controlled substance;

4 (2) Isomerization devices, home made or manufactured,  
5 associated with peculiar--to or and marketed for use in  
6 increasing the potency of any species of plant which is  
7 cannabis or a controlled substance;

8 (3) Testing equipment, home made or manufactured,  
9 associated with peculiar--to or and marketed for private home  
10 use in identifying or in analyzing the strength,  
11 effectiveness or purity of cannabis or controlled substances;

12 (4) Diluents and adulterants, home made or manufactured,  
13 associated with peculiar--to or and marketed for cutting  
14 cannabis or a controlled substance by private persons;

15 (5) Objects, home made or manufactured, associated with  
16 peculiar--to or and marketed for use in ingesting, inhaling,  
17 or otherwise introducing cannabis or a controlled substance,  
18 cocaine, hashish, or hashish-oil into the human body  
19 including, where applicable, the following items:

- 20 (A) water pipes;
- 21 (B) carburetion tubes and devices;
- 22 (C) smoking and carburetion masks;
- 23 (D) miniature cocaine spoons and cocaine vials;
- 24 (E) carburetor pipes;
- 25 (F) electric pipes;
- 26 (G) air-driven pipes;
- 27 (H) chillums;
- 28 (I) bongs;
- 29 (J) ice pipes or chillers;

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

32 (7) Objects, home made or manufactured, which may have  
33 uses, other than as drug paraphernalia as described in this  
34 subsection (d), but are intended by the manufacturer, maker,

1 or user of those objects to be used as drug paraphernalia or  
2 which a reasonable person would believe would be used as drug  
3 paraphernalia.

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

5 (720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

6 Sec. 4. Exemptions. This Act shall not apply to:

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

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

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

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

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

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

31 (2) expert evidence concerning the ordinary or  
32 customary use of the item and the effect of any  
33 peculiarity in the design or engineering of the device

1 upon its functioning;

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

5 (4) any oral instructions provided by the seller of  
6 the item at the time and place of sale or commercial  
7 delivery;

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

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

15 (7) whether the owner or anyone in control of the  
16 object is a legitimate supplier of like or related items  
17 to the community, such as a licensed distributor or  
18 dealer of tobacco products;

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

21 (d) Objects used for ingesting, inhaling, or otherwise  
22 introducing into the body cannabis or a controlled substance  
23 or objects, home made or manufactured, that may have uses,  
24 other than as drug paraphernalia, but are intended by the  
25 manufacturer, maker, or user of those objects to be used as  
26 drug paraphernalia or which a reasonable person would believe  
27 would be used as drug paraphernalia are not exempt under this  
28 Act.

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

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