

CHAPTER 9.20

DISPLAY AND DISTRIBUTION OF DRUG PARAPHERNALIA

9.20.010 Purpose. This Chapter is enacted for the purpose of preserving the public health, safety, and welfare by providing control over the use, possession with intent to use and advertisement of drug paraphernalia as defined herein. (Ord. 87-36)

9.20.020 Definitions.

A. "Drug Paraphernalia" means all equipment, products, and materials of any kind which are intended or designed by a person charged with a violation of this Chapter for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of any law of the State of California. "Drug Paraphernalia" includes, but is not limited to, all of the following:

1. Kits intended or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits intended or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
3. Isomerization devices intended or designed for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment intended or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
5. Scales or balances intended or designed for use in weighing or measuring controlled substances;
6. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, intended or designed for the use in cutting controlled substances;

7. Separation gins and sifters intended or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
8. Blenders, bowls, containers, spoons and mixing devices intended or designed for use in compounding controlled substances;
9. Capsules, balloons, envelopes, and other containers intended or designed for use in packaging small quantities of controlled substances;
10. Containers and other objects intended or designed for use in storing or concealing controlled substances; and
11. Objects intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. 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. Miniature cocaine spoons, and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Air-driven pipes; and
 - j. Bongs.

12. In determining whether an object is "Drug Paraphernalia", a court or other authority shall consider, in addition to all other logically relevant factors, the following:

- a. Statements by an owner or by anyone in control of the object concerning its use;
- b. The proximity of the object to controlled substances;
- c. The existence of any residue of controlled substances in or on the object;
- d. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver to persons whom he knows intend to use the object to facilitate a violation of the laws of the State of California relating to controlled substances;
- e. Instructions, oral or written, provided with the object concerning its use;
- f. Descriptive materials accompanying the object which explain or depict its use;
- g. National and local advertising concerning its use;
- h. The manner in which the object is displayed for sale;
- i. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
- j. The existence and scope of legitimate uses of the object in the community; and
- k. Expert testimony concerning its use.
- l. 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.

B. "Controlled Substance" means those controlled substances set forth in Section 11054, 11055, 11056, 11057 and 11058 of the California Health and Safety Code, identified as Schedules I through V, inclusive, as said sections now exist or may hereafter be amended.

C. "Person" means a natural person or any firm, partnership, association, corporation or cooperative association.

9.20.030 Prohibition. Except as authorized by law, it shall be unlawful for any person to use, or to possess with intent to use, drug 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 into the human body a controlled substance in violation of any law of the State of California. This section does not prohibit any activity prohibited by Health and Safety Code Section 11364.

9.20.040 Prohibited Advertisement. Except as authorized by law, it shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects intended or designed for use as drug paraphernalia.

9.20.050 Nuisance. The display or distribution of drug paraphernalia in violation of this Chapter is hereby declared to be a public nuisance, and may be abated pursuant to the provisions of Section 731 of the Code of Civil Procedure of the State of California. This remedy is in addition to any other remedy provided by law, including the penalty provisions applicable for violation of the terms and provisions of this code.