

CHAPTER 13B

DRUG PARAPHERNALIA

13B-1 DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated:

A. Drug Paraphernalia - All equipment products and materials of an kind which are used, intended for use or designed 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 a controlled substance in violation of New Hampshire RSA 318-B. It includes but is not limited to:

1. Kits used or intended 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 used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
3. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
5. Scales and balances used or intended for use in weighing or measuring controlled substances;
6. Talents and adulterants, such as quinine hydrochloride, mannitol, dextrose and lactose, used or intended for use in cutting controlled substances;
7. Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

9. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;

10. Containers and other objects used or intended for use in storing or concealing controlled substances;

11. Objects used or intended 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. Chamber pipes;
- f. Carburetor pipes;
- g. Electric pipes;
- h. Air-driven pipes;
- i. Chillums;
- j. Bongs;
- k. Ice pipes or chillers.

13-B:2 Criteria for Determining Drug Paraphernalia

A. In determining whether an object is drug paraphernalia all relevant factors shall be considered including but not limited to the following:

1. Statements by an owner or by anyone in control of the object concerning its use.

2. Prior convictions, if any, of an owner or of anyone in control of the object under any state or federal law relating to any controlled substances.

3. The proximity of the object in time and space to a direct violation of RSA 318-B.

4. The proximity of the object to controlled substances.

5. The existence of any residue of controlled substances on the object.

6. Direct or circumstantial evidence of the intent of the owner or of anyone in control of the object to deliver it to persons who he knows or should reasonably know, intend to use the object to facilitate a violation of RSA 318-B, the innocence of an owner or of anyone in control of the object as to a direct violation of RSA 318-B should not

prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

7. Instructions, oral or written, provided with the object concerning its use.

8. Descriptive materials accompanying the object concerning its use.

9. National and local advertising concerning its use.

10. The existence and scope of legitimate uses for the object in the community.

11. Expert testimony concerning its use.

13-B:3 Violation and Penalties

A. Possession of Drug Paraphernalia. It is 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 RSA 318:B. Any person violating this section shall be guilty of a violation and shall be subject to a fine of one hundred dollars (\$100.00), no portion of which may be suspended.

B. Delivery of Drug Paraphernalia. Any person who violates the provisions of this ordinance by delivering drug paraphernalia to a person shall be guilty of a violation and shall be subject to a fine of one hundred dollars (\$100.00), no portion of which may be suspended.

C. Delivery of Drug Paraphernalia to a Minor. Any person sixteen (16) years of age or over who violates the provisions of this ordinance by delivering drug paraphernalia to a person under sixteen (16) years of age shall be guilty of a violation and shall be subject to a fine of two hundred dollars (\$200.00), no portion of which may be suspended.

This ordinance shall take effect upon its passage.

Passed February 5, 1990.