

Possession of Drug Paraphernalia

35 Pa. Stat. Ann. § 780-113(a)(32)

Ungraded Misdemeanor

Up to 1 Yr/\$2,500 Fine

No License Suspension

OGS 1

Drug Paraphernalia Defined:

“Drug paraphernalia” means all equipment, products and materials of any 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 this act. It includes, but is not limited to:

- (1) Kits used, intended for use 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 used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana.
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body.
- (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

- (ii) Water pipes.
- (iii) Carburetion tubes and devices.
- (iv) Smoking and carburetion masks.
- (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.
- (vi) Miniature cocaine spoons and cocaine vials.
- (vii) Chamber pipes.
- (viii) Carburetor pipes.
- (ix) Electric pipes.
- (x) Air-driven pipes.
- (xi) Chillums.
- (xii) Bongs.
- (xiii) Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, statements by an owner or by anyone in control of the object concerning its use, 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 substance, the proximity of the object, in time and space, to a direct violation of this act, the proximity of the object to controlled substances, the existence of any residue of controlled substances on the object, direct or circumstantial evidence of the intent of an 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 this act, the innocence of an owner or of anyone in control of the object, as to a direct violation of this act should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia, instructions, oral or written, provided with the object concerning its use, descriptive materials accompanying the object which explain or depict its use, national and local advertising concerning its use, the manner in which the object is displayed for sale, 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, direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise, the existence and scope of legitimate uses for the object in the community, and expert testimony concerning its use.

35 Pa. Stat. Ann. § 780-102 "Drug Paraphernalia"

Offense Defined:

The use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting,

ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act.

35 Pa. Stat. Ann. § 780-113(a)(32)

Note: An individual may be charged with both possession of controlled substance *and* possession of drug paraphernalia for the bag that contained the drugs. See Com. v. Pitner, 928 A.2d 1104, 1108 (Pa. Super. Ct. 2007), Com. v. Torres, 617 A.2d 812, 816 (Pa. Super. Ct. 1992)

Penalty

Any person who violates clauses **(32)**, (33) and (34) of subsection (a) is **guilty of a misdemeanor** and upon conviction thereof shall be sentenced to pay **a fine not exceeding two thousand five hundred dollars (\$2,500) or to imprisonment not exceeding one (1) year, or both**. Any person who violates clause (33) by delivering drug paraphernalia to a person under eighteen (18) years of age who is three (3) or more years his junior shall be guilty of a misdemeanor of the second degree and upon conviction thereof shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to imprisonment not exceeding two (2) years, or both.

35 Pa. Stat. Ann. § 780-113(i)

License Suspension

No license suspension for Possession of Drug Paraphernalia

75 Pa. Cons. Stat. Ann. § 1532 (c)