

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 500
SENATE BILL 128

AN ACT TO PROHIBIT THE MANUFACTURE, DELIVERY, SALE, POSSESSION AND
USE OF DRUG PARAPHERNALIA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding the following new Article 5B:

"ARTICLE 5B.

"Drug Paraphernalia.

"§ 90-113.15. **Title.** — This Article shall be known and may be cited as the 'North Carolina Drug Paraphernalia Act'.

"§ 90-113.16. **General provisions.** — (a) As used in this Article, 'drug paraphernalia' means all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act, including planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, and concealing controlled substances and injecting, ingesting, inhaling, or otherwise introducing controlled substances into the human body. 'Drug paraphernalia' includes, but is not limited to, the following:

- (1) kits for planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) kits for manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) isomerization devices for increasing the potency of any species of plant which is a controlled substance;
- (4) testing equipment for identifying, or analyzing the strength, effectiveness, or purity of controlled substances;
- (5) scales and balances for weighing or measuring controlled substances;
- (6) diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, and lactose for mixing with controlled substances;
- (7) separation gins and sifters for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;
- (8) blenders, bowls, containers, spoons, and mixing devices for compounding controlled substances;
- (9) capsules, balloons, envelopes and other containers for packaging small quantities of controlled substances;
- (10) containers and other objects for storing or concealing controlled substances;
- (11) hypodermic syringes, needles, and other objects for parenterally injecting controlled substances into the body;
- (12) objects for ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the 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. objects, commonly called roach clips, for holding 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. electric pipes;
- j. air-driven pipes;
- k. chillums;
- l. bongs;
- m. ice pipes or chillers.

(b) The following, along with all other relevant evidence, may be considered in determining whether an object is drug paraphernalia:

- (1) statements by the owner or anyone in control of the object concerning its use;
- (2) prior convictions of the owner or other person in control of the object for violations of controlled substances law;
- (3) the proximity of the object to a violation of the Controlled Substances Act;
- (4) the proximity of the object to a controlled substance;
- (5) the existence of any residue of a controlled substance on the object;
- (6) the proximity of the object to other drug paraphernalia;
- (7) instructions provided with the object concerning its use;
- (8) descriptive materials accompanying the object explaining or depicting its use;
- (9) advertising concerning its use;
- (10) the manner in which the object is displayed for sale;
- (11) 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 seller of tobacco products or agricultural supplies;
- (12) possible legitimate uses of the object in the community;
- (13) expert testimony concerning its use;
- (14) the intent of the owner or other person in control of the object to deliver it to persons whom he knows or reasonably should know intend to use the object to facilitate violations of the Controlled Substances Act.

"§ 90-113.17. Possession of drug paraphernalia. — (a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled substance which it would be unlawful to possess, or to inject, ingest, inhale, or otherwise introduce into the body a controlled substance which it would be unlawful to possess.

(b) Violation of this section is a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), imprisonment for not more than one year, or both.

"§ 90-113.18. Manufacture or delivery of drug paraphernalia. — (a) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia knowing that it will be used to plant, propagate, cultivate, grow, harvest,

manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled substance which it would be unlawful to possess, or that it will be used to inject, ingest, inhale, or otherwise introduce into the body a controlled substance which it would be unlawful to possess.

(b) Delivery, possession with intent to deliver, or manufacture with intent to deliver, of each separate and distinct item of drug paraphernalia is a separate offense.

(c) Violation of this section is a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000), imprisonment for not more than two years, or both.

"§ 90-113.19. Advertisement of drug paraphernalia. — (a) It is unlawful for any person to purchase or otherwise procure an advertisement in any newspaper, magazine, handbill, or other publication, or purchase or otherwise procure an advertisement on a billboard, sign, or other outdoor display, when he knows that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia described in this Article.

(b) Violation of this section is a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), imprisonment for not more than six months, or both. However, delivery of drug paraphernalia by a person over 18 years of age to someone under 18 years of age who is at least three years younger than the defendant shall be punishable as a Class I felony."

Sec. 2. G.S. 90-113.4 is repealed.

Sec. 3. If any provision of this act or the application of it to any person or circumstances is held invalid, the invalidity does not affect any other provision of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 4. This act shall become effective October 1, 1981, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified, this the 4th day of June, 1981.