Article 5F.

Control of Potential Drug Paraphernalia Products.

§ 90-113.80. Title.

This Article shall be known and may be cited as the "Drug Paraphernalia Control Act of 2009." (2009-205, s. 1.)

§ 90-113.81. Definitions.

For the purposes of this Article:

(a) "Glass tube" means an object which meets all of the following requirements:

(1) A hollow glass cylinder, either open or closed at either end.

(2) No less than two or more than seven inches in length.

(3) No less than one-eighth inch or more than three-fourths inch in diameter.

(4) May be used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act, including, but not limited to, 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.

(5) Sold individually, or in connection with another object such as a novelty holder, flower vase, or pen. The foregoing descriptions are intended to be illustrative and not exclusive.

(b) "Retailer" means an individual or entity that is the general owner of an establishment where glass tubes or splitters are available for sale.

(c) "Splitter" means a ring-shaped device that does both of the following:

(1) Allows the insertion of a wrapped tobacco product, such as a cigar, so that it can be pulled through the device.

(2) Cuts or slices the wrapping of the tobacco product along the product's length as it is drawn through the device. (2009-205, s. 1.)

§ 90-113.82. Glass tubes or splitters; restrictions on sales.

(a) Glass tubes or splitters shall not be offered for retail sale by self-service, but shall be stored and sold from behind a counter where the general public cannot access them without the assistance of a retailer's agent or employee.

(b) The retailer shall require any member of the public to whom it transfers a glass tube or splitter, with or without consideration, to do all of the following:

(1) Present identification that includes a photograph that is an accurate depiction of the person and that also includes the person's name and current address.

(2) Enter his or her name and current address on a record that the retailer shall maintain solely for the purposes of this section.

(3) Sign his or her name, verifying by signature the glass tube or splitter will not be used as drug paraphernalia in violation of the criminal laws of the State of North Carolina.

(c) The retailer shall maintain the record described in subsection (b) of this section for a period of two years from the date of each transaction, after which it may be destroyed.

(d) The record shall be readily available within 48 hours of the time of the transaction for inspection by an authorized official of a federal, State, or local law enforcement agency.

(e) The retailer shall train its agents and employees on the requirements of this section. (2009-205, s. 1.)

§ 90-113.83. Penalties.

(a) A retailer, or an employee of the retailer, who willfully and knowingly violates any one of the subsections of G.S. 90-113.82 shall be guilty of a Class 2 misdemeanor.

(b) Any person who knowingly makes a false statement or representation in fulfilling the requirements in G.S. 90-113.82(b) shall be guilty of a Class 1 misdemeanor. (2009-205, s. 1.)

§ 90-113.84. Immunity.

A retailer, or an employee of the retailer, who, reasonably and in good faith, (i) reports to any law enforcement agency any alleged criminal activity related to the sale or purchase of glass tubes or splitters or (ii) refuses to sell a glass tube or splitter to a person reasonably believed to be purchasing it for use as drug paraphernalia is immune from civil liability for that conduct, except in cases of willful misconduct. (2009-205, s. 1.)

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