

1 AN ACT relating to drug paraphernalia.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 218A.500 is amended to read as follows:

4 As used in this section and KRS 218A.510:

5 (1) "Drug paraphernalia" means all equipment, products and materials of any kind
6 which are used, intended for use, or designed for use in planting, propagating,
7 cultivating, growing, harvesting, manufacturing, compounding, converting,
8 producing, processing, preparing, testing, analyzing, packaging, repackaging,
9 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
10 introducing into the human body a controlled substance in violation of this chapter.

11 It includes but is not limited to:

12 (a) Kits used, intended for use, or designed for use in planting, propagating,
13 cultivating, growing, or harvesting of any species of plant which is a
14 controlled substance or from which a controlled substance can be derived;

15 (b) Kits used, intended for use, or designed for use in manufacturing,
16 compounding, converting, producing, processing, or preparing controlled
17 substances;

18 (c) Isomerization devices used, intended for use, or designed for use in increasing
19 the potency of any species of plant which is a controlled substance;

20 (d) **Except as provided in subsection (7) of this section,** testing equipment used,
21 intended for use, or designed for use in ~~identifying, or in~~ analyzing the
22 strength, effectiveness, or purity of controlled substances;

23 (e) Scales and balances used, intended for use, or designed for use in weighing or
24 measuring controlled substances;

25 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
26 dextrose and lactose, used, intended for use, or designed for use in cutting
27 controlled substances;

- 1 (g) Separation gins and sifters used, intended for use, or designed for use in
2 removing twigs and seeds from, or in otherwise cleaning or refining
3 marijuana;
- 4 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
5 use, or designed for use in compounding controlled substances;
- 6 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
7 designed for use in packaging small quantities of controlled substances;
- 8 (j) Containers and other objects used, intended for use, or designed for use in
9 storing or concealing controlled substances;
- 10 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
11 designed for use in parenterally injecting controlled substances into the human
12 body; and
- 13 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
14 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the
15 human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic
16 pipes with or without screens, permanent screens, hashish heads, or punctured
17 metal bowls; water pipes; carburetion tubes and devices; smoking and
18 carburetion masks; roach clips which mean objects used to hold burning
19 material, such as marijuana cigarettes, that have become too small or too short
20 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber
21 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice
22 pipes or chillers.
- 23 (2) It is unlawful for any person to use, or to possess with intent to use, drug
24 paraphernalia for the purpose of planting, propagating, cultivating, growing,
25 harvesting, manufacturing, compounding, converting, producing, processing,
26 preparing, testing, analyzing, packing, repacking, storing, containing, concealing,
27 injecting, ingesting, inhaling, or otherwise introducing into the human body a

1 controlled substance in violation of this chapter.

2 (3) It is unlawful for any person to deliver, possess with intent to deliver, or
3 manufacture with intent to deliver, drug paraphernalia, knowing, or under
4 circumstances where one reasonably should know, that it will be used to plant,
5 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
6 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
7 inhale, or otherwise introduce into the human body a controlled substance in
8 violation of this chapter.

9 (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or
10 other publication any advertisement, knowing, or under circumstances where one
11 reasonably should know, that the purpose of the advertisement, in whole or in part,
12 is to promote the sale of objects designed or intended for use as drug paraphernalia.

13 (5) (a) This section shall not prohibit a local health department from operating a
14 substance abuse treatment outreach program which allows participants to
15 exchange hypodermic needles and syringes.

16 (b) To operate a substance abuse treatment outreach program under this
17 subsection, the local health department shall have the consent, which may be
18 revoked at any time, of the local board of health and:

- 19 1. The legislative body of the first or home rule class city in which the
20 program would operate if located in such a city; and
- 21 2. The legislative body of the county, urban-county government, or
22 consolidated local government in which the program would operate.

23 (c) Items exchanged at the program shall not be deemed drug paraphernalia under
24 this section while located at the program.

25 (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace
26 officer may inquire as to the presence of needles or other sharp objects in the
27 areas to be searched that may cut or puncture the officer and offer to not

1 charge a person with possession of drug paraphernalia if the person declares
2 to the officer the presence of the needle or other sharp object. If, in response
3 to the offer, the person admits to the presence of the needle or other sharp
4 object prior to the search, the person shall not be charged with or prosecuted
5 for possession of drug paraphernalia for the needle or sharp object or for
6 possession of a controlled substance for residual or trace drug amounts
7 present on the needle or sharp object.

8 (b) The exemption under this subsection shall not apply to any other drug
9 paraphernalia that may be present and found during the search or to controlled
10 substances present in other than residual or trace amounts.

11 (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and
12 needles without a prescription in pharmacies.

13 (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed
14 drug paraphernalia under this section.

15 (c) 1. Except as provided in subparagraph 2. of this paragraph, narcotic
16 drug testing products utilized in determining whether a controlled
17 substance contains a synthetic opioid or its analogues shall not be
18 deemed drug paraphernalia under this section.

19 2. A narcotic drug testing product that is utilized in conjunction with the
20 importation, manufacture, or selling of fentanyl or a fentanyl
21 analogue in violation under this chapter shall be deemed drug
22 paraphernalia under this section.

23 (d) Notwithstanding any other statute to the contrary, possession of a narcotic
24 drug testing product used in accordance with paragraph (c)1. of this
25 subsection that contains residual or trace amounts of a synthetic opioid or
26 an analogue thereof shall not be prosecuted as possession of a controlled
27 substance under any provision of this chapter.

1 (8) Any person who violates any provision of this section shall be guilty of a Class A
2 misdemeanor.

3 ➔Section 2. The Cabinet for Health and Family Services, in coordination with the
4 Justice and Public Safety Cabinet, shall conduct or have conducted a Fentanyl Education
5 and Awareness campaign. The campaign shall begin no later than 90 days after the
6 effective date of this Act.