

**218A.500 Definitions for KRS 218A.500 and 218A.510 -- Unlawful practices -- Substance abuse treatment outreach program -- Informing peace officer about presence of needles or other sharp objects before search -- Retail pharmacy exception -- Narcotic drug testing products-- Penalties.**

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

- (1) "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 chapter. The term "drug paraphernalia" does not include medicinal cannabis accessories as defined in KRS 218B.010. It includes but is not limited to:
  - (a) 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;
  - (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
  - (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
  - (d) Except as provided in subsection (7) of this section, testing equipment used, intended for use, or designed for use in analyzing the strength, effectiveness, or purity of controlled substances;
  - (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
  - (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
  - (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
  - (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
  - (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
  - (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
  - (k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
  - (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the

human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bonges; ice pipes or chillers.

- (2) It is unlawful for any person to use, or to possess 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 chapter.
- (3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used 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 this chapter.
- (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, 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.
- (5)
  - (a) This section shall not prohibit a local health department from operating a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes.
  - (b) To operate a substance abuse treatment outreach program under this subsection, the local health department shall have the consent, which may be revoked at any time, of the local board of health and:
    1. The legislative body of the first or home rule class city in which the program would operate if located in such a city; and
    2. The legislative body of the county, urban-county government, or consolidated local government in which the program would operate.
  - (c) Items exchanged at the program shall not be deemed drug paraphernalia under this section while located at the program.
- (6)
  - (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for

possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.

- (b) The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.
- (7)
- (a) This section shall not prohibit the retail sale of hypodermic syringes and needles without a prescription in pharmacies.
  - (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed drug paraphernalia under this section.
  - (c)
    - 1. Except as provided in subparagraph 2. of this paragraph, narcotic drug testing products utilized in determining whether a controlled substance contains a synthetic opioid or its analogues shall not be deemed drug paraphernalia under this section.
    - 2. A narcotic drug testing product that is utilized in conjunction with the importation, manufacture, or selling of fentanyl or a fentanyl analogue in violation of this chapter shall be deemed drug paraphernalia under this section.
  - (d) Notwithstanding any other statute to the contrary, possession of a narcotic drug testing product used in accordance with paragraph (c)1. of this subsection that contains residual or trace amounts of a synthetic opioid or an analogue thereof shall not be prosecuted as possession of a controlled substance under any provision of this chapter.
- (8) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

**Effective:** June 29, 2023

**History:** Amended 2023 Ky. Acts ch. 146, sec. 39, effective June 29, 2023; and ch. 166, sec. 1, effective June 29, 2023. -- Amended 2021 Ky. Acts ch. 56, sec. 2, effective June 29, 2021. -- Amended 2015 Ky. Acts ch. 66, sec. 18, effective March 25, 2015. -- Amended 2010 Ky. Acts ch. 149, sec. 14, effective April 13, 2010; and ch. 160, sec. 14, effective April 26, 2010. -- Amended 1992 Ky. Acts ch. 441, sec. 8, effective July 14, 1992. -- Created 1982 Ky. Acts ch. 413, sec. 2, effective July 15, 1982.

**Legislative Research Commission Note (6/29/2023).** This statute was amended by 2023 Ky. Acts chs. 146 and 166, which do not appear to be in conflict and have been codified together.