

**As Passed by the House**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 456**

**Representative Boggs**

**Cosponsors: Representatives Liston, Lepore-Hagan, Callender, Smith, M., Brown, Leland, White, Seitz, Weinstein, Lightbody, Brent, Skindell, Miller, A., Miller, J., Crossman, Ingram, Addison, Hillyer, Humphrey, Loychik, O'Brien, Pavliga, Rogers, Russo, Sheehy, Sobecki**

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**A BILL**

To amend section 2925.14 of the Revised Code to 1  
decriminalize fentanyl drug testing strips. 2

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 2925.14 of the Revised Code be 3  
amended to read as follows: 4

**Sec. 2925.14.** (A) As used in this section, "drug 5  
paraphernalia" means any equipment, product, or material of any 6  
kind that is used by the offender, intended by the offender for 7  
use, or designed for use, in propagating, cultivating, growing, 8  
harvesting, manufacturing, compounding, converting, producing, 9  
processing, preparing, testing, analyzing, packaging, 10  
repackaging, storing, containing, concealing, injecting, 11  
ingesting, inhaling, or otherwise introducing into the human 12  
body, a controlled substance in violation of this chapter. "Drug 13  
paraphernalia" includes, but is not limited to, any of the 14  
following equipment, products, or materials that are used by the 15  
offender, intended by the offender for use, or designed by the 16

offender for use, in any of the following manners:	17
(1) A kit for propagating, cultivating, growing, or	18
harvesting any species of a plant that is a controlled substance	19
or from which a controlled substance can be derived;	20
(2) A kit for manufacturing, compounding, converting,	21
producing, processing, or preparing a controlled substance;	22
(3) Any object, instrument, or device for manufacturing,	23
compounding, converting, producing, processing, or preparing	24
methamphetamine;	25
(4) An isomerization device for increasing the potency of	26
any species of a plant that is a controlled substance;	27
(5) Testing equipment for identifying, or analyzing the	28
strength, effectiveness, or purity of, a controlled substance, <u>except for those exempted in division (D) (3) of this section;</u>	29
	30
(6) A scale or balance for weighing or measuring a	31
controlled substance;	32
(7) A diluent or adulterant, such as quinine	33
hydrochloride, mannitol, mannite, dextrose, or lactose, for	34
cutting a controlled substance;	35
(8) A separation gin or sifter for removing twigs and	36
seeds from, or otherwise cleaning or refining, marihuana;	37
(9) A blender, bowl, container, spoon, or mixing device	38
for compounding a controlled substance;	39
(10) A capsule, balloon, envelope, or container for	40
packaging small quantities of a controlled substance;	41
(11) A container or device for storing or concealing a	42
controlled substance;	43

(12) A hypodermic syringe, needle, or instrument for 44  
parenterally injecting a controlled substance into the human 45  
body; 46

(13) An object, instrument, or device for ingesting, 47  
inhaling, or otherwise introducing into the human body, 48  
marihuana, cocaine, hashish, or hashish oil, such as a metal, 49  
wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or 50  
without a screen, permanent screen, hashish head, or punctured 51  
metal bowl; water pipe; carburetion tube or device; smoking or 52  
carburetion mask; roach clip or similar object used to hold 53  
burning material, such as a marihuana cigarette, that has become 54  
too small or too short to be held in the hand; miniature cocaine 55  
spoon, or cocaine vial; chamber pipe; carburetor pipe; electric 56  
pipe; air driver pipe; chillum; bong; or ice pipe or chiller. 57

(B) In determining if any equipment, product, or material 58  
is drug paraphernalia, a court or law enforcement officer shall 59  
consider, in addition to other relevant factors, the following: 60

(1) Any statement by the owner, or by anyone in control, 61  
of the equipment, product, or material, concerning its use; 62

(2) The proximity in time or space of the equipment, 63  
product, or material, or of the act relating to the equipment, 64  
product, or material, to a violation of any provision of this 65  
chapter; 66

(3) The proximity of the equipment, product, or material 67  
to any controlled substance; 68

(4) The existence of any residue of a controlled substance 69  
on the equipment, product, or material; 70

(5) Direct or circumstantial evidence of the intent of the 71  
owner, or of anyone in control, of the equipment, product, or 72

material, to deliver it to any person whom the owner or person 73  
in control of the equipment, product, or material knows intends 74  
to use the object to facilitate a violation of any provision of 75  
this chapter. A finding that the owner, or anyone in control, of 76  
the equipment, product, or material, is not guilty of a 77  
violation of any other provision of this chapter does not 78  
prevent a finding that the equipment, product, or material was 79  
intended or designed by the offender for use as drug 80  
paraphernalia. 81

(6) Any oral or written instruction provided with the 82  
equipment, product, or material concerning its use; 83

(7) Any descriptive material accompanying the equipment, 84  
product, or material and explaining or depicting its use; 85

(8) National or local advertising concerning the use of 86  
the equipment, product, or material; 87

(9) The manner and circumstances in which the equipment, 88  
product, or material is displayed for sale; 89

(10) Direct or circumstantial evidence of the ratio of the 90  
sales of the equipment, product, or material to the total sales 91  
of the business enterprise; 92

(11) The existence and scope of legitimate uses of the 93  
equipment, product, or material in the community; 94

(12) Expert testimony concerning the use of the equipment, 95  
product, or material. 96

(C) (1) Subject to ~~division~~ divisions (D) (2) and (3) of 97  
this section, no person shall knowingly use, or possess with 98  
purpose to use, drug paraphernalia. 99

(2) No person shall knowingly sell, or possess or 100

manufacture with purpose to sell, drug paraphernalia, if the 101  
person knows or reasonably should know that the equipment, 102  
product, or material will be used as drug paraphernalia. 103

(3) No person shall place an advertisement in any 104  
newspaper, magazine, handbill, or other publication that is 105  
published and printed and circulates primarily within this 106  
state, if the person knows that the purpose of the advertisement 107  
is to promote the illegal sale in this state of the equipment, 108  
product, or material that the offender intended or designed for 109  
use as drug paraphernalia. 110

(D) (1) This section does not apply to manufacturers, 111  
licensed health professionals authorized to prescribe drugs, 112  
pharmacists, owners of pharmacies, and other persons whose 113  
conduct is in accordance with Chapters 3719., 4715., 4723., 114  
4729., 4730., 4731., and 4741. of the Revised Code. This section 115  
shall not be construed to prohibit the possession or use of a 116  
hypodermic as authorized by section 3719.172 of the Revised 117  
Code. 118

(2) Division (C) (1) of this section does not apply to a 119  
person's use, or possession with purpose to use, any drug 120  
paraphernalia that is equipment, a product, or material of any 121  
kind that is used by the person, intended by the person for use, 122  
or designed for use in storing, containing, concealing, 123  
injecting, ingesting, inhaling, or otherwise introducing into 124  
the human body marihuana. 125

(3) Division (C) (1) of this section does not apply to a 126  
person's use, or possession with purpose to use, any drug 127  
testing strips to determine the presence of fentanyl or a 128  
fentanyl-related compound. 129

(E) Notwithstanding Chapter 2981. of the Revised Code, any 130  
drug paraphernalia that was used, possessed, sold, or 131  
manufactured in a violation of this section shall be seized, 132  
after a conviction for that violation shall be forfeited, and 133  
upon forfeiture shall be disposed of pursuant to division (B) of 134  
section 2981.12 of the Revised Code. 135

(F) (1) Whoever violates division (C) (1) of this section is 136  
guilty of illegal use or possession of drug paraphernalia, a 137  
misdemeanor of the fourth degree. 138

(2) Except as provided in division (F) (3) of this section, 139  
whoever violates division (C) (2) of this section is guilty of 140  
dealing in drug paraphernalia, a misdemeanor of the second 141  
degree. 142

(3) Whoever violates division (C) (2) of this section by 143  
selling drug paraphernalia to a juvenile is guilty of selling 144  
drug paraphernalia to juveniles, a misdemeanor of the first 145  
degree. 146

(4) Whoever violates division (C) (3) of this section is 147  
guilty of illegal advertising of drug paraphernalia, a 148  
misdemeanor of the second degree. 149

(G) (1) In addition to any other sanction imposed upon an 150  
offender for a violation of this section, the court may suspend 151  
for not more than five years the offender's driver's or 152  
commercial driver's license or permit. However, if the offender 153  
pleaded guilty to or was convicted of a violation of section 154  
4511.19 of the Revised Code or a substantially similar municipal 155  
ordinance or the law of another state or the United States 156  
arising out of the same set of circumstances as the violation, 157  
the court shall suspend the offender's driver's or commercial 158

driver's license or permit for not more than five years. If the 159  
offender is a professionally licensed person, in addition to any 160  
other sanction imposed for a violation of this section, the 161  
court immediately shall comply with section 2925.38 of the 162  
Revised Code. 163

(2) Any offender who received a mandatory suspension of 164  
the offender's driver's or commercial driver's license or permit 165  
under this section prior to ~~the effective date of this amendment~~ 166  
September 13, 2016, may file a motion with the sentencing court 167  
requesting the termination of the suspension. However, an 168  
offender who pleaded guilty to or was convicted of a violation 169  
of section 4511.19 of the Revised Code or a substantially 170  
similar municipal ordinance or law of another state or the 171  
United States that arose out of the same set of circumstances as 172  
the violation for which the offender's license or permit was 173  
suspended under this section shall not file such a motion. 174

Upon the filing of a motion under division (G) (2) of this 175  
section, the sentencing court, in its discretion, may terminate 176  
the suspension. 177

**Section 2.** That existing section 2925.14 of the Revised 178  
Code is hereby repealed. 179