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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 886 Session of 2019

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INTRODUCED BY LEACH, STREET AND HUGHES, OCTOBER 7, 2019

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REFERRED TO JUDICIARY, OCTOBER 7, 2019

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AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled  
2 "An act relating to the manufacture, sale and possession of  
3 controlled substances, other drugs, devices and cosmetics;  
4 conferring powers on the courts and the secretary and  
5 Department of Health, and a newly created Pennsylvania Drug,  
6 Device and Cosmetic Board; establishing schedules of  
7 controlled substances; providing penalties; requiring  
8 registration of persons engaged in the drug trade and for the  
9 revocation or suspension of certain licenses and  
10 registrations; and repealing an act," further providing for  
11 definitions.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The definition of "drug paraphernalia" in section  
15 2(b) of the act of April 14, 1972 (P.L.233, No.64), known as The  
16 Controlled Substance, Drug, Device and Cosmetic Act, is amended  
17 to read:

18 Section 2. Definitions.--\* \* \*

19 (b) As used in this act:

20 \* \* \*

21 "Drug paraphernalia" means all equipment, products and  
22 materials of any kind which are used, intended for use or  
23 designed for use in planting, propagating, cultivating, growing,

1 harvesting, manufacturing, compounding, converting, producing,  
2 processing, preparing, testing, analyzing, packaging,  
3 repackaging, storing, containing, concealing, injecting,  
4 ingesting, inhaling or otherwise introducing into the human body  
5 a controlled substance in violation of this act. It includes,  
6 but is not limited to:

7 (1) Kits used, intended for use or designed for use in  
8 planting, propagating, cultivating, growing or harvesting of any  
9 species of plant which is a controlled substance or from which a  
10 controlled substance can be derived.

11 (2) Kits used, intended for use or designed for use in  
12 manufacturing, compounding, converting, producing, processing or  
13 preparing controlled substances.

14 (3) Isomerization devices used, intended for use or designed  
15 for use in increasing the potency of any species of plant which  
16 is a controlled substance.

17 (4) Testing equipment used, intended for use or designed for  
18 use in identifying or in analyzing the strength, effectiveness  
19 or purity of controlled substances.

20 (5) Scales and balances used, intended for use or designed  
21 for use in weighing or measuring controlled substances.

22 (6) Diluents and adulterants, such as quinine hydrochloride,  
23 mannitol, mannite, dextrose and lactose, used, intended for use  
24 or designed for use in cutting controlled substances.

25 (7) Separation gins and sifters used, intended for use or  
26 designed for use in removing twigs and seeds from or in  
27 otherwise cleaning or refining marihuana.

28 (8) Blenders, bowls, containers, spoons and mixing devices  
29 used, intended for use or designed for use in compounding  
30 controlled substances.

1 (9) Capsules, balloons, envelopes and other containers used,  
2 intended for use or designed for use in packaging small  
3 quantities of controlled substances.

4 (10) Containers and other objects used, intended for use or  
5 designed for use in storing or concealing controlled substances.

6 (11) Hypodermic syringes, needles and other objects used,  
7 intended for use, or designed for use in parenterally injected  
8 controlled substances into the human body.

9 (12) Objects used, intended for use or designed for use in  
10 ingesting, inhaling or otherwise introducing marihuana, cocaine,  
11 hashish or hashish oil into the human body, such as:

12 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic  
13 pipes with or without screens, permanent screens, hashish heads  
14 or punctured metal bowls.

15 (ii) Water pipes.

16 (iii) Carburetion tubes and devices.

17 (iv) Smoking and carburetion masks.

18 (v) Roach clips; meaning objects used to hold burning  
19 material such as a marihuana cigarette, that has become too  
20 small or too short to be held in the hand.

21 (vi) Miniature cocaine spoons and cocaine vials.

22 (vii) Chamber pipes.

23 (viii) Carburetor pipes.

24 (ix) Electric pipes.

25 (x) Air-driven pipes.

26 (xi) Chillums.

27 (xii) Bonges.

28 (xiii) Ice pipes or chillers.

29 In determining whether an object is drug paraphernalia, a  
30 court or other authority should consider, in addition to all

1 other logically relevant factors, statements by an owner or by  
2 anyone in control of the object concerning its use, prior  
3 convictions, if any, of an owner, or of anyone in control of the  
4 object, under any State or Federal law relating to any  
5 controlled substance, the proximity of the object, in time and  
6 space, to a direct violation of this act, the proximity of the  
7 object to controlled substances, the existence of any residue of  
8 controlled substances on the object, direct or circumstantial  
9 evidence of the intent of an owner, or of anyone in control of  
10 the object, to deliver it to persons who he knows, or should  
11 reasonably know, intend to use the object to facilitate a  
12 violation of this act, the innocence of an owner or of anyone in  
13 control of the object, as to a direct violation of this act  
14 should not prevent a finding that the object is intended for use  
15 or designed for use as drug paraphernalia, instructions, oral or  
16 written, provided with the object concerning its use,  
17 descriptive materials accompanying the object which explain or  
18 depict its use, national and local advertising concerning its  
19 use, the manner in which the object is displayed for sale,  
20 whether the owner, or anyone in control of the object, is a  
21 legitimate supplier of like or related items to the community,  
22 such as a licensed distributor or dealer of tobacco products,  
23 direct or circumstantial evidence of the ratio of sales of the  
24 objects to the total sales of the business enterprise, the  
25 existence and scope of legitimate uses for the object in the  
26 community, and expert testimony concerning its use.

27 This definition does not include fentanyl test strips for  
28 personal use.

29 \* \* \*

30 Section 2. This act shall take effect in 60 days.