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**SENATE BILL 5509**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senator Honeyford

Prefiled 12/07/21.

1 AN ACT Relating to exempting fentanyl testing equipment from the  
2 definition of drug paraphernalia; and amending RCW 69.50.102.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 69.50.102 and 2012 c 117 s 366 are each amended to  
5 read as follows:

6 (a) As used in this chapter, "drug paraphernalia" means all  
7 equipment, products, and materials of any kind which are used,  
8 intended for use, or designed for use in planting, propagating,  
9 cultivating, growing, harvesting, manufacturing, compounding,  
10 converting, producing, processing, preparing, testing, analyzing,  
11 packaging, repackaging, storing, containing, concealing, injecting,  
12 ingesting, inhaling, or otherwise introducing into the human body a  
13 controlled substance. It includes, but is not limited to:

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

18 (2) Kits used, intended for use, or designed for use in  
19 manufacturing, compounding, converting, producing, processing, or  
20 preparing controlled substances;

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

4 (4) Testing equipment used, intended for use, or designed for use  
5 in identifying or in analyzing the strength, effectiveness, or purity  
6 of controlled substances, except for testing equipment used, intended  
7 for use, or designed to determine whether a controlled substance or  
8 controlled substance analog contains fentanyl;

9 (5) Scales and balances used, intended for use, or designed for  
10 use in weighing or measuring controlled substances;

11 (6) Diluents and adulterants, such as quinine hydrochloride,  
12 mannitol, mannite, dextrose, and lactose, used, intended for use, or  
13 designed for use in cutting controlled substances;

14 (7) Separation gins and sifters used, intended for use, or  
15 designed for use in removing twigs and seeds from, or in otherwise  
16 cleaning or refining, marihuana;

17 (8) Blenders, bowls, containers, spoons, and mixing devices used,  
18 intended for use, or designed for use in compounding controlled  
19 substances;

20 (9) Capsules, balloons, envelopes, and other containers used,  
21 intended for use, or designed for use in packaging small quantities  
22 of controlled substances;

23 (10) Containers and other objects used, intended for use, or  
24 designed for use in storing or concealing controlled substances;

25 (11) Hypodermic syringes, needles, and other objects used,  
26 intended for use, or designed for use in parenterally injecting  
27 controlled substances into the human body;

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

31 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic  
32 pipes with or without screens, permanent screens, hashish heads, or  
33 punctured metal bowls;

34 (ii) Water pipes;

35 (iii) Carburetion tubes and devices;

36 (iv) Smoking and carburetion masks;

37 (v) Roach clips: Meaning objects used to hold burning material,  
38 such as a marihuana cigarette, that has become too small or too short  
39 to be held in the hand;

40 (vi) Miniature cocaine spoons, and cocaine vials;

- 1 (vii) Chamber pipes;
- 2 (viii) Carburetor pipes;
- 3 (ix) Electric pipes;
- 4 (x) Air-driven pipes;
- 5 (xi) Chillums;
- 6 (xii) Bongs; and
- 7 (xiii) Ice pipes or chillers.

8 (b) In determining whether an object is drug paraphernalia under  
9 this section, a court or other authority should consider, in addition  
10 to all other logically relevant factors, the following:

11 (1) Statements by an owner or by anyone in control of the object  
12 concerning its use;

13 (2) Prior convictions, if any, of an owner, or of anyone in  
14 control of the object, under any state or federal law relating to any  
15 controlled substance;

16 (3) The proximity of the object, in time and space, to a direct  
17 violation of this chapter;

18 (4) The proximity of the object to controlled substances;

19 (5) The existence of any residue of controlled substances on the  
20 object;

21 (6) Direct or circumstantial evidence of the intent of an owner,  
22 or of anyone in control of the object, to deliver it to persons whom  
23 he or she knows, or should reasonably know, intend to use the object  
24 to facilitate a violation of this chapter; the innocence of an owner,  
25 or of anyone in control of the object, as to a direct violation of  
26 this chapter shall not prevent a finding that the object is intended  
27 or designed for use as drug paraphernalia;

28 (7) Instructions, oral or written, provided with the object  
29 concerning its use;

30 (8) Descriptive materials accompanying the object which explain  
31 or depict its use;

32 (9) National and local advertising concerning its use;

33 (10) The manner in which the object is displayed for sale;

34 (11) Whether the owner, or anyone in control of the object, is a  
35 legitimate supplier of like or related items to the community, such  
36 as a licensed distributor or dealer of tobacco products;

37 (12) Direct or circumstantial evidence of the ratio of sales of  
38 the object(s) to the total sales of the business enterprise;

39 (13) The existence and scope of legitimate uses for the object in  
40 the community; and

1 (14) Expert testimony concerning its use.

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