

SEC. 11-5-6 POSSESSION, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA BY A MINOR PROHIBITED.

- (a) **Definition.** In this Section, “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, selling, distributing, delivering, 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, as defined in Ch. 961, Wis. Stats., in violation of this Section. It includes but is not limited to:
- (1) 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.
 - (2) Kits used, intended for use or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing or preparing controlled substances.
 - (3) Isomerization devices used, intended for use or designed for use, in increasing the potency of any species of plant which is a controlled substance.
 - (4) Testing equipment used, intended for use or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
 - (5) Scales and balances used, intended for use or designed for use, in weighing or measuring controlled substances.
 - (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
 - (7) 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.
 - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use, in compounding controlled substances.
 - (9) Capsules, balloons, envelopes or other containers used, intended for use or designed for use, in packaging small quantities of controlled substances.
 - (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
 - (11) Hypodermic syringes, needles or other objects used, intended for use or designed for use, in parenterally injecting controlled substances into the human body.
 - (12) 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, including but not limited to:
 - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;

- g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers.
- (b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
 - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
 - (3) The proximity of the object in time and space to a direct violation of this Section.
 - (4) The proximity of the object to controlled substances.
 - (5) The existence of any residue of controlled substance on the object.
 - (6) Direct or circumstantial evidence of the intent of the owner or of anyone in control of the object, to deliver it to persons whom the person knows or should reasonable know, intend to use the object to facilitate a violation of this Section. The innocence of an owner or of anyone in control of this object as to a direct violation of this Section shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
 - (7) Oral or written instructions provided with the object concerning its use.
 - (8) Descriptive materials accompanying the object which explain or depict its use.
 - (9) National and local advertising concerning its use.
 - (10) The manner in which the object is displayed for sale.
 - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
 - (12) The existence and scope of legitimate uses for the object in the community;
 - (13) Expert testimony concerning its use.
- (c) **Prohibited Uses.**
- (1) **Possession of Drug Paraphernalia.** No person may use or possess with the primary intent to use drug paraphernalia, 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 or controlled substance analog in violation of this Subsection.
 - (2) **Manufacture or Delivery of Drug Paraphernalia.** No person may deliver or possess with intent to deliver drug paraphernalia, knowing that it will be primarily 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 or controlled substance analog in violation of this Subsection.

- (3) Delivery of Drug Paraphernalia by a Minor to Minor. Any person who is under eighteen (18) years of age, who violates Subsection (c)(2) by delivering drug paraphernalia to a person under eighteen (18) years of age, who is at least (3) years younger than the violator, is guilty of a special offense.
- (4) Exemption. This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.
- (d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3) shall, upon conviction, be subject to disposition under Sec. 938.344(2e), Wis. Stats.