

ESB 5022 - H COMM AMD

By Committee on Community Safety, Justice, & Reentry

NOT CONSIDERED 01/02/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 69.50.102 and 2022 c 16 s 52 are each amended to
4 read as follows:

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

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

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

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

23 ~~(4) ((Testing equipment used, intended for use, or designed for
24 use in identifying or in analyzing the strength, effectiveness, or
25 purity of controlled substances;~~

26 ~~(5))~~ Scales and balances used, intended for use, or designed for
27 use in weighing or measuring controlled substances;

28 ~~((+6))~~ (5) Diluents and adulterants, such as quinine
29 hydrochloride, mannitol, mannite, dextrose, and lactose, used,
30 intended for use, or designed for use in cutting controlled
31 substances;

1 ~~((7))~~ (6) Separation gins and sifters used, intended for use,
2 or designed for use in removing twigs and seeds from, or in otherwise
3 cleaning or refining, cannabis;

4 ~~((8))~~ (7) Blenders, bowls, containers, spoons, and mixing
5 devices used, intended for use, or designed for use in compounding
6 controlled substances;

7 ~~((9))~~ (8) Capsules, balloons, envelopes, and other containers
8 used, intended for use, or designed for use in packaging small
9 quantities of controlled substances;

10 ~~((10))~~ (9) Containers and other objects used, intended for use,
11 or designed for use in storing or concealing controlled substances;

12 ~~((11))~~ (10) Hypodermic syringes, needles, and other objects
13 used, intended for use, or designed for use in parenterally injecting
14 controlled substances into the human body;

15 ~~((12))~~ (11) Objects used, intended for use, or designed for use
16 in ingesting, inhaling, or otherwise introducing cannabis, cocaine,
17 hashish, or hashish oil into the human body, such as:

18 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
19 pipes with or without screens, permanent screens, hashish heads, or
20 punctured metal bowls;

21 (ii) Water pipes;

22 (iii) Carburetion tubes and devices;

23 (iv) Smoking and carburetion masks;

24 (v) Roach clips: Meaning objects used to hold burning material,
25 such as a cannabis cigarette, that has become too small or too short
26 to be held in the hand;

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

28 (vii) Chamber pipes;

29 (viii) Carburetor pipes;

30 (ix) Electric pipes;

31 (x) Air-driven pipes;

32 (xi) Chillums;

33 (xii) Bongs; and

34 (xiii) Ice pipes or chillers.

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

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

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

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

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

7 (5) The existence of any residue of controlled substances on the
8 object;

9 (6) Direct or circumstantial evidence of the intent of an owner,
10 or of anyone in control of the object, to deliver it to persons whom
11 he or she knows, or should reasonably know, intend to use the object
12 to facilitate a violation of this chapter; the innocence of an owner,
13 or of anyone in control of the object, as to a direct violation of
14 this chapter shall not prevent a finding that the object is intended
15 or designed for use as drug paraphernalia;

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

18 (8) Descriptive materials accompanying the object which explain
19 or depict its use;

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

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

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

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

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

29 (14) Expert testimony concerning its use.

30 **Sec. 2.** RCW 69.50.4121 and 2022 c 16 s 92 are each amended to
31 read as follows:

32 (1) Every person who sells or gives, or permits to be sold or
33 given to any person any drug paraphernalia in any form commits a
34 class I civil infraction under chapter 7.80 RCW. For purposes of this
35 subsection, "drug paraphernalia" means all equipment, products, and
36 materials of any kind which are used, intended for use, or designed
37 for use in planting, propagating, cultivating, growing, harvesting,
38 manufacturing, compounding, converting, producing, processing,
39 preparing, (~~testing,~~) analyzing, packaging, repackaging, storing,

1 containing, concealing, injecting, ingesting, inhaling, or otherwise
2 introducing into the human body a controlled substance other than
3 cannabis. Drug paraphernalia includes, but is not limited to objects
4 used, intended for use, or designed for use in ingesting, inhaling,
5 or otherwise introducing cocaine into the human body, such as:

6 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
7 pipes with or without screens, permanent screens, hashish heads, or
8 punctured metal bowls;

9 (b) Water pipes;

10 (c) Carburetion tubes and devices;

11 (d) Smoking and carburetion masks;

12 (e) Miniature cocaine spoons and cocaine vials;

13 (f) Chamber pipes;

14 (g) Carburetor pipes;

15 (h) Electric pipes;

16 (i) Air-driven pipes; and

17 (j) Ice pipes or chillers.

18 (2) It shall be no defense to a prosecution for a violation of
19 this section that the person acted, or was believed by the defendant
20 to act, as agent or representative of another.

21 (3) Nothing in subsection (1) of this section prohibits (~~legal~~
22 ~~distribution~~) selling or giving of injection syringe or testing
23 equipment through public health and community-based HIV prevention
24 programs, and pharmacies.

25 NEW SECTION. **Sec. 3.** This act shall be known and cited as the
26 Patrick Janicki and Allisone McClanahan act."

27 Correct the title.

EFFECT: Provides a name for the act.

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