

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2637 Session of  
1980

INTRODUCED BY McCALL AND DOMBROWSKI, JUNE 9, 1980

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 9, 1980

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," prohibiting the  
11 possession, manufacture, delivery and advertisement of drug  
12 paraphernalia and providing for the seizure of drug  
13 paraphernalia.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Subsection (b) of section 2, act of April 14,  
17 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,  
18 Device and Cosmetic Act," is amended by adding a definition to  
19 read:

20 Section 2. Definitions.--\* \* \*

21 (b) As used in this act:

22 \* \* \*

23 "Drug paraphernalia" means all equipment, products and

1 materials of any kind which are used, intended for use or  
2 designed for use in planting, propagating, cultivating, growing,  
3 harvesting, manufacturing, compounding, converting, producing,  
4 processing, preparing, testing, analyzing, packaging,  
5 repackaging, storing, containing, concealing, injecting,  
6 ingesting, inhaling or otherwise introducing into the human body  
7 a controlled substance in violation of this act. It includes,  
8 but is not limited to:

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

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

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

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

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

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

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

30 (8) Blenders, bowls, containers, spoons and mixing devices

1 used, intended for use or designed for use in compounding  
2 controlled substances.

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

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

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

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

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

17 (ii) Water pipes.

18 (iii) Carburetion tubes and devices.

19 (iv) Smoking and carburetion masks.

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

23 (vi) Miniature cocaine spoons and cocaine vials.

24 (vii) Chamber pipes.

25 (viii) Carburetor pipes.

26 (ix) Electric pipes.

27 (x) Air-driven pipes.

28 (xi) Chillums.

29 (xii) Bongs.

30 (xiii) Ice pipes or chillers.

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

29     \* \* \*

30     Section 2. Subsection (a) of section 13 of the act is

1 amended by adding clauses to read and the section is amended by  
2 adding a subsection to read:

3 Section 13. Prohibited Acts; Penalties.--(a) The following  
4 acts and the causing thereof within the Commonwealth are hereby  
5 prohibited:

6 \* \* \*

7 (32) The use, or to possess with intent to use, drug  
8 paraphernalia, the planting, propagating, cultivating, growing,  
9 harvesting, manufacturing, compounding, converting, producing,  
10 processing, preparing, testing, analyzing, packing, repacking,  
11 storing, containing, concealing, injecting, ingesting, inhaling  
12 or otherwise introducing into the human body a controlled  
13 substance in violation of this act.

14 (33) The delivery, possession with intent to deliver, or  
15 manufacture with intent to deliver, drug paraphernalia, knowing,  
16 or under circumstances where one reasonably should know, that it  
17 would be used to plant, propagate, cultivate, grow, harvest,  
18 manufacture, compound, convert, produce, process, prepare, test,  
19 analyze, pack, repack, store, contain, conceal, inject, ingest,  
20 inhale or otherwise introduce into the human body a controlled  
21 substance in violation of this act.

22 (34) The placing in any newspaper, magazine, handbill or  
23 other publication any advertisement, knowing, or under  
24 circumstances where one reasonably should know, that the purpose  
25 of the advertisement, in whole or in part is to promote the sale  
26 of objects designed or intended for use as drug paraphernalia.

27 \* \* \*

28 (i) Any person who violates clauses (32), (33) and (34) of  
29 subsection (a) is guilty of a misdemeanor and upon conviction  
30 thereof shall be sentenced to pay a fine not exceeding two

1 thousand five hundred dollars (\$2,500) or to imprisonment not  
2 exceeding one (1) year, or to both. Any person who violates  
3 clause (33) by delivering drug paraphernalia to a person under  
4 eighteen (18) years of age who is three (3) or more years his  
5 junior shall be guilty of a misdemeanor of the second degree and  
6 upon conviction thereof shall be sentenced to pay a fine not  
7 exceeding five thousand dollars (\$5,000) or to imprisonment not  
8 exceeding two (2) years, or to both.

9       Section 3. Clause (1) of subsection (a) of section 28 of the  
10 act is amended to read:

11       Section 28. Forfeiture.--(a) The following shall be subject  
12 to forfeiture to the Commonwealth and no property right shall  
13 exist in them:

14       (1) All drug paraphernalia, controlled substances or other  
15 drugs which have been manufactured, distributed, dispensed, or  
16 acquired in violation of this act.

17       \* \* \*

18       Section 4. This act shall take effect in 60 days.