

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Drug Paraphernalia Control Act is  
5 amended by changing Sections 2, 4, and 6 as follows:

6 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

7 Sec. 2. As used in this Act, unless the context  
8 otherwise requires:

9 (a) The term "cannabis" shall have the meaning ascribed  
10 to it in Section 3 of the "Cannabis Control Act", as if that  
11 definition were incorporated herein.

12 (b) The term "controlled substance" shall have the  
13 meaning ascribed to it in Section 102 of the "Illinois  
14 Controlled Substances Act", as if that definition were  
15 incorporated herein.

16 (c) "Deliver" or "delivery" means the actual,  
17 constructive or attempted transfer of possession, with or  
18 without consideration, whether or not there is an agency  
19 relationship.

20 (d) "Drug paraphernalia" means all equipment, products  
21 and materials of any kind which are intended to be used  
22 unlawfully ~~peculiar--to--and--marketed--for--use~~ in planting,  
23 propagating, cultivating, growing, harvesting, manufacturing,  
24 compounding, converting, producing, processing, preparing,  
25 testing, analyzing, packaging, repackaging, storing,  
26 containing, concealing, injecting, ingesting, inhaling or  
27 otherwise introducing into the human body cannabis or a  
28 controlled substance in violation of the "Cannabis Control  
29 Act" or the "Illinois Controlled Substances Act". It  
30 includes, but is not limited to:

31 (1) Kits intended to be used unlawfully ~~peculiar--to--and~~

1 marketed--for--use in manufacturing, compounding, converting,  
2 producing, processing or preparing cannabis or a controlled  
3 substance;

4 (2) Isomerization devices intended to be used unlawfully  
5 ~~peculiar--to--and-marketed-for-use~~ in increasing the potency  
6 of any species of plant which is cannabis or a controlled  
7 substance;

8 (3) Testing equipment intended to be used unlawfully in  
9 a peculiar-to-and--marketed--for private home for use--in  
10 identifying or in analyzing the strength, effectiveness or  
11 purity of cannabis or controlled substances;

12 (4) Diluents and adulterants intended to be used  
13 unlawfully ~~peculiar-to-and-marketed~~ for cutting cannabis or a  
14 controlled substance by private persons;

15 (5) Objects intended to be used unlawfully ~~peculiar-to~~  
16 ~~and-marketed--for-use~~ in ingesting, inhaling, or otherwise  
17 introducing cannabis, cocaine, hashish, or hashish oil into  
18 the human body including, where applicable, the following  
19 items:

- 20 (A) water pipes;
- 21 (B) carburetion tubes and devices;
- 22 (C) smoking and carburetion masks;
- 23 (D) miniature cocaine spoons and cocaine vials;
- 24 (E) carburetor pipes;
- 25 (F) electric pipes;
- 26 (G) air-driven pipes;
- 27 (H) chillums;
- 28 (I) bongs;
- 29 (J) ice pipes or chillers;

30 (6) Any item whose purpose, as announced or described by  
31 the seller, is for use in violation of this Act.

32 (Source: P.A. 82-1032.)

33 (720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

1           Sec. 4. Exemptions. This Act does ~~shall~~ not apply to:

2           (a) Items used ~~marketed--for--use~~ in the preparation,  
3           compounding, packaging, labeling, or other use of cannabis or  
4           a controlled substance as an incident to lawful research,  
5           teaching, or chemical analysis and not for sale.

6           (b) Items ~~marketed--for--or~~ historically and customarily  
7           used in connection with, the planting, propagating,  
8           cultivating, growing, harvesting, manufacturing, compounding,  
9           converting, producing, processing, preparing, testing,  
10          analyzing, packaging, repackaging, storing, containing,  
11          concealing, injecting, ingesting, or inhaling of tobacco or  
12          any other lawful substance.

13          Items exempt under this subsection include, but are not  
14          limited to, garden hoes, rakes, sickles, baggies, tobacco  
15          pipes, and cigarette-rolling papers.

16          (c) Items listed in Section 2 of this Act which are used  
17          ~~marketed~~ for decorative purposes, when such items have been  
18          rendered completely inoperable or incapable of being used for  
19          any illicit purpose prohibited by this Act.

20          In determining whether or not a particular item is exempt  
21          under this subsection, the trier of fact should consider, in  
22          addition to all other logically relevant factors, the  
23          following:

24                 (1) the general, usual, customary, and historical  
25                 use to which the item involved has been put;

26                 (2) expert evidence concerning the ordinary or  
27                 customary use of the item and the effect of any  
28                 peculiarity in the design or engineering of the device  
29                 upon its functioning;

30                 (3) any written instructions accompanying the  
31                 delivery of the item concerning the purposes or uses to  
32                 which the item can or may be put;

33                 (4) any oral instructions provided by the seller of  
34                 the item at the time and place of sale or commercial

1 delivery;

2 (5) any national or local advertising concerning  
3 the design, purpose or use of the item involved, and the  
4 entire context in which such advertising occurs;

5 (6) the manner, place and circumstances in which  
6 the item was displayed for sale, as well as any item or  
7 items displayed for sale or otherwise exhibited upon the  
8 premises where the sale was made;

9 (7) whether the owner or anyone in control of the  
10 object is a legitimate supplier of like or related items  
11 to the community, such as a licensed distributor or  
12 dealer of tobacco products;

13 (8) the existence and scope of legitimate uses for  
14 the object in the community.

15 (Source: P.A. 91-357, eff. 7-29-99.)

16 (720 ILCS 600/6) (from Ch. 56 1/2, par. 2106)

17 Sec. 6. This Act is intended to be used solely for the  
18 suppression of the commercial traffic in and possession of  
19 items that, within the context of the sale or offering for  
20 sale, or possession, are clearly and beyond a reasonable  
21 doubt intended marketed for the illegal and unlawful use of  
22 cannabis or controlled substances. To this end all  
23 reasonable and common-sense inferences shall be drawn in  
24 favor of the legitimacy of any transaction or item.

25 (Source: P.A. 88-677, eff. 12-15-94.)

26 Section 99. Effective date. This Act takes effect upon  
27 becoming law.