

1991 Senate Bill 226

Date of enactment: April 1, 1992
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1991 WISCONSIN ACT 140

AN ACT to renumber and amend 161.571, 161.571 (2) and 161.572; to amend 161.571 (title), 161.573 (1), 161.574 (1) and 161.576; and to create 161.571 (intro.), 161.571 (1) (b) 2, 161.571 (2), 161.572 (2) and 161.572 (3) of the statutes, relating to: drug paraphernalia.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 161.571 (title) of the statutes is amended to read:

161.571 (title) Definitions.

SECTION 2. 161.571 (intro.) of the statutes is created to read:

161.571 (intro.) In this subchapter:

SECTION 3. 161.571 of the statutes is renumbered 161.571 (1) (a), and 161.571 (1) (a) (intro) and 1 to 11. (intro.), as renumbered, are amended to read:

161.571 (1) (a) (intro.) ~~In this subchapter, “drug~~ “Drug paraphernalia” means all equipment, products and materials of any kind that are used ~~or solely, designed for use or primarily~~ intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, 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 in violation of this chapter. “Drug paraphernalia” includes, but is not limited to, any of the following:

1. Kits used ~~or solely, designed for use or primarily~~ intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived.

2. Kits used ~~or solely, designed for use or primarily~~ intended for use in manufacturing, compounding, con-

verting, producing, processing or preparing controlled substances.

3. Isomerization devices used ~~or solely, designed for use or primarily~~ intended for use in increasing the potency of any species of plant that is a controlled substance.

4. Testing equipment used ~~or solely, designed for use or primarily~~ intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances.

5. Scales and balances used ~~or solely, designed for use or primarily~~ intended for use in weighing or measuring controlled substances.

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used ~~or solely, designed for use or primarily~~ intended for use in cutting controlled substances.

7. Separation gins and sifters used ~~or solely, designed for use or primarily~~ intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

8. Blenders, bowls, containers, spoons and mixing devices used ~~or solely, designed for use or primarily~~ intended for use in compounding controlled substances.

9. Capsules, balloons, envelopes and other containers used ~~or solely, designed for use or primarily~~ intended for use in packaging small quantities of controlled substances.

10. Containers and other objects used ~~or solely, designed for use or primarily~~ intended for use in storing or concealing controlled substances.

11. (intro.) Objects used ~~or solely, designed for use~~ or primarily intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

SECTION 4. 161.571 (2) of the statutes is renumbered 161.571 (1) (b) and amended to read:

161.571 (1) (b) “Drug paraphernalia” excludes ~~hypo-~~dermic:

1. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.

SECTION 5. 161.571 (1) (b) 2. of the statutes is created to read:

161.571 (1) (b) 2. Any items, including pipes, papers and accessories, that are designed for use or primarily intended for use with tobacco products.

SECTION 6. 161.571 (2) of the statutes is created to read:

161.571 (2) “Primarily” means chiefly or mainly.

SECTION 7. 161.572 of the statutes is renumbered 161.572 (1), and 161.572 (1) (e), as renumbered, is amended to read:

161.572 (1) (e) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is ~~solely~~ designed for use or primarily intended for use as drug paraphernalia.

SECTION 8. 161.572 (2) of the statutes is created to read:

161.572 (2) In determining under this subchapter whether an item is designed for a particular use, a court or other authority shall consider the objective physical characteristics and design features of the item.

SECTION 9. 161.572 (3) of the statutes is created to read:

161.572 (3) In determining under this subchapter whether an item is primarily intended for a particular use,

a court or other authority shall consider the subjective intent of the defendant.

SECTION 10. 161.573 (1) of the statutes is amended to read:

161.573 (1) No person may use, or possess with the ~~sole~~ 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 in violation of this chapter. Any person who violates this section may be fined not more than \$500 or imprisoned for not more than 30 days or both.

SECTION 11. 161.574 (1) of the statutes is amended to read:

161.574 (1) No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be ~~solely~~ 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 in violation of this chapter. Any person who violates this section may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

SECTION 12. 161.576 of the statutes is amended to read:

161.576 Advertisement of drug paraphernalia. No person may place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects ~~solely~~ designed for use or primarily intended for use as drug paraphernalia in violation of this chapter. Any person who violates this section may be fined not more than \$500 or imprisoned for not more than 30 days or both.

SECTION 13. Initial applicability. This act first applies to offenses occurring on the effective date of this SECTION.