



HEALTH AND SAFETY CODE - HSC

DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] ( *Division 10 repealed and added by Stats. 1972, Ch. 1407.* )

CHAPTER 6. Offenses and Penalties [11350 - 11395] ( *Chapter 6 added by Stats. 1972, Ch. 1407.* )

ARTICLE 4. Miscellaneous Offenses and Provisions [11364 - 11376.6] ( *Article 4 added by Stats. 1972, Ch. 1407.* )

**11364.5.** (a) Except as authorized by law, a person shall not maintain or operate a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless that drug paraphernalia is completely and wholly kept, displayed, or offered within a separate room or enclosure to which persons under 18 years of age who are not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed, or offered in the room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, an owner, manager, proprietor, or other person in charge of a room or enclosure, within a place of business, in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away shall not permit or allow a person under 18 years of age to enter, be in, remain in, or visit the room or enclosure unless that minor person is accompanied by their parent or legal guardian.

(c) Unless authorized by law, a person under 18 years of age shall not enter, be in, remain in, or visit a room or enclosure in a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless accompanied by their parent or legal guardian.

(d) As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

- (1) Kits intended for use or designed 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 intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
- (3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance.
- (4) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.
- (5) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.
- (6) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.
- (7) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.
- (8) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.
- (9) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.
- (10) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.
- (11) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as the following:
  - (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) Roach clips, meaning objects used to hold burning material, such as a cannabis 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.

(12) Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances, except as otherwise provided in subdivision (g).

(e) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(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 state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom they know, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the 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.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

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

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

(f) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (10) of subdivision (d) upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (10) of subdivision (d) to a patient.

(3) Any manufacturer, wholesaler, or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (10) of subdivision (d).

(g) Notwithstanding paragraph (12) of subdivision (a), "drug paraphernalia" does not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances that include, without limitation, fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl.

(h) Notwithstanding any other law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

*(Amended by Stats. 2024, Ch. 701, Sec. 4. (AB 2136) Effective January 1, 2025.)*