

By Mr. Flynn of Hanover, petition of William J. Flynn, Jr., relative to the penalty for certain acts relating to drug paraphernalia. The Judiciary.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT PROVIDING CRIMINAL PENALTIES FOR CERTAIN ACTS RELATING TO DRUG PRAPHERNALIA.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section one of chapter 94C of the General Laws is  
2 hereby amended by inserting after the definition of "Drug", as  
3 appearing in section one of chapter 1071 of the acts of 1971, the  
4 following definition:—

5 "Drug Paraphernalia", all equipment, products, devices, and  
6 materials of any kind which are used, intended for use, or designed  
7 for use, essentially in planting, propagating, cultivating, growing,  
8 harvesting, manufacturing, compounding, converting, producing,  
9 processing, preparing, testing, analyzing, packaging, repackaging,  
10 storing, containing, concealing, injecting, ingesting, inhaling, or  
11 used, intended for use, or designed for use to introduce into the  
12 human body a controlled substance in violation of this chapter.

13 In determining whether an object is drug paraphernalia, a court  
14 or other authority shall consider, in addition to all other logically  
15 relevant factors, the following:—

16 (A) Statements by an owner or by anyone in control of the  
17 object concerning its use;

18 (B) The proximity of the object, in time and space, to a direct  
19 violation of this chapter;

20 (C) The proximity of the object to controlled substances;

21 (D) The existence of any residue of controlled substances on the  
22 object;

23 (E) Direct or circumstantial evidence of the intent of an owner,

24 or of anyone in control of the object, to sell it to persons whom he  
25 knows intend to use the object to facilitate a violation of this  
26 chapter; the innocence of an owner, or of anyone in control of the  
27 object; as to a direct violation of this chapter shall not prevent a  
28 finding that the object is intended for use, or designed for use as  
29 drug paraphernalia;

30 (F) Instructions, oral or written, provided with the object con-  
31 cerning its use;

32 (G) Descriptive materials accompanying the object which ex-  
33 plain or depict its use;

34 (H) National and local advertising concerning its use;

35 (I) The manner in which the object is displaying for sale;

36 (J) Whether the owner, or anyone in control of the object, is  
37 supplier of like or related items to the community, such as a  
38 licensed distributor or dealer of tobacco products;

39 (K) Direct or circumstantial evidence of the ratio of sales of the  
40 object(s) to the total sales of the business enterprise;

41 (L) The existence and scope of legitimate uses for the object in  
42 the community;

43 (M) Expert testimony concerning its use.

1 SECTION 2. Chapter 94C of the General Laws is hereby  
2 amended by inserting after section 32H, the following section:—

3 *Section 32I.* No person shall sell, possess with intent to sell, or  
4 manufacture with intent to sell drug paraphernalia, knowing, or  
5 under circumstances where one reasonably should know, that it  
6 will be used to plant, propagate, cultivate, grow, harvest, manufac-  
7 ture, compound, convert, produce, process, prepare, test, analyze,  
8 pack, repack, store, contain, conceal, inject, ingest, inhale, or  
9 otherwise introduce into the human body a controlled substance in  
10 violation of this chapter. Whoever violates any provision of this  
11 section shall be punished by imprisonment in jail or house of  
12 correction for not less than one or more than two years, or by a fine  
13 of not less than five hundred nor more than five thousand dollars,  
14 or both.

15 (b) Any person who violates the foregoing provision by selling  
16 drug paraphernalia to a person under eighteen years of age shall be  
17 imprisoned in the state prison for not less than three nor more than  
18 five years, or by a fine of not less than one thousand nor more than  
19 five thousand dollars, or both.

1 SECTION 3. Subsection (a) of section 47 of chapter 94C of the  
2 General Laws, as most recently amended by sections one to three  
3 inclusive of chapter 556 of the acts of 1977, is hereby further  
4 amended by inserting after subparagraph (5) as so appearing, the  
5 following:—

6 (6) all drug paraphernalia.

The first part of the report deals with the general conditions of the country during the year. It is noted that the weather was generally favorable, with a moderate amount of rain. The crops were well advanced, and the stock raising season was successful. The people were contented, and the government was well supported.

The second part of the report deals with the financial condition of the country. It is noted that the government has a surplus of funds, and that the people are generally well-to-do. The banks are well supplied with money, and the interest rate is low. The government has a good credit, and is able to borrow money at a low rate of interest.

The third part of the report deals with the social conditions of the country. It is noted that the people are generally well educated, and that there is a high degree of civilization. The government is well organized, and the laws are well enforced. The people are generally well behaved, and the country is well governed.

The fourth part of the report deals with the political conditions of the country. It is noted that the government is well supported, and that the people are generally well satisfied with the administration. The government has a good record, and is able to carry out its policies. The people are generally well informed, and the government is well advised.

The fifth part of the report deals with the military conditions of the country. It is noted that the army is well equipped, and that the people are generally well protected. The government has a good military, and is able to defend its territory. The people are generally well protected, and the country is well governed.

The sixth part of the report deals with the foreign relations of the country. It is noted that the country has a good reputation, and that the people are generally well respected. The government has a good foreign policy, and is able to maintain its independence. The people are generally well respected, and the country is well governed.