

Chap. 669. AN ACT PROVIDING CRIMINAL PENALTIES FOR CERTAIN ACTS RELATING TO DRUG PARAPHERNALIA.

Be it enacted, etc., as follows:

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

"Drug paraphernalia", all equipment, products, devices, and materials of any kind which are used, or 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.

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

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) The proximity of the object, in time and space, to a direct violation of this chapter;
- (c) The proximity of the object to controlled substances;
- (d) The existence of any residue of controlled substances on the object;
- (e) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to sell it to persons intending to use the object to facilitate a violation of this chapter, whether or not the owner, or anyone in control of the object, knows that the object is used or intended for use, as drug paraphernalia in a direct violation of this chapter.
- (f) Instructions, oral or written, provided with the object concerning its use;
- (g) Descriptive materials accompanying the object which explain or depict its use;
- (h) National and local advertising concerning its use;
- (i) The manner in which the object is displayed for sale;
- (j) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (k) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (l) The existence and scope of legitimate uses for the object

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in the community;

(m) Expert testimony concerning its use.

SECTION 2. Said chapter 94C is hereby further amended by inserting after section 32H the following section:-

Section 32I. (a) No person shall sell, possess with intent to sell, or manufacture with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be 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. Whoever violates any provision of this paragraph shall be punished by imprisonment in jail or house of correction for not less than one nor more than two years, or by a fine of not less than five hundred nor more than five thousand dollars, or both.

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

SECTION 3. Subsection (a) of section 47 of said chapter 94C, as amended by section 1 of chapter 556 of the acts of 1977, is hereby further amended by adding the following subparagraph:-

(6) All drug paraphernalia.

Approved December 22, 1981.

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Chap. 670. AN ACT FURTHER REGULATING THE DETERMINATION OF NEED FOR CERTAIN MEDICAL FACILITIES.

Be it enacted, etc., as follows:

SECTION 1. Section 25B of chapter 111 of the General Laws is hereby amended by striking out the definition of "Substantial capital expenditure", as most recently amended by section 2 of chapter 541 of the acts of 1980, and inserting in place thereof the following definition:-

"Substantial capital expenditure", (1) the expenditure, or obligation of a sum of money for construction of a health care facility (A) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made by lease or comparable arrangement, and (B) which exceeds, or may reasonably be regarded as leading to