

SB1097/683126/1

BY: Judiciary Committee

AMENDMENTS TO SENATE BILL 1097
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “**and**” and substitute a comma; in the same line, after “**Crimes**” insert “, **and Drug Paraphernalia**”; strike beginning with “classifying” in line 6 down through the second “firearm” in line 7 and substitute “altering the penalties for certain offenses involving drug paraphernalia and controlled paraphernalia; repealing the prohibition on possessing controlled paraphernalia under certain circumstances; removing intent to administer a controlled dangerous substance from a certain list of intents; establishing an exemption for a certain person who enters or trespasses on real property while wearing, carrying, or transporting a firearm under certain circumstances”; in line 15, strike “**and**” and substitute a comma; in the same line, after “crimes” insert “, and drug paraphernalia”; and in line 18, strike “and 7-104” and substitute “, 5-619(c) and (d), 5-620(a)(2), (b), and (d), 6-411”.

On page 2, in line 5, after “(e)” insert “, 5-101(a) and (h), and 5-620(a)(1)”.

AMENDMENT NO. 2

On page 3, after line 14, insert:

“5-101.

(a) In this title the following words have the meanings indicated.

(h) “Controlled paraphernalia” means:

(1) a hypodermic syringe, needle, or any other object or combination of objects adapted to administer a controlled dangerous substance by hypodermic injection;

(2) a gelatin capsule, glassine envelope, or other container suitable for packaging individual quantities of a controlled dangerous substance; or

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(3) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine hydrochloride, or any other substance suitable as a diluent or adulterant.

5-619.

(c) (1) Unless authorized under this title, a person may not use or possess with intent to use drug paraphernalia to:

(i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance; or

(ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding \$500; and

(ii) for each subsequent violation, imprisonment not exceeding [2 years] **1 YEAR** or a fine not exceeding [\$2,000] **\$1,000** or both.

(3) A person who is convicted of violating this subsection for the first time and who previously has been convicted of violating subsection (d)(4) of this section is subject to the penalty specified under paragraph (2)(ii) of this subsection.

(d) (1) Unless authorized under this title, a person may not deliver or sell, or manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that the drug paraphernalia will be used to:

(i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance; or

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(ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding \$500; and

(ii) for each subsequent violation, imprisonment not exceeding [2 years] 1 YEAR or a fine not exceeding [\$2,000] \$1,000 or both.

(3) A person who is convicted of violating this subsection for the first time and who previously has been convicted of violating paragraph (4) of this subsection is subject to imprisonment not exceeding 2 years or a fine not exceeding \$2,000 or both.

(4) If a person who is at least 18 years old violates paragraph (1) of this subsection by delivering drug paraphernalia to a minor who is at least 3 years younger than the person, the person is guilty of a separate misdemeanor and on conviction is subject to imprisonment not exceeding 8 years or a fine not exceeding \$15,000 or both.

5-620.

(a) Unless authorized under this title, a person may not:

(1) obtain or attempt to obtain controlled paraphernalia by:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) counterfeiting a prescription or a written order;

(iii) concealing a material fact or the use of a false name or address;

(iv) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or

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(v) making or issuing a false or counterfeit prescription or written order; or

(2) [possess or] distribute controlled paraphernalia under circumstances which reasonably indicate an intention to use the controlled paraphernalia for purposes of illegally administering a controlled dangerous substance.

(b) Evidence of circumstances that reasonably indicate an intent to use controlled paraphernalia to manufacture, [administer,] distribute, or dispense a controlled dangerous substance unlawfully include the close proximity of the controlled paraphernalia to an adulterant, diluent, or equipment commonly used to illegally manufacture, [administer,] distribute, or dispense controlled dangerous substances, including:

- (1) a scale;
- (2) a sieve;
- (3) a strainer;
- (4) a measuring spoon;
- (5) staples;
- (6) a stapler;
- (7) a glassine envelope;
- (8) a gelatin capsule;
- (9) procaine hydrochloride;
- (10) mannitol;
- (11) lactose;
- (12) quinine; and

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(13) a controlled dangerous substance.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$500; AND

(2) FOR EACH SUBSEQUENT VIOLATION, imprisonment not exceeding [4 years] 1 YEAR or a fine not exceeding [\$25,000] \$1,000 or both.

6-411.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Dwelling” means a building or part of a building that provides living or sleeping facilities for one or more individuals.

(ii) “Dwelling” does not include:

1. common elements of a condominium, as defined in § 11-101 of the Real Property Article;

2. property of a cooperative housing corporation other than a unit as defined in § 5-6B-01 of the Corporations and Associations Article; or

3. common areas of a multifamily dwelling as defined in § 12-203 of the Public Safety Article.

(3) “Firearm” has the meaning stated in § 4-104 of this article.

(4) “Law enforcement official” has the meaning stated in § 4-201 of this article.

(5) “Police officer” has the meaning stated in § 3-201 of the Public Safety Article.

(6) (i) “Property” means a building.

(Over)

(ii) “Property” does not include the land adjacent to a building.

(b) This section does not apply to:

(1) a law enforcement official or police officer;

(2) an on-duty employee of a law enforcement agency authorized by the agency to possess firearms on duty or whose duty assignment involves the possession of firearms;

(3) a member of the armed forces of the United States, the National Guard, or the uniformed services on duty or traveling to or from duty;

(4) a correctional officer or warden of a correctional facility in the State;

(5) the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other property interest that allows public access on or through the real property; [or]

(6) the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other property interest allowing access on or through the real property by:

(i) the holder of the easement, right-of-way, servitude, or other property interest; or

(ii) a guest or assignee of the holder of the easement, right-of-way, servitude, or other property interest; OR

(7) A PERSON WHO HAS RETIRED AS A LAW ENFORCEMENT OFFICIAL IN GOOD STANDING FROM A LAW ENFORCEMENT AGENCY OF THE UNITED STATES, THE STATE OR ANOTHER STATE, OR A LOCAL UNIT IN THE STATE OR ANOTHER STATE WHO POSSESSES A FIREARM, IF:

(i) 1. THE PERSON IS CARRYING THE PERSON’S BADGE OR CREDENTIAL IN COMPLIANCE WITH THE REQUIREMENTS OF THE BADGE OR CREDENTIAL;

2. THE FIREARM CARRIED OR POSSESSED BY THE PERSON IS CONCEALED FROM VIEW UNDER OR WITHIN AN ARTICLE OF THE PERSON'S CLOTHING; AND

3. THE PERSON IS AUTHORIZED TO CARRY A HANDGUN UNDER THE LAWS OF THE STATE OR THE UNITED STATES; OR

(II) 1. THE PERSON POSSESSES A VALID PERMIT TO WEAR, CARRY, OR TRANSPORT A HANDGUN ISSUED UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE; AND

2. THE FIREARM CARRIED OR POSSESSED BY THE PERSON IS CONCEALED FROM VIEW UNDER OR WITHIN AN ARTICLE OF THE PERSON'S CLOTHING.

(c) A person wearing, carrying, or transporting a firearm may not enter or trespass in the dwelling of another unless the owner or the owner's agent has given express permission, either to the person or to the public generally, to wear, carry, or transport a firearm inside the dwelling.

(d) A person wearing, carrying, or transporting a firearm may not:

(1) enter or trespass on property unless the owner or the owner's agent has posted a clear and conspicuous sign indicating that it is permissible to wear, carry, or transport a firearm on the property; or

(2) enter or trespass on property unless the owner or the owner's agent has given the person express permission to wear, carry, or transport a firearm on the property.

(e) A person who willfully violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

(f) (1) A conviction under this section may not merge with a conviction for any other crime based on the act establishing the violation of this section.

(Over)

(2) A sentence imposed under this section may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of this section.”.

On pages 3 through 7, strike in their entirety the lines beginning with line 15 on page 3 through line 18 on page 7, inclusive.