

CHAPTER 224

AN ACT concerning harm reduction supplies, and amending N.J.S.2C:36-1 and P.L.2021, c.396.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2C:36-1 is amended to read as follows:

Drug paraphernalia, defined; determination.

2C:36-1. Drug paraphernalia, defined; determination.

- a. As used in this act:

“Drug paraphernalia” means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, or concealing, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance, controlled substance analog or toxic chemical, other than marijuana, hashish, or harm reduction supplies, in violation of the provisions of chapter 35 of this title. In no case shall “drug paraphernalia” include “harm reduction supplies” as defined in this subsection. “Drug paraphernalia” shall include, but not be limited to:

(1) kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant, other than the plant *Cannabis sativa* L., which is a controlled dangerous substance or from which a controlled dangerous substance can be derived;

(2) kits used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled dangerous substances or controlled substance analogs;

(3) isomerization devices used or intended for use in increasing the potency of any species of plant, other than the plant *Cannabis sativa* L., which is a controlled dangerous substance;

(4) (Deleted by amendment, P.L.2023, c.224)

(5) scales and balances used or intended for use in weighing or measuring controlled dangerous substances or controlled substance analogs;

(6) dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances or controlled substance analogs, unless provided by an entity authorized to provide harm reduction services in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et al.);

(7) blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances or controlled substance analogs, unless provided by an entity authorized to provide harm reduction services in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et al.);

(8) capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances or controlled substance analogs;

(9) containers and other objects used or intended for use in storing or concealing controlled dangerous substances, controlled substance analogs or toxic chemicals; and

(10) objects used or intended for use in ingesting, inhaling, or otherwise introducing cocaine, nitrous oxide or the fumes of a toxic chemical, other than marijuana or hashish, into the human body, unless provided by an entity authorized to provide harm reduction services in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et al.), such as (a) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, 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 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; (n) compressed gas containers, such as tanks, cartridges or canisters, that contain food grade or pharmaceutical grade nitrous oxide as a principal ingredient; (o) chargers or charging bottles, meaning metal, ceramic or plastic devices that contain an interior pin that may be used to expel compressed gas from a cartridge or canister; and (p) tubes, balloons, bags, fabrics, bottles or other containers used to concentrate or hold in suspension a toxic chemical or the fumes of a toxic chemical.

“Harm reduction supplies” means any materials or equipment used or intended for use in preventing, reducing, or mitigating the adverse effects associated with the personal use of controlled dangerous substances, controlled substance analogs, or toxic chemicals, which adverse effects may include, but are not limited to, disease transmission and overdose. “Harm reduction supplies” include, but shall not be limited to: naloxone hydrochloride and other opioid antidotes; test strips and other supplies or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances, controlled substance analogs, toxic chemicals, or other substances used to potentiate or enhance the effects of controlled dangerous substances, controlled substance analogs, or toxic chemicals; and supplies or equipment provided by an entity authorized to provide harm reduction services in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et al.).

b. In determining whether or not an object is drug paraphernalia, the trier of fact, in addition to or as part of the proofs, may consider the following factors:

- (1) (a) statements by an owner or by anyone in control of the object concerning its use;
- (b) the proximity of the object to illegally possessed controlled dangerous substances, controlled substance analogs or toxic chemicals;
- (c) the existence of any residue of illegally possessed controlled dangerous substances, controlled substance analogs or toxic chemicals on the object;
- (d) direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the owner or person in control of the object knows intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use as drug paraphernalia;
- (e) instructions, oral or written, provided with the object concerning its use;
- (f) descriptive materials accompanying the object which explain or depict its use;
- (g) national or local advertising whose purpose the person knows or should know is to promote the sale of objects intended for use as drug paraphernalia;
- (h) the manner in which the object is displayed for sale;
- (i) the existence and scope of legitimate uses for the object in the community;
- (j) expert testimony concerning its use; and
- (k) any indicia demonstrating that an object falls within the definition of “harm reduction supplies” as set forth in subsection a. of this section or was obtained from or provided by an authorized harm reduction services program in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et al.).

(2) If an object appears to be for use, intended for use, or designed for use with cannabis or cannabis items in accordance with the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.), the object is presumed to be a lawful cannabis paraphernalia as defined in section 3 of P.L.2021, c.16 (C.24:6I-33), and does not alone constitute reasonable articulable suspicion that the object is a drug paraphernalia, notwithstanding that the object could also be used with an illegal controlled substance or controlled substance analog, unless the owner or any other person in

proximity to or in control of the object was in possession of an illegal controlled dangerous substance or controlled substance analog, or the object was in proximity of an illegally possessed controlled dangerous substance or controlled substance analog to indicate its use, intended use, or design for use with that controlled dangerous substance or controlled substance analog.

c. Notwithstanding subsection a. of this section, it shall not be unlawful for a person to use, possess, distribute, or possess with the intent to use or distribute, a hypodermic needle or syringe for the personal use of a controlled substance. This provision shall extend to a hypodermic syringe or needle that contains a residual amount of a controlled dangerous substance or controlled substance analog.

2. Section 1 of P.L.2021, c.396 (C.26:5C-26.1) is amended to read as follows:

C.26:5C-26.1 Definitions.

1. As used in P.L.2006, c.99 (C.26:5C-25 et al.):

"Authorized harm reduction services" means a suite of harm reduction services, approved by the Department of Health and provided in a manner that is consistent with State and federal law, which services shall include, but shall not be limited to: syringe access, syringe disposal, referrals to health and social services, harm reduction counseling and supplies including, but not limited to, fentanyl test strips, and HIV and hepatitis C testing.

"Eligible entity" means a federally qualified health center, a public health agency, a substance use disorder treatment program, an AIDS service organization, or another entity with the capacity to provide harm reduction services as determined by the Department of Health.

"Harm reduction supplies" means any materials or equipment used or intended for use in preventing, reducing, or mitigating the adverse effects associated with the personal use of controlled dangerous substances, controlled substance analogs, or toxic chemicals, which adverse effects may include, but are not limited to, disease transmission and overdose. "Harm reduction supplies" include, but shall not be limited to: naloxone hydrochloride and other opioid antidotes; test strips and other supplies or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances, controlled substance analogs, toxic chemicals, or other substances used to potentiate or enhance the effects of controlled dangerous substances, controlled substance analogs, or toxic chemicals; and supplies or equipment provided by an authorized harm reduction services program in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et al.) and any rules promulgated pursuant to P.L.2006, c.99 (C.26:5C-25 et al.) by the Commissioner of Health.

3. This act shall take effect immediately.

Approved January 8, 2024.