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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE NO. 386

January 29, 2009
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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

A bill for an act

relating to public safety; amending the drug paraphernalia crime to change the mental state requirement, specifically address sales of drug paraphernalia, and consolidate certain drug paraphernalia crimes into a single statutory section; prohibiting the possession of certain items associated with controlled substance use; imposing criminal penalties; amending Minnesota Statutes 2008, sections 152.01, subdivision 18; 152.093; proposing coding for new law in Minnesota Statutes, chapter 152; repealing Minnesota Statutes 2008, section 152.094.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 152.01, subdivision 18, is amended to read:

Subd. 18. **Drug paraphernalia.** (a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are ~~knowingly or intentionally~~ used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

(b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes in accordance with section 151.40, subdivision 2.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2008, section 152.093, is amended to read:

152.093 ~~MANUFACTURE OR DELIVERY~~ SALE OF DRUG PARAPHERNALIA PROHIBITED.

Subdivision 1. **Sales generally.** (a) It is unlawful for any person ~~knowingly or intentionally~~ to ~~deliver~~ sell drug paraphernalia ~~or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery.~~, knowing or having reason to know, that the item will be used primarily to:

(1) manufacture a controlled substance;

(2) inject, ingest, inhale, or otherwise introduce into the human body a controlled substance;

(3) test the strength, effectiveness, or purity of a controlled substance; or

(4) enhance the effect of a controlled substance.

(b) Any violation of this ~~section~~ subdivision is a misdemeanor.

Subd. 2. **Sales to minor.** Any person 18 years of age or older who violates subdivision 1 by selling drug paraphernalia to a person under 18 years of age who is at least three years younger is guilty of a gross misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 3. **[152.0955] PROHIBITION ON POSSESSION OF CERTAIN ITEMS ASSOCIATED WITH CONTROLLED SUBSTANCE USE.**

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given.

(1) "Bong" means any pipe or smoking device, commonly referred to as a bong or water bong, having one tube that attaches to or is part of the pipe or device, that allows for a smoked product to be drawn from a reservoir or bowl, through a quantity of water or other liquid substance, or through another tube or opening on the pipe or device.

(2) "Dugout" means a storage device, commonly referred to as a dugout, designed with separate reservoirs for marijuana and a one-hit pipe.

(3) "Glass pipe" means any pipe or smoking device that is made of glass and that has a reservoir capable of holding controlled substances for ingestion.

(4) "Marijuana pipe" means any pipe or smoking device, except for a traditional pipe, that is made of solid material, including ivory, onyx, glass, metal, stone, or any other material, having a reservoir and a direct channel or a channel filtered by a screen, leading to an open end, commonly known as a bowl.

(5) "One-hit pipe" means any pipe or smoking device that consists of a reservoir on one end, with a direct channel or a channel filtered by a screen that leads to the opposite end, designed as a linear device, and without a separately attached bowl or reservoir.

(6) "Traditional pipe" means a smoking device that has a sole use for consumption of tobacco, not containing a screen in the bowl section, such as a corncob pipe.

Subd. 2. **Possession prohibited.** A person who knowingly possesses a bong, dugout, glass pipe, marijuana pipe, or one-hit pipe is guilty of a petty misdemeanor.

Subd. 3. **Exception.** Nothing in this section prohibits the possession of a traditional pipe or smoking device, commonly referred to as a hookah, that has a sole use for consumption of tobacco, with multiple tubes that allow for tobacco smoke to be drawn from a reservoir or bowl, through a quantity of water or other liquid substance, or through another tube or opening on the pipe or device.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 4. **REPEALER.**

Minnesota Statutes 2008, section 152.094, is repealed.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.