
By: **Delegates Finifter, Morhaim, Zirkin, and Cole**
Introduced and read first time: February 11, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Drug Paraphernalia - Determining Factors**

3 FOR the purpose of repealing certain factors that a court or other authority should
4 consider in determining whether an object is drug paraphernalia; and generally
5 relating to drug paraphernalia.

6 BY repealing and reenacting, with amendments,
7 Article 27 - Crimes and Punishments
8 Section 287A(b)
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1999 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article 27 - Crimes and Punishments
13 Section 287A(c)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1999 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article 27 - Crimes and Punishments**

19 287A.

20 (b) In determining whether an object is drug paraphernalia, a court or other
21 authority should consider, in addition to all other logically relevant factors, the
22 following:

23 (1) Statements by an owner or by anyone in control of the object
24 concerning its use;

25 (2) Prior convictions, if any, of an owner, or of anyone in control of the
26 object, under any State or federal law relating to any controlled dangerous substance;

1 (3) The proximity of the object, in time and space, to a direct violation of
2 this section or to a controlled dangerous substance;

3 (4) The existence of any residue of controlled dangerous substances on
4 the object;

5 (5) Direct or circumstantial evidence of the intent of an owner, or of
6 anyone in control of the object, to deliver it to persons whom he knows, or should
7 reasonably know, intend to use the object to facilitate a violation of this section; the
8 innocence of an owner, or of anyone in control of the object, as to a direct violation of
9 this section shall not prevent a finding that the object is intended for use, or designed
10 for use as drug paraphernalia;

11 [(6) Instructions, oral or written, provided with the object concerning its
12 use;

13 (7) Descriptive materials accompanying the object which explain or
14 depict its use;]

15 [(8)] (6) National and local advertising concerning its use;

16 [(9)] (7) The manner in which the object is displayed for sale;

17 [(10) Whether the owner, or anyone in control of the object, is a legitimate
18 supplier of like or related items to the community, such as a licensed distributor or
19 dealer of tobacco products;

20 (11)] (8) Direct or circumstantial evidence of the ratio of sales of the
21 object or objects to the total sales of the business enterprise;

22 [(12)] (9) The existence and scope of legitimate uses for the object in the
23 community;

24 [(13)] (10) Expert testimony concerning its use.

25 (c) It is unlawful for any person to use, or to possess with intent to use, drug
26 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound,
27 convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal,
28 inject, ingest, inhale, or otherwise introduce into the human body a controlled
29 dangerous substance in violation of this subheading. Any person who violates this
30 subsection is guilty of a misdemeanor and upon conviction for a first offense may be
31 fined not more than \$500. A person who is convicted of a subsequent violation of this
32 subsection may be imprisoned for not more than 2 years or fined not more than
33 \$2,000 or both. Any person convicted of violating this subsection who previously has
34 been convicted of violating subsection (d)(2) shall be subject to the same penalties
35 specified for subsequent violations of this subsection.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2000.