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By: **Delegate O'Donnell**

Introduced and read first time: February 13, 1998

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Drug Paraphernalia - Cigarette Rolling Papers**

3 FOR the purpose of adding cigarette rolling papers to the definition of drug  
4 paraphernalia for purposes of prohibitions relating to the use, possession with  
5 certain intent, delivery, sale, manufacture, or advertisement of drug  
6 paraphernalia; and generally relating to drug paraphernalia.

7 BY repealing and reenacting, with amendments,  
8 Article 27 - Crimes and Punishments  
9 Section 287A  
10 Annotated Code of Maryland  
11 (1996 Replacement Volume and 1997 Supplement)

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

14 **Article 27 - Crimes and Punishments**

15 287A.

16 (a) As used in this section, the term "drug paraphernalia" means all  
17 equipment, products, and materials of any kind which are used, intended for use, or  
18 designed for use, in planting, propagating, cultivating, growing, harvesting,  
19 manufacturing, compounding, converting, producing, processing, preparing, testing,  
20 analyzing, packaging, repackaging, storing, containing, concealing, injecting,  
21 ingesting, inhaling, or otherwise introducing into the human body a controlled  
22 dangerous substance in violation of this subheading. It includes but is not limited to:

23 (1) Kits used, intended for use, or designed for use in planting,  
24 propagating, cultivating, growing, or harvesting of any species of plant which is a  
25 controlled dangerous substance or from which a controlled dangerous substance can  
26 be derived;

1           (2)     Kits used, intended for use, or designed for use in manufacturing,  
2 compounding, converting, producing, processing, or preparing controlled dangerous  
3 substances;

4           (3)     Isomerization devices used, intended for use, or designed for use in  
5 increasing the potency of any species of plant which is a controlled dangerous  
6 substance;

7           (4)     Testing equipment used, intended for use, or designed for use in  
8 identifying, or in analyzing the strength, effectiveness, or purity of controlled  
9 dangerous substances;

10          (5)     Scales and balances used, intended for use, or designed for use in  
11 weighing or measuring controlled dangerous substances;

12          (6)     Diluents and adulterants, such as quinine hydrochloride, mannitol,  
13 mannite, dextrose and lactose, used, intended for use, or designed for use in cutting  
14 controlled dangerous substances;

15          (7)     Separation gins and sifters used, intended for use, or designed for use  
16 in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

17          (8)     Blenders, bowls, containers, spoons and mixing devices used,  
18 intended for use, or designed for use in compounding controlled dangerous  
19 substances;

20          (9)     Capsules, balloons, envelopes and other containers used, intended for  
21 use, or designed for use in packaging small quantities of controlled dangerous  
22 substances;

23          (10)    Containers and other objects used, intended for use, or designed for  
24 use in storing or concealing controlled dangerous substances;

25          (11)    Hypodermic syringes, needles and other objects used, intended for  
26 use, or designed for use in parenterally injecting controlled dangerous substances into  
27 the human body; AND

28          (12)    Objects used, intended for use, or designed for use in ingesting,  
29 inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the  
30 human body, such as:

31               (i)     Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes  
32 with or without screens, permanent screens, hashish heads, or punctured metal  
33 bowls;

34               (II)    CIGARETTE ROLLING PAPERS;

35               [(ii)]   (III)   Water pipes;

36               [(iii)]   (IV)   Carburetion tubes and devices;

- 1                    [(iv)]    (V)    Smoking and carburetion masks;
- 2                    [(v)]    (VI)   Roach clips: meaning objects used to hold burning  
3 material, such as a marijuana cigarette, that has become too small or too short to be  
4 held in the hand;
- 5                    [(vi)]    (VII)   Miniature cocaine spoons, and cocaine vials;
- 6                    [(vii)]   (VIII) Chamber pipes;
- 7                    [(viii)]   (IX)   Carburetor pipes;
- 8                    [(ix)]    (X)    Electric pipes;
- 9                    [(x)]    (XI)   Air-driven pipes;
- 10                   [(xi)]    (XII)   Chillums;
- 11                   [(xii)]   (XIII) Bong; AND
- 12                   [(xiii)]   (XIV)   Ice pipes or chillers.

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

- 16                    (1)        Statements by an owner or by anyone in control of the object  
17 concerning its use;
- 18                    (2)        Prior convictions, if any, of an owner, or of anyone in control of the  
19 object, under any State or federal law relating to any controlled dangerous substance;
- 20                    (3)        The proximity of the object, in time and space, to a direct violation of  
21 this section or to a controlled dangerous substance;
- 22                    (4)        The existence of any residue of controlled dangerous substances on  
23 the object;
- 24                    (5)        Direct or circumstantial evidence of the intent of an owner, or of  
25 anyone in control of the object, to deliver it to persons whom he knows, or should  
26 reasonably know, intend to use the object to facilitate a violation of this section; the  
27 innocence of an owner, or of anyone in control of the object, as to a direct violation of  
28 this section shall not prevent a finding that the object is intended for use, or designed  
29 for use as drug paraphernalia;
- 30                    (6)        Instructions, oral or written, provided with the object concerning its  
31 use;
- 32                    (7)        Descriptive materials accompanying the object which explain or  
33 depict its use;

- 1 (8) National and local advertising concerning its use;
- 2 (9) The manner in which the object is displayed for sale;
- 3 (10) Whether the owner, or anyone in control of the object, is a legitimate  
4 supplier of like or related items to the community, such as a licensed distributor or  
5 dealer of tobacco products;
- 6 (11) Direct or circumstantial evidence of the ratio of sales of the object or  
7 objects to the total sales of the business enterprise;
- 8 (12) The existence and scope of legitimate uses for the object in the  
9 community; and
- 10 (13) Expert testimony concerning its use.

11 (c) It is unlawful for any person to use, or to possess with intent to use, drug  
12 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound,  
13 convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal,  
14 inject, ingest, inhale, or otherwise introduce into the human body a controlled  
15 dangerous substance in violation of this subheading. Any person who violates this  
16 subsection is guilty of a misdemeanor and upon conviction for a first offense may be  
17 fined not more than \$500. A person who is convicted of a subsequent violation of this  
18 subsection may be imprisoned for not more than 2 years or fined not more than  
19 \$2,000 or both. Any person convicted of violating this subsection who previously has  
20 been convicted of violating subsection (d)(2) shall be subject to the same penalties  
21 specified for subsequent violations of this subsection.

22 (d) (1) It is unlawful for any person to deliver or sell, possess with intent to  
23 deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia,  
24 knowing, or under circumstances where one reasonably should know, that it will be  
25 used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
26 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,  
27 ingest, inhale, or otherwise introduce into the human body a controlled dangerous  
28 substance in violation of this subheading. Any person who violates this subsection is  
29 guilty of a misdemeanor and upon conviction for a first offense may be fined not more  
30 than \$500. A person who is convicted of a subsequent violation of this subsection may  
31 be imprisoned for not more than 2 years or fined not more than \$2,000 or both. Any  
32 person convicted of violating this subsection who previously has been convicted of  
33 violating paragraph (2) of this subsection shall be subject to the same penalties  
34 specified for subsequent violations of this subsection.

35 (2) Any person 18 years of age or over who violates paragraph (1) of this  
36 subsection by delivering drug paraphernalia to a person under 18 years of age who is  
37 at least 3 years his junior is guilty of a separate offense and upon conviction may be  
38 imprisoned for not more than 8 years, fined not more than \$15,000, or both.

39 (e) (1) It is unlawful for any person to advertise in any newspaper,  
40 magazine, handbill, poster, sign, mailing, or other writing or publication, or by sound  
41 truck, knowing, or under circumstances where one reasonably should know, that the

1 purpose of the advertisement, in whole or in part, is to promote the sale or delivery of  
2 drug paraphernalia.

3           (2) Any person who violates this subsection is guilty of a misdemeanor  
4 and upon conviction for a first offense may be fined not more than \$500. A person who  
5 is convicted of a subsequent violation of this subsection may be imprisoned for not  
6 more than 2 years or fined not more than \$2,000, or both.

7       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 1998.