POSSESSION OF DRUG PARAPHERNALIA

I. *Drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use, or customarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injection, ingesting, inhaling, or otherwise introducing into the human body a "controlled drug " (as defined in RSA 318-B:1, VI) in violation of state statutes.

II. It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia knowing that it has been used or is customarily intended to be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body "controlled drugs" (as defined in RSA 318-B:1, VI) in violation of state statutes. Any person violating this section shall be guilty of a violation and subject to a fine of $155.00.

III. Determination
In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior convictions, if any, of an owner or of anyone in control of the object under any state or federal law relating to any controlled substances.
3. The proximity of the object, in time and space, to a direct violation of state statutes.
4. The proximity of the object to controlled substances.
5. The existence of any residue of controlled substances on the object.
6. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intended for use or designed for use as drug paraphernalia.
7. Instructions, oral or written, provided with the object concerning its use.
8. Descriptive materials accompanying the object which explain or depict its use.

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(9) National and local advertising concerning its use.
(10) The manner in which the object is displayed for sale.
(11) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
(12) Whether the object is customarily intended for use as drug paraphernalia and the existence and scope of other legitimate uses for the object in the community.
(13) Expert testimony concerning its use

Approved: 4/3/15

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