

House Bill 2451

Sponsored by Representative NOSSE; Representative MCLAIN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Exempts from drug paraphernalia prohibitions any testing equipment that analyzes substances for presence of specified controlled substances.

A BILL FOR AN ACT

1
2 Relating to controlled substances; amending ORS 475.525.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 475.525 is amended to read:

5 475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver
6 or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to
7 unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
8 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or other-
9 wise introduce into the human body a controlled substance as defined by ORS 475.005.

10 (2) For the purposes of this section, "drug paraphernalia" means all equipment, products and
11 materials of any kind that are marketed for use or designed for use in planting, propagating, culti-
12 vating, growing, harvesting, manufacturing, compounding, converting, producing, processing, pre-
13 paring, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting,
14 ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation
15 of ORS 475.752 to 475.980. Drug paraphernalia includes, but is not limited to:

16 (a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating,
17 growing or harvesting of any species of plant that is a controlled substance or from which a con-
18 trolled substance can be derived;

19 (b) Kits marketed for use or designed for use in manufacturing, compounding, converting,
20 producing, processing or preparing controlled substances;

21 (c) Isomerization devices marketed for use or designed for use in increasing the potency of any
22 species of plant that is a controlled substance;

23 (d) Testing equipment marketed for use or designed for use in identifying or in analyzing the
24 strength, effectiveness or purity of controlled substances;

25 (e) Scales and balances marketed for use or designed for use in weighing or measuring con-
26 trolled substances;

27 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and
28 lactose, marketed for use or designed for use in cutting controlled substances;

29 (g) Lighting equipment specifically designed for growing controlled substances;

30 (h) Containers and other objects marketed for use or designed for use in storing or concealing
31 controlled substances; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (i) Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise
2 introducing a controlled substance into the human body, such as:

3 (A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens;

4 (B) Water pipes;

5 (C) Carburetion tubes and devices;

6 (D) Smoking and carburetion masks;

7 (E) Roach clips, meaning objects used to hold burning material that has become too small or too
8 short to be held in the hand;

9 (F) Miniature cocaine spoons and cocaine vials;

10 (G) Chamber pipes;

11 (H) Carburetor pipes;

12 (I) Electric pipes;

13 (J) Air-driven pipes;

14 (K) Chillums;

15 (L) Bonges; and

16 (M) Ice pipes or chillers.

17 (3) For purposes of this section, “drug paraphernalia” does not include:

18 (a) Hypodermic syringes or needles.

19 (b) **Any testing equipment marketed, designed, used or intended to be used to analyze a**
20 **substance for the presence of fentanyl, an analog of fentanyl, ketamine or gamma-**
21 **hydroxybutyric acid.**

22 (4) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the pro-
23 visions of ORS 475.125 or to persons specified as exempt from registration under the provisions of
24 that statute.

25 (5)(a) The provisions of ORS 475.525 to 475.565 do not apply to a person who sells or delivers
26 marijuana paraphernalia as defined in ORS 475C.373 to a person 21 years of age or older.

27 (b) In determining whether an object is drug paraphernalia under this section or marijuana
28 paraphernalia under ORS 475C.373, a trier of fact shall consider, in addition to any other relevant
29 factor, the following:

30 (A) Any oral or written instruction provided with the object related to the object’s use;

31 (B) Any descriptive material packaged with the object that explains or depicts the object’s use;

32 (C) Any national or local advertising related to the object’s use;

33 (D) Any proffered expert testimony related to the object’s use;

34 (E) The manner in which the object is displayed for sale, if applicable; and

35 (F) Any other proffered evidence substantiating the object’s intended use.

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