



2023 South Dakota Legislature  
**House Bill 1041**  
**ENROLLED**

AN ACT

**ENTITLED An Act to provide an exception to the definition of drug paraphernalia.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1. That § 22-42A-1 be AMENDED:**

**22-42A-1.** For purposes of this chapter, the term, drug paraphernalia, means any equipment, product, or material that is primarily used, intended for use, or designed for use by the person in possession of it, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled substance or marijuana in violation of the provisions of this chapter. Drug paraphernalia includes:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or marijuana or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of marijuana or any species of plant that is a controlled substance;
- (4) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (5) Diluents and adulterants, including quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (6) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

- (7) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or marijuana;
- (8) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or marijuana;
- (9) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
- (10) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, including:
  - (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - (b) Water pipes;
  - (c) Carburetion tubes and devices;
  - (d) Smoking and carburetion masks;
  - (e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
  - (f) Miniature cocaine spoons and cocaine vials;
  - (g) Chamber pipes;
  - (h) Carburetor pipes;
  - (i) Electric pipes;
  - (j) Air-driven pipes;
  - (k) Chillums;
  - (l) Bongs; and
  - (m) Ice pipes or chillers.

For purposes of this chapter, drug paraphernalia does not include a product that detects the presence of fentanyl or a fentanyl analog in a controlled substance.

An Act to provide an exception to the definition of drug paraphernalia.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
House as Bill No. 1041

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2023 at \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk

By \_\_\_\_\_  
for the Governor

\_\_\_\_\_  
Speaker of the House

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2023

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
President of the Senate

Attest:

Filed \_\_\_\_\_, 2023  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Secretary of State

House Bill No. 1041  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State