

2023 South Dakota Legislature

House Bill 1041**AMENDMENT 1041A
FOR THE INTRODUCED BILL**

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

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

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

4 **22-42A-1.** ~~The~~For purposes of this chapter, the term, drug paraphernalia, means
5 any equipment, ~~products, and materials of any kind which are~~ product, or material that is
6 primarily used, intended for use, or designed for use by the person in possession of ~~them~~it,
7 in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding,
8 converting, producing, processing, preparing, testing, analyzing, packaging, repackaging,
9 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
10 the human body any controlled substance or marijuana in violation of the provisions of
11 this chapter. ~~It~~Drug paraphernalia includes, ~~but is not limited to:~~

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

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

29 ~~For purposes of this chapter, drug paraphernalia does not include a product that~~
30 ~~detects the presence of fentanyl or a fentanyl analog in a controlled substance. For~~
31 ~~purposes of this chapter, drug paraphernalia does not include a test strip, device or other~~
32 ~~testing equipment or product used, intended for use, or designed for use in identifying or~~
33 ~~analyzing the strength, presence, or purity of a controlled substance, toxic substance, or~~
34 ~~hazardous compound, including fentanyl or a fentanyl analogue.~~