



Rep. Arthur L. Turner

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09600HB6234ham002

LRB096 18708 RLC 39039 a

1 AMENDMENT TO HOUSE BILL 6234

2 AMENDMENT NO. _____. Amend House Bill 6234, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Drug Paraphernalia Control Act is amended
6 by changing Sections 2 and 4 as follows:

7 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

8 Sec. 2. As used in this Act, unless the context otherwise
9 requires:

10 (a) The term "cannabis" shall have the meaning ascribed to
11 it in Section 3 of the Cannabis Control Act, as if that
12 definition were incorporated herein.

13 (b) The term "controlled substance" shall have the meaning
14 ascribed to it in Section 102 of the Illinois Controlled
15 Substances Act, as if that definition were incorporated herein.

16 (c) "Deliver" or "delivery" means the actual, constructive

1 or attempted transfer of possession, with or without
2 consideration, whether or not there is an agency relationship.

3 (d) "Drug paraphernalia" means all equipment, products and
4 materials of any kind, other than methamphetamine
5 manufacturing materials as defined in Section 10 of the
6 Methamphetamine Control and Community Protection Act, which
7 are intended to be used unlawfully in planting, propagating,
8 cultivating, growing, harvesting, manufacturing, compounding,
9 converting, producing, processing, preparing, testing,
10 analyzing, packaging, repackaging, storing, containing,
11 concealing, injecting, ingesting, inhaling or otherwise
12 introducing into the human body cannabis or a controlled
13 substance in violation of the Cannabis Control Act, the
14 Illinois Controlled Substances Act, or the Methamphetamine
15 Control and Community Protection Act. It includes, but is not
16 limited to:

17 (1) kits intended to be used unlawfully in
18 manufacturing, compounding, converting, producing,
19 processing or preparing cannabis or a controlled
20 substance;

21 (2) isomerization devices intended to be used
22 unlawfully in increasing the potency of any species of
23 plant which is cannabis or a controlled substance;

24 (3) testing equipment intended to be used unlawfully in
25 a private home for identifying or in analyzing the
26 strength, effectiveness or purity of cannabis or

1 controlled substances;

2 (4) diluents and adulterants intended to be used
3 unlawfully for cutting cannabis or a controlled substance
4 by private persons;

5 (5) objects intended to be used unlawfully in
6 ingesting, inhaling, or otherwise introducing cannabis,
7 cocaine, hashish, or hashish oil into the human body
8 including, where applicable, the following items:

9 (A) water pipes;

10 (B) carburetion tubes and devices;

11 (C) smoking and carburetion masks;

12 (D) miniature cocaine spoons and cocaine vials;

13 (E) carburetor pipes;

14 (F) electric pipes;

15 (G) air-driven pipes;

16 (H) chillums;

17 (I) bonges;

18 (J) ice pipes or chillers;

19 (5.5) products marketed and sold for a lawful purpose,
20 which are intended to be used lawfully, but which may be
21 misused for the unlawful purpose of ingesting, inhaling, or
22 otherwise introducing cannabis, cocaine, hashish, or
23 hashish oil into the human body including, where
24 applicable, the following items:

25 (A) individual cigar wrappers, known as wraps,
26 blunt wraps, or roll your own cigar wraps, whether in

1 the form of a sheet, tube or cone, that consist in
2 whole or in part of reconstituted tobacco leaf or
3 flavored tobacco leaf;

4 (B) cored, hollowed out, or split cigars, but not
5 including an intact cigar still in its original
6 manufacturer packaging;

7 (C) cigarette-rolling papers, also known as
8 cigarette papers or as roll your own cigarette papers,
9 including but not by way of limitation wired cigarette
10 papers; and

11 (D) tobacco pipes; and

12 (6) any item whose purpose, as announced or described
13 by the seller, is for use in violation of this Act.

14 (Source: P.A. 93-526, eff. 8-12-03; 94-556, eff. 9-11-05.)

15 (720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

16 Sec. 4. Exemptions. This Act does not apply to:

17 (a) Items used in the preparation, compounding,
18 packaging, labeling, or other use of cannabis or a
19 controlled substance as an incident to lawful research,
20 teaching, or chemical analysis and not for sale.

21 (b) Items historically and customarily used in
22 connection with the planting, propagating, cultivating,
23 growing, harvesting, manufacturing, compounding,
24 converting, producing, processing, preparing, testing,
25 analyzing, packaging, repackaging, storing, containing,

1 concealing, injecting, ingesting, or inhaling of tobacco
2 or any other lawful substance.

3 Items exempt under this subsection include, but are not
4 limited to, garden hoes, rakes, sickles, baggies, ~~tobacco~~
5 ~~pipes,~~ and cigarette-rolling papers sold with an
6 accompanying loose cigarette tobacco, pre-formed paper
7 cigarette tubes used by consumers for making cigarettes,
8 reconstituted tobacco wrapper or tobacco leaf wrap that is
9 used in the manufacturing of a cigar, cigar wrappers
10 marketed or sold in conjunction with an accompanying loose
11 filler cigar tobacco and intact cigars still in their
12 original manufacturer packaging.

13 (c) Items listed in Section 2 of this Act which are
14 used for decorative purposes, when such items have been
15 rendered completely inoperable or incapable of being used
16 for any illicit purpose prohibited by this Act.

17 (d) A person who is legally authorized to possess
18 hypodermic syringes or needles under the Hypodermic
19 Syringes and Needles Act.

20 In determining whether or not a particular item is exempt under
21 this Section, the trier of fact should consider, in addition to
22 all other logically relevant factors, the following:

23 (1) the general, usual, customary, and historical use
24 to which the item involved has been put;

25 (2) expert evidence concerning the ordinary or
26 customary use of the item and the effect of any peculiarity

1 in the design or engineering of the device upon its
2 functioning;

3 (3) any written instructions accompanying the delivery
4 of the item concerning the purposes or uses to which the
5 item can or may be put;

6 (4) any oral instructions provided by the seller of the
7 item at the time and place of sale or commercial delivery;

8 (5) any national or local advertising concerning the
9 design, purpose or use of the item involved, and the entire
10 context in which such advertising occurs;

11 (6) the manner, place and circumstances in which the
12 item was displayed for sale, as well as any item or items
13 displayed for sale or otherwise exhibited upon the premises
14 where the sale was made;

15 (7) whether the owner or anyone in control of the
16 object is a legitimate supplier of like or related items to
17 the community, such as a licensed distributor or dealer of
18 tobacco products;

19 (8) the existence and scope of legitimate uses for the
20 object in the community.

21 Notwithstanding the foregoing, there shall be a rebuttable
22 presumption that the products identified in clauses (A) through
23 (D) of subparagraph (5.5) of paragraph (d) of Section 2 of this
24 Act are not drug paraphernalia when marketed or sold in
25 conjunction with, or otherwise found or discovered solely in
26 the presence of, tobacco; provided however, that there shall be

1 rebuttable presumption that any product or object identified in
2 Section 2 is drug paraphernalia if the product or object
3 either: (1) contains cannabis or the residue thereof or a
4 controlled substance or the residue thereof; or (2) is found or
5 discovered, or both, with or in close proximity to cannabis or
6 a controlled substance.

7 (Source: P.A. 95-331, eff. 8-21-07.)

8 Section 10. The Tobacco Accessories and Smoking Herbs
9 Control Act is amended by changing Sections 3, 4, and 5 as
10 follows:

11 (720 ILCS 685/3) (from Ch. 23, par. 2358-3)

12 Sec. 3. Definitions. The following definitions shall apply
13 to this Act:

14 (a) "Tobacco accessories" shall mean cigarette papers,
15 pipes, holders of smoking materials of all types, cigarette
16 rolling machines, and other items, designed primarily for the
17 smoking or ingestion of tobacco products or of substances made
18 illegal under any statute or of substances whose sale, gift,
19 barter, or exchange is made unlawful under this Act.

20 (b) "Smoking herbs" shall mean all substances of plant
21 origin and their derivatives, including but not limited to
22 broom, calea, California poppy, damiana, hops, ginseng,
23 lobelia, jimson weed and other members of the Datura genus,
24 passion flower and wild lettuce, which are processed or sold

1 primarily for use as smoking materials.

2 (c) "Bidi cigarette" means a product that contains tobacco
3 that is wrapped in temburni or tendu leaf or that is wrapped in
4 any other material identified by rules of the Department of
5 Public Health that is similar in appearance or characteristics
6 to the temburni or tendu leaf.

7 (d) "Cigar wraps" shall mean individual cigar wrappers,
8 known as wraps, blunt wraps, or roll your own cigar wraps,
9 whether in the form of a sheet, tube or cone, that consists in
10 whole or in part of reconstituted tobacco leaf or flavored
11 tobacco leaf.

12 (Source: P.A. 91-734, eff. 1-1-01.)

13 (720 ILCS 685/4) (from Ch. 23, par. 2358-4)

14 Sec. 4. Offenses.

15 (a) Sale to minors. No person shall knowingly sell, barter,
16 exchange, deliver or give away or cause or permit or procure to
17 be sold, bartered, exchanged, delivered, or given away tobacco
18 accessories or smoking herbs to any person under 18 years of
19 age.

20 (a-5) Sale of bidi cigarettes. No person shall knowingly
21 sell, barter, exchange, deliver, or give away a bidi cigarette
22 to another person, nor shall a person cause or permit or
23 procure a bidi cigarette to be sold, bartered, exchanged,
24 delivered, or given away to another person.

25 (a-6) Sale of cigar wraps. No person shall knowingly sell,

1 barter, exchange, deliver or give away or cause or permit or
2 procure to be sold, bartered, exchanged, delivered, or given
3 away cigar wraps to any person under 18 years of age.

4 (b) Sale of cigarette paper. No person shall knowingly
5 offer, sell, barter, exchange, deliver or give away cigarette
6 paper or cause, permit, or procure cigarette paper to be sold,
7 offered, bartered, exchanged, delivered, or given away except
8 from premises or an establishment where other tobacco products
9 are sold. For purposes of this Section, "tobacco products"
10 means cigarettes, cigars, smokeless tobacco, or tobacco in any
11 of its forms.

12 (c) Sale of cigarette paper from vending machines. No
13 person shall knowingly offer, sell, barter, exchange, deliver
14 or give away cigarette paper or cause, permit, or procure
15 cigarette paper to be sold, offered, bartered, exchanged,
16 delivered, or given away by use of a vending or coin-operated
17 machine or device. For purposes of this Section, "cigarette
18 paper" shall not include any paper that is incorporated into a
19 product to which a tax stamp must be affixed under the
20 Cigarette Tax Act or the Cigarette Use Tax Act.

21 (d) Use of identification cards. No person in the
22 furtherance or facilitation of obtaining smoking accessories,
23 cigar wraps, and smoking herbs shall display or use a false or
24 forged identification card or transfer, alter, or deface an
25 identification card.

26 (e) Warning to minors. Any person, firm, partnership,

1 company or corporation operating a place of business where
2 tobacco accessories, cigar wraps, and smoking herbs are sold or
3 offered for sale shall post in a conspicuous place upon the
4 premises a sign upon which there shall be imprinted the
5 following statement, "SALE OF TOBACCO ACCESSORIES , CIGAR
6 WRAPS, AND SMOKING HERBS TO PERSONS UNDER EIGHTEEN YEARS OF AGE
7 OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS
8 PROHIBITED BY LAW". The sign shall be printed on a white card
9 in red letters at least one-half inch in height.

10 (Source: P.A. 91-734, eff. 1-1-01.)

11 (720 ILCS 685/5) (from Ch. 23, par. 2358-5)

12 Sec. 5. Penalty.

13 (a) Any person who shall knowingly violate, or shall
14 knowingly cause the violation of any provision of this Act
15 other than subsection (a-5) or (a-6) of Section 4 shall be
16 guilty of a Class C misdemeanor.

17 (b) Any person who knowingly violates or knowingly causes
18 the violation of subsection (a-5) of Section 4 is guilty of a
19 petty offense for which the offender may be fined an amount as
20 follows:

21 (1) For a first offense, not less than \$100 and not
22 more than \$500.

23 (2) For a second offense within a 2-year period, not
24 less than \$250 and not more than \$500.

25 (3) For a third or subsequent offense within a 2-year

1 period, not less than \$500 and not more than \$1,000.

2 (c) Any person who knowingly violates or knowingly causes
3 the violation of subsection (a-6) of Section 4 is guilty of a
4 Class C misdemeanor for a first offense, a Class B misdemeanor
5 for a second offense within a 2-year period, and a Class A
6 misdemeanor for a third or subsequent offense within a 3-year
7 period.

8 (Source: P.A. 91-734, eff. 1-1-01.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".