

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2019

By: Marlatt

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2001, Section 2-101.1, as amended by Section
9 2, Chapter 301, O.S.L. 2004 (63 O.S. Supp. 2009,
10 Section 2-101.1), which relates to the Uniform
11 Controlled Dangerous Substances Act; clarifying
12 statutory reference; and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-101.1, as
15 amended by Section 2, Chapter 301, O.S.L. 2004 (63 O.S. Supp. 2009,
16 Section 2-101.1), is amended to read as follows:

17 Section 2-101.1 In determining whether an object is "drug
18 paraphernalia", a court or jury shall consider, in addition to all
19 other logically relevant factors, the following:

20 1. Statements by an owner or by anyone in control of the object
21 concerning its use;

22 2. The proximity of the object, in time and space, to a direct
23 violation of the Uniform Controlled Dangerous Substances Act;

24 3. The proximity of the object to controlled dangerous
substances;

- 1 4. The existence of any residue of controlled dangerous
2 substances on the object;
- 3 5. Direct or circumstantial evidence of the intent of an owner,
4 or of anyone in control of the object, to deliver it to any person
5 who intends to use the object to facilitate a violation of the
6 Uniform Controlled Dangerous Substances Act, Section 2-101 et seq.
7 of this title. The innocence of an owner, or of anyone in control
8 of the object, as to a direct violation of this act shall not
9 prevent a finding that the object is intended for use, or fashioned
10 specifically for use, as drug paraphernalia;
- 11 6. Instructions, oral or written, provided with the object
12 which either state directly or imply that the object is to be used
13 for the consumption of controlled substances;
- 14 7. Descriptive materials accompanying the object which explain
15 or depict its use as an object for the consumption of controlled
16 substances;
- 17 8. The manner in which the object is displayed for sale;
- 18 9. Whether the owner, or anyone in control of the object, is a
19 legitimate supplier of like or related items to the community, such
20 as a licensed distributor or dealer of tobacco products;
- 21 10. Direct or circumstantial evidence of the ratio of sales of
22 the object or objects to the total sales of the business enterprise;
- 23 11. The existence and scope of legitimate uses for the object
24 in the community; and

1 12. Expert testimony concerning its use.

2 SECTION 2. This act shall become effective November 1, 2010.

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