

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3215

By: Griffith

AS INTRODUCED

An Act relating to drug paraphernalia; amending 63 O.S. 2011, Section 2-101.1, which relates to the Uniform Controlled Dangerous Substances Act; directing courts and juries to consider certain evidence when determining whether an object is drug paraphernalia; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-101.1, is amended to read as follows:

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

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

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

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. The innocence of an
7 owner, or of anyone in control of the object, as to a direct
8 violation of this act shall not prevent a finding that the object is
9 intended for use, or fashioned specifically for use, as drug
10 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 dangerous substances;

14 7. Descriptive materials accompanying the object which explain
15 or depict its use as an object for the consumption of controlled
16 dangerous 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; and

2 13. Direct evidence of use of a controlled dangerous substance
3 with the drug paraphernalia that was seized.

4 SECTION 2. This act shall become effective November 1, 2018.

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