

As Introduced

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Representative Boggs

Cosponsors: Representatives Liston, Lepore-Hagan, Callender, Smith, M., Brown, Leland, White, Seitz, Weinstein, Lightbody, Brent, Skindell, Miller, A., Miller, J., Crossman, Ingram

A BILL

To amend section 2925.14 of the Revised Code to 1
decriminalize fentanyl drug testing strips. 2

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2925.14 of the Revised Code be 3
amended to read as follows: 4

Sec. 2925.14. (A) As used in this section, "drug 5
paraphernalia" means any equipment, product, or material of any 6
kind that is used by the offender, intended by the offender for 7
use, or designed for use, in propagating, cultivating, growing, 8
harvesting, manufacturing, compounding, converting, producing, 9
processing, preparing, testing, analyzing, packaging, 10
repackaging, storing, containing, concealing, injecting, 11
ingesting, inhaling, or otherwise introducing into the human 12
body, a controlled substance in violation of this chapter. "Drug 13
paraphernalia" includes, but is not limited to, any of the 14
following equipment, products, or materials that are used by the 15
offender, intended by the offender for use, or designed by the 16
offender for use, in any of the following manners: 17

- (1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived; 18
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- (2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance; 21
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- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine; 23
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- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance; 26
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- (5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance, except for those exempted in division (D)(3) of this section; 28
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- (6) A scale or balance for weighing or measuring a controlled substance; 31
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- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance; 33
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- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana; 36
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- (9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance; 38
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- (10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance; 40
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- (11) A container or device for storing or concealing a controlled substance; 42
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- (12) A hypodermic syringe, needle, or instrument for 44

parenterally injecting a controlled substance into the human 45
body; 46

(13) An object, instrument, or device for ingesting, 47
inhaling, or otherwise introducing into the human body, 48
marihuana, cocaine, hashish, or hashish oil, such as a metal, 49
wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or 50
without a screen, permanent screen, hashish head, or punctured 51
metal bowl; water pipe; carburetion tube or device; smoking or 52
carburetion mask; roach clip or similar object used to hold 53
burning material, such as a marihuana cigarette, that has become 54
too small or too short to be held in the hand; miniature cocaine 55
spoon, or cocaine vial; chamber pipe; carburetor pipe; electric 56
pipe; air driver pipe; chillum; bong; or ice pipe or chiller. 57

(B) In determining if any equipment, product, or material 58
is drug paraphernalia, a court or law enforcement officer shall 59
consider, in addition to other relevant factors, the following: 60

(1) Any statement by the owner, or by anyone in control, 61
of the equipment, product, or material, concerning its use; 62

(2) The proximity in time or space of the equipment, 63
product, or material, or of the act relating to the equipment, 64
product, or material, to a violation of any provision of this 65
chapter; 66

(3) The proximity of the equipment, product, or material 67
to any controlled substance; 68

(4) The existence of any residue of a controlled substance 69
on the equipment, product, or material; 70

(5) Direct or circumstantial evidence of the intent of the 71
owner, or of anyone in control, of the equipment, product, or 72
material, to deliver it to any person whom the owner or person 73

in control of the equipment, product, or material knows intends 74
to use the object to facilitate a violation of any provision of 75
this chapter. A finding that the owner, or anyone in control, of 76
the equipment, product, or material, is not guilty of a 77
violation of any other provision of this chapter does not 78
prevent a finding that the equipment, product, or material was 79
intended or designed by the offender for use as drug 80
paraphernalia. 81

(6) Any oral or written instruction provided with the 82
equipment, product, or material concerning its use; 83

(7) Any descriptive material accompanying the equipment, 84
product, or material and explaining or depicting its use; 85

(8) National or local advertising concerning the use of 86
the equipment, product, or material; 87

(9) The manner and circumstances in which the equipment, 88
product, or material is displayed for sale; 89

(10) Direct or circumstantial evidence of the ratio of the 90
sales of the equipment, product, or material to the total sales 91
of the business enterprise; 92

(11) The existence and scope of legitimate uses of the 93
equipment, product, or material in the community; 94

(12) Expert testimony concerning the use of the equipment, 95
product, or material. 96

(C) (1) Subject to ~~division~~ divisions (D) (2) and (3) of 97
this section, no person shall knowingly use, or possess with 98
purpose to use, drug paraphernalia. 99

(2) No person shall knowingly sell, or possess or 100
manufacture with purpose to sell, drug paraphernalia, if the 101

person knows or reasonably should know that the equipment, 102
product, or material will be used as drug paraphernalia. 103

(3) No person shall place an advertisement in any 104
newspaper, magazine, handbill, or other publication that is 105
published and printed and circulates primarily within this 106
state, if the person knows that the purpose of the advertisement 107
is to promote the illegal sale in this state of the equipment, 108
product, or material that the offender intended or designed for 109
use as drug paraphernalia. 110

(D) (1) This section does not apply to manufacturers, 111
licensed health professionals authorized to prescribe drugs, 112
pharmacists, owners of pharmacies, and other persons whose 113
conduct is in accordance with Chapters 3719., 4715., 4723., 114
4729., 4730., 4731., and 4741. of the Revised Code. This section 115
shall not be construed to prohibit the possession or use of a 116
hypodermic as authorized by section 3719.172 of the Revised 117
Code. 118

(2) Division (C) (1) of this section does not apply to a 119
person's use, or possession with purpose to use, any drug 120
paraphernalia that is equipment, a product, or material of any 121
kind that is used by the person, intended by the person for use, 122
or designed for use in storing, containing, concealing, 123
injecting, ingesting, inhaling, or otherwise introducing into 124
the human body marihuana. 125

(3) Division (C) (1) of this section does not apply to a 126
person's use, or possession with purpose to use, any drug 127
testing strips to determine the presence of fentanyl or a 128
fentanyl-related compound. 129

(E) Notwithstanding Chapter 2981. of the Revised Code, any 130

drug paraphernalia that was used, possessed, sold, or 131
manufactured in a violation of this section shall be seized, 132
after a conviction for that violation shall be forfeited, and 133
upon forfeiture shall be disposed of pursuant to division (B) of 134
section 2981.12 of the Revised Code. 135

(F) (1) Whoever violates division (C) (1) of this section is 136
guilty of illegal use or possession of drug paraphernalia, a 137
misdemeanor of the fourth degree. 138

(2) Except as provided in division (F) (3) of this section, 139
whoever violates division (C) (2) of this section is guilty of 140
dealing in drug paraphernalia, a misdemeanor of the second 141
degree. 142

(3) Whoever violates division (C) (2) of this section by 143
selling drug paraphernalia to a juvenile is guilty of selling 144
drug paraphernalia to juveniles, a misdemeanor of the first 145
degree. 146

(4) Whoever violates division (C) (3) of this section is 147
guilty of illegal advertising of drug paraphernalia, a 148
misdemeanor of the second degree. 149

(G) (1) In addition to any other sanction imposed upon an 150
offender for a violation of this section, the court may suspend 151
for not more than five years the offender's driver's or 152
commercial driver's license or permit. However, if the offender 153
pleaded guilty to or was convicted of a violation of section 154
4511.19 of the Revised Code or a substantially similar municipal 155
ordinance or the law of another state or the United States 156
arising out of the same set of circumstances as the violation, 157
the court shall suspend the offender's driver's or commercial 158
driver's license or permit for not more than five years. If the 159

offender is a professionally licensed person, in addition to any 160
other sanction imposed for a violation of this section, the 161
court immediately shall comply with section 2925.38 of the 162
Revised Code. 163

(2) Any offender who received a mandatory suspension of 164
the offender's driver's or commercial driver's license or permit 165
under this section prior to ~~the effective date of this amendment~~ 166
September 13, 2016, may file a motion with the sentencing court 167
requesting the termination of the suspension. However, an 168
offender who pleaded guilty to or was convicted of a violation 169
of section 4511.19 of the Revised Code or a substantially 170
similar municipal ordinance or law of another state or the 171
United States that arose out of the same set of circumstances as 172
the violation for which the offender's license or permit was 173
suspended under this section shall not file such a motion. 174

Upon the filing of a motion under division (G)(2) of this 175
section, the sentencing court, in its discretion, may terminate 176
the suspension. 177

Section 2. That existing section 2925.14 of the Revised 178
Code is hereby repealed. 179