

HOUSE BILL NO. 300

INTRODUCED BY MATSKO, KREEDY, MOORE, PHILLIPS,
KEYSER, YARDLEY, J. O'HARA, TURNAGE

IN THE HOUSE

January 16, 1981	Introduced and referred to Committee on Judiciary.
January 29, 1981	Committee recommend bill do pass. Report adopted.
January 30, 1981	Bill printed and placed on members' desks.
January 31, 1981	Second reading, do pass.
February 2, 1981	Considered correctly engrossed.
February 3, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 4, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
February 13, 1981	Referred to Committee on Judiciary.
March 24, 1981	Committee recommend bill be concurrent in as amended. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in as amended. Ayes, 43; Noes, 3.

IN THE HOUSE

March 28, 1981

Returned from Senate with amendments.

April 8, 1981

Second reading, amendments concurred in.

April 9, 1981

Third reading, amendments concurred in. Ayes, 81; Noes, 14. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 300

INTRODUCED BY

Mark Kiedig, Adam Phillips, Ryan, J. O'Hara, Turner

A BILL FOR AN ACT ENTITLED: "AN ACT TO ENACT THE PROVISIONS OF THE MODEL DRUG PARAPHERNALIA ACT; PROVIDING FOR A DEFINITION OF DRUG PARAPHERNALIA; PROVIDING PENALTIES FOR ITS SALE, POSSESSION, OR ADVERTISEMENT; AND PROVIDING FOR FORFEITURE; AMENDING SECTIONS 44-12-102 AND 44-12-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION.

Section 1. Definitions. (1) As used in [sections 1 through 7], the term "drug paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a dangerous drug. It includes but is not limited to:

(a) kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a dangerous drug or from which a dangerous drug can be derived;

(b) kits used, intended for use, or designed for use

in manufacturing, compounding, converting, producing, processing, or preparing dangerous drugs;

(c) isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a dangerous drug;

(d) testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of dangerous drugs;

(e) scales and balances used, intended for use, or designed for use in weighing or measuring dangerous drugs;

(f) dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting dangerous drugs;

(g) separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

(h) blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding dangerous drugs;

(i) capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of dangerous drugs;

(j) containers and other objects used, intended for use, or designed for use in storing or concealing dangerous

1 drugs;

2 (k) hypodermic syringes, needles, and other objects

3 used, intended for use, or designed for use in parenterally

4 injecting dangerous drugs into the human body;

5 (l) objects used, intended for use, or designed for

6 use in ingesting, inhaling, or otherwise introducing

7 marijuana, cocaine, hashish, or hashish oil into the human

8 body, such as:

9 (i) metal, wooden, acrylic, glass, stone, plastic, or

10 ceramic pipes with or without screens, permanent screens,

11 hashish heads, or punctured metal bowls;

12 (ii) water pipes;

13 (iii) carburetion tubes and devices;

14 (iv) smoking and carburetion masks;

15 (v) roach clips, meaning objects used to hold burning

16 material, such as a marijuana cigarette, that has become too

17 small or too short to be held in the hand;

18 (vi) miniature cocaine spoons and cocaine vials;

19 (vii) chamber pipes;

20 (viii) carburetor pipes;

21 (ix) electric pipes;

22 (x) air-driven pipes;

23 (xi) chillums;

24 (xii) bongs;

25 (xiii) ice pipes or chillers.

1 (2) Words or phrases used in [sections 1 through 7]

2 that are not defined by this section have the meaning given

3 to them by the definitions contained in 50-32-101 unless the

4 usage clearly indicates a different intent.

5 NEW SECTION. Section 2. Determination of what

6 constitutes paraphernalia. In determining whether an object

7 is drug paraphernalia, a court or other authority should

8 consider, in addition to all other logically relevant

9 factors, the following:

10 (1) statements by an owner or by anyone in control of

11 the object concerning its use;

12 (2) prior convictions, if any, of an owner or of

13 anyone in control of the object, under any state or federal

14 law relating to any controlled substance or dangerous drug;

15 (3) the proximity of the object, in time and space, to

16 a direct violation of [sections 1 through 7];

17 (4) the proximity of the object to dangerous drugs;

18 (5) the existence of any residue of dangerous drugs on

19 the object;

20 (6) direct or circumstantial evidence of the intent of

21 an owner or of anyone in control of the object to deliver it

22 to persons whom he knows, or should reasonably know, intend

23 to use the object to facilitate a violation of [sections 3

24 through 6]. The innocence of an owner or of anyone in

25 control of the object as to a direct violation of [sections

1 3 through 5] does not prevent a finding that the object is
2 intended for use or designed for use as drug paraphernalia.

3 (7) instructions, oral or written, provided with the
4 object concerning its use;

5 (8) descriptive materials accompanying the object
6 which explain or depict its use;

7 (9) national and local advertising concerning its use;

8 (10) the manner in which the object is displayed for
9 sale;

10 (11) whether the owner or anyone in control of the
11 object is a legitimate supplier of like or related items to
12 the community, such as a licensed distributor or dealer of
13 tobacco products;

14 (12) direct or circumstantial evidence of the ratio of
15 sales of the object to the total sales of the business
16 enterprise;

17 (13) the existence and scope of legitimate uses for the
18 object in the community;

19 (14) expert testimony concerning its use.

20 NEW SECTION. Section 3. Criminal possession of drug
21 paraphernalia. It is unlawful for any person to use or to
22 possess with intent to use drug paraphernalia to plant,
23 propagate, cultivate, grow, harvest, manufacture, compound,
24 convert, produce, process, prepare, test, analyze, pack,
25 repack, store, contain, conceal, inject, ingest, inhale, or

1 otherwise introduce into the human body a dangerous drug.
2 Any person who violates this section is guilty of a
3 misdemeanor and upon conviction shall be imprisoned in the
4 county jail for not more than 6 months, fined not more than
5 \$500, or both.

6 NEW SECTION. Section 4. Manufacture or delivery of
7 drug paraphernalia. It is unlawful for any person to
8 deliver, possess with intent to deliver, or manufacture with
9 intent to deliver drug paraphernalia, knowing or under
10 circumstances where one reasonably should know that it will
11 be used to plant, propagate, cultivate, grow, harvest,
12 manufacture, compound, convert, produce, process, prepare,
13 test, analyze, pack, repack, store, contain, conceal,
14 inject, ingest, inhale, or otherwise introduce into the
15 human body a dangerous drug. Any person who violates this
16 section is guilty of a misdemeanor and upon conviction shall
17 be imprisoned in the county jail for not more than 6 months,
18 fined not more than \$500, or both.

19 NEW SECTION. Section 5. Delivery of drug
20 paraphernalia to a minor. Any person 18 years of age or over
21 who violates [section 4] by delivering drug paraphernalia to
22 a person under 18 years of age who is at least 3 years his
23 junior is guilty of a misdemeanor and upon conviction shall
24 be imprisoned in the county jail for not more than 1 year,
25 fined not more than \$1,000, or both.

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1 NEW SECTION. Section 6. Advertisement of drug
 2 paraphernalia. It is unlawful for any person to place in any
 3 newspaper, magazine, handbill, or other publication any
 4 advertisement, knowing or under circumstances where one
 5 reasonably should know that the purpose of the
 6 advertisement, in whole or in part, is to promote the sale
 7 of objects designed or intended for use as drug
 8 paraphernalia. Any person who violates this section is
 9 guilty of a misdemeanor and upon conviction shall be
 10 imprisoned in the county jail for not more than 6 months,
 11 fined not more than \$500, or both.

12 NEW SECTION. Section 7. Exemptions. Practitioners and
 13 agents under their supervision acting in the course of a
 14 professional practice as defined by 50-32-101 are exempt
 15 from [sections 1 through 7].

16 Section 8. Section 44-12-102, MCA, is amended to read:
 17 "44-12-102. Things subject to forfeiture. (1) The
 18 following are subject to forfeiture:

19 (a) all controlled substances that have been
 20 manufactured, distributed, prepared, cultivated, compounded,
 21 processed, or possessed in violation of Title 45, chapter 9;

22 (b) all money, raw materials, products, and equipment
 23 of any kind that are used or intended for use in
 24 manufacturing, preparing, cultivating, compounding,
 25 processing, delivering, importing, or exporting any

1 controlled substance in violation of Title 45, chapter 9,
 2 except items used or intended for use in connection with
 3 quantities of marijuana in amounts less than 250 grams;

4 (c) except as provided in subsection (2)(c), all
 5 property that is used or intended for use as a container for
 6 anything enumerated in subsection (1)(a) or (1)(b);

7 (d) except as provided in subsection (2), all
 8 conveyances, including aircraft, vehicles, and vessels:

9 (i) which are used or intended for use in unlawfully
 10 transporting or in any manner facilitating the
 11 transportation of anything enumerated in subsection (1)(a)
 12 or (1)(b) for the purpose of sale or receipt of such thing;

13 (ii) in which a controlled substance is unlawfully
 14 kept, deposited, or concealed; or

15 (iii) in which a controlled substance is unlawfully
 16 possessed by an occupant; and

17 (e) all books, records, and research products and
 18 materials, including formulas, microfilm, tapes, and data,
 19 that are used or intended for use in violation of Title 45,
 20 chapter 9; and

21 ~~(f) all drug paraphernalia as defined in [section 1].~~

22 (2) (a) No conveyance used by a person as a common
 23 carrier in the transaction of business as a common carrier
 24 is subject to forfeiture under this section unless it
 25 appears that the owner or other person in charge of the

1 conveyance is a consenting party or privy to a violation of
2 Title 45, chapter 9.

3 (b) No conveyance is subject to forfeiture under this
4 section because of any act or omission established by the
5 owner of the conveyance to have been committed or omitted
6 without his knowledge or consent.

7 (c) A forfeiture of a conveyance encumbered by a bona
8 fide security interest is subject to the interest of the
9 secured party if he neither had knowledge of nor consented
10 to any violation of Title 45, chapter 9.

11 (d) No conveyance or container is subject to
12 forfeiture under this section if it was used or intended for
13 use in transporting less than 250 grams of marijuana.*

14 Section 9. Section 44-12-103, MCA, is amended to read:

15 "44-12-103. When property may be seized. (1) A peace
16 officer who has probable cause to make an arrest for a
17 violation of Title 45, chapter 9, probable cause to believe
18 that a conveyance has been used or is intended to be used to
19 unlawfully transport a controlled substance, or probable
20 cause to believe that a conveyance has been used to keep,
21 deposit, or conceal a controlled substance shall seize the
22 conveyance so used or intended to be used or any conveyance
23 in which a controlled substance is unlawfully possessed by
24 an occupant. He shall immediately deliver a conveyance that
25 he seizes to the sheriff of the county in which the seizure

1 is made, to be held as evidence until forfeiture is declared
2 or release ordered.

3 (2) All property subject to forfeiture under 44-12-102
4 may be seized by a peace officer under a search warrant
5 issued by a district court having jurisdiction over the
6 property. Seizure without a warrant may be made if:

7 (a) the seizure is incident to an arrest or a search
8 under a search warrant issued for another purpose or an
9 inspection under an administrative inspection warrant;

10 (b) the property subject to seizure has been the
11 subject of a prior judgment in favor of the state in a
12 criminal proceeding or a forfeiture proceeding based on this
13 chapter;

14 (c) the peace officer has probable cause to believe
15 that the property is directly or indirectly dangerous to
16 health or safety; or

17 (d) the peace officer has probable cause to believe
18 that the property was used or is intended to be used in
19 violation of Title 45, chapter 9, or in violation of
20 [sections 1 through 7].*

21 Section 10. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the

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1 invalid applications.

-End-

Approved by Committee on Judiciary

1 *HOUSE* BILL NO. *300*
 2 INTRODUCED BY *Mark Keefe* *Naomi Phillips*
 3 *Stephen Handberg* *J. Otton Turner*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENACT THE PROVISIONS
 5 OF THE MODEL DRUG PARAPHERNALIA ACT; PROVIDING FOR A
 6 DEFINITION OF DRUG PARAPHERNALIA; PROVIDING PENALTIES FOR
 7 ITS SALE, POSSESSION, OR ADVERTISEMENT; AND PROVIDING FOR
 8 FORFEITURE; AMENDING SECTIONS 44-12-102 AND 44-12-103, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Definitions. (1) As used in
 12 [sections 1 through 7], the term "drug paraphernalia" means
 13 all equipment, products, and materials of any kind that are
 14 used, intended for use, or designed for use in planting,
 15 propagating, cultivating, growing, harvesting,
 16 manufacturing, compounding, converting, producing,
 17 processing, preparing, testing, analyzing, packaging,
 18 repackaging, storing, containing, concealing, injecting,
 19 ingesting, inhaling, or otherwise introducing into the human
 20 body a dangerous drug. It includes but is not limited to:

- 21 (a) kits used, intended for use, or designed for use
- 22 in planting, propagating, cultivating, growing, or
- 23 harvesting of any species of plant that is a dangerous drug
- 24 or from which a dangerous drug can be derived;
- 25 (b) kits used, intended for use, or designed for use

1 in manufacturing, compounding, converting, producing,
 2 processing, or preparing dangerous drugs;

3 (c) isomerization devices used, intended for use, or
 4 designed for use in increasing the potency of any species of
 5 plant that is a dangerous drug;

6 (d) testing equipment used, intended for use, or
 7 designed for use in identifying or in analyzing the
 8 strength, effectiveness, or purity of dangerous drugs;

9 (e) scales and balances used, intended for use, or
 10 designed for use in weighing or measuring dangerous drugs;

11 (f) diluents and adulterants, such as quinine
 12 hydrochloride, mannitol, mannite, dextrose, and lactose,
 13 used, intended for use, or designed for use in cutting
 14 dangerous drugs;

15 (g) separation gins and sifters used, intended for
 16 use, or designed for use in removing twigs and seeds from or
 17 in otherwise cleaning or refining marijuana;

18 (h) blenders, bowls, containers, spoons, and mixing
 19 devices used, intended for use, or designed for use in
 20 compounding dangerous drugs;

21 (i) capsules, balloons, envelopes, and other
 22 containers used, intended for use, or designed for use in
 23 packaging small quantities of dangerous drugs;

24 (j) containers and other objects used, intended for
 25 use, or designed for use in storing or concealing dangerous

1 drugs;

2 (k) hypodermic syringes, needles, and other objects

3 used, intended for use, or designed for use in parenterally

4 injecting dangerous drugs into the human body;

5 (l) objects used, intended for use, or designed for

6 use in ingesting, inhaling, or otherwise introducing

7 marijuana, cocaine, hashish, or hashish oil into the human

8 body, such as:

9 (i) metal, wooden, acrylic, glass, stone, plastic, or

10 ceramic pipes with or without screens, permanent screens,

11 hashish heads, or punctured metal bowls;

12 (ii) water pipes;

13 (iii) carburetion tubes and devices;

14 (iv) smoking and carburetion masks;

15 (v) roach clips, meaning objects used to hold burning

16 material, such as a marijuana cigarette, that has become too

17 small or too short to be held in the hand;

18 (vi) miniature cocaine spoons and cocaine vials;

19 (vii) chamber pipes;

20 (viii) carburetor pipes;

21 (ix) electric pipes;

22 (x) air-driven pipes;

23 (xi) chillums;

24 (xii) bongs;

25 (xiii) ice pipes or chillers.

1 (2) words or phrases used in [sections 1 through 7]

2 that are not defined by this section have the meaning given

3 to them by the definitions contained in 50-32-101 unless the

4 usage clearly indicates a different intent.

5 NEW SECTION. Section 2. Determination of what

6 constitutes paraphernalia. In determining whether an object

7 is drug paraphernalia, a court or other authority should

8 consider, in addition to all other logically relevant

9 factors, the following:

10 (1) statements by an owner or by anyone in control of

11 the object concerning its use;

12 (2) prior convictions, if any, of an owner or of

13 anyone in control of the object, under any state or federal

14 law relating to any controlled substance or dangerous drug;

15 (3) the proximity of the object, in time and space, to

16 a direct violation of [sections 1 through 7];

17 (4) the proximity of the object to dangerous drugs;

18 (5) the existence of any residue of dangerous drugs on

19 the object;

20 (6) direct or circumstantial evidence of the intent of

21 an owner or of anyone in control of the object to deliver it

22 to persons whom he knows, or should reasonably know, intend

23 to use the object to facilitate a violation of [sections 3

24 through 6]. The innocence of an owner or of anyone in

25 control of the object as to a direct violation of [sections

1 3 through 6] does not prevent a finding that the object is
2 intended for use or designed for use as drug paraphernalia.

3 (7) instructions, oral or written, provided with the
4 object concerning its use;

5 (8) descriptive materials accompanying the object
6 which explain or depict its use;

7 (9) national and local advertising concerning its use;

8 (10) the manner in which the object is displayed for
9 sale;

10 (11) whether the owner or anyone in control of the
11 object is a legitimate supplier of like or related items to
12 the community, such as a licensed distributor or dealer of
13 tobacco products;

14 (12) direct or circumstantial evidence of the ratio of
15 sales of the object to the total sales of the business
16 enterprise;

17 (13) the existence and scope of legitimate uses for the
18 object in the community;

19 (14) expert testimony concerning its use.

20 NEW SECTION. Section 3. Criminal possession of drug
21 paraphernalia. It is unlawful for any person to use or to
22 possess with intent to use drug paraphernalia to plant,
23 propagate, cultivate, grow, harvest, manufacture, compound,
24 convert, produce, process, prepare, test, analyze, pack,
25 repack, store, contain, conceal, inject, ingest, inhale, or

1 otherwise introduce into the human body a dangerous drug.
2 Any person who violates this section is guilty of a
3 misdemeanor and upon conviction shall be imprisoned in the
4 county jail for not more than 6 months, fined not more than
5 \$500, or both.

6 NEW SECTION. Section 4. Manufacture or delivery of
7 drug paraphernalia. It is unlawful for any person to
8 deliver, possess with intent to deliver, or manufacture with
9 intent to deliver drug paraphernalia, knowing or under
10 circumstances where one reasonably should know that it will
11 be used to plant, propagate, cultivate, grow, harvest,
12 manufacture, compound, convert, produce, process, prepare,
13 test, analyze, pack, repack, store, contain, conceal,
14 inject, ingest, inhale, or otherwise introduce into the
15 human body a dangerous drug. Any person who violates this
16 section is guilty of a misdemeanor and upon conviction shall
17 be imprisoned in the county jail for not more than 6 months,
18 fined not more than \$500, or both.

19 NEW SECTION. Section 5. Delivery of drug
20 paraphernalia to a minor. Any person 18 years of age or over
21 who violates [section 4] by delivering drug paraphernalia to
22 a person under 18 years of age who is at least 3 years his
23 junior is guilty of a misdemeanor and upon conviction shall
24 be imprisoned in the county jail for not more than 1 year,
25 fined not more than \$1,000, or both.

1 NEW SECTION. Section 6. Advertisement of drug
 2 paraphernalia. It is unlawful for any person to place in any
 3 newspaper, magazine, handbill, or other publication any
 4 advertisement, knowing or under circumstances where one
 5 reasonably should know that the purpose of the
 6 advertisement, in whole or in part, is to promote the sale
 7 of objects designed or intended for use as drug
 8 paraphernalia. Any person who violates this section is
 9 guilty of a misdemeanor and upon conviction shall be
 10 imprisoned in the county jail for not more than 6 months,
 11 fined not more than \$500, or both.

12 NEW SECTION. Section 7. Exemptions. Practitioners and
 13 agents under their supervision acting in the course of a
 14 professional practice as defined by 50-32-101 are exempt
 15 from [sections 1 through 7].

16 Section 8. Section 44-12-102, MCA, is amended to read:

17 "44-12-102. Things subject to forfeiture. (1) The
 18 following are subject to forfeiture:

19 (a) all controlled substances that have been
 20 manufactured, distributed, prepared, cultivated, compounded,
 21 processed, or possessed in violation of Title 45, chapter 9;

22 (b) all money, raw materials, products, and equipment
 23 of any kind that are used or intended for use in
 24 manufacturing, preparing, cultivating, compounding,
 25 processing, delivering, importing, or exporting any

1 controlled substance in violation of Title 45, chapter 9,
 2 except items used or intended for use in connection with
 3 quantities of marijuana in amounts less than 250 grams;

4 (c) except as provided in subsection (2)(d), all
 5 property that is used or intended for use as a container for
 6 anything enumerated in subsection (1)(a) or (1)(b);

7 (d) except as provided in subsection (2), all
 8 conveyances, including aircraft, vehicles, and vessels:

9 (i) which are used or intended for use in unlawfully
 10 transporting or in any manner facilitating the
 11 transportation of anything enumerated in subsection (1)(a)
 12 or (1)(b) for the purpose of sale or receipt of such thing;

13 (ii) in which a controlled substance is unlawfully
 14 kept, deposited, or concealed; or

15 (iii) in which a controlled substance is unlawfully
 16 possessed by an occupant; and

17 (e) all books, records, and research products and
 18 materials, including formulas, microfilm, tapes, and data,
 19 that are used or intended for use in violation of Title 45,
 20 chapter 9; and

21 ~~(f) all drug paraphernalia as defined in [section 1].~~

22 (2) (a) No conveyance used by a person as a common
 23 carrier in the transaction of business as a common carrier
 24 is subject to forfeiture under this section unless it
 25 appears that the owner or other person in charge of the

1 conveyance is a consenting party or privy to a violation of
2 Title 45, chapter 9.

3 (b) No conveyance is subject to forfeiture under this
4 section because of any act or omission established by the
5 owner of the conveyance to have been committed or omitted
6 without his knowledge or consent.

7 (c) A forfeiture of a conveyance encumbered by a bona
8 fide security interest is subject to the interest of the
9 secured party if he neither had knowledge of nor consented
10 to any violation of Title 45, chapter 9.

11 (d) No conveyance or container is subject to
12 forfeiture under this section if it was used or intended for
13 use in transporting less than 250 grams of marijuana."

14 Section 9. Section 44-12-103, MCA, is amended to read:

15 "44-12-103. When property may be seized. (1) A peace
16 officer who has probable cause to make an arrest for a
17 violation of Title 45, chapter 9, probable cause to believe
18 that a conveyance has been used or is intended to be used to
19 unlawfully transport a controlled substance, or probable
20 cause to believe that a conveyance has been used to keep,
21 deposit, or conceal a controlled substance shall seize the
22 conveyance so used or intended to be used or any conveyance
23 in which a controlled substance is unlawfully possessed by
24 an occupant. He shall immediately deliver a conveyance that
25 he seizes to the sheriff of the county in which the seizure

1 is made, to be held as evidence until forfeiture is declared
2 or release ordered.

3 (2) All property subject to forfeiture under 44-12-102
4 may be seized by a peace officer under a search warrant
5 issued by a district court having jurisdiction over the
6 property. Seizure without a warrant may be made if:

7 (a) the seizure is incident to an arrest or a search
8 under a search warrant issued for another purpose or an
9 inspection under an administrative inspection warrant;

10 (b) the property subject to seizure has been the
11 subject of a prior judgment in favor of the state in a
12 criminal proceeding or a forfeiture proceeding based on this
13 chapter;

14 (c) the peace officer has probable cause to believe
15 that the property is directly or indirectly dangerous to
16 health or safety; or

17 (d) the peace officer has probable cause to believe
18 that the property was used or is intended to be used in
19 violation of Title 45, chapter 9, or in violation of
20 [sections 1 through 7]."

21 Section 10. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the

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1 invalid applications.

-End-

1 HOUSE BILL NO. 300
 2 INTRODUCED BY Mark Keenan Mark Phillips
 3 By Order of the Honorable J. Otton Turner

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENACT THE PROVISIONS
 5 OF THE MODEL DRUG PARAPHERNALIA ACT; PROVIDING FOR A
 6 DEFINITION OF DRUG PARAPHERNALIA; PROVIDING PENALTIES FOR
 7 ITS SALE, POSSESSION, OR ADVERTISEMENT; AND PROVIDING FOR
 8 FORFEITURE; AMENDING SECTIONS 44-12-102 AND 44-12-103, MCA."

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 12 [sections 1 through 7], the term "drug paraphernalia" means
 13 all equipment, products, and materials of any kind that are
 14 used, intended for use, or designed for use in planting,
 15 propagating, cultivating, growing, harvesting,
 16 manufacturing, compounding, converting, producing,
 17 processing, preparing, testing, analyzing, packaging,
 18 repackaging, storing, containing, concealing, injecting,
 19 ingesting, inhaling, or otherwise introducing into the human
 20 body a dangerous drug. It includes but is not limited to:

21 (a) kits used, intended for use, or designed for use
 22 in planting, propagating, cultivating, growing, or
 23 harvesting of any species of plant that is a dangerous drug
 24 or from which a dangerous drug can be derived;

25 (b) kits used, intended for use, or designed for use

1 in manufacturing, compounding, converting, producing,
 2 processing, or preparing dangerous drugs;

3 (c) isomerization devices used, intended for use, or
 4 designed for use in increasing the potency of any species of
 5 plant that is a dangerous drug;

6 (d) testing equipment used, intended for use, or
 7 designed for use in identifying or in analyzing the
 8 strength, effectiveness, or purity of dangerous drugs;

9 (e) scales and balances used, intended for use, or
 10 designed for use in weighing or measuring dangerous drugs;

11 (f) dilutents and adulterants, such as quinine
 12 hydrochloride, mannitol, mannite, dextrose, and lactose,
 13 used, intended for use, or designed for use in cutting
 14 dangerous drugs;

15 (g) separation gins and sifters used, intended for
 16 use, or designed for use in removing twigs and seeds from or
 17 in otherwise cleaning or refining marijuana;

18 (h) blenders, bowls, containers, spoons, and mixing
 19 devices used, intended for use, or designed for use in
 20 compounding dangerous drugs;

21 (i) capsules, balloons, envelopes, and other
 22 containers used, intended for use, or designed for use in
 23 packaging small quantities of dangerous drugs;

24 (j) containers and other objects used, intended for
 25 use, or designed for use in storing or concealing dangerous

1 drugs;

2 (k) hypodermic syringes, needles, and other objects

3 used, intended for use, or designed for use in parenterally

4 injecting dangerous drugs into the human body;

5 (l) objects used, intended for use, or designed for

6 use in ingesting, inhaling, or otherwise introducing

7 marijuana, cocaine, hashish, or hashish oil into the human

8 body, such as:

9 (i) metal, wooden, acrylic, glass, stone, plastic, or

10 ceramic pipes with or without screens, permanent screens,

11 hashish heads, or punctured metal bowls;

12 (ii) water pipes;

13 (iii) carburetion tubes and devices;

14 (iv) smoking and carburetion masks;

15 (v) roach clips, meaning objects used to hold burning

16 material, such as a marijuana cigarette, that has become too

17 small or too short to be held in the hand;

18 (vi) miniature cocaine spoons and cocaine vials;

19 (vii) chamber pipes;

20 (viii) carburetor pipes;

21 (ix) electric pipes;

22 (x) air-driven pipes;

23 (xi) chillums;

24 (xii) bongs;

25 (xiii) ice pipes or chillers.

1 (2) words or phrases used in [sections 1 through 7]

2 that are not defined by this section have the meaning given

3 to them by the definitions contained in 50-32-101 unless the

4 usage clearly indicates a different intent.

5 NEW SECTION. Section 2. Determination of what

6 constitutes paraphernalia. In determining whether an object

7 is drug paraphernalia, a court or other authority should

8 consider, in addition to all other logically relevant

9 factors, the following:

10 (1) statements by an owner or by anyone in control of

11 the object concerning its use;

12 (2) prior convictions, if any, of an owner or of

13 anyone in control of the object, under any state or federal

14 law relating to any controlled substance or dangerous drug;

15 (3) the proximity of the object, in time and space, to

16 a direct violation of [sections 1 through 7];

17 (4) the proximity of the object to dangerous drugs;

18 (5) the existence of any residue of dangerous drugs on

19 the object;

20 (6) direct or circumstantial evidence of the intent of

21 an owner or of anyone in control of the object to deliver it

22 to persons whom he knows, or should reasonably know, intend

23 to use the object to facilitate a violation of [sections 3

24 through 6]. The innocence of an owner or of anyone in

25 control of the object as to a direct violation of [sections

1 3 through 6] does not prevent a finding that the object is
2 intended for use or designed for use as drug paraphernalia.

3 (7) instructions, oral or written, provided with the
4 object concerning its use;

5 (8) descriptive materials accompanying the object
6 which explain or depict its use;

7 (9) national and local advertising concerning its use;

8 (10) the manner in which the object is displayed for
9 sale;

10 (11) whether the owner or anyone in control of the
11 object is a legitimate supplier of like or related items to
12 the community, such as a licensed distributor or dealer of
13 tobacco products;

14 (12) direct or circumstantial evidence of the ratio of
15 sales of the object to the total sales of the business
16 enterprise;

17 (13) the existence and scope of legitimate uses for the
18 object in the community;

19 (14) expert testimony concerning its use.

20 NEW SECTION. Section 3. Criminal possession of drug
21 paraphernalia. It is unlawful for any person to use or to
22 possess with intent to use drug paraphernalia to plant,
23 propagate, cultivate, grow, harvest, manufacture, compound,
24 convert, produce, process, prepare, test, analyze, pack,
25 repack, store, contain, conceal, inject, ingest, inhale, or

1 otherwise introduce into the human body a dangerous drug.
2 Any person who violates this section is guilty of a
3 misdemeanor and upon conviction shall be imprisoned in the
4 county jail for not more than 6 months, fined not more than
5 \$500, or both.

6 NEW SECTION. Section 4. Manufacture or delivery of
7 drug paraphernalia. It is unlawful for any person to
8 deliver, possess with intent to deliver, or manufacture with
9 intent to deliver drug paraphernalia, knowing or under
10 circumstances where one reasonably should know that it will
11 be used to plant, propagate, cultivate, grow, harvest,
12 manufacture, compound, convert, produce, process, prepare,
13 test, analyze, pack, repack, store, contain, conceal,
14 inject, ingest, inhale, or otherwise introduce into the
15 human body a dangerous drug. Any person who violates this
16 section is guilty of a misdemeanor and upon conviction shall
17 be imprisoned in the county jail for not more than 6 months,
18 fined not more than \$500, or both.

19 NEW SECTION. Section 5. Delivery of drug
20 paraphernalia to a minor. Any person 18 years of age or over
21 who violates [section 4] by delivering drug paraphernalia to
22 a person under 18 years of age who is at least 3 years his
23 junior is guilty of a misdemeanor and upon conviction shall
24 be imprisoned in the county jail for not more than 1 year,
25 fined not more than \$1,000, or both.

1 NEW SECTION. Section 6. Advertisement of drug
 2 paraphernalia. It is unlawful for any person to place in any
 3 newspaper, magazine, handbill, or other publication any
 4 advertisement, knowing or under circumstances where one
 5 reasonably should know that the purpose of the
 6 advertisement, in whole or in part, is to promote the sale
 7 of objects designed or intended for use as drug
 8 paraphernalia. Any person who violates this section is
 9 guilty of a misdemeanor and upon conviction shall be
 10 imprisoned in the county jail for not more than 6 months,
 11 fined not more than \$500, or both.

12 NEW SECTION. Section 7. Exemptions. Practitioners and
 13 agents under their supervision acting in the course of a
 14 professional practice as defined by 50-32-101 are exempt
 15 from [sections 1 through 7].

16 Section 8. Section 44-12-102, MCA, is amended to read:
 17 "44-12-102. Things subject to forfeiture. (1) The
 18 following are subject to forfeiture:

19 (a) all controlled substances that have been
 20 manufactured, distributed, prepared, cultivated, compounded,
 21 processed, or possessed in violation of Title 45, chapter 9;

22 (b) all money, raw materials, products, and equipment
 23 of any kind that are used or intended for use in
 24 manufacturing, preparing, cultivating, compounding,
 25 processing, delivering, importing, or exporting any

1 controlled substance in violation of Title 45, chapter 9,
 2 except items used or intended for use in connection with
 3 quantities of marijuana in amounts less than 250 grams;

4 (c) except as provided in subsection (2)(d), all
 5 property that is used or intended for use as a container for
 6 anything enumerated in subsection (1)(a) or (1)(b);

7 (d) except as provided in subsection (2), all
 8 conveyances, including aircraft, vehicles, and vessels:

9 (i) which are used or intended for use in unlawfully
 10 transporting or in any manner facilitating the
 11 transportation of anything enumerated in subsection (1)(a)
 12 or (1)(b) for the purpose of sale or receipt of such thing;

13 (ii) in which a controlled substance is unlawfully
 14 kept, deposited, or concealed; or

15 (iii) in which a controlled substance is unlawfully
 16 possessed by an occupant; end

17 (e) all books, records, and research products and
 18 materials, including formulas, microfilm, tapes, and data,
 19 that are used or intended for use in violation of Title 45,
 20 chapter 9; and

21 (f) all drug paraphernalia as defined in [section 1].

22 (2) (a) No conveyance used by a person as a common
 23 carrier in the transaction of business as a common carrier
 24 is subject to forfeiture under this section unless it
 25 appears that the owner or other person in charge of the

1 conveyance is a consenting party or privy to a violation of
2 Title 45, chapter 9.

3 (b) No conveyance is subject to forfeiture under this
4 section because of any act or omission established by the
5 owner of the conveyance to have been committed or omitted
6 without his knowledge or consent.

7 (c) A forfeiture of a conveyance encumbered by a bona
8 fide security interest is subject to the interest of the
9 secured party if he neither had knowledge of nor consented
10 to any violation of Title 45, chapter 9.

11 (d) No conveyance or container is subject to
12 forfeiture under this section if it was used or intended for
13 use in transporting less than 250 grams of marijuana.*

14 Section 9. Section 44-12-103, MCA, is amended to read:

15 "44-12-103. When property may be seized. (1) A peace
16 officer who has probable cause to make an arrest for a
17 violation of Title 45, chapter 9, probable cause to believe
18 that a conveyance has been used or is intended to be used to
19 unlawfully transport a controlled substance, or probable
20 cause to believe that a conveyance has been used to keep,
21 deposit, or conceal a controlled substance shall seize the
22 conveyance so used or intended to be used or any conveyance
23 in which a controlled substance is unlawfully possessed by
24 an occupant. He shall immediately deliver a conveyance that
25 he seizes to the sheriff of the county in which the seizure

1 is made, to be held as evidence until forfeiture is declared
2 or release ordered.

3 (2) All property subject to forfeiture under 44-12-102
4 may be seized by a peace officer under a search warrant
5 issued by a district court having jurisdiction over the
6 property. Seizure without a warrant may be made if:

7 (a) the seizure is incident to an arrest or a search
8 under a search warrant issued for another purpose or an
9 inspection under an administrative inspection warrant;

10 (b) the property subject to seizure has been the
11 subject of a prior judgment in favor of the state in a
12 criminal proceeding or a forfeiture proceeding based on this
13 chapter;

14 (c) the peace officer has probable cause to believe
15 that the property is directly or indirectly dangerous to
16 health or safety; or

17 (d) the peace officer has probable cause to believe
18 that the property was used or is intended to be used in
19 violation of Title 45, chapter 9, or in violation of
20 [sections 1 through 7].*

21 Section 10. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the

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1 invalid applications.

-End-

1 HOUSE BILL NO. 300

2 INTRODUCED BY MATSKO, KEEDY, MOORE, PHILLIPS,

3 KEYSER, YARDLEY, J. O'HARA, TURNAGE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENACT THE PROVISIONS
6 OF THE MODEL DRUG PARAPHERNALIA ACT; PROVIDING FOR A
7 DEFINITION OF DRUG PARAPHERNALIA; PROVIDING PENALTIES FOR
8 ITS SALE, POSSESSION, OR ADVERTISEMENT; AND PROVIDING FOR
9 FORFEITURE; AMENDING SECTIONS 44-12-102 AND 44-12-103, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Definitions. (1) As used in
13 [sections 1 through 7], the term "drug paraphernalia" means
14 all equipment, products, and materials of any kind that are
15 used, intended for use, or designed for use in planting,
16 propagating, cultivating, growing, harvesting,
17 manufacturing, compounding, converting, producing,
18 processing, preparing, testing, analyzing, packaging,
19 repackaging, storing, containing, concealing, injecting,
20 ingesting, inhaling, or otherwise introducing into the human
21 body a dangerous drug. It includes but is not limited to:

22 (a) kits used, intended for use, or designed for use
23 in planting, propagating, cultivating, growing, or
24 harvesting of any species of plant that is a dangerous drug
25 or from which a dangerous drug can be derived;

1 (b) kits used, intended for use, or designed for use
2 in manufacturing, compounding, converting, producing,
3 processing, or preparing dangerous drugs;

4 (c) isomerization devices used, intended for use, or
5 designed for use in increasing the potency of any species of
6 plant that is a dangerous drug;

7 (d) testing equipment used, intended for use, or
8 designed for use in identifying or in analyzing the
9 strength, effectiveness, or purity of dangerous drugs;

10 (e) scales and balances used, intended for use, or
11 designed for use in weighing or measuring dangerous drugs;

12 (f) dilutents and adulterants, such as quinine
13 hydrochloride, mannitol, mannite, dextrose, and lactose,
14 used, intended for use, or designed for use in cutting
15 dangerous drugs;

16 (g) separation gins and sifters used, intended for
17 use, or designed for use in removing twigs and seeds from or
18 in otherwise cleaning or refining marijuana;

19 (h) blenders, bowls, containers, spoons, and mixing
20 devices used, intended for use, or designed for use in
21 compounding dangerous drugs;

22 (i) capsules, balloons, envelopes, and other
23 containers used, intended for use, or designed for use in
24 packaging small quantities of dangerous drugs;

25 (j) containers and other objects used, intended for

1 use, or designed for use in storing or concealing dangerous
2 drugs;

3 ~~{k}--hypodermic--syringes,--needles,--and--other--objects~~
4 ~~used,--intended--for--use,--or--designed--for--use--in--parenterally~~
5 ~~injecting--dangerous--drugs--into--the--human--body;~~

6 ~~{+}(K)~~ objects used, intended for use, or designed for
7 use in ingesting, inhaling, or otherwise introducing
8 marijuana, cocaine, hashish, or hashish oil, OR OTHER
9 DANGEROUS DRUG AS DEFINED BY 50-32-101 into the human body,
10 such as:

11 (i) metal, wooden, acrylic, glass, stone, plastic, or
12 ceramic pipes with or without screens, permanent screens,
13 hashish heads, or punctured metal bowls;

14 (ii) water pipes;

15 (iii) carburetion tubes and devices;

16 (iv) smoking and carburetion masks;

17 (v) roach clips, meaning objects used to hold burning
18 material, such as a marijuana cigarette, that has become too
19 small or too short to be held in the hand;

20 (vi) miniature cocaine spoons and cocaine vials;

21 (vii) chamber pipes;

22 (viii) carburetor pipes;

23 (ix) electric pipes;

24 (x) air-driven pipes;

25 (xi) chillums;

1 (xii) bongs;

2 (xiii) ice pipes or chillers.

3 (2) words or phrases used in [sections 1 through 7]

4 that are not defined by this section have the meaning given
5 to them by the definitions contained in 50-32-101 unless the
6 usage clearly indicates a different intent.

7 NEW SECTION. Section 2. Determination of what
8 constitutes paraphernalia. In determining whether an object
9 is drug paraphernalia, a court or other authority should
10 consider, in addition to all other logically relevant
11 factors, the following:

12 (1) statements by an owner or by anyone in control of
13 the object concerning its use;

14 (2) prior convictions, if any, of an owner or of
15 anyone in control of the object, under any state or federal
16 law relating to any controlled substance or dangerous drug;

17 (3) the proximity of the object, in time and space, to
18 a direct violation of [sections 1 through 7];

19 (4) the proximity of the object to dangerous drugs;

20 (5) the existence of any residue of dangerous drugs on
21 the object;

22 (6) direct or circumstantial evidence of the intent of
23 an owner or of anyone in control of the object to deliver it
24 to persons whom he knows, or should reasonably know, intend
25 to use the object to facilitate a violation of [sections 3

1 through 6]. The innocence of an owner or of anyone in
 2 control of the object as to a direct violation of [sections
 3 3 through 6] does not prevent a finding that the object is
 4 intended for use or designed for use as drug paraphernalia.

5 (7) instructions, oral or written, provided with the
 6 object concerning its use;

7 (8) descriptive materials accompanying the object
 8 which explain or depict its use;

9 (9) national and local advertising concerning its use;

10 (10) the manner in which the object is displayed for
 11 sale;

12 (11) whether the owner or anyone in control of the
 13 object is a legitimate supplier of like or related items to
 14 the community, such as a licensed distributor or dealer of
 15 tobacco products;

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 17 sales of the object to the total sales of the business
 18 enterprise;

19 (13) the existence and scope of legitimate uses for the
 20 object in the community;

21 (14) expert testimony concerning its use.

22 NEW SECTION. Section 3. Criminal possession of drug
 23 paraphernalia. It is unlawful for any person to use or to
 24 possess with intent to use drug paraphernalia to plant,
 25 propagate, cultivate, grow, harvest, manufacture, compound,

1 convert, produce, process, prepare, test, analyze, pack,
 2 repack, store, contain, conceal, inject, ingest, inhale, or
 3 otherwise introduce into the human body a dangerous drug.
 4 Any person who violates this section is guilty of a
 5 misdemeanor and upon conviction shall be imprisoned in the
 6 county jail for not more than 6 months, fined not more than
 7 \$500, or both.

8 NEW SECTION. Section 4. Manufacture or delivery of
 9 drug paraphernalia. It is unlawful for any person to
 10 deliver, possess with intent to deliver, or manufacture with
 11 intent to deliver drug paraphernalia, knowing or under
 12 circumstances where one reasonably should know that it will
 13 be used to plant, propagate, cultivate, grow, harvest,
 14 manufacture, compound, convert, produce, process, prepare,
 15 test, analyze, pack, repack, store, contain, conceal,
 16 inject, ingest, inhale, or otherwise introduce into the
 17 human body a dangerous drug. Any person who violates this
 18 section is guilty of a misdemeanor and upon conviction shall
 19 be imprisoned in the county jail for not more than 6 months,
 20 fined not more than \$500, or both.

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 22 paraphernalia to a minor. Any person 18 years of age or over
 23 who violates [section 4] by delivering drug paraphernalia to
 24 a person under 18 years of age who is at least 3 years his
 25 junior is guilty of a misdemeanor and upon conviction shall

1 be imprisoned in the county jail for not more than 1 year,
 2 fined not more than \$1,000, or both.

3 NEW SECTION. Section 6. Advertisement of drug
 4 paraphernalia. It is unlawful for any person to place in any
 5 newspaper, magazine, handbill, or other publication any
 6 advertisement, knowing or under circumstances where one
 7 reasonably should know that the purpose of the
 8 advertisement, in whole or in part, is to promote the sale
 9 of objects designed or intended for use as drug
 10 paraphernalia. Any person who violates this section is
 11 guilty of a misdemeanor and upon conviction shall be
 12 imprisoned in the county jail for not more than 6 months,
 13 fined not more than \$500, or both.

14 NEW SECTION. Section 7. Exemptions. Practitioners and
 15 agents under their supervision acting in the course of a
 16 professional practice as defined by 50-32-101 are exempt
 17 from [sections 1 through 7].

18 Section 8. Section 44-12-102, MCA, is amended to read:

19 "44-12-102. Things subject to forfeiture. (1) The
 20 following are subject to forfeiture:

21 (a) all controlled substances that have been
 22 manufactured, distributed, prepared, cultivated, compounded,
 23 processed, or possessed in violation of Title 45, chapter 9;

24 (b) all money, raw materials, products, and equipment
 25 of any kind that are used or intended for use in

1 manufacturing, preparing, cultivating, compounding,
 2 processing, delivering, importing, or exporting any
 3 controlled substance in violation of Title 45, chapter 9,
 4 except items used or intended for use in connection with
 5 quantities of marijuana in amounts less than 250 grams;

6 (c) except as provided in subsection (2)(d), all
 7 property that is used or intended for use as a container for
 8 anything enumerated in subsection (1)(a) or (1)(b);

9 (d) except as provided in subsection (2), all
 10 conveyances, including aircraft, vehicles, and vessels:

11 (i) which are used or intended for use in unlawfully
 12 transporting or in any manner facilitating the
 13 transportation of anything enumerated in subsection (1)(a)
 14 or (1)(b) for the purpose of sale or receipt of such thing;

15 (ii) in which a controlled substance is unlawfully
 16 kept, deposited, or concealed; or

17 (iii) in which a controlled substance is unlawfully
 18 possessed by an occupant; and

19 (e) all books, records, and research products and
 20 materials, including formulas, microfilm, tapes, and data,
 21 that are used or intended for use in violation of Title 45,
 22 chapter 9; and

23 (f) all drug paraphernalia as defined in [section 1].

24 (2) (a) No conveyance used by a person as a common
 25 carrier in the transaction of business as a common carrier

1 is subject to forfeiture under this section unless it
2 appears that the owner or other person in charge of the
3 conveyance is a consenting party or privy to a violation of
4 Title 45, chapter 9.

5 (b) No conveyance is subject to forfeiture under this
6 section because of any act or omission established by the
7 owner of the conveyance to have been committed or omitted
8 without his knowledge or consent.

9 (c) A forfeiture of a conveyance encumbered by a bona
10 fide security interest is subject to the interest of the
11 secured party if he neither had knowledge of nor consented
12 to any violation of Title 45, chapter 9.

13 (d) No conveyance or container is subject to
14 forfeiture under this section if it was used or intended for
15 use in transporting less than 250 grams of marijuana."

16 Section 9. Section 44-12-103, MCA, is amended to read:
17 "44-12-103. When property may be seized. (1) A peace
18 officer who has probable cause to make an arrest for a
19 violation of Title 45, chapter 9, probable cause to believe
20 that a conveyance has been used or is intended to be used to
21 unlawfully transport a controlled substance, or probable
22 cause to believe that a conveyance has been used to keep,
23 deposit, or conceal a controlled substance shall seize the
24 conveyance so used or intended to be used or any conveyance
25 in which a controlled substance is unlawfully possessed by

1 an occupant. He shall immediately deliver a conveyance that
2 he seizes to the sheriff of the county in which the seizure
3 is made, to be held as evidence until forfeiture is declared
4 or release ordered.

5 (2) All property subject to forfeiture under 44-12-102
6 may be seized by a peace officer under a search warrant
7 issued by a district court having jurisdiction over the
8 property. Seizure without a warrant may be made if:

9 (a) the seizure is incident to an arrest or a search
10 under a search warrant issued for another purpose or an
11 inspection under an administrative inspection warrant;

12 (b) the property subject to seizure has been the
13 subject of a prior judgment in favor of the state in a
14 criminal proceeding or a forfeiture proceeding based on this
15 chapter;

16 (c) the peace officer has probable cause to believe
17 that the property is directly or indirectly dangerous to
18 health or safety; or

19 (d) the peace officer has probable cause to believe
20 that the property was used or is intended to be used in
21 violation of Title 45, chapter 9, or in violation of
22 [sections 1 through 7]."

23 Section 10. Severability. If a part of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

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1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

-End-

March 24, 1981

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 300 be amended as follows:

1. Page 3, lines 2 through 4.

Strike: subsection (k) in its entirety

Re-number: subsequent subsections

2. Page 3, line 7.

Following: "hashish,"

Strike: "or"

Following: "hashish oil"

Insert: ", or other dangerous drug as defined by 50-32-101"