

ORDINANCE #66419
Board Bill No. 183

An ordinance repealing Ordinance 61507, codified as in Section 11.61.010 et seq. of the Revised Code pertaining to the delivery of drug paraphernalia, enacting a new ordinance prohibiting the possession of drug paraphernalia and the possession of drug paraphernalia with intent to deliver; containing definitions, a penalty clause and an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Ordinance 61507 is hereby repealed and, in lieu thereof, the following new provisions are enacted.

SECTION TWO. Definitions.

For purposes of this ordinance the following words and phrases shall have the following meanings:

A. "Deliver" means the actual, constructive, or attempted transfer from one person to another of drug paraphernalia, whether or not there is an agency relationship, and includes a sale;

B. "Drug paraphernalia" means:

1. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, other illegal controlled substances, or imitation controlled substances into the human body, including, but not limited to:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers.

2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

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

- b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance, imitation controlled substance, or drug paraphernalia;
 - c. The proximity of the object, in time and space, to a direct violation of state or federal laws concerning use or sale of controlled substances;
 - d. The proximity of the object to controlled substances or imitation controlled substances on the object;
 - e. The existence of any residue of controlled substances or imitation controlled substances on the object;
 - f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of state or federal laws concerning use or sale of controlled substances; the innocence of an owner, or of anyone in control of the object, as to direct violation state or federal laws concerning use or sale of controlled substances; shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
 - g. Instructions, oral or written, provided with the object concerning its use;
 - h. Descriptive materials accompanying the object which explain or depict its use;
 - i. National or local advertising concerning its use;
 - j. The manner in which the object is displayed for sale;
 - k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
 - l. Direct or circumstantial evidence of the ratio of sales of the object or similar objects to the total sales of the business enterprise;
 - m. The existence and scope of legitimate uses for the object in the community;
 - n. Expert testimony concerning its use;
 - o. Where the object has been or is being offered for sale, the manner in which the object is displayed and the number of similar objects displayed.
- C. "Person" means individual, corporation, firm, business trust, estate, trust, partnership or association, or any other legal entity.

SECTION TWO. Possession, Delivery of and manufacture of drug paraphernalia prohibited.

It is unlawful for any person to use, possess with intent to use, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia as defined in Section One of this ordinance.

SECTION THREE. Penalty for violation.

Any person found guilty of violating the provisions of Section Two of this ordinance shall be fined no less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or by imprisonment up to ninety (90) days or by both fine and imprisonment.

SECTION FOUR. Emergency clause.

This being an ordinance for the preservation of public peace, health, and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the mayor.

Approved: August 2, 2004