

ORDINANCE #68404
Board Bill No. 115

An ordinance pertaining to the definitions of drug paraphernalia, amending Ordinance 66419, approved August 2, 2004, codified as Chapter 11.61 of the Revised Code, by repealing Section 11.61.010 pertaining to the definitions of drug paraphernalia and enacting in lieu thereof a new section pertaining to the same subject matter; and containing a severability clause and emergency clause.

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

SECTION ONE. Section 11.61.010 of the Revised Code, is hereby repealed and enacted in lieu thereof is the following:

11.61.010 Definitions.

For purposes of this chapter 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 as defined under either Federal law or Missouri State law, 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 marihuana 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,
- n. any other objects commonly used or adapted for use in ingesting, inhaling or otherwise involving a controlled substance, regardless if such object has another intended use;

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. If any provision, clause, sentence, paragraph or word of this ordinance or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION THREE. This Ordinance, being deemed necessary for the immediate preservation of public health, safety and welfare, is hereby declared to be an emergency measure and shall become effective immediately upon its approval by the Mayor.

Approved: July 7, 2009