

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 722
Committee Substitute Favorable 4/9/09
PROPOSED COMMITTEE SUBSTITUTE H722-PCS30367-RK-29

Short Title: Paraphernalia Control Act.

(Public)

Sponsors:

Referred to:

March 23, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN DEVICES THAT MAY
3 BE USED AS DRUG PARAPHERNALIA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 90 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 5F.

8 "Control of Potential Drug Paraphernalia Products.

9 **"§ 90-113.80. Title.**

10 This Article shall be known and may be cited as the "Drug Paraphernalia Control Act of
11 2009."

12 **"§ 90-113.81. Definitions.**

13 For the purposes of this Article:

14 (a) "Glass tube" means an object which meets all of the following requirements:

15 (1) A hollow glass cylinder, either open or closed at either end.

16 (2) No less than two or more than seven inches in length.

17 (3) No less than one-eighth inch or more than three-fourths inch in diameter.

18 (4) May be used to facilitate, or intended or designed to facilitate, violations of
19 the Controlled Substances Act, including, but not limited to, processing,
20 preparing, testing, analyzing, packaging, repackaging, storing, containing,
21 and concealing controlled substances and injecting, ingesting, inhaling, or
22 otherwise introducing controlled substances into the human body.

23 (5) Sold individually, or in connection with another object such as a novelty
24 holder, flower vase, or pen. The foregoing descriptions are intended to be
25 illustrative and not exclusive.

26 (b) "Retailer" means an individual or entity that is the general owner of an
27 establishment where glass tubes are available for sale.

28 (c) "Splitter" means a ring-shaped device that does both of the following:

29 (1) Allows the insertion of a paper-wrapped tobacco product, such as a cigar, so
30 that it can be pulled through the device.

31 (2) Cuts or slices the paper wrapping the tobacco product along the product's
32 length as it is drawn through the device.

33 **"§ 90-113.82. Glass tubes or splitters; restrictions on sales.**



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1 (a) Glass tubes or splitters shall not be offered for retail sale by self-service, but shall be
2 stored and sold from behind a counter where the general public cannot access them without the
3 assistance of a retailer's agent or employee.

4 (b) The retailer shall require any member of the public to whom it transfers a glass tube
5 or splitter, with or without consideration, to do all of the following:

6 (1) Present identification that includes a photograph that is an accurate depiction
7 of the person and that also includes the person's name and current address.

8 (2) Enter his or her name and current address on a record that the retailer shall
9 maintain solely for the purposes of this section.

10 (3) Sign his or her name, verifying by signature the glass tube or splitter will not
11 be used as drug paraphernalia in violation of the criminal laws of the State of
12 North Carolina.

13 (c) The retailer shall maintain the record described in subsection (b) of this section for a
14 period of two years from the date of each transaction, after which it may be destroyed.

15 (d) The record shall be readily available within 48 hours of the time of the transaction
16 for inspection by an authorized official of a federal, State, or local law enforcement agency.

17 (e) The retailer shall train its agents and employees on the requirements of this section.

18 **"§ 90-113.83. Penalties.**

19 (a) A retailer, or an employee of the retailer, who willfully and knowingly violates any
20 one of the subsections of G.S. 90-113.82 shall be guilty of a Class 2 misdemeanor.

21 (b) Any person who knowingly makes a false statement or representation in fulfilling
22 the requirements in G.S. 90-113.82(b) shall be guilty of a Class 1 misdemeanor.

23 **"§ 90-113.84. Immunity.**

24 (a) A retailer, or an employee of the retailer, who, reasonably and in good faith, (i)
25 reports to any law enforcement agency any alleged criminal activity related to the sale or
26 purchase of glass tubes or splitters or (ii) refuses to sell a glass tube or splitter to a person
27 reasonably believed to be purchasing it for use as drug paraphernalia is immune from civil
28 liability for that conduct, except in cases of willful misconduct."

29 **SECTION 2.** G.S. 95-241(a)(1) reads as rewritten:

30 **"§ 95-241. Discrimination prohibited.**

31 (a) No person shall discriminate or take any retaliatory action against an employee
32 because the employee in good faith does or threatens to do any of the following:

33 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
34 proceeding or other action, or testify or provide information to any person
35 with respect to any of the following:

36 a. Chapter 97 of the General Statutes.

37 b. Article 2A or Article 16 of this Chapter.

38 c. Article 2A of Chapter 74 of the General Statutes.

39 d. G.S. 95-28.1.

40 e. Article 16 of Chapter 127A of the General Statutes.

41 f. G.S. 95-28.1A.

42 g. Article 52 of Chapter 143 of the General Statutes.

43 h. Article 5F of Chapter 90 of the General Statutes."

44 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
45 offenses committed on or after that date.