

CHAPTER 614

Controlled Substances

614.01 Drug paraphernalia.

614.99 Penalty.

CROSS REFERENCES

Power to expend funds for prevention of substance abuse see M.C.L.A. Sec. 333.6131

Drugs and medicine generally - see M.C.L.A. Secs. 333.17701 et seq.

Marihuana - see M.C.L.A. Secs. 333.7212, 333.7401 et seq.

Intoxicating liquors generally - see M.C.L.A. Secs. 436.1 et seq.; GEN. OFF. Ch. 608

DUI - see TRAF. 410.03(UTC 5.15 et seq.)

Intoxicated taxicab passengers - see B.R. & T. 866.07

Editor's note: All language contained in all capitalized letters as well as certain additional language contained in section 614.01 was enacted by the voters of the City of Traverse City at the City General Election held on November 8, 2005. For sections that are invalid; see cross reference - City Attorney W. Peter Doren's November 14, 2005, legal opinion to the Chief of Police regarding the sections of this ordinance which were voted on by the electorate on November 8, 2005.

614.01 DRUG PARAPHERNALIA.

(a) Definitions. Except where the context clearly indicates a different meaning, as used in this section:

- 1) FOR PURPOSES OF THIS SECTION, "AUTHORIZED CAREGIVER" SHALL BE CONSTRUED TO INCLUDE ANY INDIVIDUAL WHO IS CHARGED WITH OR ASSUMES THE DUTY TO PROVIDE FOR THE IMPORTANT MEDICAL NEEDS OF A PATIENT USING A DEVICE FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING INTO THE BODY MARIJUANA UNDER THE DIRECTION, RECOMMENDATION, SUPERVISION OR GUIDANCE OF A PHYSICIAN LICENSED UNDER STATE LAW.
- 2) "Cocaine spoon" means a spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful uses of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a cocaine spoon or coke spoon.
- 3) "Controlled substance" shall be as defined in Act 368 of the Public Acts of 1978, as amended (M.C.L.A. 333.7104).
- 4) "Drug paraphernalia" means all equipment, products and materials of any kind which 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 or injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, including:
 - A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a

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- controlled substance or cannabis, or from which a controlled substance or cannabis can be derived;
- B. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing a controlled substance or cannabis;
 - C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance or cannabis;
 - D. Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of, a controlled substance or cannabis;
 - E. Scales and balances used, intended for use or designed for use in weighing or measuring a controlled substance or cannabis;
 - F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting a controlled substance or cannabis;
 - 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 a controlled substance or cannabis;
 - I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of a controlled substance or cannabis;
 - J. Containers and other objects used, intended for use or designed for use in storing or concealing a controlled substance or cannabis; and
 - K. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - 1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - 2. Water pipes;
 - 3. Carburetion tubes and devices;
 - 4. Smoking and carburetion masks;
 - 5. 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;
 - 6. Chamber pipes;
 - 7. Carburetor pipes;
 - 8. Electric pipes;
 - 9. Air-driven pipes;
 - 10. Chillums;
 - 11. Bongs; and
 - 12. Ice pipes or chillers.
- 5) "Marijuana or hashish pipe" means a pipe characterized by a bowl which is so small that the primary use for which it is reasonably adapted or designed is the

smoking of marijuana or hashish, rather than the lawful smoking of tobacco, and which may or may not be equipped with a screen.

- 6) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association.
- (b) Determinations. In determining whether or not an object is a cocaine spoon, marijuana or hashish pipe or drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
- 1) Statements by an owner or by anyone in control of the object concerning its use;
 - 2) 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;
 - 3) The proximity of the object, in time and space, to a direct violation of this section;
 - 4) The proximity of the object to a controlled substance;
 - 5) The existence of any residue of a controlled substance on the object;
 - 6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section, shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
 - 7) Instructions, oral or written, provided with the object concerning its use;
 - 8) Descriptive materials accompanying the object which explain or depict its use;
 - 9) National and local advertising concerning its use;
 - 10) The manner in which the object is displayed for sale;
 - 11) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
 - 12) The existence and scope of legitimate uses for the object in the community; and
 - 13) Expert testimony concerning its use.
- (c) Prohibitions; Exceptions. No person shall sell, offer for sale, display, furnish, supply or give away any cocaine spoon, marijuana pipe, hashish pipe or drug paraphernalia. This subsection shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions; to common carriers or warehousemen or their employees engaged in the lawful transportation of such paraphernalia; to public officers or employees while engaged in the performance of their official duties; or to persons suffering from diabetes, asthma or any other medical condition requiring self-injection. (Ord. 159. Passed 12-19-83. Ord. 691. Passed 11-8-05.)

THIS SUBSECTION SHALL NOT APPLY TO AUTHORIZED CAREGIVERS WHO DELIVER DEVICES FOR MEDICAL USE BY QUALIFIED PATIENTS.

614.02 MEDICAL USE.

ALLOCATION OF LAW ENFORCEMENT PRIORITIES OF THE CITY OF TRAVERSE CITY SHALL MAKE THE USE, DELIVERY OR POSSESSION OF MARIJUANA BY A PATIENT UNDER THE DIRECTION, RECOMMENDATION, SUPERVISION OR GUIDANCE OF A PHYSICIAN LICENSED UNDER STATE LAW, AND/OR THE

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MEDICAL ASSISTANCE OF SUCH PATIENTS BY AUTHORIZED CAREGIVERS, THE LOWEST LAW ENFORCEMENT PRIORITY OF THE CITY.

(Ord. 691. Passed 11-8-05.)

614.03 SEVERABILITY OF AMENDMENTS.

IN THE EVENT ONE OF THE AMENDMENTS, OR SUBSECTION THEROF, TO THE EXISTING CITY CODE OF ORDINANCES IS HELD TO BE INVALID OR UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION OR ANY OTHER SUCH LEGAL AUTHORITY, THEN THE REMAINING SECTION OR SUBSECTIONS SHALL REMAIN IN SUCH FULL FORCE AND EFFECT AS PERMITTED BY LAW.

(Ord. 691. Passed 11-8-05.)

614.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 159. Passed 12-19-83.)