

HOUSE BILL No. 2701

By Committee on Judiciary

1-25

9 AN ACT concerning crimes, punishment and criminal procedure; relat-
10 ing to controlled substances; amending K.S.A. 65-4151 and repealing
11 the existing section.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-4151 is hereby amended to read as follows: 65-
15 4151. In determining whether an object is drug paraphernalia, a court or
16 other authority shall consider, in addition to all other logically relevant
17 factors, the following:

18 (a) Statements by an owner or person in control of the object con-
19 cerning its use.

20 (b) Prior convictions, if any, of an owner or person in control of the
21 object, under any state or federal law relating to any controlled substance.

22 (c) The proximity of the object, in time and space, to a direct violation
23 of the uniform controlled substances act.

24 (d) The proximity of the object to controlled substances.

25 (e) The existence of any residue of controlled substances on the
26 object.

27 (f) Direct or circumstantial evidence of the intent of an owner or
28 person in control of the object, to deliver it to a person the owner or
29 person in control of the object knows, or should reasonably know, intends
30 to use the object to facilitate a violation of the uniform controlled sub-
31 stances act. The innocence of an owner or person in control of the object
32 as to a direct violation of the uniform controlled substances act shall not
33 prevent a finding that the object is intended for use as drug paraphernalia.

34 (g) Oral or written instructions provided with the object concerning
35 its use.

36 (h) Descriptive materials accompanying the object which explain or
37 depict its use.

38 (i) National and local advertising concerning the object's use.

39 (j) The manner in which the object is displayed for sale.

40 (k) Whether the owner or person in control of the object is a legiti-
41 mate supplier of similar or related items to the community, such as a
42 distributor or dealer of tobacco products.

43 (l) Direct or circumstantial evidence of the ratio of sales of the object

- 1 or objects to the total sales of the business enterprise.
- 2 (m) The existence and scope of legitimate uses for the object in the
- 3 community.
- 4 (n) Expert testimony concerning the object's use.
- 5 (o) *The quantity, form or packaging of the product, substance or ma-*
- 6 *terial in relation to the quantity, form or packaging associated with any*
- 7 *legitimate use for the product, substance or material.*
- 8 Sec. 2. K.S.A. 65-4151 is hereby repealed.
- 9 Sec. 3. This act shall take effect and be in force from and after its
- 10 publication in the statute book.