

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1604

By: Representative Gazaway

For An Act To Be Entitled

AN ACT CONCERNING THE APPLICATION OF THE OFFENSE OF POSSESSION OF DRUG PARAPHERNALIA IN REGARDS TO THE HABITUAL OFFENDER SENTENCE ENHANCEMENT; CONCERNING THE OFFENSE OF DRUG PARAPHERNALIA; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE APPLICATION OF THE OFFENSE OF POSSESSION OF DRUG PARAPHERNALIA IN REGARDS TO THE HABITUAL OFFENDER SENTENCE ENHANCEMENT; AND CONCERNING THE OFFENSE OF DRUG PARAPHERNALIA.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-4-501, concerning the application of the habitual offender sentence enhancement, is amended to add an additional subsection to read as follows:

(i) For the purpose of determining under this section the number of felonies for which a defendant has been convicted, if the defendant was previously convicted of a felony for possession of a controlled substance under § 5-64-101 et seq., and the defendant also was convicted of a felony for possession of drug paraphernalia under § 5-64-443 stemming from the same set of facts, the two (2) felonies shall be considered as one (1) felony.

SECTION 2. Arkansas Code § 5-64-443 is amended to read as follows:
5-64-443. ~~Drug~~ Possession of drug paraphernalia.



(a) A person who possesses drug paraphernalia with the purpose to use the drug paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or to store, contain, conceal, or weigh a controlled substance in violation of this chapter upon conviction is guilty of:

(1) A Class A misdemeanor; or

(2) A Class D felony if the ~~controlled:~~

(A) Controlled substance is methamphetamine, heroin, fentanyl, or cocaine; and

(B) Person has been previously convicted of a violation of this chapter.

(b) A person who uses or possesses with the purpose to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack a controlled substance ~~that is methamphetamine, heroin, fentanyl, or cocaine~~ in violation of this chapter upon conviction is guilty of a:

(1) Class D felony; or

(2) Class B felony if the controlled substance is methamphetamine, heroin, fentanyl, or cocaine.

~~(c) A person who uses or possesses with the purpose to use drug paraphernalia to store, contain, or conceal a controlled substance that is methamphetamine, heroin, fentanyl, or cocaine upon conviction is guilty of a Class D felony~~ When the same conduct of a defendant may establish the commission of more than one (1) offense under this section, the defendant may only be convicted of one (1) offense under this section.

~~(d) A person who uses or possesses with the purpose to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack a controlled substance that is not methamphetamine, heroin, fentanyl, or cocaine upon conviction is guilty of a Class D felony.~~

~~(e) A person who uses or possesses with the purpose to use drug paraphernalia to store, contain, or conceal a controlled substance that is not methamphetamine, heroin, fentanyl, or cocaine upon conviction is guilty of a Class A misdemeanor.~~

APPROVED: 3/24/21