

218A.510 Factors to be considered in determining whether object is drug paraphernalia.

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:

- (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 KRS 218A.500(2), (3) or (4);
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances 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 knows, or should reasonably know, intend to use the object to facilitate a violation of KRS 218A.500(2), (3) or (4); the innocence of an owner, or of anyone in control of the object, as to a direct violation of KRS 218A.500(2), (3) or (4) 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) 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;
- (12) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 413, sec. 3, effective July 15, 1982.