

## SENATE BILL No. 279

By Senator Betts

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9 AN ACT concerning crimes; pertaining to the sale of drug paraphernalia;  
10 amending K.S.A. 65-4153 and K.S.A. 2006 Supp. 65-4152 and repeal-  
11 ing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 65-4152 is hereby amended to read as  
15 follows: 65-4152. (a) No person shall *sell or offer for sale*, use or possess  
16 with intent to use:

17 (1) Any simulated controlled substance;

18 (2) any drug paraphernalia to use, store, contain, conceal, inject, in-  
19 gest, inhale or otherwise introduce into the human body a controlled  
20 substance in violation of the uniform controlled substances act;

21 (3) any drug paraphernalia to plant, propagate, cultivate, grow, har-  
22 vest, manufacture, compound, convert, produce, process, prepare, test,  
23 analyze, pack, repack, sell or distribute a controlled substance in violation  
24 of the uniform controlled substances act; or

25 (4) anhydrous ammonia or pressurized ammonia in a container not  
26 approved for that chemical by the Kansas department of agriculture.

27 (b) Violation of subsection (a)(1) or (a)(2) is a class A nonperson  
28 misdemeanor.

29 (c) Violation of subsection (a)(3), other than as described in para-  
30 graph (d), or subsection (a)(4) is a drug severity level 4 felony.

31 (d) Violation of subsection (a)(3) which involves the possession of  
32 drug paraphernalia for the planting, propagation, growing or harvesting  
33 of less than five marijuana plants is a class A nonperson misdemeanor.

34 (e) For persons arrested and charged under paragraph (a)(4), bail  
35 shall be at least \$50,000 cash or surety, unless the court determines, on  
36 the record, that the defendant is not likely to re-offend, the court imposes  
37 pretrial supervision or the defendant agrees to participate in a licensed  
38 or certified drug treatment program.

39 Sec. 2. K.S.A. 65-4153 is hereby amended to read as follows: 65-  
40 4153. (a) No person shall *sell or offer for sale*, deliver, possess with intent  
41 to deliver, manufacture with intent to deliver or cause to be delivered  
42 within this state:

43 (1) Any simulated controlled substance;

- 1       (2) any drug paraphernalia, knowing, or under circumstances where  
2 one reasonably should know, that it will be used to use, store, contain,  
3 conceal, inject, ingest, inhale or otherwise introduce into the human body  
4 a controlled substance in violation of K.S.A. 65-4162, and amendments  
5 thereto;
- 6       (3) any drug paraphernalia, knowing, or under circumstances where  
7 one reasonably should know, that it will be used to use, store, contain,  
8 conceal, inject, ingest, inhale or otherwise introduce into the human body  
9 a controlled substance in violation of the uniform controlled substances  
10 act, except K.S.A. 65-4162, and amendments thereto; or
- 11       (4) any drug paraphernalia, knowing or under circumstances where  
12 one reasonably should know, that it will be used to plant, propagate,  
13 cultivate, grow, harvest, manufacture, compound, convert, produce, pro-  
14 cess, prepare, test, analyze, pack, repack, sell or distribute a controlled  
15 substance in violation of the uniform controlled substances act.
- 16       (b) Violation of subsection (a)(1) is a nondrug severity level 9, non-  
17 person felony.
- 18       (c) Violation of subsection (a)(2) is a class A nonperson misdemeanor.  
19 Any person who violates subsection (a)(2) by delivering or causing to be  
20 delivered within this state drug paraphernalia to a person under 18 years  
21 of age is guilty of a nondrug severity level 9, nonperson felony.
- 22       (d) Violation of subsection (a)(3) is a nondrug severity level 9, non-  
23 person felony. Any person who violates subsection (a)(3) by delivering or  
24 causing to be delivered within this state drug paraphernalia to a person  
25 under 18 years of age is guilty of a drug severity level 4 felony.
- 26       (e) Violation of subsection (a)(4) is a drug severity level 4 felony.
- 27       Sec. 3. K.S.A. 65-4153 and K.S.A. 2006 Supp. 65-4152 are hereby  
28 repealed.
- 29       Sec. 4. This act shall take effect and be in force from and after its  
30 publication in the statute book.