

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **House Bill 2330**

**FISCAL  
NOTE**

BY DELEGATES HAMILTON

[INTRODUCED FEBRUARY 10, 2017; REFERRED

TO THE COMMITTEE ON PREVENTION AND TREATMENT OF

SUBSTANCE ABUSE THEN THE JUDICIARY.]

1 A BILL to repeal §47-19-2, §47-19-4, §47-19-5, §47-19-6 and §47-19-8 of the Code of West  
 2 Virginia, 1931, as amended; to amend and reenact §47-19-1; §47-19-3 and §47-19-7 of  
 3 said code; and to amend said code by adding thereto a new section, designated §47-19-  
 4 9, all relating to drug paraphernalia; prohibiting possession, production or marketing-for-  
 5 sale things designed or marketed for use with controlled substances; and providing  
 6 criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

1 That §47-19 -2, §47-19-4, §47-19-5, §47-19-6 and §47-19-8 of the Code of West Virginia,  
 2 1931, as amended, be repealed; that §47-19-1; §47-19-3 and §47-19-7 of said code, be amended  
 3 and reenacted; and that said code be amended by adding thereto a new section, designated §47-  
 4 19-9, all to read as follows:

**ARTICLE 19. DRUG PARAPHERNALIA.**

**§47-19-1. Items designed or marketed for use with controlled substances; license required.**

1 It is unlawful for any person to possess, produce or market for sale any items, effect,  
 2 paraphernalia, accessory or thing which is designed or marketed for use with controlled  
 3 substances as they are defined in chapter sixty-a of this code.

**§47-19-3. Drug paraphernalia defined.**

1 (a) As used in this section, “paraphernalia” is defined as any legitimate equipment,  
 2 product, or material that is modified for making, using, or concealing illegal drugs such as cocaine,  
 3 cocaine-based derivative, heroin, marijuana, and methamphetamine and includes certain pipes,  
 4 smoking masks, bongos, cocaine freebase kits, marijuana grow kits, roach clips and items such as  
 5 hollowed out cosmetic cases or fake pagers used to conceal illegal drugs and dealer-specific  
 6 products used for preparing illegal drugs for distribution at the street level, such as scales, vials  
 7 and baggies, but is not limited to, the following:

8 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens,  
 9 permanent screens, hashish heads, any container with drug residue (such as dinner plates,

- 10 spoons), or punctured metal bowls;
- 11 (2) Water pipes;
- 12 (3) Carburetor tubes and devices;
- 13 (4) Smoking and carburetion masks;
- 14 (5) Roach clips, meaning objects used to hold burning material, such as a marijuana
- 15 cigarette, that has become too small or too short to be held in the hand;
- 16 (6) Chambers pipes;
- 17 (7) Carburetor pipes;
- 18 (8) Electric pipes;
- 19 (9) Air-driven pipes;
- 20 (10) Chillums;
- 21 (11) Bongos;
- 22 (12) Ice pipes or chillers;
- 23 (13) Miniature cocaine spoons, and cocaine vials; and
- 24 (14) Needles without prescriptions.
- 25 (b) Drug paraphernalia does not include any items traditionally used with tobacco such as
- 26 pipes and rolling papers.

**§47-19-7. Penalty.**

1 Any person violating the provisions of this article as a first offense is guilty of a  
2 misdemeanor and, upon conviction thereof, shall be fined not more than \$500. A person who  
3 commits a second offense is guilty of a misdemeanor and, upon conviction thereof, shall be fined  
4 not more than \$1,000. A person who violates provisions of this article for a third or subsequent  
5 offense is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than  
6 \$2,000 for each offense.

**§47-19-9. Severability.**

1 If any provision of this section or the application thereof to any person or circumstance is

- 2 held invalid; the invalidity shall not affect other provisions or applications of this article, and to this
- 3 end the provisions of this article are severable.

NOTE: The purpose of this bill is to prohibit sale of paraphernalia designed or marketed for use with controlled substances.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.

§47-19-1, §47-19-3 and §47-19-7 have been completely rewritten; therefore, they have been completely underscored.