

ASSEMBLY, No. 1444

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Assemblyman GARCIA

1 AN ACT concerning the sale and possession of materials simulating
2 drug paraphernalia and supplementing chapter 36 of Title 2C of the
3 New Jersey Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. a. As used in this act, "material simulating drug paraphernalia"
9 means any object which appears to be an object commonly used by
10 persons engaged in the possession, sale, or use of a controlled
11 dangerous substance, but which object is not commonly used for an
12 illegal purpose. These materials shall include, but not be limited to,
13 objects which have the appearance of hypodermic needles or syringes,
14 whether or not such objects have another useful purpose, such as a
15 writing device.

16 b. A person who sells, attempts to sell, gives, transfers, or
17 otherwise disposes of material simulating drug paraphernalia to a
18 person who is under 18 years of age shall be guilty of a crime of the
19 fourth degree. The establishment of all of the following facts,
20 however, shall constitute a defense to any prosecution therefor: (1) the
21 purchaser or transferee falsely represented his age by producing a
22 driver's license bearing a photograph of the licensee, or by producing
23 a photographic identification card issued pursuant to section 1 of
24 P.L.1968, c.313 (C.33:1-81.2) or by producing a similar card issued
25 pursuant to the laws of another State or the federal government
26 purporting to be a valid identification card indicating that he was 18
27 years of age or older; (2) the appearance of the purchaser was such
28 that an ordinary prudent person would believe him to be 18 years of
29 age or older; and (3) the sale or transfer was made in good faith
30 relying upon the indicators of age listed in paragraphs (1) and (2) of
31 this subsection.

32 c. A person who knowingly possesses any material simulating drug
33 paraphernalia while in or upon any part of the buildings or grounds of
34 any school or school property used for school purposes which is
35 owned by or leased to any elementary or secondary school or school
36 board is guilty of a crime of the fourth degree.

1 2. This act shall take effect immediately.

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STATEMENT

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6 This bill establishes the sale of materials simulating drug
7 paraphernalia to persons under the age of 18 years as a crime of the
8 fourth degree. It also prohibits the possession of materials simulating
9 drug paraphernalia by any person on school property. The bill defines
10 material simulating drug paraphernalia to mean those materials which
11 look like objects used to engage in illegal drugs, but which in fact are
12 not. The term would include syringe pens, devices which have
13 recently begun appearing in the public schools. A person convicted of
14 possessing materials simulating drug paraphernalia on school property
15 would be guilty of a crime of the fourth degree.

16 Although the bill affords no exceptions to the prohibition against
17 possessing material simulating drug paraphernalia on school property,
18 it does provide an affirmative defense for persons charged with selling
19 or transferring material simulating drug paraphernalia to persons under
20 the age of 18 years. The defense applies to a person who in good faith
21 unknowingly sells material simulating drug paraphernalia to an
22 underage person because that person looked to be 18 years or older
23 and displayed a seemingly valid form of photographic identification.

24 Prohibiting the sale and possession of materials simulating drug
25 paraphernalia by young people is necessary. These devices, by virtue
26 of their construction, pose a physical danger to children. Even more
27 perniciously, they afford impressionable juveniles an opportunity to
28 model the anti-social and self-destructive behavior of those who use
29 illegal narcotics.

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34 Prohibits sale of materials simulating drug paraphernalia to persons
35 under 18.