

LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

DRUG PARAPHERNALIA: SUMMARY OF STATE LAWS

APRIL 2022



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DRUG PARAPHERNALIA: SUMMARY OF STATE LAWS

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SUMMARY

Drug overdose statistics in the United States remain grim. Provisional data from the National Center for Health Statistics, Centers for Disease Control and Prevention, shows that just under 106,000 Americans died of a drug overdose in the United States during the 12-month period from November 2020 to October 2021.¹ This represents a 15.9 percent increase in fatal overdoses compared to the same period the year before and a 46.6 percent increase over calendar year 2019.² Successfully combatting this overdose trend will be challenging and will require federal, state, and local policymakers to implement a variety of programs designed to help people who use drugs (“PWUD”).

Two of the many emerging policies are: (1) increasing the distribution and use of [drug test strips and other testing equipment](#) by harm reduction organizations and PWUD; and (2) expanding the number and scope of [syringe services programs](#). However, state criminal laws pertaining to drug paraphernalia can hamper state efforts regarding both policies. In many jurisdictions, needles, syringes, drug test strips and/or other testing equipment fall within the state’s statutory definition of drug paraphernalia and their possession or use is not exempt from criminal penalty. Even if local law enforcement and prosecutors do not actively enforce drug paraphernalia laws with respect to these items, the existence of the prohibition still serves to chill the use of testing equipment and syringe services program services.

The underlying cause of this issue dates back many years. In general, the first drug paraphernalia laws—often specific to heroin supplies (such as needles) and pipes—took effect in the mid-1970s in reaction to a loophole in the federal Comprehensive Drug Abuse Prevention and Control Act, the legislation containing the federal Controlled Substances Act (CSA). Although the CSA criminalized possessing and selling controlled substances, it did not, as originally enacted, criminalize selling devices that facilitated the use of controlled substances.³ As sales of drug paraphernalia grew in the 1970s, states and localities enacted laws to prevent the sale and use of drug paraphernalia. Many courts, however, found early legislative attempts unconstitutionally vague. In response, the Drug Enforcement Administration (DEA) drafted a Model Drug Paraphernalia Act in August 1979 (the 1979 Act) for states to use.⁴

By December 1987, 38 states and the District of Columbia enacted the 1979 Act.⁵ Once enacted, these laws remained largely unchanged for over 30 years. The definition of drug paraphernalia in the 1979 Act—and thus, the definition in most states—listed numerous

¹ F.B. Ahmad, et al., *Provisional drug overdose death counts*, NAT’L CENTER FOR HEALTH STATISTICS (March 16, 2022), <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.

² *Id.*

³ See, *Importation of Certain Drug Paraphernalia into the United States*, USITC Publication 2223, U.S. INT’L. TRADE COMM. (Sept. 1989), <https://www.usitc.gov/publications/332/pub2223.pdf>; Michael J. Barbour, *Virginia’s Drug Paraphernalia Law*, 16 UNIV. OF RICH. L. REV. 161 (1981), <https://scholarship.richmond.edu/cgi/viewcontent.cgi?article=1560&context=lawreview>; Michael D. Guinan, *Constitutionality of Anti-Drug Paraphernalia Laws—The Smoke Clears*, 58 U. OF NOTRE DAME L. REV. 833 (1983), <https://scholarship.law.nd.edu/ndlr/vol58/iss4/5/>.

⁴ U.S. INT’L. TRADE COMM., *supra* note 3, at 2.

⁵ With an additional six states enacting drug paraphernalia laws not based on the 1979 Act by then, too.

categories of items meeting the definition, including: (1) “[t]esting equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances” and (2) “[h]ypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.” The 1979 Act also made it illegal for a person “to use, or to possess with intent to use” or “deliver, possess with intent to deliver, or manufacture with intent to deliver” drug paraphernalia. Accordingly, needles, syringes, and testing equipment are illegal in any state whose law tracked the 1979 Act without subsequent amendment. Moreover, even if present-day local law enforcement and prosecutors do not actively enforce a state’s prohibition of needles, syringes, drug test strips, or other testing equipment, the existence of the prohibition continues to chill the use and distribution of these items.

Given the increased emphasis in recent years on using harm reduction strategies to stem the overdose crisis, the hurdle posed by state drug paraphernalia laws to establishing syringe services programs or distributing and using testing equipment is not inconspicuous.⁶ Accordingly, the Legislative Analysis and Public Policy Association (LAPPA) undertook this research project to identify both currently-in-force statutes and recently proposed legislation, throughout all 50 states and the District of Columbia, concerning the treatment of needles, syringes, and testing equipment under state drug paraphernalia laws.⁷ Forty-nine (49) states and the District of Columbia have one or more criminal laws pertaining to drug paraphernalia. Only Alaska does not.

The results of this research project are presented in this document. Starting on page 11, LAPPA provides jurisdiction-by-jurisdiction tables describing aspects of each law currently in effect as of March 2022, including:

- Statutory citation(s) and effective date(s) of drug paraphernalia laws and exceptions to those laws, if any;
- Dates of substantive amendments to the cited statutes, if any;
- Whether or not a state’s definition of drug paraphernalia includes syringes, needles, and or testing equipment;
- Penalties for possession or use of drug paraphernalia;
- Circumstances under which use or possession of drug paraphernalia is allowed;

⁶ See, e.g., Madelyn Beck, *Fentanyl tests strips could prevent overdoses, but they’re often not allowed to*, BOISE STATE PUBLIC RADIO (Jan. 25, 2022), <https://www.boisestatepublicradio.org/health/2022-01-25/fentanyl-tests-strips-could-prevent-overdoses-but-theyre-often-not-allowed-to>; McKenna Schueler, *The fight to legalize life-saving fentanyl test strips in Southern states*, FACING SOUTH (Jan. 24, 2022), <https://www.facingsouth.org/2022/01/fight-legalize-life-saving-fentanyl-test-strips-southern-states>; *Syringe Distribution Programs Can Improve Public Health During the Opioid Overdose Crisis*, THE PEW CHARITABLE TRUSTS (March 2, 2021), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/03/syringe-distribution-programs-can-improve-public-health-during-the-opioid-overdose-crisis> (recommending, among other things, that states change drug paraphernalia laws).

⁷ This document does not discuss statutes authorizing or regulating syringe services programs in detail. More information on state-specific syringe services program laws can be found in *Syringe Services Programs: Summary of State Laws*, LEG. ANALYSIS & PUB. POLICY ASSOC. (Oct. 27, 2021), <https://legislativeanalysis.org/syringe-services-programs-summary-of-state-laws/>.

- Forfeiture provisions; and
- Recently proposed, but not yet enacted, legislation.

LAPPA designed this document to: (1) provide a singular resource for each jurisdiction's laws; (2) allow for a comparison of these laws between jurisdictions; and (3) identify and highlight interesting provisions. The primary conclusions from the research and analysis are set forth below—in separate categories for needles/syringes and testing equipment—accompanied by several maps depicting many of the results in graphic form.⁸

Conclusions Specific to Drug Testing Equipment

- As described below, as of April 2022, the use/possession of drug test strips and/or testing equipment is legal for at least some individuals in 25 states and the District of Columbia, while it is illegal for all individuals in 25 states, unless a Good Samaritan fatal overdose prevention law applies to a particular situation.⁹
- Fourteen states have drug paraphernalia laws in which the state's definition of drug paraphernalia does not include the "testing equipment" provision, thus making at least some testing equipment legal. In 10 of these 14 states, the state recently (*i.e.*, since 2018) amended the law to exclude some or all types of testing equipment from the definition. These 10 states are Arizona, Colorado, Maine, Maryland, Minnesota, Nevada, Tennessee, Virginia, West Virginia, and Wisconsin. West Virginia's new law takes effect in June 2022.¹⁰ In the remaining four states, Nebraska, New York, South Carolina, and Wyoming, the definition either never contained the testing equipment provision or has not included it for several years.
- In seven states and the District of Columbia, although the jurisdiction's definition of drug paraphernalia includes testing equipment, there is no criminal penalty for using or possessing certain testing equipment for at least some individuals in the state. In some instances, only individuals involved with harm reduction or syringe services programs are allowed to use/possess the equipment, while in other jurisdictions, any individual can. These eight jurisdictions are Alabama, Delaware, District of Columbia, Illinois, New Mexico, North Carolina, Oklahoma, and Rhode Island. New Mexico's and Alabama's new laws take effect in May and June 2022, respectively.

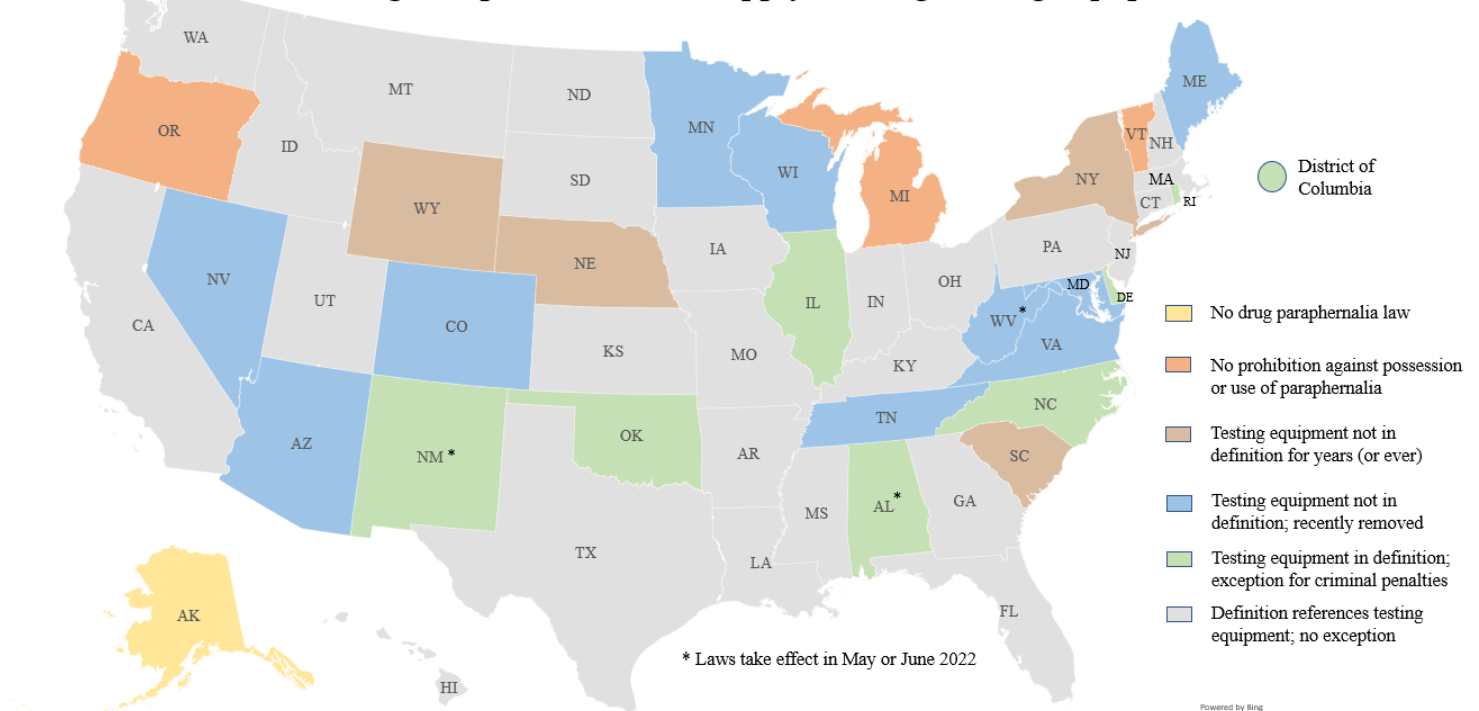
⁸ The goal of this research document is to provide accurate and complete information that is free of omissions or errors. If you believe that this document contains misinformation, omissions, or errors, please email LAPPA at info@thelappa.org.

⁹ This categorization does not include Georgia's pending enrolled legislation, which remains on the Governor's desk as of April 25, 2022.

¹⁰ Until June 2022, West Virginia falls into the category discussed in the paragraph immediately below, where there is no criminal penalty for using or possessing certain testing equipment for at least some individuals in the state (in WV's case, an employee, volunteer, or participant of a licensed syringe services program).

- In three states, Michigan, Oregon, and Vermont, although the definition of drug paraphernalia includes testing equipment, the state's criminal law does not prohibit the use or possession of drug paraphernalia generally.
- In the remaining 25 states, the state's criminal prohibition against drug paraphernalia includes testing equipment, and there is no exception to that penalty for use/possession of that equipment, unless the state's Good Samaritan fatal overdose prevention law applies to a particular situation. The map below depicts this.

How Drug Paraphernalia Laws Apply to Drug Testing Equipment

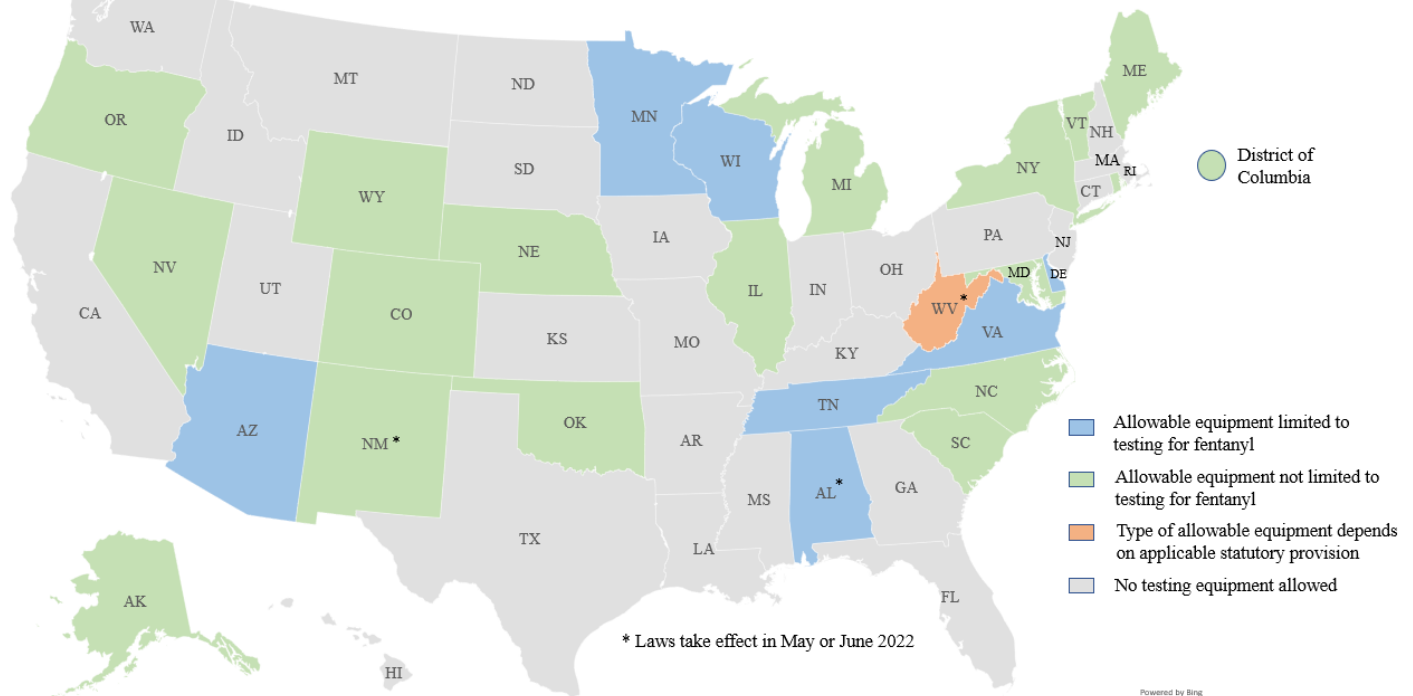


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- The type of testing equipment allowed by the laws of the 25 states and the District of Columbia vary. In seven states, the allowable testing equipment is limited to items used to detect fentanyl, fentanyl analogue, or a synthetic opioid. These seven states are Alabama, Arizona, Delaware, Minnesota, Tennessee, Virginia, and Wisconsin. In West Virginia, the allowable equipment depends on the applicable statutory provision. Currently, West Virginia allows an employee, volunteer, or participant of a licensed syringe services program to possess and use testing supplies for illicit substances. Beginning in June 2022, however, the state's general authorization for use and possession will apply only to fentanyl test strips. In the remaining 18 jurisdictions, the testing equipment allowed is broader than simply drug test strips, by virtue of either: (1) express statutory language (*e.g.*, “testing equipment used . . . in identifying or in analyzing the

strength, effectiveness, or purity of controlled substances”¹¹): (2) the drug paraphernalia definition making no mention of testing equipment; or (3) the state not prohibiting possession/use of drug paraphernalia generally. The map below depicts this.

Types of Allowable Drug Testing Equipment

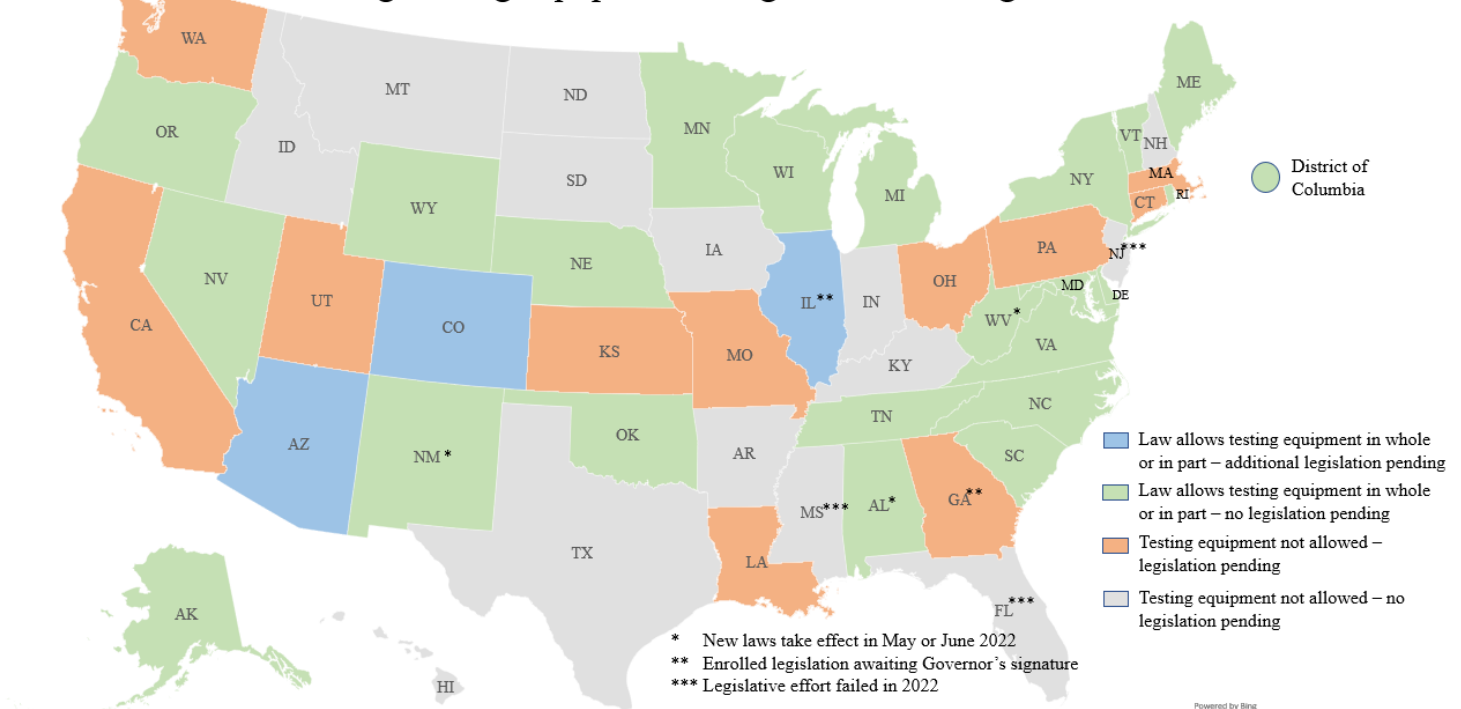


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- In 12, or just under half of the 25 states where testing equipment is illegal for all individuals, an individual eligible for application of the state’s Good Samaritan fatal overdose prevention law is immune from criminal penalty for the possession/use of drug paraphernalia. These 12 states are California, Connecticut, Florida, Georgia, Hawaii, Idaho, Kentucky, Mississippi, Missouri, New Jersey, North Dakota, and Pennsylvania.
- As of April 2022, legislation to allow testing equipment is pending in 11 of the 25 states where testing equipment is currently illegal for all individuals. Recent legislative efforts in three states, Florida, Mississippi, and New Jersey, did not pass in 2022. Moreover, counting the law taking effect in June 2022 in West Virginia, legislation to expand access to testing equipment is pending in four states that already allow such equipment for some individuals: Arizona, Colorado, Illinois, and West Virginia. The map below depicts this.

¹¹ COLO. REV. STAT. ANN. § 18-18-426(2) (West 2021).

Drug Testing Equipment – Legislation Pending in 2022

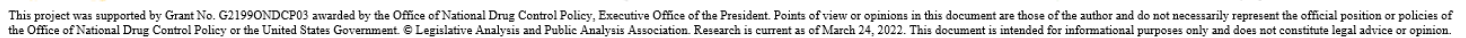


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Conclusions Specific to Needles and Syringes

- As described below, the use/possession of needles and syringes is legal for at least some individuals in 39 states and the District of Columbia, while it is illegal for all individuals in 11 states, unless the state's Good Samaritan fatal overdose prevention law applies to a specific situation.
- In 10 states, the state law definition of drug paraphernalia does not include needles and syringes, thus making their use/possession legal. These states are Connecticut, Maine, Massachusetts, Nevada, New Hampshire, New York, Oregon, Rhode Island, South Carolina, and Wisconsin.
- In four states, Michigan, Vermont, West Virginia, and Wyoming, although needles and syringes are included in the definition of drug paraphernalia, there is no penalty for possessing drug paraphernalia generally. Similarly, two jurisdictions, California and the District of Columbia, allow individuals to use/possess drug paraphernalia, including needles and syringes, for the personal use of substances. Additionally, in Washington, individuals aged 18 or older are allowed to possess sterile needles and syringes only (but not other drug paraphernalia) for the purpose of reducing blood borne diseases.

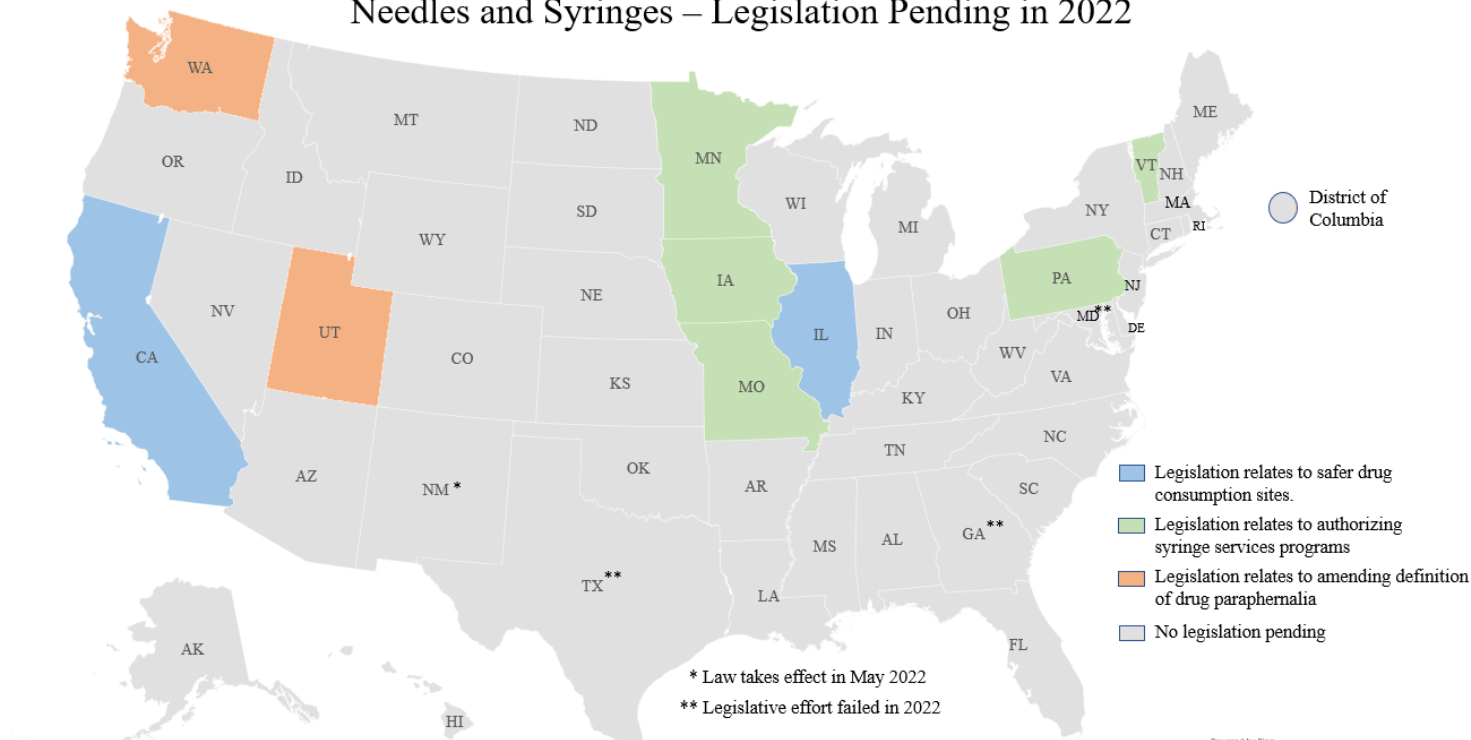
- ## How Drug Paraphernalia Laws Apply to Needles and Syringes



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- As of March 2022, there is legislation pending in nine states that pertains to expanding access to needles and syringes. These nine states are California, Illinois, Iowa, Minnesota, Missouri, Pennsylvania, Utah, Vermont, and Washington. The bills relate to: (1) allowing drug consumption sites; (2) authorizing syringe services programs; or (3) removing needles/syringes from the definition of drug paraphernalia. During 2022, legislative efforts failed in Georgia, Maryland, and Texas. The map below depicts this.

Needles and Syringes – Legislation Pending in 2022



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<u>ALABAMA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • ALA. CODE § 13A-12-260 (West 2021) (eff. April 29, 1986) (criminalizes drug paraphernalia) • ALA. CODE § 20-2-281 (West 2021) (eff. June 5, 2015) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • August 1, 2009 – Glass tubes added to list of paraphernalia. • April 24, 2012 – Provision related to manufacturing a controlled substance added. • June 1, 2022 – Exception for testing equipment added.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to use, possess, deliver, or sell drug paraphernalia for the purposes of making or ingesting a controlled substance. A violation is a Class A misdemeanor (first offense) or a Class C felony (subsequent offense). • If an offender is aged 18 or older and he or she delivers drug paraphernalia to a person under age 18 who is at least three (3) years younger, the violation is a Class B felony. • Use, delivery, sale, or possession of drug paraphernalia to manufacture a controlled substance is a Class C felony, unless it also involves a firearm, making it a Class B felony.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • As of June 1, 2022, it is not a criminal offense for a person to possess, deliver, or sell “testing equipment designed to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue.” • Person eligible for the overdose assistance exception in ALA. CODE § 20-2-281 (West 2021) may not be prosecuted for a misdemeanor controlled substance offense, which can include first-time drug paraphernalia offenses.
Forfeiture	All drug paraphernalia used in violation of the law is contraband and subject to forfeiture.
Other provisions of note	ALA. CODE § 13A-12-260(b) (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	H.B. 305, 2021 Reg. Sess. (Ala. 2021) (died in Senate committee upon legislature’s adjournment). The bill would impose a \$250 fine if the unlawful delivery or sale of drug paraphernalia occurred within 1,000 feet of a school, college, university, or other educational institution, or church.

<u>ALASKA</u>	
Statute(s) and initial effective date(s)	There is no drug paraphernalia statute in Alaska.
Substantive amendment(s) to law(s) (non-marijuana related)	N/A
Does paraphernalia include drug test strips or other testing equipment?	N/A
Does paraphernalia include needles/syringes?	N/A
Penalties for possession/use of paraphernalia	N/A
Is paraphernalia allowed in any context?	N/A
Forfeiture	N/A
Other provisions of note	N/A
Recently proposed legislation	None.

<u>ARIZONA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • ARIZ. REV. STAT. ANN. § 13-3415 (West 2021) (eff. 1982) (criminalizes drug paraphernalia). • ARIZ. REV. STAT. ANN. § 13-3423 (West 2021) (eff. April 26, 2018) (overdose assistance exception). • ARIZ. REV. STAT. ANN. §§ 36-798.51 to 798.52 (West 2021) (eff. Sept. 29, 2021) (syringe services program exception).
Substantive amendment(s) to law(s) (non-marijuana related)	September 29, 2021 – Definition of “drug paraphernalia” amended to remove narcotic testing products.
Does paraphernalia include drug test strips or other testing equipment?	Drug paraphernalia does not include “narcotic drug testing products that are used to determine whether a controlled substance contains fentanyl or a fentanyl analog.” All other testing equipment falls under the drug paraphernalia definition.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to use or possess with intent to use drug paraphernalia for the purposes of making or ingesting a drug in violation of state law. A violation is a Class 6 felony. • It is unlawful to deliver or possess with intent to deliver paraphernalia for the purposes of making or ingesting a drug in violation of state law. A violation is a Class 6 felony.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Paraphernalia does not include testing products used to determine the presence of fentanyl or a fentanyl analog. • Person eligible for the overdose assistance exception in ARIZ. REV. STAT. ANN. § 13-3423 (West 2021) may not be charged or prosecuted for the possession or use of drug paraphernalia. • An employee, volunteer, or participant of an overdose and disease prevention program (program), including a syringe services program, may not be charged with or prosecuted for possession of a needle, hypodermic syringe, or other injection supply item obtained from or returned to the program. The person must provide “verification” that he or she obtained the needle, syringe, or other injection item from a program.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	ARIZ. REV. STAT. ANN. § 13-3415(E) (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.

<u>ARIZONA</u>	
Recently proposed legislation	<ul style="list-style-type: none">• S.B. 1615, 55th Leg., 2nd Reg. Sess. (Ari. 2022) (pending in Senate committee). The bill reduces the drug paraphernalia penalty in most cases to a Class 1 misdemeanor.• S.B. 1616, 55th Leg., 2nd Reg. Sess. (Ari. 2022) (pending in Senate committee). Appropriates \$30,000 from the state general fund to the Department of Health Services to purchase and distribute fentanyl testing strips to institutions of higher education.• H.B. 2736, 55th Leg., 2nd Reg. Sess. (Ari. 2022) (pending in House committee). The bill reduces the drug paraphernalia penalty in most cases to a Class 3 misdemeanor.

<u>ARKANSAS</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • ARK. CODE. ANN § 5-64-101(12) (West 2021) (definition). • ARK. CODE. ANN §§ 5-64-443 to 64-445 (West 2021) (eff. July 27, 2011) (criminalizes drug paraphernalia). • Ark. Code. Ann. § 5-64-505 (West 2021) (eff. 1971) (forfeiture). • ARK. CODE. ANN § 5-64-802 (West 2021) (eff. 1981) (drug paraphernalia business).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • August 1, 2017 – Provisions related to using drug paraphernalia to store, contain, or conceal a controlled substance added. • July 24, 2019 – References to heroin and fentanyl added to criminalization provisions. • July 28, 2021 – Criminalization provisions restructured.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to possess drug paraphernalia with the intent to use for purposes of ingesting or measuring a controlled substance. A violation is a: (1) Class A misdemeanor (first offense); (2) Class D felony (subsequent offense); or (3) Class D felony (if the controlled substance involved is methamphetamine, heroin, fentanyl, or cocaine). • Using paraphernalia to grow or manufacture a controlled substance is a: (1) Class D felony; or (2) Class B felony (if the controlled substance involved is methamphetamine, heroin, fentanyl, or cocaine). • An offender aged 18 or older who violates the prohibition against delivering drug paraphernalia by delivering it to a minor at least three (3) years younger in furtherance of a felony commits a Class B felony. • An offender aged 18 or older who violates the prohibition against delivering drug paraphernalia by delivering it to a minor commits a Class A misdemeanor. • Advertising to promote the sale of an object designed for or intended for use as paraphernalia is a Class C felony.

<u>ARKANSAS</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> • Person who conducts, finances, manages, supervises, directs, or owns any part of a business that, in the regular course of business or as a continuing course of conduct, stores, possesses, gives away, or furnishes an object designed to be primarily useful as drug paraphernalia is a: (1) Class A misdemeanor (first offense); (2) Class C felony (second offense); or (3) Class B felony (subsequent offense).
Is paraphernalia allowed in any context?	No.
Forfeiture	Other than an item in the possession or control of a practitioner during professional practice or research, drug paraphernalia is considered contraband and subject to forfeiture.
Other provisions of note	ARK. CODE. ANN § 5-64-101(12)(C) (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	H.B. 1603, 93 rd Gen. Assemb. (Ark. 2021) (died in House committee upon adjournment). The bill would reduce the penalty level of drug paraphernalia crimes.

<u>CALIFORNIA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • CAL. HEALTH & SAFETY CODE § 11014.5 (West 2021) (eff. 1982) (definition). • CAL. HEALTH & SAFETY CODE §§ 11364 to 11364.7 (West 2021) (eff. 1972, 1980, and 1982 respectively) (criminalizes drug paraphernalia; syringe services program exception). • CAL. HEALTH & SAFETY CODE § 11376.5 (West 2021) (eff. Sept. 17, 2012) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • January 1, 1993 – Criminal penalties increased. • January 1, 2000 – Exemption from prosecution added for public entities and their agents and employees who distribute hypodermic needles or syringes to participants in clean needle and syringe exchange programs. • January 1, 2005 – Provision added to allow possession of a small number of hypodermic needles. • January 1, 2012 – Prohibition regarding needles made inoperative until January 1, 2015, with respect to 30 or fewer needles. • January 1, 2021 – Extends to January 1, 2026, a physician or pharmacist's ability to give hypodermic needles to certain persons.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for a person to possess any drug paraphernalia used for unlawfully injecting or smoking a controlled substance. The section does not identify the penalty level for a violation. • It is unlawful for a person to maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless such drug paraphernalia is kept in a separate room or enclosure not accessible to persons under age 18 unaccompanied by a parent or legal guardian. A violation can result in revocation or nonrenewal of any business license, permit, or other entitlement.

<u>CALIFORNIA</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> • The delivering, furnishing, or transferring, or possessing with intent to deliver, furnish, or transfer drug paraphernalia is a misdemeanor, unless it relates to cocaine, cocaine base, heroin, phencyclidine, or methamphetamine, in which case the penalty is a sentence of up to one (1) year. • If a person aged 18 or older violates the prohibition against delivering drug paraphernalia by delivering it to a minor at least three (3) years younger, the violation may result in a sentence of up to one (1) year, a \$1,000 fine, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Prohibition against possessing any drug paraphernalia used for unlawfully injecting or smoking a controlled substance does not apply to hypodermic needles or syringes placed for safe disposal into a container that meets state and federal standards for disposal of sharps waste. • Until January 1, 2026, the prohibition against possessing any drug paraphernalia used for unlawfully injecting or smoking a controlled substance does not apply to the possession of hypodermic needles or syringes solely for personal use. • A public entity, its agents, or employees is not subject to criminal prosecution for distribution of hypodermic needles or syringes, or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability to participants in syringe exchange programs authorized by the public entity. • It is not a crime if a person possessing drug paraphernalia: (1) seeks, in good faith, medical assistance for another person experiencing a drug-related overdose and he or she does not obstruct medical or law enforcement personnel; or (2) experiences a drug-related overdose him/herself and another person at the scene seeks medical assistance for him/her.
Forfeiture	All drug paraphernalia is subject to forfeiture and may be seized by any peace officer unless its distribution has been authorized.
Other provisions of note	CAL. HEALTH & SAFETY CODE § 11014.5(c) (West 2021) contains a list of factors that a court or other authority may consider when determining whether an object is drug paraphernalia.

<u>CALIFORNIA</u>	
Recently proposed legislation	<ul style="list-style-type: none">• A.B. 1598, 2021-22 Reg. Sess. (Cal. 2022) (pending in Assembly committee). This bill would exclude from drug paraphernalia laws any testing equipment that is designed, marketed, used, or intended to be used to analyze a substance for the presence of fentanyl or any analog of fentanyl.• S.B. 57, 2021-22 Reg. Sess. (Cal. 2021) (pending in Assembly committee). This bill would authorize the City and County of San Francisco, the County of Los Angeles, the City of Los Angeles, and the City of Oakland for approximately five (5) years to approve entities to operate overdose prevention programs including, among other things: (1) providing a hygienic space supervised by trained staff where people who use drugs can consume pre-obtained drugs; (2) providing sterile consumption supplies; (3) providing access or referrals to substance use disorder treatment; and (4) allowing program staff to be authorized and trained to provide emergency administration of an emergency opioid antagonist.• S.B. 519, 2021-22 Reg. Sess. (Cal. 2021) (pending in Assembly committee). This bill would exempt from the prohibition against drug paraphernalia items related to psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, mescaline, lysergic acid diethylamide (LSD), and 3,4-methylenedioxymethamphetamine (MDMA). The bill would also exempt from prohibition any items used for the testing and analysis of these specific controlled substances.

<u>COLORADO</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • COLO. REV. STAT. ANN. §§ 16-13-501 to 13-511 (West 2021) (forfeiture). • COLO. REV. STAT. ANN. § 18-1-711 (West 2021) (eff. May 29, 2012) (overdose assistance exception). • COLO. REV. STAT. ANN. §§ 18-18-425 to 18-430 (West 2021) (eff. July 1, 1992) (criminalizes drug paraphernalia). • COLO. REV. STAT. ANN. § 18-18-430.5 (West 2021) (eff. August 11, 2010) (exceptions to criminalization).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • May 10, 2013 – Syringe service program participants added to exception to criminalization. • October 1, 2013 – Criminal penalties for paraphernalia possession/manufacture/advertisement lessened. • July 1, 2015 – Needlestick prevention provisions allowing persons to disclose possession of paraphernalia added. • August 10, 2016 – Immunity for arrest added to overdose assistance exception. • May 23, 2019 – Testing equipment removed from definition of paraphernalia. • September 14, 2020 – Pharmacists and technicians selling needles/syringes added to exception to criminalization.
Does paraphernalia include drug test strips or other testing equipment?	No. The law expressly provides that drug paraphernalia does not include “testing equipment used . . . in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.”
Does paraphernalia include needles/syringes?	Yes. Note, however, that although the definition of drug paraphernalia includes equipment used for “injecting” a controlled substance into the body, the definition does not reference needles or syringes (unlike other states) in the list of examples of drug paraphernalia.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to possess drug paraphernalia knowing that it could be used to violate state law. A violation is a petty offense subject to a fine of no more than \$100. • It is unlawful for any person to sell, deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver equipment, products, or materials knowing, or where it should be known, that such items could be used as drug paraphernalia. A violation is a Level 2 drug misdemeanor. • It is unlawful for a person to advertise to promote the sale of equipment, products, or materials designed and intended for use as drug paraphernalia. A violation is a Level 2 drug misdemeanor.

<u>COLORADO</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Person meeting the requirements for applicability of the overdose assistance exception in COLO. REV. STAT. ANN. § 18-1-711 (West 2021) is immune from arrest or prosecution for possessing drug paraphernalia. • Prior to searching a person, a person's premises, or a person's vehicle, a law enforcement officer may ask the person whether the person (or the premises/vehicle) has or contains a needle or syringe that may cut or puncture the officer. If the person so alerts the officer prior to the search, assessment, or treatment, the officer may not arrest or cite the person for possession of drug paraphernalia. • Prior to assisting a person, an emergency medical services provider or other first responder may ask if the person possesses a needle or syringe that may cut or puncture the responder. If the person so alerts the provider or responder prior to assistance, a law enforcement officer may not arrest or cite the person for possession of drug paraphernalia. • The following individuals are exempt from criminalization provisions: (1) employee, volunteer, or participant in an approved syringe services program; or (2) pharmacist or pharmacy technician who sells nonprescription syringes or needles pursuant to state law.
Forfeiture	Drug paraphernalia is a "contraband article" subject to forfeiture. As testing equipment is not a contraband article, it is not subject to forfeiture.
Other provisions of note	COLO. REV. STAT. ANN. § 18-18-427 (West 2021) contains a list of factors that a court may, in its discretion, consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	H.B, 1326, 73 rd Leg. Sess., 2 nd Reg. Sess. (Colo. 2022) (pending in House committee). Among other things, the bill creates immunity from civil liability for certain persons who or entities that act in good faith to furnish a non-laboratory synthetic opiate detection test to another person.

<u>CONNECTICUT</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • CONN. GEN. STAT. ANN. § 21a-240(20)(A) (West 2021) (eff. 1958) (definition). • CONN. GEN. STAT. ANN. § 21a-263 (West 2021) (eff. 1958) (commissioner's power to receive and destroy). • CONN. GEN. STAT. ANN. § 21a-267 (West 2021) (eff. 1958) (criminalizes drug paraphernalia; overdose assistance exception). • CONN. GEN. STAT. ANN. § 21a-270 (West 2021) (eff. 1958) (factors to consider). • CONN. GEN. STAT. ANN. § 54-36g (West 2021) (eff. 1984) (seizure and destruction).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • June 26, 1989 – Provision about school property added. • July 1, 1990 – Exception added for needles and syringes distributed as part of the demonstration needle and syringe exchange program (provision removed July 1, 1992). • June 7, 2006 – References to injection, needles, and syringes removed from criminalization law. • October 1, 2011 – Exception for persons seeking medical assistance added. • October 1, 2021 – Changes made to school property provision.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	No. There is no mention of injecting, needles, or syringes in the definition of drug paraphernalia.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to use or possess with the intent to use drug paraphernalia to make or ingest a controlled substance other than marijuana. A violation is a Class C misdemeanor. • It is unlawful to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or where it should be known, that it will be used to make or ingest a controlled substance other than marijuana. A violation is a Class A misdemeanor. • Committing or intending to commit a drug paraphernalia violation on the premises of, or within 200 feet of the perimeter of, a public or private elementary or secondary school subjects the offender to one additional year of imprisonment if the person is not enrolled in the school at issue.

<u>CONNECTICUT</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Needles and syringes are not drug paraphernalia. • Provision making the use or possession with intent to use drug paraphernalia a Class C misdemeanor does not apply to a person meeting the requirements for applicability of the overdose assistance exception in CONN. GEN. STAT. ANN. § 21a-267 (West 2021).
Forfeiture	Under CONN. GEN. STAT. ANN. § 54-36g (West 2021), at any time after the seizure drug paraphernalia in connection with a criminal arrest or pursuant to a search warrant without an arrest, the prosecuting official of the local court may petition the court for destruction of such paraphernalia. After notice to the defendant and his attorney, and hearing on the petition, the court may order the forfeiture and destruction of such paraphernalia.
Other provisions of note	CONN. GEN. STAT. ANN. § 21a-270 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	H.B. 5430, Gen. Assemb., Feb. 2022 Sess. (Conn. 2022) (pending in joint committee). Among other things, the bill adds a provision that drug paraphernalia does not include “a product used . . . by an individual to test any substance prior to injection, inhalation or ingestion of the substance to prevent accidental overdose by injection, inhalation or ingestion of the substance.”

<u>DELAWARE</u>	
Statute(s) and initial effective dates(s)	<ul style="list-style-type: none"> • DEL. CODE. ANN. tit. 16, § 2226 (West 2021) (eff. June 3, 2021) (immunity for fentanyl test strips). • DEL. CODE. ANN. tit. 16, § 4701(18) (West 2021) (eff. 1972) (definition). • DEL. CODE. ANN. tit. 16, § 4769 (West 2021) (eff. August 31, 2013) (overdose assistance exception). • DEL. CODE. ANN. tit. 16, §§ 4771 to 4774 (West 2021) (eff. 1980) (criminalizes drug paraphernalia). • DEL. CODE. ANN. tit. 16, § 4784 (West 2021) (eff. 1972) (forfeiture). • DEL. CODE. ANN. tit. 29, § 7993 (West 2021) (eff. July 17, 2006) (syringe services program exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • July 5, 2011 – Pilot syringe services program modified to permanent program. • September 1, 2011 – Penalty for possession of drug paraphernalia lessened. • June 3, 2021 – Exemption for fentanyl testing strips added.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Any person who uses or possesses with intent to use drug paraphernalia is guilty of a Class B misdemeanor. • It is unlawful to deliver, possesses with the intent to deliver, convey, offer for sale, convert, or manufactures with the intent to deliver drug paraphernalia knowing, or under circumstances where one should know, that it will be used to make or ingest a controlled substance. A violation is a Class G felony. • Any person aged 18 or older who commits a violation by delivering or selling drug paraphernalia to a person under age 18 is guilty of a Class E felony. • It is unlawful to advertise or promote the sale of objects designed or intended for use as drug paraphernalia. A violation is an unclassified misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Criminal penalties do not apply to testing strips to determine the presence of fentanyl or fentanyl-related substances. • A layperson or non-profit organization may distribute functional fentanyl testing strips to determine the presence of fentanyl or fentanyl-related substances if he or she (or the organization) acts in good faith and with reasonable care.

<u>DELAWARE</u>	
Is paraphernalia allowed in any context? (continued)	<ul style="list-style-type: none"> • Person meeting the requirements for applicability of the overdose assistance exception in DEL. CODE. ANN. tit. 16, § 4769(b) (West 2021) may not be arrested, charged, or prosecuted for possessing drug paraphernalia. • Syringe services program participants and employees, as well as certain employees of the state division of public health are exempt from criminal liability whenever the possession or distribution of drug paraphernalia is a direct result of the employee's or participant's activities in connection with the work of the program. The exemption does not apply to unapproved program activities or the redistribution of hypodermic needles or syringes in any form.
Forfeiture	All items of drug paraphernalia are subject to forfeiture and no property rights exist in them.
Other provisions of note	<ul style="list-style-type: none"> • A person who provides functional fentanyl testing strips to an individual to determine the presence of fentanyl or fentanyl-related substances is not subject to civil damages beyond the limits of any applicable insurance coverage, unless it is established that the person caused injuries or death willfully, wantonly, or recklessly or by gross negligence. • DEL. CODE. ANN. tit. 16, § 4772 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None, other than provisions enacted in 2021.

<u>DISTRICT OF COLUMBIA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • D.C. CODE ANN. § 7-403 (West 2021) (eff. March 19, 2013) (overdose assistance exception). • D.C. CODE ANN. §§ 48-1101 to 48-1121 (West 2021) (eff. September 17, 1982) (criminalizes drug paraphernalia; syringe services program exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • April 11, 2019 – Several changes made, including: <ul style="list-style-type: none"> ○ Exceptions to criminal liability added for testing equipment for personal use quantities and community-based organizations; ○ Personal use exception added to forfeiture statute; and ○ Express prohibition against distributing needles or syringes near schools eliminated. • March 16, 2021 – Several changes made, including: <ul style="list-style-type: none"> ○ Testing exception modified to refer to the personal use of drug paraphernalia generally as opposed to testing of certain quantities; and ○ Statute prohibiting the possession of needles and syringes repealed.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Subject to the “personal use” exception, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to make or ingest a controlled substance other than marijuana. The maximum penalty for a violation is a 30-day sentence, a \$250 fine, or both. • Subject to the “community-based organization” exception, it is unlawful for any person to deliver or sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia to make or ingest a controlled substance other than marijuana. The maximum penalty for a first violation is a six-month sentence, a fine of \$1,000, or both. • Any person aged 18 or older who violates the law by delivering drug paraphernalia to a person under age 18 at least three (3) years younger is guilty of a special offense, subject to a maximum penalty of an eight (8) year sentence, a fine of \$25,000, or both.

<u>DISTRICT OF COLUMBIA</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • It is not unlawful for a person to use, or possess with the intent to use, drug paraphernalia for the personal use of a controlled substance. “Personal use” means use or possession in circumstances where there is insufficient evidence of intent to distribute or manufacture a controlled substance. • It is not unlawful for a “community-based organization,” as defined in D.C. CODE ANN. § 7-404(a)(1) (West 2021), to deliver or sell, or possess with intent to deliver or sell, drug paraphernalia for the personal use of a controlled substance. • The offense of unlawful use, or possession with intent to use, drug paraphernalia does not apply to persons meeting the requirements for applicability of the overdose assistance exception in D.C. CODE. ANN. § 7-403 (West 2021). • It is not unlawful for: (1) a person participating in the syringe services program authorized by D.C. CODE. ANN. § 48-1103.1 (West 2021) (“program”) to possess any hypodermic syringe or needle distributed as part of the program; or (2) a person authorized to exchange a syringe or needle under the program to deliver such items as part of the program.
Forfeiture	All prohibited drug paraphernalia is subject to forfeiture immediately, and no property right exists in it after a final conviction by a court.
Other provisions of note	D.C. CODE ANN. § 48-1102 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	L.B. 416, 24th Period (D.C. 2021) (public hearing held in December 2021). Among other things, the bill would amend the Drug Paraphernalia Act of 1982 (D.C. CODE ANN. § 48-1101, <i>et seq.</i> (West 2021)) to repeal and revise various drug paraphernalia offenses.

<u>FLORIDA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • FLA. STAT. ANN § 381.0038 (West 2021) (relevant provision added eff. July 1, 2016) (syringe services program exception). • FLA. STAT. ANN. § 893.12 (West 2021) (eff. 1973) (forfeiture). • FLA. STAT. ANN. §§ 893.145 to 893.147 (West 2021) (eff. 1980) (criminalizes drug paraphernalia). • FLA. STAT. ANN. § 893.21 (West 2021) (relevant provision added eff. July 1, 2019) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • July 1, 2000 – Prohibition against transportation of drug paraphernalia added. • July 1, 2013 – Prohibition against retail sale of drug paraphernalia added.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • The following violations are first-degree misdemeanors: <ul style="list-style-type: none"> ○ Using, or possessing with intent to use, drug paraphernalia to make or ingest a controlled substance; ○ Using, possessing with the intent to use, or manufacturing with the intent to use drug paraphernalia, knowing or under circumstances in which one reasonably should know that it will be used to transport a controlled substance; or ○ Advertising or promoting the sale of objects designed or intended for use as drug paraphernalia. • It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know that it will be used to make or ingest a controlled substance. A violation is a third-degree felony. • Any person aged 18 or older who violates the law by delivering drug paraphernalia to a person under age 18 is guilty of a second-degree felony.

<u>FLORIDA</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • A person possessing, distributing, or exchanging needles or syringes as part of a syringe services program established under FLA. STAT. ANN § 381.0038 (West 2021) does not violate the law. This protection does not apply, however, to program staff members, volunteers, or participants who: (1) possess needles or syringes that are not a part of the program; or (2) redistribute needles or syringes in any form, if acting outside the program. • The offense of unlawful use, or possession with intent to use, drug paraphernalia does not apply to persons meeting the requirements for applicability of the overdose assistance exception in FLA. STAT. ANN. § 893.21 (West 2021).
Forfeiture	Drug paraphernalia is contraband that is subject to civil forfeiture.
Other provisions of note	<ul style="list-style-type: none"> • FLA. STAT. ANN. § 893.146 (West 2021) contains a list of factors that a court, jury, or other authority must consider when determining whether an object is drug paraphernalia. • FLA. STAT. ANN. § 381.0038(e) (West 2021) provides that a law enforcement officer acting in good faith who arrests or charges a person later determined to be eligible for the syringe services program protection is immune from civil liability that might otherwise be incurred or imposed by reason of the officer's actions.
Recently proposed legislation	<ul style="list-style-type: none"> • S.B. 190, 124th Reg. Sess. (Fla. 2022) (replaced by H.B. 95). Among other things, excludes “narcotic drug testing products that are used to determine whether a controlled substance contains fentanyl . . . or a controlled substance analog” from the definition of drug paraphernalia. The house bill replacing S.B. 190 does not contain this provision. • H.B. 6101, 124th Reg. Sess. (Fla. 2022) and S.B. 1668, 124th Reg. Sess. (Fla. 2022) (indefinitely postponed). These bills remove “testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances” from the definition of drug paraphernalia.

<u>GEORGIA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> GA. CODE ANN. § 16-13-1 (West 2021) (eff. 1978) (criminalizes drug related objects). GA. CODE ANN. § 16-13-5 (West 2021) (eff. April 24, 2014) (overdose assistance exception). GA. CODE ANN. §§ 16-13-32 to 13-32.2 (West 2021) (eff. 1978; 1981) (criminalizes drug related objects; exceptions).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Unclear, but likely yes. GA. CODE ANN. § 16-13-1 (West 2021) and GA. CODE ANN. § 16-13-32 (West 2021) contain separate definitions of “drug related objects.” Only one of these sections, GA. CODE ANN. § 16-13-32 (West 2021) references injecting, needles, or syringes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> It is unlawful for any person to use, or possess with the intent to use, any object or materials of any kind for the purpose of making or ingesting a dangerous drug or controlled substance. A violation is a misdemeanor. For each of the following violations below: (1) a first offense is a misdemeanor; (2) a second offense is a misdemeanor “of a high and aggravated nature;” and (3) a third or subsequent offense is a felony, subject to a sentence of one to five (1-5) years and a fine up to \$5,000: <ul style="list-style-type: none"> Selling, lending, renting, leasing, giving, exchanging, or otherwise distributing any drug related object, knowing the drug related nature of the object; Displaying for sale, or possessing with the intent to distribute, a drug related object, knowing the drug related nature of the object; Advertising in any manner any kind or notice which gives information, directly or indirectly, on where, how, from whom, or by what means any drug related object may be obtained or made; or Selling, lending, renting, leasing, giving, exchanging, or otherwise distributing to any person a hypodermic syringe or needle designed for human use, other than by a licensed pharmacist, practitioner, or syringe services program employees/agents.

<u>GEORGIA</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> • It is unlawful for any person knowingly to sell, deliver, distribute, display for sale, or provide to a minor a drug related object, or knowingly possess with intent to do those things. A violation is a misdemeanor (first offense) or a felony (subsequent offense) subject to a sentence of one to five (1-5) years and a \$1,000 to \$5,000 fine. • It is unlawful for any minor to represent falsely to any person that he or she is 18 years of age or older with the intent to purchase or otherwise obtain any drug related object. A violation is a misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • The offense relating to possession or use of drug related objects does not apply to persons meeting the requirements for applicability of the overdose assistance exception in GA. STAT. ANN. § 16-13-5 (West 2021). • A person employed by or acting as an agent of a registered syringe services program: (1) may sell, lend, rent, lease, give, exchange, or otherwise distribute to any person a hypodermic syringe or needle designed or marketed primarily for human use; and (2) is immune from civil and criminal liability arising from the possession, distribution, or exchange of hypodermic syringes or needles and related supplies as part of a program. • It is an affirmative defense to a charge of unlawful distribution that the hypodermic syringe or needle was marketed for a legitimate medical purpose.
Forfeiture	Drug related objects which are distributed or possessed in violation of the law are contraband, subject to forfeiture, and no person has a property interest in them.
Other provisions of note	GA. STAT. ANN. § 16-13-32.1(c) (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 1175, 156th Gen. Assemb., 2021-22 Reg. Sess. (Ga. 2022) (enrolled bill sent to Governor). Although titled the “Georgia Raw Dairy Act,” the bill contains a provision that “any testing equipment used to determine whether a controlled substance has been adulterated and contains a synthetic opioid” is not a drug related object under the law. • S.B. 164, 156th Gen. Assemb., 2021-22 Reg. Sess. (Ga. 2021) (Senate disagreed with House version). Among other things, the bill expressly provides that hypodermic needles and syringes are not drug related objects. • H.B. 719, 155th Gen. Assemb., 2019-20 Reg. Sess. (Ga. 2020) (bill died in Senate committee). Similar to S.B. 164.

<u>HAWAII</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • HAW. REV. STAT. ANN. § 325-114 (West 2021) (eff. 1992) (syringe services program exception). • HAW. REV. STAT. ANN. § 329-1 (West 2021) (eff. 1972) (definition). • HAW. REV. STAT. ANN. § 329-43.5 (West 2021) (eff. 1988) (criminalizes drug paraphernalia). • HAW. REV. STAT. ANN. § 329-43.6 (West 2021) (eff. July 7, 2015) (overdose assistance exception). • HAW. REV. STAT. ANN. § 329-55(a)(8) (West 2021) (eff. 1972) (forfeitures).
Substantive amendment(s) to law(s) (non-marijuana related)	July 3, 2017 – Criminal penalties for drug paraphernalia violations substantially reduced.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • The following violations are subject to a fine up to \$500: <ul style="list-style-type: none"> ○ Using or possessing with intent to use drug paraphernalia to make or ingest a controlled substance in violation of the law; or ○ Delivering, possessing with intent to deliver, or manufacturing with intent to deliver drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance in violation of this chapter. • A person aged 18 or older who delivers drug paraphernalia to a person under age 18 at least three (3) years younger is guilty of a class B felony. • It is unlawful for any person to publish an advertisement to promote the sale of objects designed or intended for use as drug paraphernalia. A violation is a Class C felony.

<u>HAWAII</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none">• Exchanges under the syringe services program provided in HAW. REV. STAT. ANN. §§ 325-111 to -117 (West 2021) do not constitute an offense under HAW. REV. STAT. ANN. § 329-43.5 (West 2021) for the program participant or employees of the program or state department of health.• The offense of possession of drug paraphernalia does not apply to persons meeting the requirements for applicability of the overdose assistance exception in HAW. REV. STAT. ANN. § 329-43.6 (West 2021).
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	HAW. REV. STAT. ANN. § 329-1 (West 2021) contains a list of factors that a court or other authority should consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None.

<u>IDAHO</u>	
Statute(s) and initial effective dates(s)	<ul style="list-style-type: none"> • IDAHO CODE ANN. § 37-2701 (West 2021) (eff. 1971) (definition). • IDAHO CODE ANN. §§ 37-2734A to -2734B (West 2021) (eff. 1980) (criminalizes drug paraphernalia). • IDAHO CODE ANN. § 37-2739C (West 2021) (eff. July 1, 2018) (overdose assistance exception). • IDAHO CODE ANN. § 37-2744 (West 2021) (eff. 1971) (forfeiture). • IDAHO CODE ANN. § 37-3404 (West 2021) (eff. July 1, 2019).
Substantive amendment(s) to law(s) (non-marijuana related)	April 5, 1990 – Penalty for delivery of drug paraphernalia to a minor increased to match the penalty for delivery to an adult.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • The following two violations are misdemeanors subject to up to one (1) year imprisonment, a fine of \$1,000, or both: <ul style="list-style-type: none"> ○ Using, or possessing with intent to use, drug paraphernalia to make or ingest a controlled substance; or ○ Publishing an advertisement with the purpose of promoting the sale of objects designed or intended for use as drug paraphernalia. • It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance. A violation is a felony, subject to up to nine (9) years imprisonment, a \$30,000 fine, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • The offense of possession with intent to use drug paraphernalia does not apply to a person meeting the requirements for applicability of the overdose assistance exception in IDAHO CODE ANN. § 37-2739C (West 2021). • A syringe services program may operate and procure supplies in Idaho if the program adheres to state law, “notwithstanding any provision of law to the contrary.” This suggests—although not clearly—that distribution and possession of needles and syringes by authorized syringe services program agents and their participants is allowable.
Forfeiture	All drug paraphernalia is subject to forfeiture.

<u>IDAHO</u>	
Other provisions of note	The definition of drug paraphernalia in IDAHO CODE ANN. § 37-2701 (West 2021) contains a list of factors that a court or other authority should consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None.

<u>ILLINOIS</u>	
Statute(s) and initial effective dates(s)	<ul style="list-style-type: none"> • 410 ILL. COMP. STAT. ANN. 710/5 (West 2021) (eff. August 9, 2019) (syringe services program exception). • 720 ILL. COMP. STAT. ANN. 570/414 (West 2021) (eff. June 1, 2012) (overdose assistance exception). • 720 ILL. COMP. STAT. ANN. 600/1 to /7 (West 2021) (eff. July 1, 1983) (criminalizes drug paraphernalia). • 720 ILL. COMP. STAT. ANN. 646/115 (West 2021) (eff. June 1, 2012) (methamphetamine overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • January 1, 1991 – Provision related to pregnant women added. • July 25, 2003 – Exception for hypodermic syringes or needles allowed under the Hypodermic Syringes and Needles Act added. • August 12, 2003 – Definition of drug paraphernalia changed to require that a person intend to use the object in question unlawfully. • April 27, 2021 – Amendments to overdose assistance exceptions that added among other things: (1) protection for an eligible person against arrest; and (2) immunity for the possession of drug paraphernalia.
Does paraphernalia include drug test strips or other testing equipment?	Yes, if intended to be used unlawfully.
Does paraphernalia include needles/syringes?	Yes, if intended to be used unlawfully.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Person who knowingly possesses drug paraphernalia with the intent to use it to make or ingest a controlled substance faces a minimum fine of \$750 along with any other penalty allowable for a Class A misdemeanor. • Any person who keeps for sale, offers for sale, sells, or delivers for any commercial consideration drug paraphernalia commits a Class 4 felony subject to a minimum fine of \$1,000 for each such item. • Any person aged 18 years or older who sells or delivers for any commercial consideration any item of drug paraphernalia to a person under age 18 is guilty of a Class 3 felony. • Any person who sells or delivers for a commercial consideration any item of drug paraphernalia to a woman he or she knows to be pregnant is guilty of a Class 2 felony. • Any store, place, or premises from which or in which any item of drug paraphernalia is kept for sale, offered for sale, sold, or delivered for any commercial consideration is a public nuisance.

<u>ILLINOIS</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • The crime of possession of drug paraphernalia does not apply to a person legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act (720 ILL. COMP. STAT. ANN. 635/0.01, <i>et seq.</i> (West 2021)). • Notwithstanding any other provision of Illinois law, no employee or volunteer of or participant in a syringe services program established under Illinois law can be charged with or prosecuted for possession of any of the following: <ul style="list-style-type: none"> ○ Needles, hypodermic syringes, or other drug paraphernalia obtained from or returned to a syringe services program; or ○ Drug adulterant testing supplies such as reagents, test strips, or quantification instruments obtained from or returned to a syringe services program. • Person meeting the requirements for applicability of the overdose assistance protections in 720 ILL. COMP. STAT. ANN. 570/414 (West 2021) or 720 ILL. COMP. STAT. ANN. 646/115 (West 2021) may not be arrested, charged, or prosecuted for the possession of drug paraphernalia.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	<ul style="list-style-type: none"> • 720 ILL. COMP. STAT. ANN. 600/4 (West 2021) contains a list of factors that a trier of fact should consider in determining if an object falls under an exemption for drug paraphernalia. • 720 ILL. COMP. STAT. ANN. 600/7 (West 2021) provides that a local ordinance that imposes the same or greater restrictions on the availability of drug paraphernalia is allowable.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 4556, 102nd Gen. Assemb., 2nd Reg. Sess. (Ill. 2022) (enrolled bill sent to Governor). Provides that a pharmacist, physician, advanced practice registered nurse, or physician assistant may dispense drug adulterant testing supplies to any person. • S.B. 3918, 102nd Gen. Assemb., 2nd Reg. Sess. (Ill. 2022) and H.B. 4334, 102nd Gen. Assemb., 2nd Reg. Sess. (Ill. 2022) (pending in House/Senate committees). These bills provide that any governmental or nongovernmental entity described under specified provisions or any entity that provides medical care or health services may distribute fentanyl test strips to the public to test for the presence of fentanyl, a fentanyl analogue, or a drug adulterant within a controlled substance. In addition, the bills provide that drug paraphernalia does not include equipment, products, or materials to analyze or test for the presence of fentanyl, a fentanyl analogue, or a drug adulterant within a controlled substance.

<u>ILLINOIS</u>	
Recently proposed legislation (continued)	<ul style="list-style-type: none">• H.B. 110, 102nd Gen. Assemb., 1st Reg. Sess. (Ill. 2021) (pending in House). The bill provides that, the state department of health may approve an entity to operate a program relating to, among other things, the safe and hygienic use of drugs obtained prior to entrance. Moreover, specified persons related to a program are not subject to civil or criminal liability solely for participation or involvement in the program if it is approved under the Act.• H.B. 4071, 101st Gen. Assemb., 2nd Reg. Sess. (Ill. 2020) (died upon legislature's adjournment). Similar to H.B. 110.

INDIANA	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • IND. CODE ANN. § 16-42-19-18 (West 2021) (eff. 1993) (criminalizes drug paraphernalia). • IND. CODE ANN. § 35-33-5-5 (West 2021) (eff. 1981) (disposition of property). • IND. CODE ANN. §§ 35-48-4-8.1 to 4-8.5 (West 2021) (eff. 1980) (criminalizes drug paraphernalia; syringe services program exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • July 1, 1989 – Penalty for a first-time offense of manufacturing drug paraphernalia reduced. • July 1, 2003 – Penalty for a first-time offense of possessing drug paraphernalia and dealing in paraphernalia reduced. • July 1, 2014 – Offense of recklessly possessing drug paraphernalia removed. • May 5, 2015 – Exception for syringes and needles provided as part of a syringe services program added. • July 1, 2015 – Penalties for offense of possessing drug paraphernalia reduced.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • A person may not possess a hypodermic syringe, needle, or an instrument adapted for the use of a drug by injection with an intent to violate the Indiana Legend Drug Act (IND. CODE ANN. § 16-42-19-1, et seq. (West 2021)) or commit a controlled substance offense. A violation is a Level 6 felony. • For the first offense, it is a Class C misdemeanor for a person to knowingly or intentionally possesses an instrument, a device, or another object that the person intends to use for: (1) introducing into the person's body a controlled substance; (2) testing the strength, effectiveness, or purity of a controlled substance; or (3) enhancing the effect of a controlled substance. A second or subsequent offense is a Class A misdemeanor. • For the first offense, it is a Class A infraction for a person to manufacture, finance the manufacture of, or design a device that is intended to be used primarily for: (1) introducing into the human body a controlled substance; (2) testing the strength, effectiveness, or purity of a controlled substance; or (3) enhancing the effect of a controlled substance. A second or subsequent offense is a Level 6 felony.

<u>INDIANA</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> • For a first offense, it is a Class A infraction for a person to sell, offer for sale, deliver, or finance the delivery of a raw material or a device that is intended to be used for one or more of a list of things that generally coincide with drug paraphernalia. A second or subsequent offense is a Level 6 felony.
Is paraphernalia allowed in any context?	<p>The offense of dealing in drug paraphernalia does not apply to:</p> <ul style="list-style-type: none"> • A qualified entity, as defined, that provides a syringe or needle as part of a syringe services program under IND. CODE ANN. § 16-41-7.5-1, <i>et seq.</i> (West 2021); or • Any entity or person that provides funding to a qualified entity to operate a syringe services program.
Forfeiture	With respect to items of property seized by any law enforcement agency because of an arrest, search warrant, or warrantless search, such agency may destroy or cause to be destroyed chemically contaminated equipment including drug paraphernalia associated with the illegal manufacture of drugs or controlled substances without a court order if certain conditions are met.
Other provisions of note	None.
Recently proposed legislation	S.B. 404, 122 nd Gen. Assemb., 1st Reg. Sess. (Ind. 2021) (bill died upon legislature's adjournment). The bill defines "sharp paraphernalia device" and establishes a defense to possession of such device and to possession of a residual amount of controlled substance located in a hypodermic syringe or hypodermic needle, if: (1) before conducting a search, a law enforcement officer asks about the existence of a sharp paraphernalia device; and (2) the person informs the law enforcement officer of the existence and location of the sharp paraphernalia device before the officer conducts the search.

<u>IOWA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • IOWA CODE ANN. § 124.414 (West 2021) (eff. July 1, 2000) (criminalizes drug paraphernalia). • IOWA CODE ANN. § 124.418 (West 2021) (eff. July 1, 2018) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia. A violation is a simple misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Hypodermic needles or syringes are allowable if manufactured, delivered, sold, or possessed for a lawful purpose. • For any person meeting the requirements for applicability of the overdose assistance protection in IOWA CODE ANN. § 124.418 (West 2021), “protected information,” as the law defines that term, may not be considered to support probable cause and is not admissible as evidence for violating the prohibition against drug paraphernalia.
Forfeiture	Iowa law does not expressly address forfeiture of drug paraphernalia.
Other provisions of note	None.
Recently proposed legislation	<ul style="list-style-type: none"> • H.F. 898, 89th Gen. Assemb., 2021 Sess. (Iowa 2021) (pending in House committee). Among other things, the bill appropriates \$450,000 to pilot the establishment and operation of three community-based syringe service programs. • H.F. 163, 89th Gen. Assemb., 2021 Sess. (Iowa 2021) (pending in House committee). The bill provides that a person who violates Iowa law involving drug paraphernalia that is not offered for sale shall be assessed a civil penalty in the amount of \$25. • S.F. 204, 89th Gen. Assemb., 2021 Sess. (Iowa 2021) (pending in Senate committee). The bill amends IOWA CODE ANN. § 124.414 (West 2021) by defining “lawful purpose” to include needles or syringes delivered, sold, or possessed through an approved needle exchange program.

<u>KANSAS</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • KAN. STAT. ANN. § 21-5701(f) (West 2021) (eff. July 1, 2009) (definition). • KAN. STAT. ANN. §§ 21-5709 to 21-5711 (West 2021) (eff. July 1, 2009) (criminalizes drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • April 15, 2010 – Enhanced penalty for distribution to minors or near schools added. • July 1, 2012 – Penalty for certain use/possession with intent to use and distribution-related violations reduced. • July 1, 2017 – Penalty for use/possession with intent to use violations reduced.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to use, or possess with intent to use, any drug paraphernalia. A violation is a Class B non-person misdemeanor if it relates to introducing a controlled substance into the body. A violation is a Level 5 felony if it relates to analyzing or distributing a controlled substance. • It is unlawful for any person to distribute, possess with the intent to distribute or manufacture with intent to distribute any drug paraphernalia with the reasonable knowledge that it will result in a controlled substance violation. Penalties differ depending on what controlled substance violation occurs. • Distributing drug paraphernalia to a minor, or within 1,000 feet of a school, results in stiffer penalties.
Is paraphernalia allowed in any context?	No.
Forfeiture	Not expressly addressed by statute.
Other provisions of note	KAN. STAT. ANN. § 21-5711 (West 2021) contains a list of factors that a court or other authority must consider in determining if an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 2277, 89th Leg., 2021 Reg. Sess. (Kan. 2021) (pending in Senate committee). Among other things, the bill would expressly exclude “fentanyl test strips” from the definition of drug paraphernalia. • H.B. 2288, 89th Leg., 2021 Reg. Sess. (Kan. 2021) (pending in House committee upon adjournment). Among other things, the bill would reduce criminal penalties associated with drug paraphernalia.

<u>KENTUCKY</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 15.525 (West 2021) (eff. June 29, 2017) (substance use disorder treatment referral). • KY. REV. STAT. ANN. § 218A.133 (West 2021) (eff. March 25, 2015) (overdose assistance exception). • KY. REV. STAT. ANN. § 218A.500 (West 2021) (eff. 1992) criminalizes drug paraphernalia; syringe services program exception). • KY. REV. STAT. ANN. § 218A.510 (West 2021) (eff. 1982) (factors for consideration).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • March 25, 2015 – Exceptions to criminalization provisions added for: (1) syringe exchange programs; and (2) declaration to peace officer regarding the presence of a needle or other sharp object. • June 28, 2021 – Exception to criminalization provisions added for the sale of hypodermic syringes and needles by a retail pharmacy without a prescription.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia. A violation is a Class A misdemeanor. • It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia. A violation is a Class A misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Person voluntarily seeking substance use disorder treatment assistance through a program created pursuant to KY. REV. STAT. ANN. § 15.525 (West 2021) may not be arrested or prosecuted for the possession of drug paraphernalia that is surrendered to the law enforcement agency. • Person meeting the requirements for applicability of the overdose assistance protection in KY. REV. STAT. ANN. § 218A.133 (West 2021) may not be charged or prosecuted for the possession of drug paraphernalia. • Local health departments may operate a substance use disorder outreach program that includes syringe services programs.

<u>KENTUCKY</u>	
Is paraphernalia allowed in any context? (continued)	<ul style="list-style-type: none">• The retail sale of hypodermic syringes and needles without a prescription in pharmacies is allowed. Additionally, the hypodermic syringe and needle inventory of a pharmacy is not drug paraphernalia.• Prior to searching a person, a person's premises, or a person's vehicle, a law enforcement officer may ask the person whether the person (or the premises/vehicle) possesses/contains a needle or syringe that may cut or puncture the officer. If the person so alerts the officer prior to the search, the officer may not arrest or cite the person for possession of drug paraphernalia.
Forfeiture	To receive the protection from arrest or prosecution for the substance use disorder treatment referral program, any drug paraphernalia on the person seeking assistance must be surrendered to law enforcement.
Other provisions of note	KY. REV. STAT. ANN. § 218A.510 (West 2021) contains a list of factors that a court or other authority should consider in determining if an object is drug paraphernalia.
Recently proposed legislation	None other than legislation enacted in 2021.

<u>LOUISIANA</u>	
Statute(s) and initial effective date(s)	LA. STAT. ANN. §§ 40:1021 to 1026 (West 2021) (eff. 1980).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • August 1, 2016 – Penalties for violations of drug paraphernalia laws reduced. • June 3, 2017 – Exception for syringe services programs added.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to use, or to possess with intent to use, any drug paraphernalia. • It is unlawful for any person or corporation, knowingly, or under circumstances where one reasonably should know, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug paraphernalia. • Penalties for violations are: <ul style="list-style-type: none"> ○ For the first violation, the offender may be subject to a fine up to \$300, imprisonment of up to 15 days, or both; ○ For a second conviction, the offender may be subject to a fine up to \$1,000, imprisonment of up to six (6) months, or both; ○ For a third or subsequent conviction, the offender may be subject to a fine up to \$2,500, imprisonment up to two (2) years, or both; and ○ For a second or subsequent conviction, an individual's business license may be suspended or revoked.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • The prohibition against drug paraphernalia does not apply to the manufacture, sale, distribution, or advertisement of any product or object designed and sold primarily for scientific research, industrial, veterinary, or agricultural purposes, or for bona fide medical or clinical use. • Drug paraphernalia laws do not prohibit the establishment and implementation of a syringe services program within the jurisdiction of a local governing authority, including but not limited to a city, town, or parish. • It is an affirmative defense to prosecution that the person who received the paraphernalia has a prescription from a licensed medical practitioner for marijuana or the controlled substance for which the object is primarily intended to be used. It is also an affirmative defense that the drug paraphernalia is designed or marketed primarily for veterinary or agricultural purposes.

<u>LOUISIANA</u>	
Forfeiture	Drug paraphernalia is contraband and may be destroyed by the authorities making the seizure.
Other provisions of note	LA. STAT. ANN. § 40:1022 (West 2021) contains a list of factors that a court or other authority must consider in determining if an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none">• S.B. 315, 2022 Reg. Sess. (La. 2022) (pending in Senate committee). This bill adds an exception to criminal penalties, allowing a person to “possess, deliver, or sell testing equipment designed to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue.”• H.B. 212, 2022 Reg. Sess. (La. 2022) (passed House; ordered to Senate). The bill provides that drug paraphernalia does not include “rapid fentanyl test strips (FTS) or any testing equipment or devices solely used, intended for use, or designed to determine whether a substance contains fentanyl or its analogues.”

<u>MAINE</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • ME. REV. STAT. ANN. tit. 17-A, § 1111-A (West 2021) (eff. 1981) (criminalizes drug paraphernalia). • ME. REV. STAT. ANN. tit. 17-A § 1111-B (West 2021) (eff. September 19, 2019) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	October 18, 2021 – References to testing equipment removed from definition of “drug paraphernalia.” In addition, the amendment removed the crimes of possession of, or furnishing or trafficking in, hypodermic apparatuses.
Does paraphernalia include drug test strips or other testing equipment?	No. Recent alterations to the definition of drug paraphernalia removed references to “testing, analyzing,” and “testing equipment.”
Does paraphernalia include needles/syringes?	No. Maine law expressly provides that drug paraphernalia does not include “hypodermic apparatuses.”
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Using drug paraphernalia, or possessing it with the intent to use, is a civil violation subject to a \$300 fine. • Trafficking in or furnishing drug paraphernalia while knowing, or under circumstances when the person should know, that the paraphernalia will be used illegally, constitutes a Class D or E crime, depending on the age of the person(s) furnished paraphernalia. • Advertising drug paraphernalia is a Class E crime.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Neither drug testing equipment nor needles/syringes constitute drug paraphernalia. • Person seeking medical assistance for, or administering, naloxone hydrochloride to, another person experiencing a drug-related overdose, or who is experiencing a drug-related overdose and needs medical assistance, may not be arrested or prosecuted for a violation of ME. REV. STAT. ANN. tit. 17-A, § 1111-A (West 2021). • It is an affirmative defense to prosecution that the drug paraphernalia used or possessed is used or possessed for the propagation, cultivation, or processing of hemp.
Forfeiture	Drug paraphernalia possessed in violation of Maine law is contraband and may be seized and confiscated.
Other provisions of note	ME. REV. STAT. ANN. tit. 17-A, § 1111-A(3) (West 2021) contains a list of factors that a court or other authority must consider in determining if an object is drug paraphernalia.
Recently proposed legislation	None, other than legislation enacted in 2021.

<u>MARYLAND</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MD. CODE ANN., CRIM. LAW. § 5-101 (West 2021) (eff. October 1, 2002) (definitions). • MD. CODE ANN., CRIM. LAW. §§ 5-619 to 5-620 (West 2021) (eff. October 1, 2002) (criminalizes drug paraphernalia and controlled paraphernalia). • MD. CODE ANN., CRIM. LAW. § 5-808 (West 2021) (eff. October 1, 2002) (immunity). • MD. CODE ANN., CRIM. PROC. § 1-210 (West 2021) (eff. October 1, 2009) (overdose assistance exception). • MD. CODE ANN., CRIM. PROC. § 12-102 (West 2021) (eff. October 1, 2001) (forfeiture). • MD. CODE ANN., HEALTH – GEN. § 24-808 (West 2021) (eff. June 1, 1994) (syringe services program exception). • MD. CODE ANN., HEALTH – GEN. § 24-908 (West 2021) (eff. October 1, 2016) (opioid overdose outreach exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • October 1, 2014 – Initial Good Samaritan protections added. • June 1, 2018 – Definition of “drug paraphernalia” amended with respect to testing equipment.
Does paraphernalia include drug test strips or other testing equipment?	No. Recent alternations to the definition of drug paraphernalia removed references to “testing, analyzing,” and equipment used for “identifying” a controlled dangerous substance.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Each of the following acts constitutes a misdemeanor, subject to a fine of up to \$500 for a first violation: <ul style="list-style-type: none"> ○ Using or possessing with intent to use drug paraphernalia to administer a controlled dangerous substance; ○ Delivering or selling, or manufacturing or possessing with intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that the drug paraphernalia will be used to administer a controlled dangerous substance; or ○ Advertising to promote the sale or delivery of drug paraphernalia. • For each of the above violations, a second or subsequent conviction may result in a fine up to \$2,000, two (2) years imprisonment, or both.

<u>MARYLAND</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> • A person aged 18 or older who violates the prohibition against delivering, selling, or manufacturing drug paraphernalia by delivering it to a minor at least three (3) years younger is guilty of a separate misdemeanor, subject to eight (8) years imprisonment, a fine up to \$15,000, or both. • It is unlawful to obtain, attempt to obtain, possess or distribute controlled paraphernalia to administer a controlled substance. Except in cases of marijuana, a violation is a misdemeanor subject to imprisonment up to four (4) years, a fine up to \$25,000, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Drug paraphernalia does not include equipment designed for testing, analyzing, or identifying a controlled dangerous substance. • Public officials and certain authorized police department civilian employees may temporarily possess drug paraphernalia or controlled paraphernalia incidental to the discharge of official or employee duties. • Syringe services program staff or participants do not violate state law for possessing or distributing controlled paraphernalia or drug paraphernalia whenever such possession or distribution is a direct result of authorized program activities. • Opioid overdose outreach program staff, volunteers, or participants do not violate state law for possessing or distributing controlled paraphernalia or drug paraphernalia whenever such possession or distribution is a direct result of authorized program activities. • Person meeting the requirements for applicability of the overdose assistance protection in MD. CODE ANN., CRIM. PROC. § 1-210 (West 2021) is immune from arrest, charge, or prosecution for a violation of using, possessing, and possessing with intent to sell drug paraphernalia.
Forfeiture	Drug paraphernalia and controlled paraphernalia are subject to forfeiture.
Other provisions of note	MD. CODE ANN., CRIM. LAW. § 5-619 (West 2021) contains a list of factors that a court must consider in determining if an object is drug paraphernalia.

<u>MARYLAND</u>	
Recently proposed legislation	<ul style="list-style-type: none">• S.B. 420, 2021 Leg., 442nd Sess. (Md. 2021) (vetoed by the Governor). This bill would repeal the prohibition against using or possessing with intent to use drug paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance. In addition, the bill would lower drug paraphernalia penalties for second and subsequent convictions.• H.B. 372, 2021 Leg., 442nd Sess. (Md. 2021) (bill died in Senate after House passage). Similar to S.B. 420, although it did not contain a reduction in penalties.• H.B. 720 and S.B. 704, 2020 Leg., 441st Sess. (Md. 2020) (bills died in committee). Similar to H.B. 372.

<u>MASSACHUSETTS</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MASS. GEN. LAWS ANN. ch. 94C, § 1 (West 2021) (eff. 1971) (definition). • MASS. GEN. LAWS ANN. ch. 94C, § 32I (West 2021) (eff. 1981) (criminalizes drug paraphernalia). • MASS. GEN. LAWS ANN. ch. 94C, § 47 (West 2021) (eff. 1971) (forfeiture).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • July 13, 2006 – Express reference to needles/syringes in drug paraphernalia definition removed. In addition, amendment added the exception for the sale of needles/syringes. • August 9, 2018 – Exception allowing the sale of needles/syringes expanded to persons under age 18.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	No. The definition of drug paraphernalia does not expressly include objects used to inject a controlled substance into the human body.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to sell, possess, or purchase with intent to sell, or manufacture with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance. A violation is subject to up to two (2) years imprisonment, a fine up to \$5,000, or both. • Violating the prohibition against selling drug paraphernalia by selling it to a person under age 18 is subject to a three-to-five (3-5) year sentence, a \$1,000 to \$5,000 fine, or both.
Is paraphernalia allowed in any context?	The prohibition against drug paraphernalia does not apply to the sale of hypodermic syringes or needles by a licensed pharmacist or wholesale druggist.
Forfeiture	Drug paraphernalia is subject to forfeiture.
Other provisions of note	MASS. GEN. LAWS ANN. ch. 94C, § 1 (West 2021) contains a list of factors that a court or other authority should consider in determining if an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 2125, 192nd Gen. Court (Mass. 2021) (pending in joint committee). This bill provides that a person who administers or utilizes testing equipment in good faith to assist another person in identifying or in analyzing the strength, effectiveness or purity of a controlled substance may not be charged or prosecuted for possession of drug paraphernalia. • H.B. 4538, 191st Gen. Court (Mass. 2020) (died in committee). Similar to H.B. 2125.

<u>MICHIGAN</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MICH. COMP. LAWS ANN. §§ 333.7451 to .7461 (West 2021) (eff. 1988) (criminalizes drug paraphernalia; exceptions). • MICH. COMP. LAWS ANN. § 333.7521 (West 2021) (eff. 1982) (forfeiture).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes. Note, however, that although the definition of drug paraphernalia includes equipment used for “injecting” a controlled substance, the definition does not reference needles or syringes in the list of examples of drug paraphernalia.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to sell or offer for sale drug paraphernalia, knowing that it will be used to make or ingest a controlled substance. A violation is a misdemeanor, punishable by up to 90 days in prison, a fine up to \$5,000, or both. • A person 18 or older who commits a violation by selling or offering to sell drug paraphernalia to a person less than 18 is guilty of a misdemeanor, punishable by imprisonment up to one (1) year, a fine up to \$7,500, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • It appears that possession of drug paraphernalia, without the intent to sell, is allowed. • Prohibition against selling drug paraphernalia does not apply to objects sold or given away by a state or local governmental agency, or by a person specifically authorized by a state or local governmental agency to prevent the transmission of infectious agents.
Forfeiture	Drug paraphernalia is subject to forfeiture.
Other provisions of note	Under MICH. COMP. LAWS ANN. § 333.7453 (West 2021), prior to arrest for selling or offering to sell drug paraphernalia, the attorney general or a prosecuting attorney must notify the person in writing, at least two (2) business days before anticipated arrest that: (1) the person is in possession of specific, defined material determined to be drug paraphernalia; but (2) no arrest will be made if the person ceases selling the item(s). The person may commence a declaratory judgment action to determine the legality of the intended sale.
Recently proposed legislation	None.

<u>MINNESOTA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MINN. STAT. ANN. § 151.40 (West 2021) (eff. 1969) (hypodermic needles and syringes). • MINN. STAT. ANN. § 152.01 (West 2021) (eff. July 1, 1967) (definition). • MINN. STAT. ANN. §§ 152.092 to 152.095 (West 2021) (eff. 1982) (criminalizes drug paraphernalia). • MINN. STAT. ANN. § 604A.05 (West 2021) (eff. July 1, 2014) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • August 1, 2016 – Multiple offender provision added. • July 1, 2021 – Exception for fentanyl test strips added to definition of “drug paraphernalia.”
Does paraphernalia include drug test strips or other testing equipment?	No. The definition of drug paraphernalia does not include “the possession, manufacture, delivery, or sale of . . . products that detect the presence of fentanyl or a fentanyl analog in a controlled substance.”
Does paraphernalia include needles/syringes?	Yes, subject to the limitation delineated below.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. A first or second offense is a petty misdemeanor. A third or subsequent offense is a crime subject to up to 90 days imprisonment, a fine of up to \$1,000, or both. • It is unlawful for any person knowingly or intentionally to deliver drug paraphernalia or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery. A violation is a misdemeanor. • Person aged 18 or older who violates the prohibition against delivering drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger is guilty of a gross misdemeanor. • It is unlawful for any person knowingly or intentionally to advertise or promote the sale of drug paraphernalia. A violation is a misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Drug paraphernalia does not include products that detect the presence of fentanyl or a fentanyl analog in a controlled substance. • Drug paraphernalia does not include hypodermic needles or syringes possessed, manufactured, or delivered in accordance with MINN. STAT. ANN. §151.40(2) (West 2021) (“Sales of limited quantities of clean needles and syringes”).

<u>MINNESOTA</u>	
Is paraphernalia allowed in any context? (continued)	<ul style="list-style-type: none">• MINN. STAT. ANN. §151.40(1) (West 2021) contains a list of individuals authorized to possess, control, manufacture, sell, furnish, dispense, or otherwise dispose of hypodermic syringes or needles.• Person meeting the requirements for applicability of the overdose assistance protection in MINN. STAT. ANN. § 604A.05 (West 2021) may not be charged or prosecuted for possession of drug paraphernalia.• Registered pharmacy or a licensed pharmacist may sell—without the prescription or direction of a practitioner—unused hypodermic needles and syringes in quantities of 10 or fewer.
Forfeiture	Minnesota statute does not expressly address forfeiture of drug paraphernalia.
Other provisions of note	None.
Recently proposed legislation	H.F. 928, 92 nd Leg., 1 st Reg. Sess. (Minn. 2021) and S.F. 1142, 92 nd Leg., 1 st Reg. Sess. (Minn. 2021) (pending in House/Senate committees). These bills would add a syringe services program exception to MINN. STAT. ANN. § 151.40 (West 2021).

<u>MISSISSIPPI</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MISS. CODE ANN. § 41-29-105(v) (eff. 1972) (definition of drug paraphernalia). • MISS. CODE ANN. § 41-29-139(d) (eff. 1972) (criminalizes drug paraphernalia). • MISS. CODE ANN. § 41-29-149.1 (West 2021) (eff. July 1, 2015) (overdose assistance exception). • MISS. CODE ANN. § 41-29-153(a)(6) (West 2021) (eff. 1971) (forfeiture).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • The following violations are misdemeanors, subject to up to six (6) months in jail, a fine up to \$500, or both: <ul style="list-style-type: none"> ○ Unauthorized use or possession with intent to use drug paraphernalia to violate state law; ○ Delivering, selling, possessing with intent to deliver or sell, or manufacturing with intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to violate state law; and ○ Advertising to promote the sale of objects designed or intended for use as paraphernalia. • A person aged 18 or older who violates the prohibition against delivering or selling drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger is guilty of a misdemeanor, subject to up to one (1) year in jail, a fine up to \$1,000, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • A person authorized to possess or use drug paraphernalia by the State Board of Medical Licensure, State Board of Pharmacy, or other lawful authority. • A person meeting the requirements for applicability of the overdose assistance exception in MISS. CODE ANN. § 41-29-149.1 (West 2021) may not be arrested, charged, or prosecuted for a “drug violation,” which includes the possession and use of drug paraphernalia.
Forfeiture	Drug paraphernalia is subject to forfeiture.

<u>MISSISSIPPI</u>	
Other provisions of note	MISS. CODE ANN. § 41-29-105(v) (West 2021) contains a list of factors that a court or other authority should consider in determining if an object is drug paraphernalia.
Recently proposed legislation	H.B. 496, 137 th Leg. Sess. (Miss. 2022) and S.B. 2284, 137 th Leg. Sess. (Miss. 2022) (died in House/Senate committee). These bills would amend the definition of “drug paraphernalia” to exclude “narcotic drug testing products that are used to determine whether a controlled substance contains fentanyl or a fentanyl analog.”

<u>MISSOURI</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MO. ANN. STAT. § 195.010(18) (West 2021) (eff. 1939) (definition). • MO. ANN. STAT. § 195.140 (West 2021) (eff. 1939) (forfeiture). • MO. ANN. STAT. § 195.205 (West 2021) (eff. August 28, 2017) (overdose assistance exception). • MO. ANN. STAT. § 195.244 (West 2021) (eff. 1989) (criminalizes advertising). • MO. ANN. STAT. § 579.040 (West 2021) (eff. January 1, 2017) (criminalizes delivery). • MO. ANN. STAT. §§ 579.074 to 579.076 (West 2021) (eff. 1989) (criminalizes possession and delivery).
Substantive amendment(s) to law(s) (non-marijuana related)	January 1, 2017 – Drug paraphernalia penalties lessened, except with respect to amphetamine/methamphetamine where such penalties increased.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to use, or possess with intent to use, drug paraphernalia to make or ingest a controlled substance. A violation is a Class D misdemeanor, unless: (1) the violator has a prior controlled substances offense; or (2) the drug paraphernalia is used in combination with amphetamine, methamphetamine, or any of their analogues. In the case of (1), the violation is a Class A misdemeanor. In the case of (2), a violation is a Class E felony. • The following violations are Class A misdemeanors, unless done for commercial purposes, in which case they are Class E felonies: <ul style="list-style-type: none"> ○ Delivering, selling, possessing, or possessing with intent to deliver or sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to violate controlled substance law; and ○ Manufacturing with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to violate controlled substance law. • It is unlawful for a person to advertise to promote the sale of objects designed or intended for use as paraphernalia. A violation is a Class B misdemeanor.

<u>MISSOURI</u>	
Is paraphernalia allowed in any context?	Person meeting the requirements for applicability of the overdose assistance exception in MO. ANN. STAT. § 579.074 (West 2021) may not be arrested, charged, prosecuted, or convicted of the offense of unlawful possession of drug paraphernalia.
Forfeiture	Drug paraphernalia in the hands of law enforcement or the Department of Health and Senior Services (Department) is subject to forfeiture.
Other provisions of note	MO. ANN. STAT. § 195.010(18) (West 2021) contains a list of factors that a court or other authority should consider in determining if an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 2797, 101st Gen. Assemb., 2nd Reg. Sess. (Mo. 2022) (read second time in House). Establishes a fentanyl testing strip pilot program. • H.B. 2570, 101st Gen. Assemb., 2nd Reg. Sess. (Mo. 2022) (read second time in House). Establishes a fentanyl testing strip pilot program. • H.B. 1844, 101st Gen. Assemb., 2nd Reg. Sess. (Mo. 2022) and S.B. 690, 101st Gen. Assemb., 2nd Reg. Sess. (Mo. 2022) (Senate bill reported do pass from Senate committee). These bills would exempt from drug paraphernalia laws any entity registered with the Department that possesses, distributes, or delivers hypodermic needles or syringes for the purpose of operating a syringe services program. • H.B. 650, 101st Gen. Assemb., 1st Reg. Sess. (Mo. 2021) (died in House committee). Similar to H.B. 1844 and S.B. 690. • S.B. 64, 101st Gen. Assemb., 1st Reg. Sess. (Mo. 2021) (died in conference committee after House and Senate passed differing versions). Similar to H.B. 1844 and S.B. 690 with respect to possession/distribution of syringes. • H.B. 1486, 100th Gen. Assemb., 2nd Reg. Sess. (Mo. 2020) and S.B. 668, 100th Gen. Assemb., 2nd Reg. Sess. (Mo. 2020) (died in House/Senate committees). Similar to H.B. 1844 and S.B. 690.

<u>MONTANA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MONT. CODE ANN. § 44-12-102 (West 2021) (eff. 1979) (forfeiture). • MONT. CODE ANN. §§ 45-10-101 to 10-107 (West 2021) (eff. 1981) (criminalizes drug paraphernalia; syringe services program exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • October 1, 2001 – Presumption of entitlement to deferred imposition of imprisonment added. • July 1, 2017 – Requirement for violators to complete a dangerous drug information course offered by a chemical dependency facility repealed.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes. Note, however, that although the definition of drug paraphernalia includes equipment used for “injecting” a controlled substance, the definition does not reference needles or syringes in the list of examples of drug paraphernalia.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Each of the following constitutes a misdemeanor, subject to a fine of up to \$500, a six (6) month sentence, or both: <ul style="list-style-type: none"> ○ Using or possessing with intent to use drug paraphernalia to administer a dangerous drug; ○ Delivering or selling, or manufacturing or possessing with intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that the drug paraphernalia will be used to administer a dangerous drug; or ○ Advertising to promote the sale or delivery of drug paraphernalia. • For the first violation of the prohibition against using or possessing drug paraphernalia, there is a presumption of entitlement to a deferred imposition of any prison sentence. • A person aged 18 or older who violates the prohibition against manufacture or delivery of drug paraphernalia by delivering it to a person under 18 years of age who is at least three (3) years younger is guilty of a misdemeanor subject to one (1) year imprisonment, a fine of up to \$1,000, or both.

<u>MONTANA</u>	
Is paraphernalia allowed in any context?	Criminal provisions do not apply to individuals acting as employees or volunteers of an organization, including a nonprofit community-based organization, local health department, or tribal health department, that provides syringe services programs to prevent and reduce the transmission of communicable diseases.
Forfeiture	A court may order, as part of a sentence imposed, the forfeiture of drug paraphernalia.
Other provisions of note	MONT. CODE ANN. § 45-10-102 (West 2021) contains a list of factors that a court or other authority should consider in determining if an object is drug paraphernalia.
Recently proposed legislation	None.

<u>NEBRASKA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • NEB. REV. STAT. ANN. § 28-431 (West 2021) (eff. 1977) (forfeiture). • NEB. REV. STAT. ANN. §§ 28-439 to 28-444 (West 2021) (eff. 1980) (criminalizes drug paraphernalia). • NEB. REV. STAT. ANN. § 28-472 (West 2021) (eff. August 24, 2017) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	April 28, 2017 – Persons authorized to sell hypodermic needles expanded to include pharmacist interns, pharmacy technicians, and pharmacy clerks.
Does paraphernalia include drug test strips or other testing equipment?	No. The definition of drug paraphernalia contains no reference to “testing, “analyzing,” or “testing equipment.”
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to use or to possess with intent to use drug paraphernalia to make or ingest a controlled substance in violation of the law. A violation is an infraction. • It shall be unlawful for a person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances in which one reasonably should know, that it will be used to make or ingest a controlled substance in violation of the law. A violation is a Class II misdemeanor. • Any person aged 18 or older who violates the prohibition against delivering drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger commits a Class I misdemeanor. • It is unlawful for a person to advertise to promote the sale or delivery of drug paraphernalia. A violation is a Class III misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Drug paraphernalia does not include test strips or other testing equipment. • Person meeting the requirements for applicability of the overdose assistance exception in NEB. REV. ANN. STAT. § 28-472 (West 2021) will not be in violation of the offense of use or possession of drug paraphernalia. • Prohibition against delivering or manufacturing drug paraphernalia does not apply to pharmacists, pharmacist interns, pharmacy technicians, and pharmacy clerks who sell hypodermic syringes or needles for the prevention of the spread of infectious diseases.

<u>NEBRASKA</u>	
Forfeiture	Drug paraphernalia is subject to forfeiture.
Other provisions of note	NEB. REV. STAT. ANN. § 28-440 (West 2021) contains a list of factors that a court or other authority must consider in determining if an object is drug paraphernalia.
Recently proposed legislation	None.

<u>NEVADA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • NEV. REV. STAT. ANN. §§ 453.554 to 453.566 (West 2021) (eff. 1981) (criminalizes drug paraphernalia). • NEV. REV. STAT. ANN. § 453.301 (West 2021) (eff. 1971) (forfeiture). • NEV. REV. STAT. ANN. § 453C.150 (West 2021) (eff. October 1, 2015) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • July 1, 2013 – Hypodermic syringe, needle or other similar instrument removed from definition of drug paraphernalia. In addition, references to “inject” in definition removed. • May 28, 2021 – “Testing products” expressly removed from definition of drug paraphernalia.
Does paraphernalia include drug test strips or other testing equipment?	No. The definition of drug paraphernalia expressly excludes “testing products,” which are defined as “a product, including, without limitation, a fentanyl test strip, that analyzes a controlled substance for the presence of adulterants.”
Does paraphernalia include needles/syringes?	No. The definition of drug paraphernalia expressly excludes “any type of hypodermic syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection.”
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to use, or possess with intent to use, drug paraphernalia to make or ingest a controlled substance. A violation is a misdemeanor. • It is unlawful to deliver or sell, possesses with the intent to deliver or sell, or manufacture with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to make or ingest controlled substance. A violation is a Category E felony. • It is unlawful to advertise knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, is to promote the sale of objects designed use as drug paraphernalia. A violation is a misdemeanor. • A person aged 18 years or older who violates the law by delivering drug paraphernalia to a person under age 18 and at least three (3) years younger is guilty of a Category C felony. The court may order such person to pay restitution for any reasonable costs incurred for the participation of the person to whom he or she delivered the paraphernalia in a program for the treatment of substance use disorder.

<u>NEVADA</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none">• Drug paraphernalia does not include hypodermic needles/syringes or testing products.• Person meeting the requirements for applicability of the overdose assistance exception in NEV. REV. STAT. ANN. § 453C.150 (West 2021) may not be arrested, charged, prosecuted, or convicted, or have his or her property subjected to forfeiture, for a drug paraphernalia violation.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	<ul style="list-style-type: none">• NEV. REV. STAT. ANN. § 453.556 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.• Pursuant to NEV. REV. STAT. ANN. § 453.558 (West 2021), the district attorney or city attorney of any county or city, respectively, in which there is drug paraphernalia, may file a complaint in the district court seeking to enjoin the possessor and owner of the drug paraphernalia from delivering or selling, or possessing with intent to deliver or sell, any drug paraphernalia.
Recently proposed legislation	None, other than legislation enacted in 2021.

<u>NEW HAMPSHIRE</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.H. REV. STAT. ANN. § 318-B:1 (2021) (eff. 1969) (definition). • N.H. REV. STAT. ANN. § 318-B:2 (2021) (eff. 1969) (criminalizes drug paraphernalia). • N.H. REV. STAT. ANN. § 318-B:26 (2021) (eff. 1969) (criminalizes manufacturing drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	January 1, 2001 – “Injecting” removed from definition of “drug paraphernalia” and “inject” removed from criminal penalty provision.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	No. Definition of drug paraphernalia contains no reference to “injecting” a controlled substance.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used to make or ingest a controlled substance. • It is unlawful for any person, at retail, to sell or offer for sale any drug paraphernalia. • A person is guilty of a misdemeanor who manufactures with the intent to deliver, delivers, or possesses with the intent to deliver any drug paraphernalia when such paraphernalia is knowingly manufactured, delivered, or possessed in violation of the law.
Is paraphernalia allowed in any context?	“Drug paraphernalia” does not include syringes/needles, nor do the criminal penalty provisions reference injection.
Forfeiture	New Hampshire law does not expressly address forfeiture of drug paraphernalia.
Other provisions of note	N.H. REV. STAT. ANN. § 318-B:2(IV) (West 2021) contains a list of factors that a court or other authority should consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	H.B. 1392, 167 th Sess. of Gen. Court, 2 nd Year (N.H. 2022) (deemed inexpedient to legislate in House committee). This bill reduces the penalties for nonviolent drug offenses and eliminates the prohibitions and penalties for the possession, use, or sale of drug paraphernalia.

<u>NEW JERSEY</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.J. STAT. ANN. §§ 2C:36-1 to 36-10 (West 2021) (eff. 1987) (criminalizes drug paraphernalia; syringe services program exception). • N.J. STAT. ANN. §§ 2C:35-30 to 25-31 (West 2021) (overdose assistance exception) (eff. May 2, 2013).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • December 19, 2006 – Exception for participants in syringe services program added. • January 29, 2007 – Additional examples of objects qualifying as drug paraphernalia added to definition • January 18, 2022 – Repealed N.J. STAT. ANN. § 2C:36-6 (West 2021), resulting in the repeal of crime of possession of a hypodermic needle/syringe without a prescription.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is a disorderly persons offense to use, or possess with intent to use, drug paraphernalia to make or ingest a controlled dangerous substance. • The following offenses are crimes of the fourth degree: <ul style="list-style-type: none"> ○ Distributing or dispensing, or possessing with intent to distribute or dispense, or manufacturing with intent to distribute or dispense, drug paraphernalia, knowing that it will be used in connection with a controlled dangerous substance; and ○ Advertising, when knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement is to promote the sale of objects designed to be used as drug paraphernalia • It is a crime of the third degree to commit the offense against distributing or dispensing drug paraphernalia to a person under age 18. • It is a petty disorderly persons offense for a person to discard a hypodermic needle or syringe in a place accessible to others without destroying it.

<u>NEW JERSEY</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • As of January 18, 2022, a consumer does not need a prescription to purchase a hypodermic needle/syringe. • It is not unlawful for a consumer who participates in, or an employee or volunteer of, a syringe services program to possess a hypodermic needle or syringe. • Person meeting the requirements for applicability of the overdose assistance exception in N.J. STAT. ANN. §§ 2C:35-30 to 25-31 (West 2021) may not be arrested, charged, prosecuted, or convicted for a drug paraphernalia or possession of hypodermic needle/syringe offense.
Forfeiture	Any drug paraphernalia, hypodermic syringe, or needle seized in violation of state law is subject to forfeiture.
Other provisions of note	N.J. STAT. ANN. § 2C:36-1(b) (West 2021) contains a list of factors that a trier of fact may consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	A. 5458, 219th Leg., 2nd Ann. Sess. (N.J. 2021) (replaced by S.B. 3493); and S.B. 3493, 219th Leg., 2nd Ann. Sess. (N.J. 2021) (signed by Governor on January 18, 2022). The bills repeal N.J. STAT. ANN. § 2C:36-6 (West 2021). In a prior version (but not the version enacted), these bills would also exempt fentanyl test strips from the definition of “drug paraphernalia.”

<u>NEW MEXICO</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.M. STAT. ANN. § 30-31-2 (West 2021) (eff. 1972) (definition). • N.M. STAT. ANN. § 30-31-25.1 (West 2021) (eff. 1981) (criminalizes drug paraphernalia; exceptions). • N.M. STAT. ANN. § 30-31-27.1 (West 2021) (eff. June 15, 2007) (overdose assistance exception). • N.M. STAT. ANN. § 30-31-34 (West 2021) (eff. 1972) (forfeiture).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • 1997 – Provision added that criminal penalties do not apply to a person in possession of hypodermic syringes or needles when he/she is directly and immediately engaged in a harm reduction program. • July 1, 2019 – Penalty provisions lessened and overdose assistance exception for drug paraphernalia crimes added. • May 18, 2022 – Exception for use or possession of testing equipment added to criminal penalty provisions.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for a person to use or possess with intent to use drug paraphernalia to make or ingest a controlled substance. A violation is a penalty subject to a \$50 fine. • It is unlawful for a person to deliver, possess with intent to deliver, or manufacture with the intent to deliver drug paraphernalia with knowledge, or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance. A violation is a misdemeanor. • A person aged 18 or older who violates the prohibition against delivering drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger is guilty of a fourth-degree felony.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • As of May 18, 2022, criminal penalties for the use or possession of drug paraphernalia do not apply to: <ul style="list-style-type: none"> ○ Supplies or devices used for the testing of controlled substances or controlled substance analogs for dangerous adulterants; ○ Hypodermic syringes or needles for the purpose of participation in or administration of the Harm Reduction Act; or

<u>NEW MEXICO</u>	
Is paraphernalia allowed in any context? (continued)	<ul style="list-style-type: none"> ○ Supplies or devices obtained pursuant to the Harm Reduction Act. ● Criminal penalties for the delivery of drug paraphernalia do not apply to: <ul style="list-style-type: none"> ○ Department of Health employees or their designees while directly and immediately engaged in activities related to the harm reduction program authorized by the Harm Reduction Act; or ○ The sale or distribution of hypodermic syringes and needles by pharmacists licensed pursuant to the Pharmacy Act. ● Person meeting the requirements for applicability of the overdose assistance exception in N.M. STAT. ANN. § 30-31-27.1 (WEST 2021) may not be arrested, charged, prosecuted, or otherwise penalized or have his or her property subjected to forfeiture, for a drug paraphernalia violation.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	<ul style="list-style-type: none"> ● As of May 18, 2022, N.M. STAT. ANN. § 24-2C-5 (West 2021) provides that a harm reduction program shall provide participants with sterile needles and syringes as well as “supplies or devices used for testing controlled substances or controlled substance analogs for potentially dangerous adulterants.” ● N.M. STAT. ANN. § 30-31-2(T)(12) (West 2021) contains a list of factors that a court or other authority should consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	S.B. 255, 55th Leg., 1st Reg. Sess. (N.M. 2021) (died when legislature adjourned). This bill would exclude supplies provided by a harm reduction program and used for safe consumption of controlled substances from unlawful paraphernalia.

<u>NEW YORK</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.Y. GEN. BUS. §§ 850 to 853 (McKinney 2021) (eff. July 30, 1980) (criminalizes drug-related paraphernalia). • N.Y. PENAL LAW §§ 220.50 to 220.55 (McKinney 2021) (eff. 1971) (criminalizes drug paraphernalia). • N.Y. PENAL LAW § 220.78 (McKinney 2021) (eff. September 18, 2011) (overdose assistance exception). • N.Y. PUB. HEALTH LAW § 3381 (McKinney 2021) (eff. 1972) (sale and possession of hypodermic syringes and needles).
Substantive amendment(s) to law(s) (non-marijuana related)	<p>October 7, 2021 – Amendment removed the following:</p> <ul style="list-style-type: none"> • References to hypodermic needles and syringes in the drug-related paraphernalia definition; • Provision criminalizing possession of needles/syringes and providing a syringe services program exception; • Provision limiting the number of syringes a pharmacy or health care practitioner can prescribe; and • Provision making it unlawful for a person to obtain or possess hypodermic syringes or needles without authorization or prescription.
Does paraphernalia include drug test strips or other testing equipment?	No. The definition of drug-related paraphernalia contains no reference to “testing,” “analyzing,” or “testing equipment.”
Does paraphernalia include needles/syringes?	No. Drug-related paraphernalia does “not include hypodermic needles, hypodermic syringes and other objects used for the purpose of parenterally injecting controlled substances into the human body.”
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is a violation for a person, firm, or corporation to possess with intent to sell, offer for sale, or purchase drug-related paraphernalia under circumstances evidencing that it will be used to violate the law. • It is a Class A misdemeanor for a person, firm, or corporation to manufacture drug-related paraphernalia intending, or under circumstances evincing knowledge, that such paraphernalia is to be used to violate the law. • Municipalities may revoke a business license or permit of a person, firm, or corporation who sells or offers for sale drug paraphernalia. • Actions constituting criminally using drug paraphernalia in the first or second degree do not encompass use or possession of needles, syringes, or testing equipment.

<u>NEW YORK</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Only in the following circumstances may a person sell or furnish another person with a hypodermic needle/syringe: <ul style="list-style-type: none"> ○ Pursuant to a prescription of a practitioner; ○ To persons who have been authorized by the Commissioner of Health to obtain and possess such instruments; or ○ By a pharmacy, health care facility, or a health care practitioner who is otherwise authorized to prescribe the use of hypodermic needles or syringes within his or her scope of practice, provided that such sale or furnishing only be to a person aged 18 or older. • Commissioner of Health, by regulation, designates persons or classes of persons who may obtain hypodermic syringes and needles without prescription and the way such transactions may take place. • Person meeting the requirements for applicability of the overdose assistance exception in N.Y. PENAL LAW § 220.78 (McKinney 2021) may not be charged or prosecuted for a violation of the prohibition against possession and sale of drug-related paraphernalia.
Forfeiture	The possession with intent to sell or offering for sale of drug-related paraphernalia is a nuisance and such paraphernalia is subject to surrender and forfeiture.
Other provisions of note	Pursuant to N.Y. GEN. BUS. § 850 to 853 (McKinney 2021) (West 2021), the attorney general or any state or local health officer, town, village or city attorney, or the chief executive officer of a municipality may institute an action in a court of competent jurisdiction to enjoin the delivering or selling, or possessing with intent to deliver or sell, any drug paraphernalia.
Recently proposed legislation	None, other than legislation enacted in 2021.

<u>NORTH CAROLINA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.C. GEN. STAT. ANN. § 90-96.2 (West 2021) (eff. April 9, 2013) (overdose assistance exception). • N.C. GEN. STAT. ANN. §§ 90-113.20 to 113.29 (West 2021) (eff. 1981) (criminalizes drug paraphernalia; exceptions).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • December 1, 2013 – Provision added that grants immunity to a person for possession of drug paraphernalia if the person alerts a police officer of the presence of a needle or sharp object. • July 11, 2016 – Syringe exchange program authorization added. • July 22, 2019 – Provision allowing use or possession of testing equipment added; restriction on use of state funds to purchase needles or syringes removed.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia in conjunction with a controlled substance other than marijuana that is unlawful to possess. A violation is a Class 1 misdemeanor. • It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia knowing that it will be used in conjunction with a controlled substance to violate state law. A violation is a Class 1 misdemeanor. • Delivery of drug paraphernalia by a person over 18 years of age to someone under 18 years of age who is at least three (3) years younger is a Class I felony. • It is unlawful for any person to advertise to promote the sale of objects designed or intended for use as drug paraphernalia. A violation is a Class 2 misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • It is not unlawful for a person to knowingly use, or to possess with intent to use, testing equipment for identifying or analyzing the strength, effectiveness, or purity of a controlled substance.

<u>NORTH CAROLINA</u>	
Is paraphernalia allowed in any context? (continued)	<ul style="list-style-type: none"> • It is not unlawful for a governmental or nongovernmental organization that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors to possess or distribute testing equipment to a person who intends to ingest a controlled substance. • Prior to searching a person, a person's premises, or a person's vehicle, a law enforcement officer may ask the person whether the person (or the premises/vehicle) has (contains) a needle or syringe that may cut or puncture the officer. If the person so alerts the officer prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object, or for residual amounts of a controlled substance contained in the needle or sharp object. • No employee, volunteer, or participant of a syringe services program may be charged with or prosecuted for possession of needles, hypodermic syringes, or other injection supplies obtained from or returned to a program. • A person meeting the requirements for applicability of the overdose assistance exception in N.C. GEN. STAT. ANN. § 90-96.2 (West 2021) may not be prosecuted for the possession of drug paraphernalia.
Forfeiture	North Carolina law does not expressly address forfeiture of drug paraphernalia.
Other provisions of note	N.C. GEN. STAT. ANN. § 90-113.21(b) (West 2021) contains a list of factors that may be considered when determining whether an object is drug paraphernalia.
Recently proposed legislation	None.

<u>NORTH DAKOTA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.D. CENT. CODE ANN. § 19-03.1-23.4 (West 2021) (eff. Aug. 1, 2015) (overdose assistance exception). • N.D. CENT. CODE ANN. § 19-03.1-36 (West 2021) (eff. 1971) (forfeiture). • N.D. CENT. CODE ANN. §§ 19-03.4-01 to 19-03.4-08 (West 2021) (eff. 2001) (criminalizes drug paraphernalia). • N.D. CENT. CODE ANN. § 23-01-44 (West 2021) (eff. 2017) (syringe services program exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • August 1, 2017 – Whether or not a needle or syringe was collected during the operation of a needle exchange program to aid in the prevention of bloodborne disease was added as a factor for determining if an object is drug paraphernalia. • August 1, 2019 – Treatment program provision added.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for a person to use or possess with the intent to use drug paraphernalia to make or ingest a controlled substance, other than marijuana or tetrahydrocannabinol, classified in Schedule I, II, or III. A first violation is a Class A misdemeanor. A subsequent violation is a Class C felony. • The following violations are Class C felonies with respect to Schedule I-III drugs other than marijuana: <ul style="list-style-type: none"> ○ Using or possessing with intent to use drug paraphernalia to grow, manufacture, store, or conceal a controlled substance; ○ Delivering, possessing with intent to deliver, or manufacturing with intent to deliver drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used in conjunction with a controlled substance; and ○ Violating the prohibition against delivering drug paraphernalia by a person aged 18 years or older who delivers drug paraphernalia to a person under 18 years of age who is at least three (3) years younger. • It is unlawful for any person to advertise to promote the sale of objects designed or intended for use as drug paraphernalia. A violation is a Class A misdemeanor.

<u>NORTH DAKOTA</u>	
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Person meeting the requirements for applicability of the overdose assistance exception in N.D. CENT. CODE ANN. § 19-03.1-23.4 is immune from criminal prosecution for possession of drug paraphernalia. • Syringes, needles, and supplies collected by an individual pursuant to N.D. CENT. CODE ANN. § 23-01-44 (West 2021) authorizing syringe services programs are not considered drug paraphernalia.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	<ul style="list-style-type: none"> • N.D. CENT. CODE ANN. § 19-03.4-02 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia. • A person sentenced to the legal and physical custody of the Department of Corrections (Department) and rehabilitation for violating the prohibition against possessing drug paraphernalia may be placed in a drug and alcohol treatment program as designated by the Department. • Pursuant to N.D. CENT. CODE ANN. § 19-03.4-07 (West 2021), possession of more than 24 grams of a methamphetamine precursor drug or combination of methamphetamine precursor drugs <i>is prima facie</i> evidence of intent to violate sections drug paraphernalia laws.
Recently proposed legislation	None.

<u>OHIO</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • OHIO REV. CODE ANN. § 2925.14 (West 2021) (eff. 1989) (criminalizes drug paraphernalia). • OHIO REV. CODE ANN. § 3707.57 (West 2021) (September 29, 2015) (syringe services program exception). • OHIO REV. CODE ANN. § 3719.172 (West 2021) (eff. 1972) (possession, sale, and disposal of hypodermics).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for a person to knowingly use, or possess with purpose to use, drug paraphernalia. A violation is a misdemeanor of the fourth degree. • It is unlawful for a person to knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia. A violation is a misdemeanor of the second degree. • Selling drug paraphernalia to a juvenile is a misdemeanor of the first degree. • It is unlawful for any person to advertise to promote the sale of objects designed or intended for use as drug paraphernalia. A violation is a misdemeanor of the second degree.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • If carrying out a duty under a component of a syringe services program under OHIO REV. CODE ANN. § 3707.57 (West 2021) would violate the prohibition against possessing drug paraphernalia, an employee or volunteer of the program is not subject to criminal prosecution for the violation. • OHIO REV. CODE ANN. § 3719.172 (West 2021) provides a list of individuals authorized to possess a hypodermic needle. This includes, among others: (1) a person authorized to administer injections, in the regular course of the person's profession or employment; and (2) a person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs.

<u>OHIO</u>	
Is paraphernalia allowed in any context? (continued)	<ul style="list-style-type: none"> • OHIO REV. CODE ANN. § 3719.172 (West 2021) provides a list of individuals authorized to sell or furnish a hypodermic needle to another person, which includes a person under the direct supervision of a pharmacist.
Forfeiture	Any drug paraphernalia used, possessed, sold, or manufactured in a violation of the law shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of.
Other provisions of note	<ul style="list-style-type: none"> • OHIO REV. CODE ANN. § 2925.14(B) (West 2021) contains a list of factors that a court or a member of law enforcement must consider when determining whether an object is drug paraphernalia. • In addition to any other sanction imposed upon an offender for a violation of drug paraphernalia laws, the court may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit.
Recently proposed legislation	<ul style="list-style-type: none"> • S.B. 296, 134th Gen. Assemb., Reg. Sess. (Ohio 2022) (pending in Senate committee). Among other things, this bill would allow a person to provide, administer, or utilize narcotic testing products or equipment, including fentanyl test strips, for purposes of determining whether toxic or hazardous chemicals, compounds, or other substances are present. • H.B. 456, 134th Gen. Assemb., Reg. Sess. (Ohio 2021) (pending in House committee). This bill would decriminalize the possession and use of fentanyl test strips.

<u>OKLAHOMA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • OKLA. STAT. ANN. tit. 63, § 2-101 (West 2021) (eff. 1971) (definition). • OKLA. STAT. ANN. tit. 63, § 2-101.1 (West 2021) (eff. 1981) (determination of drug paraphernalia). • OKLA. STAT. ANN. tit. 63, § 2-405 (West 2021) (eff. 1971) (criminalizes drug paraphernalia). • OKLA. STAT. ANN. tit. 63, § 2-413.1 (West 2021) (eff. November 1, 2018) (overdose assistance exception). • OKLA. STAT. ANN. tit. 63, § 2-503 (West 2021) (eff. 1987) (forfeiture). • OKLA. STAT. ANN. tit. 63, § 2-1101 (West 2021) (eff. April 20, 2021) (harm reduction services).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • November 1, 2004 – Provisions added to criminalize the sale of drug paraphernalia and expand punishments for subsequent violations of drug paraphernalia offenses. • April 20, 2021 – Hypodermic syringes and needles used or distributed through harm reduction services removed from: (1) the definition of “drug paraphernalia”; and (2) consideration for determining drug paraphernalia. • November 1, 2021 – Harm reduction services exception to definition of “drug paraphernalia” removed.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for a person to use drug paraphernalia to make or ingest a controlled dangerous substance in violation of state law. • It is unlawful for a person to deliver, sell, possess, or manufacture drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance in violation of state law. • Violating either of the provisions above is a misdemeanor punishable as follows: <ul style="list-style-type: none"> ○ For a first offense, imprisonment in the county jail for up to one (1) year, a fine of up to \$1,000 or both; ○ For a second offense, imprisonment in the county jail for up to one (1) year, a fine of up to \$5,000, or both; and

<u>OKLAHOMA</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> ○ For a third or subsequent offense, imprisonment in the county jail for up to one (1) year, a fine of up to \$10,000, or both. ● Any person aged 18 or older who violates the provision against selling or delivering drug paraphernalia by delivering or selling it to a person under age 18 is guilty of a felony.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> ● A person meeting the requirements for applicability of the overdose assistance exception in OKLA. STAT. ANN. tit. 63, § 2-413.1 (West 2021) is immune from criminal prosecution for the offense of possession of drug paraphernalia. ● Pursuant to OKLA. STAT. ANN. tit. 63, § 2-1101 (West 2021), certain entities may engage in “harm reduction services,” which includes collecting used hypodermic needles for safe disposal and possessing and distributing hypodermic needles, cleaning kits, test kits, and opioid antagonists. ● Individuals holding an unrevoked license in the professions of podiatry, dentistry, medicine, nursing, optometry, osteopathy, veterinary medicine, or pharmacy are not subject to violations for possession of drug paraphernalia.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	<ul style="list-style-type: none"> ● Any person convicted of a drug paraphernalia offense must, in addition to any fine imposed, pay a special assessment trauma-care fee of \$100, to be deposited into the Oklahoma Trauma Care Assistance Revolving Fund. ● OKLA. STAT. ANN. tit. 63, § 2-101.1 (West 2021) contains a list of factors that a court or jury must consider when determining whether an object is drug paraphernalia. These factors, however, do not apply to objects in the possession of harm-reduction services providers.
Recently proposed legislation	None, other than legislation enacted in 2021.

<u>OREGON</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • OR. REV. STAT. ANN. §§ 475.525 to 475.565 (West 2021) (eff. 1989) (criminalizes drug paraphernalia; exceptions). • OR. REV. STAT. ANN. § 475.898 (West 2021) (eff. January 1, 2016) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	No. Oregon law expressly provides that the definition of “drug paraphernalia” does not include hypodermic syringes or needles.
Penalties for possession/use of paraphernalia	It is unlawful for any person to sell or deliver, possess with intent to sell, or deliver or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used in conjunction with a controlled substance. In addition to any other penalty provided by law, a violator shall incur a civil penalty between \$2,000 and \$10,000.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Hypodermic syringes or needles are not drug paraphernalia. • It appears that use or possession of drug paraphernalia, without the intent to sell, is allowed. • A person meeting the requirements for applicability of the overdose assistance exception in OR. REV. STAT. ANN. § 475.898 (West 2021) is immune from arrest or prosecution for the offense of unlawful possession of drug paraphernalia with the intent to sell or deliver.
Forfeiture	Drug paraphernalia may be seized. Additionally, at trial, the court may order any item determined to be drug paraphernalia to be forfeited.
Other provisions of note	<ul style="list-style-type: none"> • OR. REV. STAT. ANN. § 475.525(5)(b) (West 2021) contains a list of factors that the trier of fact must consider when determining whether an object is drug paraphernalia. • Amounts collected from violators shall be deposited in the General Fund to the credit of the Oregon Health Authority. The moneys shall be used for the development and implementation of substance use disorder prevention activities and adolescent treatment.
Recently proposed legislation	None.

<u>PENNSYLVANIA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • 35 PA. STAT. AND CONS. STAT. ANN. § 780-102 (West 2021) (eff. 1972) (definition). • 35 PA. STAT. AND CONS. STAT. ANN. § 780-113 (West 2021) (eff. 1972) (criminalizes drug paraphernalia). • 35 PA. STAT. AND CONS. STAT. § 780-113.7 (West 2021) (eff. December 1, 2014) (overdose assistance exception). • 35 PA. STAT. AND CONS. STAT. § 780-141.1 (West 2021) (eff. 1972) (local ordinances). • 42 PA. STAT. AND CONS. STAT. ANN. § 5802 (West 2021) (eff. 1988) (forfeiture).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Each of these violations is a misdemeanor subject to a fine of up to \$2,500, imprisonment for up to one (1) year, or both: <ul style="list-style-type: none"> ○ Using or possessing with the intent to use, drug paraphernalia to make or ingest a controlled substance; ○ Delivering, possessing with intent to deliver, or manufacturing with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it would be used to make or ingest a controlled substance; and ○ Advertising to promote the sale of objects designed or intended for use as drug paraphernalia. • Any person who violates the prohibition against delivering drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger is guilty of a misdemeanor of the second degree, subject to a fine of up to \$5,000, imprisonment up to two (2) years, or both.
Is paraphernalia allowed in any context?	A person meeting the requirements for applicability of the overdose assistance exception in 35 PA. STAT. AND CONS. STAT. § 780-113.7 (West 2021) will not be charged and will be immune from prosecution for (1) use of, or possession with intent to use, drug paraphernalia; and (2) delivery of, possession with intent to deliver, or manufacture with intent to deliver, drug paraphernalia.
Forfeiture	All drug paraphernalia is subject to forfeiture.

<u>PENNSYLVANIA</u>	
Other provisions of note	<ul style="list-style-type: none"> • 35 PA. STAT. AND CONS. STAT. ANN. § 780-102 (West 2021) contains a list of factors that a court or other authority should consider when determining whether an object is drug paraphernalia. • 35 PA. STAT. AND CONS. STAT § 780-141.1 (West 2021) expressly allows localities to enact “consistent” local ordinances addressing drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 2264, 206th Gen. Assemb., 2022 Sess. (Pa. 2022) and S.B. 926, 205th Gen. Assemb., 2021-22 Sess. (Pa. 2021) (pending in House/Senate committees). This bill would exempt the following from the definition of drug paraphernalia: (1) a syringe, needle, or other object used to reduce the risk of disease transmission or other harm, provided by a public or private entity, volunteer or health care provider through a syringe services program to a participant in the syringe services program; (2) a syringe, needle, or other object used to reduce the risk of disease transmission or other harm, provided by a pharmacist in accordance with the rules and regulations of the State Board of Pharmacy; and (3) a syringe, needle, or other object that is used to reduce the risk of disease transmission or other harm and distributed to an individual in the usual course of business by a health care provider otherwise authorized to distribute the item. This bill also prohibits any person from being prosecuted for a residual amount of a controlled substance contained in a used syringe, needle, or other object which is excluded from the definition of “drug paraphernalia.” • H.B. 1393, 205th Gen. Assemb., 2021-2022 Reg. Sess. (Pa. 2021) and S.B. 845, 205th Gen. Assemb., 2021-2022 Reg. Sess. (Pa. 2021) (pending in House/Senate committees). These bills would exclude “fentanyl test strips for personal use” from the definition of drug paraphernalia.

<u>RHODE ISLAND</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • R.I. GEN. LAWS ANN. §§ 21-28.5-1 to 28.5-4 (West 2021) (eff. 1982) (criminalizes drug paraphernalia). • R.I. GEN. LAWS. § 21-28.9-3.1 (West 2021) (eff. July 2, 2018) (narcotic testing products). • R.I. GEN. LAWS. § 21-28.9-4 (West 2021) (eff. Jan. 27, 2016) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • September 1, 2000 – Hypodermic syringes, needles, and other objects intended or designed for the use in parenterally injecting controlled substances into the human body were removed from the definition of drug paraphernalia. • July 2, 2018 – Provision addressing narcotic testing strips added.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	No. There is no mention of injecting, needles, or syringes in the definition of drug paraphernalia.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia, knowing that it will be used to make or ingest a controlled substance. A violation is subject to a fine up to \$5,000, imprisonment up to two (2) years, or both. • Any person aged 18 or older who violates the prohibition against delivering drug paraphernalia by delivering it to a person under age 18 is subject to a fine up to \$5,000, imprisonment up to five (5) years, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Possession of drug paraphernalia—without the intent to deliver or sell it—is not a crime. • A person may provide, administer, or utilize a narcotic testing product to assist another person in determining whether a narcotic or substance contains chemicals, toxic substances, or hazardous compounds. Such person is not subject to civil liability or criminal prosecution because of that action. • A person meeting the requirements for applicability of the overdose assistance exception in R.I. GEN. LAWS § 21-28.9-4 (West 2021) will not be charged or prosecuted for any crime related to the possession of drug paraphernalia.
Forfeiture	Rhode Island law does not expressly address forfeiture of drug paraphernalia, although the language of R.I. GEN. LAWS ANN. § 21-28-5.04 (West 2021) (“forfeiture of property and money”) suggests that it can be subject to forfeiture.

<u>RHODE ISLAND</u>	
Other provisions of note	R.I. GEN. LAWS ANN. § 21-28.5-1(b) (West 2021) contains a list of factors that a court or other authority may consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	S.B. 797, 2021 Leg. Sess. (R.I. 2021) (held for further study). The bill proposes to expand the overdose assistance immunity to individuals who seek assistance for medical emergencies unrelated to an alcohol or drug overdose.

<u>SOUTH CAROLINA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • S.C. CODE ANN. § 44-53-110 (West 2021) (eff. 1962) (definition). • S.C. CODE ANN. § 44-53-391 (West 2021) (eff. 1982) (criminalizes drug paraphernalia). • S.C. CODE ANN. § 44-53-520 (West 2021) (eff. 1962) (forfeiture). • S.C. CODE ANN. §§ 44-53-1910 to 53-1970 (West 2021) (eff. June 10, 2017) (overdose assistance exception).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	No. The definition of drug paraphernalia contains no reference to “testing, “analyzing,” or “testing equipment.”
Does paraphernalia include needles/syringes?	No. There is no mention of injecting, needles, or syringes in the definition of drug paraphernalia.
Penalties for possession/use of paraphernalia	It is unlawful for a person to advertise for sale, manufacture, possession, or delivery, or to possess with the intent to deliver, or sell paraphernalia. A violation (by a person) is subject to a civil fine of not more than \$500.
Is paraphernalia allowed in any context?	Person meeting the requirements for applicability of the overdose assistance exception in S.C. CODE ANN. §§ 44-53-1910 to 53-1970 (West 2021) will not be prosecuted for possessing, selling, or distributing drug paraphernalia.
Forfeiture	South Carolina law does not expressly address forfeiture of drug paraphernalia, although the language of S.C. CODE ANN. § 44-53-520(a)(8) (West 2021) suggests that it can be subject to forfeiture.
Other provisions of note	S.C. CODE ANN. § 44-53-391(b) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None.

<u>SOUTH DAKOTA</u>	
Statute(s) and initial effective date(s)	S.D. CODIFIED LAWS § 22-42A-1 to 22-42A-4 (West 2021) (eff. 1983) (criminalizes drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	February 24, 1998 – Penalty for delivering or manufacturing drug paraphernalia enhanced.
Does paraphernalia include drug test strips or other testing equipment?	Yes. Note, however, that although the definition of drug paraphernalia includes equipment used for “testing” or “analyzing” a controlled substance, the list of example categories for paraphernalia does not include “testing equipment for identifying, or analyzing the strength, effectiveness, or purity of controlled substances.”
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is illegal to use or to possess with intent to use, drug paraphernalia to make or ingest a controlled substance. A violation is a Class 2 misdemeanor. • It is illegal to possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance. A violation is a Class 6 felony.
Is paraphernalia allowed in any context?	No.
Forfeiture	South Dakota law does not expressly address forfeiture of drug paraphernalia.
Other provisions of note	S.D. CODIFIED LAWS § 22-42A-2 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None.

<u>TENNESSEE</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • TENN. CODE ANN. § 39-17-402 (West 2021) (eff. 1989) (definition). • TENN. CODE ANN. §§ 39-17-424 to 17-425 (West 2021) (eff. 1989) (criminalizes drug paraphernalia). • TENN. CODE ANN. § 39-17-428 (West 2021) (eff. 1990) (fines associated with violations). • TENN. CODE ANN. § 40-7-124 (West 2021) (eff. July 1, 2015) (disclosure of needles or sharp objects). • TENN. CODE ANN. § 53-11-451 (West 2021) (eff. 1989) (forfeiture). • TENN. CODE ANN. § 63-1-156 (West 2021) (eff. July 1, 2015) (overdose assistance exception). • TENN. CODE ANN. § 68-1-136 (West 2021) (eff. May 18, 2017) (syringe services program exception).
Substantive amendment(s) to law(s) (non-marijuana related)	March 31, 2022 – Provision related to narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid added.
Does paraphernalia include drug test strips or other testing equipment?	Drug paraphernalia does not include “narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid.” All other testing equipment falls under the drug paraphernalia definition.
Does paraphernalia include needles/syringes?	Yes. However, although the definition of drug paraphernalia includes equipment used for “injecting” a controlled substance into the body, the definition does not reference needles or syringes in the list of examples of drug paraphernalia.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to make or ingest a controlled substance or controlled substance analogue. A violation is a Class A misdemeanor. • It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance or controlled substance analogue. A violation is a Class E felony. • Any person aged 18 or older who violates the prohibition against delivering drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger commits a Class E felony.

<u>TENNESSEE</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> It is unlawful for any person to advertise to promote the sale of objects designed or intended for use as drug paraphernalia. A violation is a Class A misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> Until July 1, 2025, drug paraphernalia does not include “narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid” unless the testing equipment is possessed for purposes of an offense of manufacturing, delivering, selling or possessing a controlled substance with intent to manufacture, deliver or sell the controlled substance. Drug paraphernalia is allowed when used or possessed with the intent to use by a person authorized to dispense, prescribe, manufacture, or possess a controlled substance. Person meeting the requirements for applicability of the overdose assistance exception in TENN. CODE. ANN. § 63-1-156 (West 2021) will not be arrested, charged, or prosecuted for the offense of possession of drug paraphernalia. Drug paraphernalia laws do not apply to an employee, volunteer, or participant of a syringe services program established pursuant to TENN. CODE ANN. § 68-1-136 (West 2021) with respect to possessing needles, hypodermic syringes, or other injection supplies obtained from or returned to a program.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	<ul style="list-style-type: none"> Prior to searching a person, a person’s premises, or a person’s vehicle, a law enforcement officer may ask the person whether the person (or the premises/vehicle) has (contains) a needle or sharp object that may cut or puncture the officer. If the person so alerts the officer prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object. This exception does not apply to any other drug paraphernalia that may be present and found during the search. TENN. CODE ANN. § 39-17-424 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None, other than legislation enacted in 2022.

<u>TEXAS</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • TEX. HEALTH & SAFETY CODE ANN. § 481.002 (West 2021) (eff. 1989) (definition). • TEX. HEALTH & SAFETY CODE ANN. § 481.125 (West 2021) (eff. 1989) (criminalizes drug paraphernalia; overdose assistance exception). • TEX. HEALTH & SAFETY CODE ANN. § 481.151 (West 2021) (eff. 1991) (forfeiture). • TEX. HEALTH & SAFETY CODE ANN. § 481.183 (West 2021) (eff. 1989) (determination of drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	September 1, 2021 – Defense to prosecution for a violation of possession of drug paraphernalia added for individuals who provide request emergency medical assistance in response to the possible overdose of another person.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to knowingly or intentionally uses or possesses with intent to use drug paraphernalia to make or ingest a controlled substance. A violation is a Class C misdemeanor. • It is unlawful for a person to knowingly or intentionally deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing that the person who receives or who is intended to receive the drug paraphernalia intends to use it to make or ingest a controlled substance. A first violation is a Class C misdemeanor. A second or subsequent violation is punishable by confinement in jail for a term of not more than one (1) year or less than 90 days. • A person violating the prohibition against delivering drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger commits a state jail felony.
Is paraphernalia allowed in any context?	A person meeting the requirements for applicability of the overdose assistance exception TEX. HEALTH & SAFETY CODE ANN. § 481.125(g) and (h) (West 2021) has a defense to prosecution of possession or use of drug paraphernalia.
Forfeiture	All drug paraphernalia that is manufactured, delivered, or possessed in violation of law is subject to forfeiture.

<u>TEXAS</u>	
Other provisions of note	TEX. HEALTH & SAFETY CODE ANN. § 481.183 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none">• H.B. 126, 87th Leg., Reg. Sess. (Tex. 2021) (died in House committee upon adjournment). This bill would add an exception to the offense of possessing or delivering drug paraphernalia to a person who is an employee, volunteer, duly authorized agent, or participant in, or is otherwise involved in operating, a pilot program established under other law to prevent the spread of certain infectious and communicable diseases.• H.B. 1178, 87th Leg., Reg. Sess. (Tex. 2021) (died in House upon adjournment). This bill would remove the criminal penalties for possession of drug paraphernalia and make only the delivery of drug paraphernalia a crime.• H.B. 3233, 87th Leg., Reg. Sess. (Tex. 2021) (died in Senate upon adjournment). This bill would add certain exceptions for the possession and delivery of hypodermic needles and syringes, including for medical purposes and syringe services pilot programs. H.B. 4342 and S.B. 2130 are similar bills.

UTAH	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • UTAH CODE ANN. § 58-37-8(16) (West 2021) (eff. March 20, 2014) (overdose assistance exception). • UTAH CODE ANN. §§ 58-37a-1 to 37a-7 (West 2021) (eff. 1981) (criminalizes drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	May 10, 2011 – Exemption added for hypodermic syringes that are sealed in sterile packaging and are for a legitimate medical purpose.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to make or ingest a controlled substance. A violation is a class B misdemeanor. • It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to make or ingest a controlled substance. A violation is a class A misdemeanor. • Any person aged 18 or older who violates the provision against delivering drug paraphernalia by delivering it to a person under age 18 at least three (3) years younger commits a third-degree felony. • It is unlawful for any person to advertise to promote the sale of objects designed or intended for use as drug paraphernalia. A violation is a Class B misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • A person eligible for the overdose assistance exception in UTAH CODE ANN. § 58-37-8(16) (West 2021) has an affirmative defense to an allegation of any violation of Utah drug paraphernalia laws. • A person may not be charged with distribution of hypodermic syringes as drug paraphernalia if at the time of sale or distribution, the syringes are in a sealed sterile package and are for a legitimate medical purpose, including: (1) injection of prescription medications as prescribed by a practitioner; or (2) the prevention of disease transmission. This includes syringe services programs authorized under UTAH CODE ANN. § 26-7-8 (West 2021). • A person may not be charged with possession of hypodermic syringes as drug paraphernalia if the syringe is unused and is in a sealed sterile package.

<u>UTAH</u>	
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	<ul style="list-style-type: none"> • Utah Code Ann. § 58-37a-7 (West 2021) provides that if a court finds that a minor violates Utah drug paraphernalia laws, the court may order the minor to complete: <ul style="list-style-type: none"> ○ A substance use disorder screening; ○ A substance use disorder assessment, if the screening indicates an assessment to be appropriate; and ○ An educational series or substance use disorder treatment as indicated by an assessment. • UTAH CODE ANN. § 58-37a-4 (West 2021) contains a list of factors that the trier of fact should consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 468, 64th Leg., 2022 Gen. Sess. (Utah 2022) (pending in House). This bill modifies the definition of drug paraphernalia to exclude: (1) certain testing equipment; and (2) an object used to parenterally inject a controlled substance into the human body. • H.B. 146, 64th Leg., 2021 Gen. Sess. (Utah 2021) (died upon adjournment after House passed it). As amended, this bill creates a working group to study harm reduction-oriented strategies to reduce overdose injuries and deaths in the state. As introduced, the bill allowed a county or municipality to approve an entity to operate an overdose prevention program.

<u>VERMONT</u>	
Statute(s) and initial effective date(s)	VT. STAT. ANN. tit. 18 §§ 4475 to 4478 (West 2021) (eff. 1983) (criminalizes drug paraphernalia; exceptions).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • May 19, 1999 – Needles and syringes distributed or possessed as part of an organized community-based syringe services program are both exempted from definition of drug paraphernalia and decriminalized. • July 1, 2018 – Amendment decriminalized the sale, possession with intent to sell, or manufacture with intent to sell, drug paraphernalia to an individual over age 18.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Generally, yes. However, drug paraphernalia does not include needles and syringes distributed or possessed as part of an organized community-based syringe services program .
Penalties for possession/use of paraphernalia	It is unlawful for a person to sell drug paraphernalia to a person under age 18. A violation is subject to imprisonment up to two (2) years, a fine up to \$2,000, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Vermont does not criminalize: (1) the possession/use of drug paraphernalia; or (2) selling drug paraphernalia to non-minors. • Distribution and possession of needles and syringes as part of a community-based syringe services program is not a violation.
Forfeiture	Upon conviction, all drug paraphernalia is subject to forfeiture.
Other provisions of note	VT. STAT. ANN. tit. 18 § 4475(b) (West 2021) contains a list of factors that a court or other authority may consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none"> • S.B. 266, 2021-2022 Gen. Assemb., Reg. Sess. (Vt. 2022) (pending in Senate committee). This bill proposes to, among other things, establish harm reduction centers and an overdose prevention working group. • H.B. 397, 2021-2022 Leg. Sess., Reg. Sess. (Vt. 2022) (pending in House committee). This bill would, among other things, expand the locations in which a syringe services program can operate. • H.B. 505, 2021-2022 Gen. Assemb., Reg. Sess. (Vt. 2022) (pending in House committee). This bill would reclassify the drug paraphernalia penalty to a Class C misdemeanor. • H.B. 501, 2019-20 Leg. Sess., Reg. Sess. (Vt. 2019) (died in House committee upon adjournment). This bill proposes to establish a statewide program for the distribution of fentanyl test strips.

<u>VIRGINIA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • VA. CODE ANN. § 18.2-251.03 (West 2021) (eff. July 1, 2015) (overdose assistance exception). • VA. CODE ANN. §§ 18.2-265.1 to 265.5 (West 2021) (eff. 1981) (criminalizes drug paraphernalia). • VA. CODE ANN. § 19.2-386.26 (West 2021) (eff. 2004) (forfeiture). • VA. CODE ANN. § 32.1-45.4 (West 2021) (eff. July 1, 2017) (syringe services program exception). • VA. CODE ANN. § 54.1-3466 (West 2021) (eff. 1988) (criminalizes controlled paraphernalia). • VA. CODE ANN. § 54.1-3467 (West 2021) (eff. 1988) (distribution of hypodermic needles and syringes). • VA. CODE ANN. § 54.1-3469 (West 2021) (eff. 1988) (storage).
Substantive amendment(s) to law(s) (non-marijuana related)	<ul style="list-style-type: none"> • July 1, 2017 – Amendment added an exception for the dispensing or distribution of hypodermic needles and syringes by individuals operating a syringe services program. • March 2, 2018 – Amendment added exceptions for: (1) the possession of hypodermic needles and syringes for the purpose of injecting naloxone; and (2) the dispensing or distribution of hypodermic needles and syringes by persons authorized to dispense naloxone. • July 1, 2019 – Amendment added: (1) exception from definition of drug paraphernalia for narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog; and (2) excluded narcotic testing products used to test for fentanyl from the definition of controlled paraphernalia. • July 1, 2020 – Amendment added an exception for individuals who possess or distribute drug paraphernalia through a syringe services program. • July 1, 2021 – Individuals eligible for overdose assistance exception expanded to include a person providing direct assistance while someone else seeks medical assistance.
Does paraphernalia include drug test strips or other testing equipment?	Generally, yes. However, neither drug paraphernalia nor controlled paraphernalia include “narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog.”
Does paraphernalia include needles/syringes?	Yes.

<u>VIRGINIA</u>	
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • The following actions constitute Class 1 misdemeanors: <ul style="list-style-type: none"> ○ Selling, or possessing with intent to sell, drug paraphernalia to make or ingest a controlled substance; ○ Possessing or distributing controlled paraphernalia; ○ Distributing controlled paraphernalia; ○ Distributing drug paraphernalia by a person aged 18 or older to a person under age 18; and ○ Advertising to promote the sale of objects designed or intended for use as drug paraphernalia. • A person aged 18 or older who sells drug paraphernalia to a person under age 18 at least three (3) years younger commits a Class 6 felony.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Narcotic testing products are not considered drug paraphernalia or controlled paraphernalia. • It is lawful for a person to possess or distribute hypodermic needles and syringes for the purpose of injecting naloxone. • It is lawful for a person to possess or distribute controlled paraphernalia on behalf of a syringe services program. • It is lawful for a person to possess controlled paraphernalia obtained from a syringe services program when such possession is incidental to the provision of services as part of a comprehensive harm reduction program. • A person eligible for the overdose assistance exception in VA. CODE ANN. § 18.2-251.03 (West 2021) may be subject to arrest or prosecution for possession of controlled paraphernalia. • The prohibitions on controlled paraphernalia do not apply to those who have acquired possession and control of controlled paraphernalia in accordance with the provisions of this article or to any person who owns or is engaged in breeding or raising livestock, poultry, or other animals to which hypodermic injections are customarily given in the interest of health, safety, or good husbandry; or to hospitals, physicians, pharmacists, dentists, podiatrists, veterinarians, funeral directors and embalmers, persons to whom a permit has been issued, manufacturers, wholesalers, or their authorized agents or employees when in the usual course of their business, if the controlled paraphernalia lawfully obtained continue to be used for the legitimate purposes for which they were obtained.
Forfeiture	All drug paraphernalia is subject to forfeiture.

<u>VIRGINIA</u>	
Other provisions of note	<ul style="list-style-type: none">• Each person, association or corporation which has lawfully obtained possession of controlled paraphernalia must exercise reasonable care in the storage, usage, and disposition of such devices or substances to ensure that they are not diverted for reuse for any purposes other than those for which they were lawfully obtained.• VA. CODE ANN. § 18.2-265.2 (West 2021) contains a list of factors that a court may consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None, other than legislation enacted in 2020 and 2021.

<u>WASHINGTON</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • WASH. REV. CODE ANN. § 69.50.102 (West 2021) (eff. 1981) (definition). • WASH. REV. CODE ANN. § 69.50.412 (West 2021) (eff. 1981) (criminalizes drug paraphernalia). • WASH. REV. CODE ANN. § 69.50.4121 (West 2021) (eff. 1998) (penalty for selling drug paraphernalia). • WASH. REV. CODE ANN. § 69.50.505 (West 2021) (eff. 1981) (forfeiture).
Substantive amendment(s) to law(s) (non-marijuana related)	June 13, 2002 – Added an exception for individuals over the age of 18 to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases and allowed for the legal distribution of injection syringe equipment through public health and community-based HIV prevention programs and pharmacies.
Does paraphernalia include drug test strips or other testing equipment?	Yes.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • Every person who sells or gives, or permits to be sold or given, to any person any drug paraphernalia in any form commits a Class I civil infraction. • The following actions constitute misdemeanors: <ul style="list-style-type: none"> ○ Using drug paraphernalia to make or ingest a controlled substance other than marijuana; ○ Delivering, possessing with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to make or ingest a controlled substance other than marijuana; and ○ Advertising to promote the sale of objects designed or intended for use as drug paraphernalia • Any person aged 18 years or older who delivers drug paraphernalia to a person under age 18 at least three (3) years younger commits a gross misdemeanor.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • It is lawful for any person over the age of 18 to possess sterile hypodermic syringes and needles for the purpose of reducing blood borne diseases. • Drug paraphernalia laws do not prohibit the legal distribution of injection syringe equipment through public health and community-based syringe services programs, HIV prevention programs, and pharmacies.

<u>WASHINGTON</u>	
Forfeiture	All drug paraphernalia, other than paraphernalia possessed, sold, or used solely to facilitate marijuana related activities, is subject to forfeiture.
Other provisions of note	WASH. REV. CODE ANN. § 69.50.102(b) (West 2021) contains a list of factors that a court or other authority should consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none">• S.B. 5509, 67th Leg., 2022 Reg. Sess. (Wash. 2022) (passed Senate; pending in House committee). This bill exempts fentanyl testing equipment from the definition of drug paraphernalia.• S.B. 5976, 67th Leg., 2022 Reg. Sess. (Wash. 2022) (pending in Senate committee). Among other things, this bill allows a prosecutor, in the case of someone violating the prohibition against using drug paraphernalia, to file a petition for substance use disorder intervention as provided in the bill.• H.B. 1578, 67th Leg., 2021 Reg. Sess. (Wash. 2021) (pending in House committee). This bill makes it lawful for any person to deliver, possess with intent to deliver, or manufacture with the intent to deliver drug paraphernalia, or under circumstances where one reasonably should know, that it would be used to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

<u>WEST VIRGINIA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • W. VA. CODE ANN. § 16-64-8 (West 2021) (eff. July 9, 2021) (syringe services program exception). • W. VA. CODE ANN. §§ 47-19-1 to 19-8 (West 2021) (eff. 1982) (criminalizes drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	June 10, 2022 – Specific provisions related to fentanyl test strips added.
Does paraphernalia include drug test strips or other testing equipment?	No. As of June 10, 2022, “fentanyl test strips” are expressly excluded from the definition of drug paraphernalia.
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for a person to sell any items, effects, paraphernalia, accessories, or thing which is designed or marketed for use with controlled substances without obtaining a license therefor from the state tax commissioner. A violation is a misdemeanor subject to a fine of \$10-\$500. • It is unlawful for any person to sell or attempt to sell drug paraphernalia at: (1) a fair, festival, musical or theatrical production, or at any event performed or conducted outdoors; or (2) a temporary roadside booth or table along any municipal street or highway. A violation is a misdemeanor subject to a fine of \$10-\$500. • It is unlawful to sell drug paraphernalia to any person under age 18. A person aged 18 or older who violates the provision is guilty of a felony and subject to a fine up to \$15,000, and may be imprisoned for one to five (1-5) years or confined to a county jail for up to one (1) year.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • As of June 10, 2022, drug paraphernalia does not include fentanyl test strips and “nothing in [West Virginia Code Chapter 47] prohibits the possession, sale, or purchase of fentanyl test strips.” • West Virginia does not appear to criminalize possession of drug paraphernalia. • An employee, volunteer, or participant of a licensed syringe services program may not be arrested, charged with, or prosecuted for possession of sterile or used syringes, hypodermic syringes, injection supplies obtained from or returned to a program, or other safer drug use materials obtained from a program established pursuant to this article, including testing supplies for illicit substances.
Forfeiture	West Virginia law does not expressly address forfeiture of drug paraphernalia.

<u>WEST VIRGINIA</u>	
Other provisions of note	W. VA. CODE ANN. § 47-19-3(b) (West 2021) contains a list of factors that the state tax commissioner or other authority should consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	<ul style="list-style-type: none">• S.B. 264, 85th Leg., 2021 Reg. Sess. (W. Va. 2021) (died in committee upon adjournment). This bill removes testing equipment from the definition of “drug paraphernalia.” The bill also removes the language of “hypodermic syringes” and “needles” from the definition, however, it still considers any material that can be used for “injecting” as drug paraphernalia.• S.B. 286, 84th Leg., 2020 Reg. Sess. (W. Va. 2020) (died in committee upon adjournment). The bill proposed to prohibit syringe services programs.

<u>WISCONSIN</u>	
Statute(s) and initial effective dates(s)	<ul style="list-style-type: none"> • WIS. STAT. ANN. § 961.443 (West 2021) (eff. April 9, 2014) (overdose assistance exception). • WIS. STAT. ANN. § 961.55 (West 2021) (eff. 1990) (forfeiture). • WIS. STAT. ANN. §§ 961.571 to 961.577 (West 2021) (eff. 1990) (criminalizes drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	March 18, 2022 – exception for testing equipment added to drug paraphernalia definition.
Does paraphernalia include drug test strips or other testing equipment?	No. Drug paraphernalia does not include “[a]ny materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance.”
Does paraphernalia include needles/syringes?	No. Drug paraphernalia does not include “[h]ypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.”
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful to use, or possess with the primary intent to use, drug paraphernalia to make or ingest a controlled substance or controlled substance analog. A violation is subject to a fine up to \$500, imprisonment up to 30 days, or both. • It is unlawful to use, or possess with the primary intent to use, drug paraphernalia to make or ingest methamphetamine or a controlled substance analog of methamphetamine. A violation is Class H felony, unless the person is age 18 or older and commits a violation while in the presence of a child who is 14 years of age or younger, which is a Class G felony. • It is unlawful to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to make or ingest a controlled substance or controlled substance. A violation is subject to a fine of up to \$1,000, 90 days imprisonment, or both. If a person age 17 or older violates this provision by delivering drug paraphernalia to a person age 17 or under at least three (3) years younger may be fined up to \$10,000, imprisoned up to nine (9) months, or both. • It is unlawful to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to make or ingest methamphetamine or a controlled substance analog of methamphetamine. A violation is a Class H felony unless the person is age 17 or older and commits a violation by delivering to a person aged 17 or younger, which is a Class G felony

<u>WISCONSIN</u>	
Penalties for possession/use of paraphernalia (continued)	<ul style="list-style-type: none"> • It is unlawful to advertise to promote the sale of objects designed or intended for use as drug paraphernalia. A violation is subject to a fine up to \$500, imprisonment up to 30 days, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Drug paraphernalia does not include materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance. • Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body are excluded from the definition of drug paraphernalia. • A person eligible for the overdose assistance exception (called an “aider” in Wisconsin) in WIS. STAT. ANN. § 961.443 (West 2021) is immune from prosecution for the offense of possession of drug paraphernalia.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	WIS. STAT. ANN. § 961.572 (West 2021) contains a list of factors that a court or other authority must consider when determining whether an object is drug paraphernalia.
Recently proposed legislation	None other than legislation enacted in 2022.

<u>WYOMING</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • WYO. STAT. ANN. § 35-7-1002 (West 2021) (eff. 1971) (definition). • WYO. STAT. ANN. § 35-7-1049 (West 2021) (eff. 1982) (forfeiture). • WYO. STAT. ANN. §§ 35-7-1056 to 7-1057 (West 2021) (eff. 1982) (criminalizes drug paraphernalia).
Substantive amendment(s) to law(s) (non-marijuana related)	None.
Does paraphernalia include drug test strips or other testing equipment?	No. The definition of drug paraphernalia contains no reference to “testing, analyzing,” or “testing equipment.”
Does paraphernalia include needles/syringes?	Yes.
Penalties for possession/use of paraphernalia	<ul style="list-style-type: none"> • It is unlawful for any person to deliver, or possess with intent to deliver, drug paraphernalia. Any person who violates this section is guilty of a crime and, upon conviction, may be imprisoned for not more than six (6) months, fined not more than \$750, or both. • Any adult who violates the prohibition against delivering drug paraphernalia by delivering it to a minor is guilty of a crime and, upon conviction, may be imprisoned for not more than five (5) years, fined not more than \$2,500, or both.
Is paraphernalia allowed in any context?	<ul style="list-style-type: none"> • Drug test strips or other testing equipment is not drug paraphernalia. • The use or possession of drug paraphernalia without the intent to deliver it is not a crime.
Forfeiture	All drug paraphernalia is subject to forfeiture.
Other provisions of note	None.
Recently proposed legislation	None.

ABOUT THE LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

Based in Washington D.C., and led by and comprised of experienced attorneys, the Legislative Analysis and Public Policy Association is a 501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft legislation on effective law and policy in the areas of public safety and health, substance use disorders, and the criminal justice system.

LAPPA produces timely model laws and policies that can be used by national, state, and local public health, public safety, and substance use disorder practitioners who want the latest comprehensive information on law and policy as well as up-to-the-minute comparative analyses, publications, educational brochures, and other tools ranging from podcasts to fact sheets. Examples of topics on which LAPPA has assisted stakeholders include naloxone laws, law enforcement/community engagement, alternatives to incarceration for those with substance use disorders, medication-assisted treatment in correctional settings, and the involuntary commitment and guardianship of individuals with alcohol or substance use disorders.



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