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HARM REDUCTION AND OVERDOSE PREVENTION
50-State Survey

Legality of Drug Checking Equipment in the United States

August 2026 Update

Any drug that is other than what the person consuming it believes it to be can increase risk for negative health outcomes. Illicitly manufactured fentanyl and fentanyl analogs have become widespread in the illicit drug supply throughout the United States, driving a nearly 660% increase in overdose deaths involving synthetic opioids other than methadone from 2015 to 2023.[1] Other adulterants such as xylazine, medetomidine, and nitazines have also appeared in many areas of the country.[2] The presence of these contaminants creates a heightened risk for overdose and other harms.[3]

Because no regulated supply of most illicitly used drugs is available, helping people determine what is in the drugs they obtain can be an impactful harm reduction intervention.[4] While many types of drug checking technologies exist, the easiest and most inexpensive way to accomplish this is often through use of test strips for common contaminants, such as fentanyl test strips (FTS) and xylazine test strips (XTS).[5] These small, disposable devices identify the presence of contaminants in drug samples, enabling people who use drugs to reduce their risk of adverse health outcomes. Extensive evidence shows that FTS are both accurate and reliable.[6]

Because test strips for substances other than fentanyl have only recently become widely available, most existing research on the efficacy of drug checking involves FTS. This research generally finds positive effects. A survey of people who inject drugs (PWID) in North Carolina, for example, found that more than four in five who received FTS used the strips to test their drugs before consumption, and people who obtained a positive result were five times more likely to report changes in drug use behavior than those who obtained a negative result.[7] A survey of PWID in Rhode Island found that a positive FTS result was significantly associated with positive changes in overdose risk behavior, with approximately forty-five percent of PWID reporting using a smaller amount of the drug and approximately forty-two percent reporting using it more slowly.[89] A recent observational study of PWUD in three states found that a positive FTS result was associated with risk reduction behaviors such as taking turns, having naloxone nearby, and a four-fold reduction in the amount of drugs used.[10] Similarly, a 2025 multisite observational cohort study found that people who used FTS engaged in significantly more overdose risk-reduction behaviors such as keeping naloxone nearby and asking someone to check on them.[11] Based in part on these findings, governmental and non-governmental organizations in many states now provide FTS, and, increasingly, other drug-checking devices.

While the most prevalent, test strips are not the only drug checking technology. Reagent tests, which use chemicals to identify substances present in drug samples, have long been used for drug checking at music festivals and related venues.[12] Most of these tests have the same limitation as FTS and XTS, however: they only identify the presence of an adulterant, not its concentration. To provide more detailed information, some organizations have begun to utilize more advanced equipment that provides a detailed analysis of the substances present in a drug sample.[13] This equipment has

the advantage of providing much more extensive information than test strips or reagent tests, but the disadvantage of being much more expensive to acquire, maintain, and operate.[14]

State laws can limit the uptake and impact of drug checking initiatives. Because most state paraphernalia laws are based on a model created in the late 1970s by the Drug Enforcement Administration, they typically classified nearly every object used in conjunction with illicit drugs—including those used for "testing" or "analyzing" those drugs—as drug paraphernalia.[15] They also generally prohibit the possession or distribution of such paraphernalia. While in our experience these laws are rarely used to arrest or prosecute people solely for drug checking equipment (DCE), they can cause confusion and may deter initiation of and funding for programs that utilize or distribute DCE.[16]

To determine the potential legal barriers to drug checking posed by state laws, we systematically surveyed the relevant legal landscape in the fifty United States, the District of Columbia, and Puerto Rico (hereafter referred to as "states").[17] The table in this document displays the characteristics of the relevant law in each state as of August 1, 2026, and the figures show the changes in state laws between January 1, 2020, and August 1, 2026. First, the table notes whether the possession of DCE is clearly legal in each state. Second, we note whether its free distribution is clearly legal. The third column notes whether sale is clearly legal. The next column notes whether the law clearly permits free distribution of DCE by syringe services programs (SSP). The column after notes whether possession of DCE obtained from an SSP is clearly legal. Finally, we note whether DCE is covered by the state overdose Good Samaritan law.[18] Where there are distinctions between the legality of different types of DCE, those differences are noted. In all cases the answers assume both parties in the transaction are adults.[19]

We conclude that all forms of DCE are legal to sell, give away, and possess in 25 states.[20] Michigan permits possession and free distribution of all DCE but prohibits its sale. In Massachusetts, the possession and free distribution of DCE is universally permitted, but sale is permitted only in the context of harm reduction drug testing services.[21] Five states allow possession of all DCE but restrict or prohibit both free distribution and sale.[22] Fourteen states expressly allow the possession, free distribution, and sale of DCE only for specific drugs or with certain types of testing modalities—most commonly fentanyl and fentanyl test strips—while the same activities with all other forms of DCE remains illegal.[23] Two additional states (Arkansas and Ohio) restrict possession of DCE to only certain test strips, while allowing distribution or sale of DCE more generally.[24] In four states (Iowa, North Dakota, Puerto Rico, and Texas), possession, free distribution, and sale of all DCE remains arguably a crime outside of the SSP context, typically because the law both defines paraphernalia as including testing equipment and criminalizes the possession of such equipment. In six states, SSPs are permitted to distribute drug checking equipment even where such distribution is not otherwise permitted.[25] Finally, we find that the overdose Good Samaritan laws in 39 states provide protection from criminal action related to DCE.

States have been rapidly modifying their laws to increase access to DCE, typically by removing some or all such equipment from the definition of paraphernalia under state law. Initially, many of these reforms were limited to test strips and other equipment used to detect fentanyl. Over time, many states have expanded these amendments to incorporate tests for other specific substances, and increasingly states are modifying law to exempt all drug checking equipment, an approach that negates the need to modify law as new adulterants enter the illicit drug supply and maximizes the potential public health impact of these laws.

In 2021, laws that permit at least some drug checking equipment to be possessed, distributed, or both went into effect in five states.[26] In 2022, laws went into effect in an additional nine states.[27] In 2023, laws went into effect for the first time in twenty-one states[28] and three states increased or expanded access.[29] In 2024, laws that increased already existing access to drug checking equipment went into effect in six states[30] and one state (Idaho) enacted a new law to increase access to DCE. 2025 also saw one state (Indiana) pass a DCE access law for the first time. Five additional states[31] expanded existing laws to include more types of drug checking equipment.[32]

We emphasize that the fact that a state has not clearly legalized the possession or distribution of drug checking equipment does not necessarily mean that those activities are illegal. Indeed, many states in which the distribution of drug checking equipment is not clearly legal distribute it via health departments and other entities. However, in those states it would likely be helpful to modify or repeal relevant laws to clarify that drug checking equipment is not criminalized.[33] Additionally, we note that in some states where drug checking equipment is legal to possess or distribute, possessing the drugs being checked might be a crime.

Legal Status of Drug Checking Equipment, August 1, 2026

State	Possession of DCE generally permitted[34]	Free distribution of DCE generally permitted	Sale of DCE generally permitted	Free distribution of DCE from SSPs clearly permitted	Possession of DCE obtained from SSPs clearly permitted	Good Samaritan law covers DCE
Alabama	Fentanyl and fentanyl analogs: Yes Others: No[35]	Fentanyl and fentanyl analogs: Yes Others: No[36]	Fentanyl and fentanyl analogs: Yes Others: No[37]	N/A[38]	N/A[39]	Yes[40]
Alaska	Yes[41]	Yes[42]	Yes[43]	Yes[44]	Yes[45]	N/A
Arizona	Fentanyl and fentanyl analogs: Yes Others: No[46]	Fentanyl and fentanyl analogs: Yes Others: No[47]	Fentanyl and fentanyl analogs: Yes Others: No[48]	Fentanyl and fentanyl analogs: Yes Others: No[49]	Fentanyl and fentanyl analogs: Yes Others: No[50]	Yes[51]
Arkansas	Fentanyl and fentanyl analogs test strips: Yes Others: No[52]	Yes[53]	Yes[54]	Yes[55]	Fentanyl and fentanyl analogs test strips: Yes Others: No [56]	No[57]
California	Yes[58]	Yes[59]	Yes[60]	Yes[61]	Yes[62]	Yes[63]
Colorado	Yes[64]	Yes[65]	Yes[66]	Yes[67]	Yes[68]	Yes[69]
Connecticut	Yes[70]	Yes[71]	Yes[72]	Yes[73]	Yes[74]	Yes[75]
Delaware	Fentanyl and xylazine: Yes Others: No[76]	Fentanyl and xylazine: Yes Others: No[77]	Fentanyl and xylazine: Yes Others: No[78]	Fentanyl and xylazine: Yes Others: No[79]	Fentanyl and xylazine: Yes Others: No[80]	Yes[81]

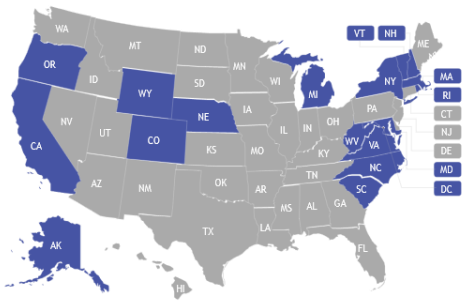
State	Possession of DCE generally permitted[34]	Free distribution of DCE generally permitted	Sale of DCE generally permitted	Free distribution of DCE from SSPs clearly permitted	Possession of DCE obtained from SSPs clearly permitted	Good Samaritan law covers DCE
Florida	Fentanyl, fentanyl analogs and xylazine: Yes Others: No[82]	Fentanyl, fentanyl analogs and xylazine: Yes Others: No[83]	Fentanyl, fentanyl analogs and xylazine: Yes Others: No[84]	Fentanyl, fentanyl analogs, and xylazine: Yes Others: No[85]	Fentanyl, fentanyl analogs and xylazine: Yes Others: No[86]	Yes[87]
Georgia	Yes[88]	Yes[89]	Yes[90]	Yes[91]	Yes[92]	Yes[93]
Hawaii	Fentanyl test strips: Yes Others: No[94]	Fentanyl test strips: Yes Others: No[95]	Fentanyl test strips: Yes Others: No[96]	Fentanyl test strips: Yes Others: No[97]	Fentanyl test strips: Yes Others: No[98]	Yes[99]
Idaho	Fentanyl, fentanyl analogs, and derivatives: Yes Others: No[100]	Fentanyl, fentanyl analogs, and derivatives: Yes Others: No[101]	Fentanyl, fentanyl analogs, and derivatives: Yes Others: No[102]	N/A[103]	N/A[104]	Yes[105]
Illinois	Yes[106]	Yes[107]	Yes[108]	Yes[109]	Yes[110]	Yes[111]
Indiana	Yes[112]	Yes[113]	Yes[114]	Yes[115]	Yes[116]	Yes[117]
Iowa	No[118]	No[119]	No[120]	N/A[121]	N/A[122]	Yes[123]
Kansas	Fentanyl, fentanyl analogs, ketamine and gamma hydroxybutyric acid: Yes Others: No[124]	Fentanyl, fentanyl analogs, ketamine and gamma hydroxybutyric acid: Yes Others: No[125]	Fentanyl, fentanyl analogs, ketamine and gamma hydroxybutyric acid: Yes Others: No[126]	N/A[127]	N/A[128]	No[129]
Kentucky	Synthetic Opioids: Yes Others: No[130]	Synthetic Opioids: Yes Others: No[131]	Synthetic Opioids: Yes Others: No[132]	Yes[133]	Synthetic Opioids: Yes Others: No[134]	Yes[135]
Louisiana	Yes[136]	Yes[137]	Yes[138]	Yes[139]	Yes[140]	Yes[141]

State	Possession of DCE generally permitted[34]	Free distribution of DCE generally permitted	Sale of DCE generally permitted	Free distribution of DCE from SSPs clearly permitted	Possession of DCE obtained from SSPs clearly permitted	Good Samaritan law covers DCE
Maine	Yes[142]	Yes[143]	Yes[144]	Yes[145]	Yes[146]	Yes[147]
Maryland	Yes[148]	Yes[149]	Yes[150]	Yes[151]	Yes[152]	Yes[153]
Massachusetts	Yes[154]	Yes[155]	No*[156]	Yes[157]	Yes[158]	N/A[159]
Michigan	Yes[160]	Yes[161]	No[162]	Yes[163]	Yes[164]	N/A[165]
Minnesota	Yes[166]	Yes[167]	Yes[168]	Yes[169]	Yes[170]	Yes[171]
Mississippi	Fentanyl and fentanyl analogs: Yes Others: No[172]	Fentanyl and fentanyl analogs: Yes Others: No[173]	Fentanyl and fentanyl analogs: Yes Others: No[174]	N/A[175]	N/A[176]	Yes[177]
Missouri	Fentanyl and fentanyl analogs: Yes[178] Others: No	Fentanyl and fentanyl analogs: Yes[179] Others: No	Fentanyl and fentanyl analogs: Yes[180] Others: No	N/A[181]	N/A[182]	Yes[183]
Montana	Yes[184]	No[185]	No[186]	Yes[187]	Yes[188]	Yes[189]
Nebraska	Yes[190]	Yes[191]	Yes[192]	N/A[193]	N/A[194]	Yes[195]
Nevada	Yes[196]	Yes[197]	Yes[198]	Yes[199]	Yes[200]	Yes[201]
New Hampshire	Yes[202]	Fentanyl, fentanyl analogs, xylazine and xylazine analogs: Yes Others: No[203]	Fentanyl, fentanyl analogs, xylazine and xylazine analogs: Yes Others: No[204]	Yes[205]	Yes[206]	N/A[207]
New Jersey	Yes[208]	Yes[209]	Yes[210]	Yes[211]	Yes[212]	Yes[213]
New Mexico	Yes[214]	No[215]	No[216]	Yes[217]	Yes[218]	Yes[219]

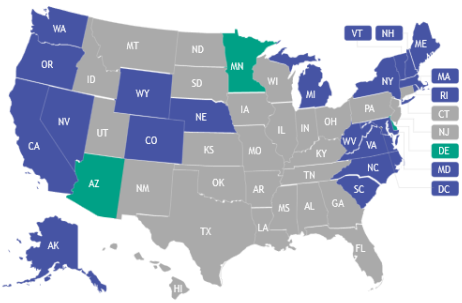
State	Possession of DCE generally permitted[34]	Free distribution of DCE generally permitted	Sale of DCE generally permitted	Free distribution of DCE from SSPs clearly permitted	Possession of DCE obtained from SSPs clearly permitted	Good Samaritan law covers DCE
New York	Yes[220]	Yes[221]	Yes[222]	Yes[223]	Yes[224]	Yes[225]
North Carolina	Yes[226]	No[227]	No[228]	Yes[229]	Yes[230]	Yes[231]
North Dakota	No[232]	No[233]	No[234]	Yes[235]	Yes[236]	Yes[237]
Ohio	Fentanyl and fentanyl-related compounds, xylazine; medetomidine; benzimidazole-opioids, nitazenes, benzodiazepines and benzodiazepine-related compound test strips and reagents: Yes Others: No[238]	Yes[239]	No[240]	Yes[241]	Fentanyl and fentanyl-related compounds, xylazine; medetomidine; benzimidazole-opioids or nitazenes, and benzodiazepines and benzodiazepine-related compound test strips and reagents: Yes (within 1,000 feet of SSP only) Others: No[242]	Yes[243]
Oklahoma	Fentanyl test strips: Yes Others: No[244]	Fentanyl test strips: Yes Others: No[245]	Fentanyl test strips: Yes Others: No[246]	N/A[247]	N/A[248]	Yes[249]
Oregon	Yes[250]	Yes[251]	Yes[252]	Yes[253]	Yes[254]	Yes[255]
Pennsylvania	Yes[256]	Yes[257]	Yes[258]	N/A[259]	N/A[260]	Yes[261]
Puerto Rico	No[262]	No[263]	No[264]	Yes[265]	Yes[266]	No[267]
Rhode Island	Yes[268]	Yes[269]	Yes[270]	Yes[271]	Yes[272]	N/A[273]

State	Possession of DCE generally permitted[34]	Free distribution of DCE generally permitted	Sale of DCE generally permitted	Free distribution of DCE from SSPs clearly permitted	Possession of DCE obtained from SSPs clearly permitted	Good Samaritan law covers DCE
South Carolina	Yes[274]	Yes[275]	Yes[276]	Yes[277]	Yes[278]	Yes[279]
South Dakota	Fentanyl and fentanyl analogs: Yes Others: No[280]	Fentanyl and fentanyl analogs: Yes Others: No[281]	Fentanyl and fentanyl analogs: Yes Others: No[282]	N/A[283]	N/A[284]	No[285]
Tennessee	Synthetic opioid: Yes Others: No[286]	Synthetic opioid: Yes Others: No[287]	Synthetic opioid: Yes Others: No[288]	Synthetic opioid: Yes Others: No[289]	Synthetic opioid: Yes Others: No[290]	Yes[291]
Texas	No[292]	No[293]	No[294]	N/A[295]	N/A[296]	Yes[297]
Utah	Yes[298]	Yes[299]	Yes[300]	Yes[301]	Yes[302]	Yes[303]
Vermont	Yes[304]	Yes[305]	Yes[306]	Yes[307]	Yes[308]	N/A[309]
Virginia	Yes[310]	Yes[311]	Yes[312]	Yes[313]	Yes[314]	Yes[315]
Washington D.C.	Yes[316]	No[317]	No[318]	Yes[319]	Yes[320]	Yes[321]
Washington	Yes[322]	Yes[323]	Yes[324]	Yes[325]	Yes[326]	N/A[327]
West Virginia	Yes[328]	Yes[329]	Yes (with some exceptions)[330]	Yes[331]	Yes[332]	N/A[333]
Wisconsin	Fentanyl, fentanyl analogs xylazine and xylazine analogs: Yes Others: No[334]	Fentanyl, fentanyl analogs, xylazine and xylazine analogs: Yes Others: No[335]	Fentanyl, fentanyl analogs, xylazine and xylazine analogs: Yes Others: No[336]	Fentanyl, fentanyl analogs, xylazine and xylazine analogs: Yes[337]	Fentanyl, fentanyl analogs, xylazine and xylazine analogs: Yes[338]	Yes[339]
Wyoming	Yes[340]	Yes[341]	Yes[342]	N/A[343]	N/A[344]	No[345]

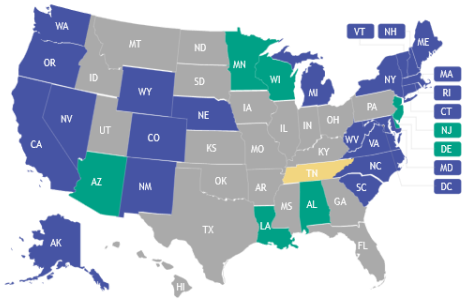
Figure 1: States with laws permitting possession of DCE, by year



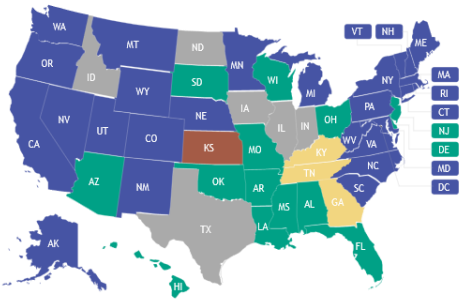
2020



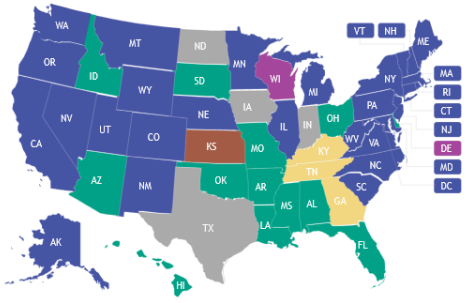
2021



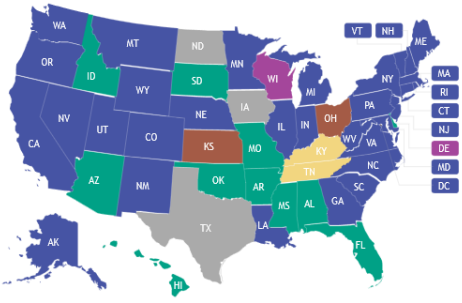
2022



2023



2024

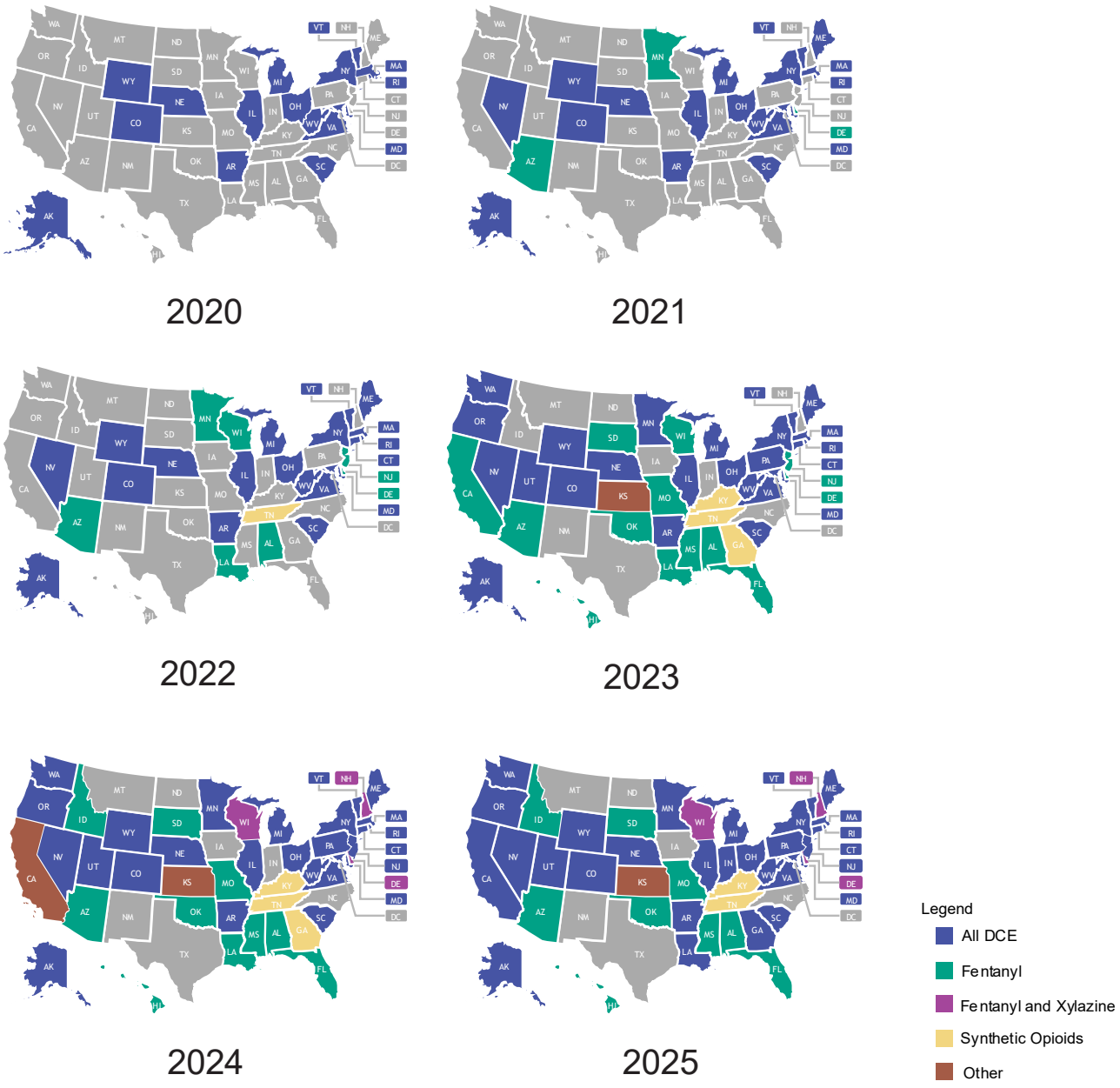


2025

Legend

- All DCE
- Fentanyl
- Fentanyl and Xylazine
- Synthetic Opioids
- Other

Figure 2: States with laws permitting free distribution of DCE, by year



Appendix: Relevant legal changes between January 1, 2020 and August 1, 2026

State: Alabama
Bill: 2022 Ala. Laws Act 2022-154 (S.B. 168)
Change: "[A] person may possess, deliver, or sell testing equipment designed to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue."
Date: June 1, 2022
Applies to: Fentanyl and fentanyl analogs

State: Arizona
Bill: 2021 Ariz. Legis. Serv. Ch. 372 (S.B. 1486)
Change: Drug paraphernalia definition was modified to exclude "[t]esting equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of drugs, other than narcotic drug testing products that are used to determine whether a controlled substance contains fentanyl or a fentanyl analog."
Date: September 29, 2021
Applies to: Fentanyl and fentanyl analogs

State: Arkansas
Bill: 2023 Arkansas Laws Act 584 (H.B. 1456)
Change: "'Drug paraphernalia' does not include a disposable, single-use test strip that can detect the presence of fentanyl or fentanyl analogs in a substance"
Date: April 11, 2023
Applies to: Fentanyl and fentanyl analog test strips

State: California
Bill: 2022 Cal. Legis. Serv. Ch. 201 (A.B. 1598)
Change: Drug paraphernalia definition modified to exclude "any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl."
Date: January 1, 2023
Applies to: Fentanyl, ketamine, gamma hydroxybutyric acid, and fentanyl analogs

State: California
Bill: 2024 Cal. Legis. Serv. Ch. 701 (A.B. 2136)
Change: Drug paraphernalia definition modified to expand exclusion to "any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances that include, without limitation, fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl." Affirmatively allows "controlled substances checking services" providing protections for both the person providing services and the person seeking services from arrest, prosecution, civil, administrative or disciplinary action, forfeiture, and referral to immigration. Requires destruction of personally identifying information of individuals obtaining services after results delivered and prevents disclosure of personal information. Provides that utilizing drug checking services cannot "serve as the basis for, or a fact contributing to the existence of, reasonable suspicion or probable cause for a law enforcement officer to conduct a search or seizure." Also extends sunset date on possession of syringes for personal use until January 1, 2026.
Date: January 1, 2025
Applies to: All drug checking equipment, all substances

State: Colorado
Bill: 2022 Colo. Legis. Serv. Ch. 225 (H.B. 22-1326)
Change: Additional protections added for civil damages for "furnish[ing] a non-laboratory synthetic opiate detection test, including an expired non-laboratory synthetic opiate detection test, to another person … for acts, omissions made as a

result of the act, or for any act or omission made if the non-laboratory synthetic opiate detection test is stolen, defective, or produces an inaccurate result."
Date: July 1, 2022
Applies to: Non-laboratory synthetic opiate detection tests

State: Colorado
Bill: 2024 Colo. Legis. Serv. Ch. 458 (H.B. 24-1037)
Change: Affirmatively allows syringe services programs to “acquire and use supplies or devices intended for use in testing controlled substances or controlled substance analogs for potentially dangerous adulterants.”
Date: June 6, 2024
Applies to: All drug checking equipment

State: Colorado
Bill: 2024 Colo. Legis. Serv. Ch. 121 (H.B. 24-1003)
Change: Adds “non-laboratory additive detection test” in addition to “non-laboratory synthetic opiate detection test” to section that provides protections from civil damages for furnishing.
Date: August 7, 2024
Applies to: Non-laboratory additive detection test

State: Connecticut
Bill: 2022 Conn. Legis. Serv. P.A. 22-108 (H.B. 5430)
Change: Drug paraphernalia law modified to note that the term “does not include a product used by a manufacturer licensed pursuant to this chapter for the activities permitted under the license or 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, provided the licensed manufacturer or individual is not using the product to engage in the unlicensed manufacturing or distribution of controlled substances.”
Date: July 1, 2022
Applies to: Any substance

State: Delaware
Bill: 2021 Delaware Laws Ch. 21 (S.B. 76)
Change: Modifies drug paraphernalia law to exclude “[t]esting strips to determine the presence of fentanyl or fentanyl-related substances”, and creates new statute providing civil protections for distribution of fentanyl testing strips.
Date: June 3, 2021
Applies to: Fentanyl testing strips

State: Delaware
Bill: 2023 Delaware Laws Ch. 170 (S.B. 189)
Change: Modifies drug paraphernalia exemption to include “drug testing strips”, expands the definition of “drug” to include fentanyl and xylazine and expands civil protections for distribution of testing strips to include those for xylazine
Date: Nov. 29, 2023
Applies to: Xylazine testing devices

State: Delaware
Bill: 2024 Delaware Laws Ch. 273 (S.B. 207)
Change: Removes the expiration date for 2023 Delaware Laws Ch. 170 (S.B. 189), which modified the drug paraphernalia exemption to include xylazine testing equipment
Date: June 20, 2024
Applies to: Xylazine and fentanyl testing equipment

State: Florida
Bill: 2023 Fla. Sess. Law Serv. Ch. 2023-297 (C.S.S.B. 164)
Change: Excludes “narcotic-drug-testing products that are used solely to determine whether a controlled substance contains fentanyl as described in s. 893.03(2)(b) 9. or any other controlled substance specified in s. 893.135(1)(c)4.a"

from the definition of drug paraphernalia while specifying the "exclusion does not apply to a narcotic-drug-testing product that can measure or determine the quantity, weight, or potency of a controlled substance." Fla. Stat. Ann. § 893.145(4).
Date: July 1, 2023
Applies to: Fentanyl and analogs

State: Florida
Bill: 2026 Fla. Sess. Law Serv. Ch. 2026-157 (C.S.H.B. 477)
Change: Expands "narcotic-drug-testing products" exclusion under Fla. Stat. Ann. § 893.145(4) to include xylazine.
Date: July 1, 2026
Applies to: Xylazine

State: Georgia
Bill: 2022 Georgia Laws Act 879 (H.B. 1175)
Change: "[A]ny testing equipment used to determine whether a controlled substance has been adulterated and contains a synthetic opioid shall not be considered a drug related object as defined by Article 2 of Chapter 13 of Title 16."
Date: July 1, 2023
Applies to: Synthetic opioids

State: Georgia
Bill: 2025 Georgia Laws Act 126 (S.B. 6)
Change: **"**[D]rug analysis equipment used to determine whether a controlled substance or its packaging has been adulterated shall not be considered a drug related object as defined by Article 2 of Chapter 13 of Title 16."
Date: July 1, 2025
Applies to: Testing equipment for all adulterants

State: Hawaii
Bill: 2023 Hawaii Laws Act 111 (S.B. 671)
Change: **"**'Drug paraphernalia" does not include fentanyl test strips."
Date: June 22, 2023
Applies to: Fentanyl test strips

State: Idaho
Bill: 2024 Idaho Laws Ch. 68 (H.B. 441)
Change: "[T]esting equipment used, intended for use, or designed for use in identifying whether a controlled substance contains fentanyl, a fentanyl analog, or any derivative thereof shall not be considered drug paraphernalia."
Date: July 1, 2024
Applies to: Fentanyl, fentanyl analogs, or any derivative thereof

State: Illinois
Bill: 2022 Ill. Legis. Serv. P.A. 102-1039 (H.B. 4556)
Change: Creates 410 Ill. Comp. Stat. 710/10 which allows "drug adulterant testing supplies" to be distributed by certain healthcare professionals; sets parameters around doing so.
Date: June 2, 2022
Applies to: Drug adulterant testing supplies

State: Illinois
Bill: 2023 Ill. Legis. Serv. P.A. 103-336 (H.B. 3203)
Change: "'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." Also explicitly allows pharmacists and retailers to sell fentanyl test strips.
Date: January 1, 2024
Applies to: Fentanyl, fentanyl analogs and "drug adulterants"

State: Illinois
Bill: 2024 Ill. Legis. Serv. P.A. 103-980 (S.B. 3350)

Change: Allows drug overdose prevention programs to obtain and distribute fentanyl test strips as well as allowing county health departments to distribute fentanyl test strips anywhere, not just at a county health department facility.
Date: January 1, 2025
Applies to: Fentanyl test strips

State: Indiana
Bill: 2025 Ind. Legis. Serv. P.L. 53-2025 (H.E.A. 1167)
Change: Removes "[i]tems marketed to detect the presence of a drug or controlled substance, including field test kits and test strips" from the laws prohibiting the possession, distribution and sale of paraphernalia.
Date: July 1, 2025
Applies to: Items marketed to detect the presence of a drug or controlled substance

State: Indiana
Bill: 2026 Ind. Legis. Serv. P.L. 144-2026 (S.E.A. 91)
Change: "A qualified entity that operates a program under this chapter may not provide chemical reagents or precursors (as defined in IC 35–48–4–14.5)."
Date: March 1, 2026
Applies to: chemical reagents and precursors

State: Kansas
Bill: 2023 Kansas Laws Ch. 94 (S.B. 174)
Change: Drug paraphernalia does not include "any materials used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine or gamma hydroxybutyric acid."
Date: July 1, 2023
Applies to: Fentanyl, fentanyl analogs, ketamine and gamma hydroxybutyric acid

State: Kentucky
Bill: 2023 Kentucky Laws Ch. 166 (HB 353)
Change: Removed "identifying" from testing equipment entry and specifically exempts "narcotic drug testing products utilized in determining whether a controlled substance contains a synthetic opioid or its analogues" from the definition of drug paraphernalia. Notes, however, that a "narcotic drug testing product that is utilized in conjunction with the importation, manufacture, or selling of fentanyl or a fentanyl analogue in violation of this chapter shall be deemed drug paraphernalia under this section."
Date: June 29, 2023
Applies to: Narcotic drug testing equipment used to determine whether a controlled substance contains a synthetic opioid or its analogs and, potentially, all equipment used for identifying substances

State: Louisiana
Bill: 2022 La. Sess. Law Serv. Act 137 (H.B. 212)
Change: "Notwithstanding any provision of law to the contrary, the term 'drug paraphernalia' shall 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."
Date: August 1, 2022
Applies to: Fentanyl and fentanyl analogs

State: Louisiana
Bill: 2025 La. Sess. Law Serv. Act 102 (S.B. 78)
Change: "Notwithstanding any provision of law to the contrary, the term "drug paraphernalia" shall 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 any controlled dangerous substance or chemical compound that can cause physical harm or death, provided that the testing equipment is not used to facilitate the manufacture or distribution of any controlled substance in violation of R.S. 40:961 et seq."
Date: June 8, 2025
Applies to: All drug checking equipment

State: Maine
Bill: 2021 Me. Legis. Serv. Ch. 434 (H.P. 732) (L.D. 994)
Change: References to testing and analyzing as well as specific reference to testing equipment were removed from the definition of drug paraphernalia.
Date: October 18, 2021
Applies to: Not specific to any drug

State: Massachusetts
Bill: 2024 Mass. Legis. Serv. Ch. 285 (H.B. 5143)
Change: Affirmatively allows "drug testing services" and includes protections from charge and prosecution for sale of drug paraphernalia, possession of controlled substances and conspiracy to violate the controlled substances act for people performing and those seeking "drug testing services".
Date: March 23, 2025
Applies to: All drug checking equipment

State: Minnesota
Bill: 2021 Minn. Sess. Law Serv. 1st Sp. Sess. Ch. 11 (H.F. 63)
Change: Removed "products that detect the presence of fentanyl or a fentanyl analog in a controlled substance" from the definition of drug paraphernalia
Date: July 1, 2021
Applies to: Fentanyl and analogs

State: Minnesota
Bill: 2023 Minn. Sess. Law Serv. Ch. 52 (S.F. 2909)
Change: Repealed drug paraphernalia law except for intentional manufacture of drug paraphernalia for delivery and delivery of drug paraphernalia to a minor that was intentionally manufactured for delivery.
Date: August 1, 2023
Applies to: All drug checking equipment

State: Mississippi
Bill: 2023 Miss. Laws H.B. 722
Change: "'Paraphernalia' does not include any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance."
Date: July 1, 2023
Applies to: Fentanyl and analogs

State: Missouri
Bill: 2023 Mo. Legis. Serv. S.B. 186
Change: "Notwithstanding any other provision of this chapter or chapter 195 to the contrary, it shall not be unlawful to manufacture, possess, sell, deliver, or use any device, equipment, or other material for the purpose of analyzing controlled substances to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue."
Date: August 28, 2023
Applies to: Fentanyl and analogs

State: Montana
Bill: 2023 Montana Laws Ch. 723 (H.B. 437)
Change: Removes "test" from statute criminalizing use and possession with intent to use drug paraphernalia
Date: May 22, 2023
Applies to: All drug checking equipment

State: Nevada
Bill: 2021 Nevada Laws Ch. 189 (A.B. 345)
Change: Excludes "[t]esting products" from definition of drug paraphernalia. "'Testing product' means a product, including, without limitation, a fentanyl test strip, that analyzes a controlled substance for the presence of adulterants."
Date: May 28, 2021

Applies to: All testing products

State: New Hampshire
Bill: 2023 New Hampshire Laws Ch. 186 (H.B. 287)
Change: Exempts from drug paraphernalia definition “fentanyl test strips, xylazine test strips, or other materials used or intended for use in testing for the presence of fentanyl, xylazine, or a fentanyl or xylazine analog in a substance, unless possessed in conjunction with other evidence forming the basis of a criminal charge involving the manufacturing, possessing with the intent to sell, or compounding”
Date: October 3, 2023
Applies to: Fentanyl, fentanyl analogs, xylazine and xylazine analogs

State: New Hampshire
Bill: 2025 New Hampshire Laws Ch. 41 (H.B. 73)
Change: Allows syringe services programs to operate drug checking programs and distribute drug checking equipment.
Date: June 28, 2025
Applies to: Syringe services programs and all drug checking equipment

State: New Jersey
Bill: 2021 N.J. Sess. Law Serv. Ch. 403 (S.B. 3493)
Change: “[f]entanyl test strips” were excluded from the definition of drug paraphernalia.
Date: January 18, 2022
Applies to: Fentanyl test strips only

State: New Jersey
Bill: 2023 N.J. Sess. Law Serv. Ch. 224 (S.B. 3957)
Change: the definition of “drug paraphernalia” no longer includes reference to “testing equipment” and specifically excludes "harm reduction supplies", including test strips.
Date: January 8, 2024
Applies to: Test strips and other supplies or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances or analogs

State: New York
Bill: 2023 Sess. Law News of N.Y. Ch. 654 (S. 2099-C)
Change: Creates N.Y. Pub. Health Law § 3309-b to authorize any healthcare professional or pharmacist “to dispense drug adulterant testing supplies to any person.” Requires “drug adulterant testing supplies … be stored at a licensed pharmacy, hospital, clinic, or other health care facility or at the medical office of a health care professional and in a manner that limits access to the drug adulterant testing supplies to health care professionals or pharmacists employed at the pharmacy, hospital, clinic, or other health care facility or medical office and any persons designated by the health care professional or pharmacist.” Requires retail sale where the store has both a store and a pharmacy to only be sold through the pharmacy. Limits dispensing to only enough for “five assays of substances” per transaction. “’Drug adulterant testing supplies’ means any drug testing product that is used to determine whether a controlled substance contains fentanyl or a fentanyl analog.”
Date: December 17, 2023
Applies to: Fentanyl drug testing products

State: New York
Bill: 2024 Sess. Law News of N.Y. Ch. 16 (S. 8061)
Change: Removed location and quantity limitations on dispensing of drug adulterant testing supplies by a healthcare professional or pharmacist. “’Drug adulterant testing supplies’ means any drug testing product that is used to determine whether a substance contains fentanyl or a fentanyl analog.”
Date: December 17, 2023
Applies to: Fentanyl drug testing products

State: New York
Bill: 2024 Sess. Law News of N.Y. Ch. 598 (A. 8467-A)

Change: Expands definition of “Drug adulterant testing supplies” to include xylazine and other substances in the law authorizing healthcare professionals and pharmacists to dispense such supplies.
Date: December 17, 2023
Applies to: Drug adulterant testing supplies

State: New Mexico
Bill: 2022 New Mexico Laws Ch. 4 (H.B. 52)
Change: “[S]upplies or devices used for the testing of controlled substances or controlled substance analogs for dangerous adulterants” were exempted from the law that criminalizes paraphernalia possession and use. Note that this change did not modify the law that applies to paraphernalia distribution.
Date: May 18, 2022
Applies to: Supplies or devices used for the testing of controlled substances or controlled substance analogs for dangerous adulterants

State: Ohio
Bill: 2022 Ohio Laws File 160 (Am. Sub. S.B. 288)
Change: Law Criminalizing paraphernalia possession “does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound” and provides protection from prosecution for individuals who seek medical assistance for themselves or another person experiencing an overdose.
Date: April 4, 2023
Applies to: Fentanyl or fentanyl-related compound

State: Ohio
Bill: 2025 Ohio Laws File 14 (Am. Sub. H.B. 96)
Change: Law criminalizing paraphernalia possession “does not apply to a person's use, or possession with purpose to use, drug testing strips to determine the presence of fentanyl or a fentanyl-related compound or any other equipment, product, or material approved by the state board of pharmacy, in rules adopted under section 4729.261 of the Revised Code, as a type of instrument that demonstrates efficacy in reducing drug poisoning by determining the presence of a specific compound or group of compounds.” Requires state board of pharmacy to adopt standards and procedures for approving instruments.
Date: September 30, 2025
Applies to: Instruments that the state board of pharmacy decides “demonstrates efficacy in reducing drug poisoning by determining the presence of a specific compound or group of compounds.”

State: Ohio
Rule: 2025-2026 Ohio Monthly Record pam. # 4 (E) final rule for Ohio Admin. Code 4729-8-02
Change: Board of Pharmacy determination “that drug testing strips and reagent kits are effective at reducing drug poisoning by determining the presence of the following compounds: (1) Fentanyl and fentanyl-related compounds; (2) Xylazine; (3) Medetomidine; (4) Benzimidazole-opioids or nitazenes; and (5) Benzodiazepines and benzodiazepine-related compounds.” Allows board of pharmacy to “approve additional instruments via resolution.”
Date: October 1, 2025 as emergency rule**,** November 1, 2025 as final rule
Applies to: Instruments that the state board of pharmacy decides “demonstrates efficacy in reducing drug poisoning by determining the presence of a specific compound or group of compounds.”

State: Oklahoma
Bill: 2023 Okla. Sess. Law Serv. Ch. 165 (H.B. 1987)
Change: Exempts “drug testing strips possessed by a person for purposes of determining the presence of fentanyl or a fentanyl-related compound” from the term drug paraphernalia.
Date: June 9, 2023
Applies to: Fentanyl or fentanyl-related compounds

State: Oregon
Bill: 2023 Oregon Laws Ch. 593 (H.B. 2395)

Change: Removes testing equipment from drug paraphernalia definition list and specifies that the definition does not include “single-use drug test strips, drug testing tools or any other item designed to prevent or reduce the potential harm associated with the use of controlled substances, including but not limited to items that reduce the transmission of infectious disease or prevent injury, infection or overdose.” Adds code section specifically making it against the law “to provide single-use drug test strips or drug testing tools to a minor who is under 15 years of age unless the strips or tools are provided to the minor as part of the minor's substance use disorder treatment provided by a mental health care provider and the strips or tools are provided by the mental health care provider.”
Date: August 4, 2023
Applies to: All drug checking equipment

State: Pennsylvania
Bill: 2022 Pa. Legis. Serv. Act 2022-111 (H.B. 1393)
Change: Removes all testing products, including fentanyl test strips, “utilized in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds in quantities which can cause physical harm or death”
Date: January 3, 2023
Applies to: All drug checking equipment

State: South Carolina
Bill: 2023 South Carolina Laws Act 72 (H.3503)
Change: Explicitly removes fentanyl and analog drug checking equipment from the definition of drug paraphernalia.
Date: June 15, 2023
Applies to: Fentanyl and analogs

State: South Dakota
Bill: 2023 South Dakota Laws Ch. 73 (HB 1041)
Change: Exempts “product[s] that detect [] the presence of fentanyl or a fentanyl analog in a controlled substance”
Date: July 1, 2023
Applies to: Fentanyl and analogs

State: Tennessee
Bill: 2022 Tennessee Laws Pub. Ch. 764 (S.B. 2427)
Change: “[N]arcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid” was removed from the definition of drug paraphernalia.
Date: March 31, 2022 (sunsets July 1, 2025)
Applies to: Narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid

State: Tennessee
Bill: 2025 Tennessee Laws Pub. Ch. 128 (S.B. 1290)
Change: Removes sunset provision on narcotic testing equipment for synthetic opioids removal from the drug paraphernalia definition.
Date: April 3, 2025
Applies to: Narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid

State: Utah
Bill: 2023 Utah Laws Ch. 312 (S.B. 86)
Change: “‘Drug paraphernalia’ does not include a testing product or equipment, including a fentanyl test strip, used or intended for use to determine whether a substance contains: (a) a controlled substance that can cause physical harm or death; or (b) a chemical or compound that can cause physical harm or death.”
Date: May 3, 2023
Applies to: All drug checking equipment.

State: Vermont
Bill: 2023 Vermont Laws No. 22 (H. 222)

Change: Provides that “other harm reduction supplies” possessed or distributed as part of a needle exchange program is not included in the definition of drug paraphernalia and creates statutory authority for drug-checking services.
Date: May 25, 2023
Applies to: All drug checking equipment

State: Virginia
Bill: 2025 Virginia Laws Ch. 266 (H.B. 2319) & 2025 Virginia Laws Ch. 281 (S.B. 924)
Change: Excludes “drug checking products used to determine the presence or concentration of a contaminant that can cause physical harm or death” from the definition of drug paraphernalia and controlled paraphernalia.
Date: July 1, 2025
Applies to: All drug checking equipment

State: Washington D.C.
Bill: 2022 District of Columbia Laws 24-345 (Act 24-781)
Change: “[I]t shall not be unlawful for District government employees, contractors, and grantees, acting within the scope of their employment, contract, or grant, to deliver, or possess with intent to deliver, drug paraphernalia for the personal use of a controlled substance.”
Date: April 21, 2023
Applies to: All drug checking equipment

State: Washington
Bill: 2023 Wash. Legis. Serv. 1st Sp. Sess. Ch. 1 (S.S.S.S.B. 5536)
Change: The law governing selling or giving away drug paraphernalia was modified to remove “gives”, “given”, “testing” and “analyzing” and specifically exempts public health and community-based HIV prevention programs and pharmacies are from the civil infraction related to giving away drug paraphernalia: “Nothing in subsection (1) of this section [the civil infraction related to giving away drug paraphernalia] prohibits distribution or use of public health supplies including, but not limited to, syringe equipment, smoking equipment, or drug testing equipment, through public health programs, community-based HIV prevention programs, outreach, shelter, and housing programs, and pharmacies. Public health and syringe service program staff taking samples of substances and using drug testing equipment for the purpose of analyzing the composition of the substances or detecting the presence of certain substances are acting legally and are exempt from arrest of prosecution under [the laws regulating possession of controlled substances.]”
Date: July 1, 2023
Applies to: All drug checking equipment

State: West Virginia
Bill: 2022 West Virginia Laws Ch. 60 (H.B. 4373)
Change: “[F]entanyl test strips shall not be considered drug paraphernalia…”
Date: June 10, 2022
Applies to: Fentanyl test strips
Note: West Virginia does not criminalize the possession or free delivery of paraphernalia; this provision applies only to the sale of paraphernalia.

State: West Virginia
Bill: 2024 West Virginia Laws Ch. 57 (H.B. 4429)
Change: “[T]est strips are not considered drug paraphernalia…”
Date: January 26, 2024
Applies to: Test strips
Note: West Virginia does not criminalize the possession or free delivery of paraphernalia; this provision applies only to the sale of paraphernalia.

State: Wisconsin
Bill: 2021-2022 Wisc. Legis. Serv. Act 180 (2021 S.B. 600)
Change: “Any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance” were excluded from the definition of drug paraphernalia.
Date: March 18, 2022

Applies to: Fentanyl testing equipment

State: Wisconsin
Bill: 2023-2024 Wisc. Legis. Serv. Act 217 (2023 S.B. 875)
Change: "Any materials used or intended for use in testing for the presence of xylazine or a xylazine analog in a substance" were excluded from the definition of drug paraphernalia.
Date: March 28, 2024
Applies to: Xylazine testing equipment

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[1] CDC reported 9,610 such deaths in the twelve months ending December 2015, and 74,088 in the twelve months ending December 2023. Farida B. Ahmad et al., *Provisional Drug Overdose Death Counts*, Centers for Disease Control and Prevention (2024), https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm (last visited Aug 1, 2024).

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[3] Bryce Pardo et al., *The Future of Fentanyl and Other Synthetic Opioids*, RAND Corporation, (2019), https://www.rand.org/pubs/research_reports/RR3117.html/; N. Sood, *Rise of illicit medetomidine use: A worrisome trend*, 34 AM J ADDICT (2025); D. Ciccarone, *The Donovan Memorial Lecture: 'Fentanyl-Plus': A New Era of Fentanyl Polydrug Combinations in the North American Overdose Crisis*, 22 J MED TOXICOL (2026); M. Kariisa, et al., *Illicitly Manufactured Fentanyl-Involved Overdose Deaths with Detected Xylazine - United States, January 2019-June 2022*, 72 MMWR MORB MORTAL WKLY REP (2023).

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[5] Test strips for other contaminants are entering the market, but as of this writing their use is much less widespread.

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[15] *See* Michael D. Guinan, Constitutionality of Anti-Drug Paraphernalia Laws-The Smoke Clears, 58 NOTRE DAME L.R. 833 (1983).
[16] Corey S. Davis, et al., *Legality of drug checking equipment in the United States: A systematic legal analysis*, 234 DRUG ALCOHOL DEPEND 109425 (2022).
[17] For a description of the specific methodology used, *see* C. S. Davis, et al., *Legality of drug checking equipment in the United States: A systematic legal analysis*, 234 DRUG ALCOHOL DEPEND (2022).
[18] The protection provided by overdose Good Samaritan laws varies greatly by state on variables such as which parties are covered, at which point protection applies, as well as restrictions on generally provided protections. That information is not the focus of the document; please see https://www.networkforphl.org/resources/legal-interventions-to-reduce-overdose-mortality-overdose-good-samaritan-laws/ for extensive information about each state's overdose Good Samaritan law.
[19] In some cases we list variations that apply to minors in the footnotes. However, we cannot guarantee that we have captured every such instance.
[20] Alaska, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maine, Maryland, Minnesota, Nebraska, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia (with some exceptions on the locations where sale is permitted), and Wyoming.
[21] "Harm reduction services is not defined. "Drug testing services" are defined as "the use of testing equipment to identify or analyze the strength, effectiveness or purity of a controlled substance to determine whether the controlled substance contains chemicals, toxic substances or hazardous compounds prior to its injection, inhalation or ingestion by another person." Mass. Gen. Laws Ann. ch. 94C, § 34A1/2.
[22] Montana, New Hampshire (distribution and sale limited to fentanyl and xylazine), New Mexico, North Carolina, Washington D.C.
[23] Alabama (fentanyl and fentanyl analogs), Arizona (fentanyl and fentanyl analogs), Delaware (fentanyl and xylazine), Florida (fentanyl, xylazine and their analogs), Hawaii (fentanyl test strips), Idaho (fentanyl, fentanyl analogs and derivatives), Kansas (fentanyl, fentanyl analogs, ketamine, gamma hydroxybutyric), Kentucky (synthetic opioids), Mississippi (fentanyl and fentanyl analogs), Missouri (fentanyl and fentanyl analogs), Oklahoma (fentanyl test strips), South Dakota (fentanyl and fentanyl analogs), Tennessee (synthetic opioids), Wisconsin (fentanyl, xylazine, and their analogs).
[24] Arkansas (distribution and sale of all DCE is allowed, but possession is limited to test strips for fentanyl and fentanyl analogs), Ohio (possession of fentanyl and fentanyl-related compound, xylazine; medetomidine; benzimidazole-opioid or nitazene, and benzodiazepine and benzodiazepine-related compound test strips and reagents is permitted, free distribution of all DCE is allowed, and sale of all DCE is prohibited).
[25] Montana, New Mexico, North Carolina, North Dakota, Puerto Rico, and Washington, D.C. In addition, New Hampshire SSPs are permitted to distribute all DCE, whereas only the distribution of fentanyl and xylene testing equipment is permitted elsewhere. Two states, Oklahoma and Idaho, recently repealed laws that permitted SSP operations. While SSPs can no longer legally operate in those states, the possession and distribution of fentanyl test strips (Oklahoma) and fentanyl and fentanyl analog testing equipment (Idaho), are not otherwise prohibited.
[26] Arizona, Delaware, Maine, Minnesota, and Nevada.
[27] Alabama, Connecticut, Illinois, Louisiana, New Jersey, New Mexico, Tennessee, West Virginia, and Wisconsin.

[28] Arkansas, California, Florida, Georgia, Hawaii, Kansas, Kentucky, Mississippi, Missouri, Montana, New Hampshire, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Vermont, Washington, and Washington DC.

[29] Delaware (expanded exemption from only fentanyl test strips to all equipment for testing for the presence of fentanyl, xylazine, and related substances), Minnesota (repealed most paraphernalia-related laws), and New York (permitted healthcare professionals and pharmacists to dispense drug adulterant testing supplies for the detection of fentanyl).

[30] Colorado (expanded civil protections for furnishing equipment to include all DCE; clearly permitted SSPs to acquire and use all DCE), Illinois (modified law to legalize all DCE equipment; previous law only permitted such equipment to be provided by certain healthcare professionals), New Jersey (expanded exemption from FTS to all DCE), West Virginia (expanded exemption from FTS to all DCE), and Wisconsin (expanded exemption from fentanyl only to fentanyl and xylazine).

[31] California, Georgia, Louisiana, Ohio, and Virginia.

[32] California, Georgia, Louisiana, Ohio, and Virginia. Illinois, Massachusetts and New Hampshire also passed laws during the time period related to access via SSPs and health departments (Illjnois) or affirmatively establishing drug checking programs (Massachusetts and New Hampshire).

[33] Corey S. Davis, et al., *Paraphernalia Laws, Criminalizing Possession and Distribution of Items Used to Consume Illicit Drugs, and Injection-Related Harm*, 109, no. 11 AM. J. PUB. HEALTH, 1564-1567 (2019).

[34] Possession statutes generally come in two forms, criminalizing the "possession" or the "use or possession with intent to use." This column will indicate a "no" for states in which either possession or use or possession with intent to use is either a criminal or civil infraction.

[35] Drug paraphernalia "means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the controlled substances laws of this state." Ala. Code § 13A-12-260(a). "It shall be unlawful for any person to use, or to possess with intent to use, or to use to inject, ingest, inhale or otherwise introduce into the human body, drug paraphernalia to… test… a controlled substance…. Any person who violates this subsection is guilty of a Class A misdemeanor...." Ala. Code § 13A-12-260(c). However, as of June 1, 2022, fentanyl testing equipment is specifically exempted: "a person may possess, deliver, or sell testing equipment designed to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue." Ala. Code § 13A-12-260(f) (modified by 2022 Ala. Laws Act 2022-154 (S.B. 168)).

[36] "It shall be 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, knowing that it will be used to… test… a controlled substance…. Any person who violates this section is guilty of a Class A misdemeanor...." Ala. Code § 13A-12-260(e)(1). However, as of June 1, 2022, fentanyl testing equipment is specifically exempted: "a person may possess, deliver, or sell testing equipment designed to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue." Ala. Code § 13A-12-260(f) (modified by 2022 Ala. Laws Act 2022-154 (S.B. 168)).

[37] "It shall be 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, knowing that it will be used to… test… a controlled substance…. Any person who violates this section is guilty of a Class A misdemeanor...." Ala. Code § 13A-12-260(e)(1). However, as of June 1, 2022, fentanyl testing equipment is specifically exempted: "a person may possess, deliver, or sell testing equipment designed to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue." Ala. Code § 13A-12-260(f) (modified by 2022 Ala. Laws Act 2022-154 (S.B. 168)).

[38] Alabama does not explicitly authorize SSPs nor generally allow syringe distribution. We therefore code this as N/A.

[39] Alabama does not explicitly authorize SSPs nor generally allow syringe distribution. We therefore code this as N/A.

[40] "Excluding Section 32-5A-191 [charges relating to driving under the influence], an individual may not be prosecuted for a misdemeanor controlled substance offense if law enforcement became aware of the offense solely because the individual was seeking medical assistance for another individual under this article." Ala. Code § 20-2-281(b); *see* Ala. code § 20-2-281(c) (listing Good Samaritan law qualifications).

[41] Alaska does not criminalize the possession of drug paraphernalia on the state level. However, some municipalities within Alaska criminalize that activity. *See, e.g.,* Kodiak, AK, Code § 8.48.020. Anchorage previously criminalized the possession of paraphernalia, but that ordinance was found unconstitutional in 2006. *Myers v. Municipality of Anchorage*, 132 P.3d 1176 (Alaska Ct. App. 2006). A similar ordinance, in North Slope Borough, was repealed in 2024. See North

Slope Borough, Ordinance 2024-21, https://library.municode.com/ak/north_slope_borough/ordinances/code_of_ordinances?nodeId=1330357.

[42] Alaska does not criminalize the free delivery of drug paraphernalia on the state level. However, some municipalities within Alaska criminalize that activity. *See, e.g.,* Palmer, AK Code § 9.95.150.

[43] Alaska does not criminalize the sale of drug paraphernalia on the state level. However, some municipalities within Alaska do criminalize that activity. *See, e.g.,* Juneau, AK, Code § 36.35.030, Fairbanks, AK Code § 46-362. The repealed North Slope Borough ordinance referenced above also previously criminalized sale of paraphernalia.

[44] SSPs are not explicitly authorized in Alaska. However, explicit authorization is not required, because neither the free distribution nor the possession of drug paraphernalia are prohibited.

[45] SSPs are not explicitly authorized in Alaska. However, explicit authorization is not required, because neither the free distribution nor the possession of drug paraphernalia are prohibited.

[46] "[I]t is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to…test, analyze…a drug in violation of this chapter. Any person who violates this subsection is guilty of a class 6 felony." Ariz. Rev. Stat. § 13-3415(A). However, the definition of "drug paraphernalia" was modified to exempt "narcotic drug testing products that are used to determine whether a controlled substance contains fentanyl or a fentanyl analog" as of September 29, 2021. Ariz. Rev. Stat. § 13-3415(F)(2)(d) (modified by. 2021 Ariz. Legis. Serv. Ch. 372 (S.B. 1486)).

[47] "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…test, analyze…a drug in violation of this chapter. Any person who violates this subsection is guilty of a class 6 felony." Ariz. Rev. Stat. § 13-3415(B). However, the definition of "drug paraphernalia" was modified to exempt "narcotic drug testing products that are used to determine whether a controlled substance contains fentanyl or a fentanyl analog" as of September 29, 2021. Ariz. Rev. Stat. § 13-3415(F)(2)(d) (modified by. 2021 Ariz. Legis. Serv. Ch. 372 (S.B. 1486)).

[48] "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…test, analyze…a drug in violation of this chapter. Any person who violates this subsection is guilty of a class 6 felony." Ariz. Rev. Stat. § 13-3415(B). The definition of "deliver" would include sale: "the actual, constructive or attempted exchange from one person to another, whether or not there is an agency relationship." Ariz. Rev. Stat. Ann. § 13-3401(7). However, the definition of "drug paraphernalia" was modified to exempt "narcotic drug testing products that are used to determine whether a controlled substance contains fentanyl or a fentanyl analog" as of September 29, 2021. Ariz. Rev. Stat. § 13-3415(F)(2)(d) (modified by. 2021 Ariz. Legis. Serv. Ch. 372 (S.B. 1486)).

[49] Arizona authorizes SSPs, but provides immunity only for possession of injection supply items and residual amounts of controlled substances contained in a used injection item. *See* Ariz. Rev. Stat. Ann. § 36-798.52. However, SSPs are not limited to dispensing those objects, and the free distribution of fentanyl testing products is not illegal.

[50] Arizona authorizes SSPs, but provides immunity only for possession of injection supply items and residual amounts of controlled substances contained in a used injection item. *See* Ariz. Rev. Stat. Ann. § 36-798.52. However, SSPs are not limited to dispensing those objects, and the possession of fentanyl testing products is not illegal.

[51] "A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia or a preparatory offense if the evidence for the violation was gained as a result of the person's seeking medical assistance." Ariz. Rev. Stat. § 13-3423(A). "A person who experiences a drug-related overdose, who is in need of medical assistance and for whom medical assistance is sought pursuant to subsection A of this section [Good Samaritan law, previous provision] may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia if the evidence for the violation was gained as a result of the person's overdose and need for medical assistance." Ariz. Rev. Stat. § 13-3423(B).

[52] Drug paraphernalia "means any equipment, product, and material of any kind that are used, intended for use, or designed for use in… testing, analyzing… or otherwise introducing into the human body a controlled substance in violation of this chapter." Ark. Code Ann. § 5-64-101(12)(A). A person who uses or possesses with the purpose to use drug paraphernalia to…test, analyze…a controlled substance… upon conviction is guilty of a Class D felony." Ark. Code Ann. § 5-64-443(b)(1). The same conduct is a Class B felony when the controlled substance is methamphetamine, heroin, fentanyl, or cocaine. Ark. Code Ann. § 5-64-443(b)(2). However, effective April 11, 2023, drug paraphernalia "does not include a disposable, single-use test strip that can detect the presence of fentanyl or fentanyl analogs in a substance." Ark. Code Ann. § 5-64-101(12)(D). Note that the statute requires intent to use the paraphernalia for certain drug-related purposes. *See generally Crutchfield v. State*, 306 Ark. 97, 812 S.W.2d 459 (1991).

[53] Arkansas does not generally criminalize the free distribution of drug paraphernalia. *See generally* Ark. Code Ann. § 5-64-443. It is unlawful in Arkansas to deliver drug paraphernalia, including drug checking equipment, to a person under 18 if the person delivering the paraphernalia is over 18 and at least 3 years older than the recipient. Ark. Code Ann. § 5-64-444. "Deliver" is defined as "the actual, constructive, or attempted transfer from one (1) person to another of a controlled substance or counterfeit substance in exchange for money or anything of value, whether or not there is an agency relationship." Ark. Code Ann. § 5-64-101(6). This would not include free distribution.

[54] Arkansas does not generally criminalize the casual sale of drug paraphernalia. *See generally* Ark. Code Ann. § 5-64-443. However, it is unlawful in Arkansas to deliver drug paraphernalia, including drug checking equipment, to a person under 18 if the person delivering the paraphernalia is over 18 and at least 3 years older than the recipient. Ark. Code Ann. § 5-64-444. Deliver is defined as "the actual, constructive, or attempted transfer from one (1) person to another of a controlled substance or counterfeit substance in exchange for money or anything of value, whether or not there is an agency relationship." Ark. Code Ann. § 5-64-101(6). This would include sales. It is also illegal to engage in many activities related to "an illegal drug paraphernalia business." Ark. Code Ann. § 5-64-802. A person violates this provision if "he or she (1) 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, manufactures, sells, stores, possesses, gives away, or furnishes an object designed to be primarily useful as a drug device; and (2) Knows or has reason to know that the design of the object renders it primarily useful as a drug device." Ark. Code Ann. § 5-64-802(b).

[55] Arkansas does not explicitly authorize SSPs. However, free distribution of syringes is not generally prohibited, except to minors, so SSPs are impliedly permitted. Since there is generally no prohibition on distribution of DCE, we assume that they may be distributed by SSPs.

[56] Arkansas does not explicitly authorize SSPs. However, free distribution of syringes is not generally prohibited, except to minors, so SSPs are impliedly permitted. Possession of DCE is forbidden, however, except for "a disposable, single-use test strip that can detect the presence of fentanyl or fentanyl analogs in a substance," as those items are no longer paraphernalia. *See* Ark. Code Ann. § 5-64-101(12)(D).

[57] Arkansas's overdose Good Samaritan law provides protection from some drug possession charges, but does not provide protection for charges related to paraphernalia. *See* Ark. Code Ann. § 20-13-1704.

[58] California's definition of drug paraphernalia includes "[t]esting equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances..." Cal. Health & Safety Code § 11014.5(a)(8). Unlike many states, however, California only explicitly criminalizes the possession of drug paraphernalia used for a small number of activities: "It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking" a controlled substance. Cal. Health & Safety Code § 11364(a). This has been limited since the law was first passed in 1972. Effective January 2025, the statute does not apply to individuals obtaining drug checking services. Furthermore, effective January 1, 2025, the definition of drug paraphernalia "does not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances that include, without limitation, fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl."." Cal. Health & Safety Code § 11014.5(d). Also effective January 1, 2025, Cal. Health & Safety Code § 11300 through 11306 were added affirmatively allowing "controlled substances checking services" and providing expansive protections for individuals using such services and those performing them from arrest, prosecution, civil, administrative or disciplinary action, forfeiture, and referral to immigration. Cal. Health & Safety Code § 11303; Cal. Health & Safety Code § 11304 (added by 2024 Cal. Legis. Serv. Ch. 701 (A.B. 2136)). The California legislature also added Health & Safety Code section 11376.6 effective January 1, 2024. Per this section, "it shall not be a crime for a person to possess for personal use a controlled substance, controlled substance analog, or drug paraphernalia if the person delivers the controlled substance or controlled substance analog to the local public health department or law enforcement and notifies them of the likelihood that other batches of the controlled substance may have been adulterated with other substances, if known." Cal. Health & Safety Code § 11376.6.

[59] "Except as authorized by law, any person who delivers, furnishes, or transfers, possesses with intent to deliver, furnish, or transfer, or manufactures with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled substance, except as provided in subdivision (b) [manufacturing controlled substances], in violation of this division, is guilty of a misdemeanor." Cal. Health & Safety Code § 11364.7(a)(1). Effective January 1, 2023, drug paraphernalia did "not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl." Cal. Health & Safety Code § 11014.5(d)

(2023). The exception was expanded effective January 1, 2025 to "not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances that include, without limitation, fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl." Cal. Health & Safety Code § 11014.5(d) (added by 2024 Cal. Legis. Serv. Ch. 701 (A.B. 2136)).

[60] "Except as authorized by law, any person who delivers, furnishes, or transfers, possesses with intent to deliver, furnish, or transfer, or manufactures with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled substance, except as provided in subdivision (b) [manufacturing controlled substances], in violation of this division, is guilty of a misdemeanor." Cal. Health & Safety Code § 11364.7(a)(1). The definition of "deliver" would include sale: "the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship." Cal. Health & Safety Code § 11009. Effective January 1, 2023, drug paraphernalia "does not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl." Cal. Health & Safety Code § 11014.5(d) (2023). The exception was expanded effective January 1, 2025 to "not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances." Cal. Health & Safety Code § 11014.5(d) (added by 2024 Cal. Legis. Serv. Ch. 701 (A.B. 2136)). Operating a place of business for the sale of drug paraphernalia is also prohibited, however, the law also excludes "any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances." Cal. Health & Safety Code § 11364.5(g) (added by 2024 Cal. Legis. Serv. Ch. 701 (A.B. 2136)).

[61] Per California law, "Staff and volunteers participating in an exchange project authorized by the state, county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for violation of any law related to the possession, furnishing, or transfer 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 during participation in an exchange project." Cal. Health & Safety Code § 121349.1. Further, "A public entity, its agents, or employees shall not be 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 clean needle and syringe exchange projects." Cal. Health & Safety Code § 11364.7(a)(2). The California Department of Public Health designates all materials included in the California Syringe Exchange Supply Clearinghouse as necessary for the prevention of disease, injury, or overdose. *Cal. Dept. of Pub. Health, Fact Sheet: California Law and Syringe Services Programs* (2026), https://www.cdph.ca.gov/Programs/CID/DOA/CDPH%20Document%20Library/CA-Law-SSPs-Factsheet-2026.pdf . As fentanyl test strips are made available through the Clearinghouse, they are covered under the aforementioned exemptions. *Cal. Dept. of Pub. Health, Fentanyl Testing to Prevent Overdose: Information for People Who Use Drugs and Healthcare Providers*, https://www.cdph.ca.gov/Programs/CID/DOA/CDPH%20Document%20Library/Fact_Sheet_Fentanyl_Testing_Approved_ADA.pdf. Additionally, effective January 1, 2025, the definition of drug paraphernalia does "not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances." Cal. Health & Safety Code § 11014.5(d).

[62] Per California law, "[SSP] Program participants shall not be subject to criminal prosecution for possession of 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 acquired from an authorized needle and syringe exchange project entity." Cal. Health & Safety Code § 121349.1. The California Department of Public Health designates all materials included in the California Syringe Exchange Supply Clearinghouse as necessary for the prevention of disease, injury, or overdose. *Cal. Dept. of Pub. Health, Fact Sheet: California Law and Syringe Services Programs* (2026), https://www.cdph.ca.gov/Programs/CID/DOA/CDPH%20Document%20Library/CA-Law-SSPs-Factsheet-2026.pdf. As fentanyl test strips are made available through the Clearinghouse, they are covered under the aforementioned exemptions. *Cal. Dept. of Pub. Health, Fentanyl Testing to Prevent Overdose: Information for People*

Who Use Drugs and Healthcare Providers, https://www.cdph.ca.gov/Programs/CID/DOA/CDPH%20Document%20Library/Fact_Sheet_Fentanyl_Testing_Approved_ADA.pdf. Additionally, effective January 1, 2025, the definition of drug paraphernalia does "not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances." Cal. Health & Safety Code § 11014.5(d) (added by 2024 Cal. Legis. Serv. Ch. 701 (A.B. 2136)).

[63] "Notwithstanding any other law, it shall not be a crime for a person to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if that person, in good faith, seeks medical assistance for another person experiencing a drug-related overdose that is related to the possession of a controlled substance, controlled substance analog, or drug paraphernalia of the person seeking medical assistance, and that person does not obstruct medical or law enforcement personnel." Cal. Health & Safety Code § 11376.5(a). "Notwithstanding any other law, it shall not be a crime for a person who experiences a drug-related overdose and who is in need of medical assistance to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if the person or one or more other persons at the scene of the overdose, in good faith, seek medical assistance for the person experiencing the overdose." Cal. Health & Safety Code § 11376.5(b).

[64] "Testing equipment" is explicitly excluded from the definition of drug paraphernalia as of May 23, 2019: "'Drug paraphernalia' does not include…[t]esting equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances." Colo. Rev. Stat. § 18-18-426(2)(b).

[65] "Testing equipment" is explicitly excluded from the definition of drug paraphernalia as of May 23, 2019: "'Drug paraphernalia' does not include…[t]esting equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances." Colo. Rev. Stat. § 18-18-426(2)(b). Further, as of July 1, 2022, "[A] person who or entity that acts in good faith to furnish a non-laboratory synthetic opiate detection test, including an expired non-laboratory synthetic opiate detection test, to another person is not liable for any civil damages for acts, omissions made as a result of the act, or for any act or omission made if the non-laboratory synthetic opiate detection test is stolen, defective, or produces an inaccurate result." Colo. Rev. Stat. Ann. § 13-21-108.8 (2022) (added by 2022 Colo. Legis. Serv. Ch. 225 (H.B. 22-1326), § 14, eff. July 1, 2022). This section was modified effective August 7, 2024 to include "non-laboratory additive detection test" in addition to "non-laboratory synthetic opiate detection test". Colo. Rev. Stat. Ann. § 13-21-108.8 (added by 2024 Colo. Legis. Serv. Ch. 121 (H.B. 24-1003)).

[66] "Testing equipment" is explicitly excluded from the definition of drug paraphernalia as of May 23, 2019: "'Drug paraphernalia' does not include…[t]esting equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances." Colo. Rev. Stat. § 18-18-426(2)(b). Further, as of July 1, 2022, "[A] person who or entity that acts in good faith to furnish a non-laboratory synthetic opiate detection test, including an expired non-laboratory synthetic opiate detection test, to another person is not liable for any civil damages for acts, omissions made as a result of the act, or for any act or omission made if the non-laboratory synthetic opiate detection test is stolen, defective, or produces an inaccurate result." Colo. Rev. Stat. Ann. § 13-21-108.8 (2022) (added by 2022 Colo. Legis. Serv. Ch. 225 (H.B. 22-1326), § 14, eff. July 1, 2022). This section was modified effective August 7, 2024 to include "non-laboratory additive detection test" in addition to "non-laboratory synthetic opiate detection test". Colo. Rev. Stat. Ann. § 13-21-108.8 (added by 2024 Colo. Legis. Serv. Ch. 121 (H.B. 24-1003)).

[67] SSPs are permitted in Colorado. *See* Colo. Rev. Stat. Ann. § 25-1-520(1). Per state law, "A person is exempt from sections 18-18-425 to 18-18-430 [including possession, sale, and delivery of paraphernalia] if the person is: …Participating as an employee, volunteer, or participant in an approved syringe exchange program created pursuant to section 25-1-520." Colo. Rev. Stat. Ann. § 18-18-430.5. Additionally, effective June 6, 2024 "[a] clean syringe exchange program … may acquire and use supplies or devices intended for use in testing controlled substances or controlled substance analogs for potentially dangerous adulterants." Colo. Rev. Stat. Ann. § 25-1-520(4.5)

[68] SSPs are permitted in Colorado. *See* Colo. Rev. Stat. Ann. § 25-1-520(1). Per state law, "A person is exempt from sections 18-18-425 to 18-18-430 [including possession, sale, and delivery of paraphernalia] if the person is: …Participating as an employee, volunteer, or participant in an approved syringe exchange program created pursuant to section 25-1-520." Colo. Rev. Stat. Ann. § 18-18-430.5. Additionally, effective June 6, 2024 "[a] clean syringe exchange program … may acquire and use supplies or devices intended for use in testing controlled substances or controlled substance analogs for potentially dangerous adulterants." Colo. Rev. Stat. Ann. § 25-1-520(4.5)

[69] Colorado no longer criminalizes the use, possession with intent to use, or delivery of drug checking equipment. However, there is still a Good Samaritan law exemption specifically for paraphernalia possession: "The immunity

described in subsection (1) of this section [Good Samaritan law] shall apply to… [p]ossession of drug paraphernalia, as described in section 18-18-428…." Colo. Rev. Stat. § 18-1-711(3)(g); *see* Colo. Rev. Stat. § 18-1-711(1)-(2).

[70] Drug paraphernalia includes "testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances." Conn. Gen. Stat. § 21a-240(20)(A)(iv). "No person shall use or possess with intent to use drug paraphernalia…to…test, analyze…any controlled substance other than cannabis. Any person who violates any provision of this subsection shall be guilty of a class C misdemeanor." Conn. Gen. Stat. § 21a-267(a). As of July 1, 2022, "'Drug paraphernalia' does not include a product used by a manufacturer licensed pursuant to this chapter for the activities permitted under the license or 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, provided the licensed manufacturer or individual is not using the product to engage in the unlicensed manufacturing or distribution of controlled substances." Conn. Gen. Stat. Ann. § 21a-240(20)(A) (modified by 2022 Conn. Legis. Serv. P.A. 22-108 (H.B. 5430) (eff. July 1, 2022). While the language is a bit unclear, the intent appears to be to permit the distribution, possession, and use of drug checking equipment.

[71] "No person shall 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…test, analyze…any controlled substance, other than cannabis. Any person who violates any provision of this subsection shall be guilty of a class A misdemeanor." Conn. Gen. Stat. § 21a-267(b). As of July 1, 2022, "'Drug paraphernalia' does not include a product used by a manufacturer licensed pursuant to this chapter for the activities permitted under the license or 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, provided the licensed manufacturer or individual is not using the product to engage in the unlicensed manufacturing or distribution of controlled substances." Conn. Gen. Stat. Ann. § 21a-240(20)(A) (modified by 2022 Conn. Legis. Serv. P.A. 22-108 (H.B. 5430) (eff. July 1, 2022).

[72] "No person shall 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…test, analyze…any controlled substance, other than cannabis. Any person who violates any provision of this subsection shall be guilty of a class A misdemeanor." Conn. Gen. Stat. § 21a-267(b). The definition of "deliver" would include sale: "the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship." Conn. Gen. Stat. Ann. § 21a-240(11). As of July 1, 2022, "'Drug paraphernalia' does not include a product used by a manufacturer licensed pursuant to this chapter for the activities permitted under the license or 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, provided the licensed manufacturer or individual is not using the product to engage in the unlicensed manufacturing or distribution of controlled substances." Conn. Gen. Stat. Ann. § 21a-240(20)(A) (modified by 2022 Conn. Legis. Serv. P.A. 22-108 (H.B. 5430) (eff. July 1, 2022).

[73] SSPs are permitted in the state. *See* Conn. Gen. Stat. Ann. § 19a-124(a). While no explicit protection is provided for DCE distributed from an SSP, as noted above the definition of "drug paraphernalia" has been modified to remove most drug checking equipment.

[74] SSPs are permitted in the state. *See* Conn. Gen. Stat. Ann. § 19a-124(a). While no explicit protection is provided for DCE distributed from an SSP, as noted above the definition of "drug paraphernalia" has been modified to remove most drug checking equipment.

[75] "The provisions of subsection (a) of this section [relating to the use or possession with intent to use drug paraphernalia] shall not apply to any person (1) who in good faith, seeks medical assistance for another person who such person reasonably believes is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, (2) for whom another person, in good faith, seeks medical assistance, reasonably believing such person is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, or (3) who reasonably believes he or she is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance and, in good faith, seeks medical assistance for himself or herself, if evidence of the use or possession of drug paraphernalia in violation of said subsection was obtained as a result of the seeking of such medical assistance. For the purposes of this subsection, 'good faith' does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search." Conn. Gen. Stat. § 21a-267(d).

[76] "It is unlawful for any person to use, or possess with intent to use, drug paraphernalia." Del. Code tit. 16, § 4771(a). "Drug paraphernalia" includes "all equipment, products or materials of any kind which are used, intended for use or designed for use in…testing, analyzing…a controlled substance the manufacture, delivery, possession or use of which

is in violation of this chapter." Del. Code tit. 16, § 4701(18). However, effective June 3, 2021, the prohibitions on drug paraphernalia do not apply to "[t]esting strips to determine the presence of fentanyl or fentanyl-related substances." Del. Code tit. 16, § 4773(3). Effective November 29, 2023 or "upon the expiration of the Emergency Order issued by the Secretary of State placing Xylazine in Schedule III of the Uniform Controlled Substance Act", the protection was extended to include a "drug testing strip as defined under § 2226 of this title." Del. Code Ann. tit. 16, § 4773(3)(2023 Delaware Laws Ch. 170 (S.B. 189)). That definition was added effective Nov. 29, 2023, and defines "Drug-testing strip" as "a test used to determine the presence of a drug or drug-related substance." Del. Code Ann. tit. 16, § 2226(b)(2). "Drug" is defined for purposes of that section to mean fentanyl and xylazine. Del. Code Ann. tit. 16, § 2226(b). We therefore do not believe that the carve-out is limited to test strips but rather that it applies, as the definition states, to any "test used to determine the presence of" fentanyl, xylazine, or a related substance.

[77] "It is unlawful for any person to deliver, possess with intent to deliver, convert, manufacture, convey, sell or offer for sale drug paraphernalia… knowing or under circumstances where one should reasonably know that it will be used to… test, analyze… a controlled substance." Del. Code tit. 16, § 4771(b). "Any person who delivers, possesses with the intent to deliver, conveys, offers for sale, converts, or manufactures with the intent to deliver drug paraphernalia is guilty of a class G felony." Del. Code tit. 16, § 4774(c). However, effective June 3, 2021, the prohibitions on drug paraphernalia do not apply to "[t]esting strips to determine the presence of fentanyl or fentanyl-related substances." Del. Code tit. 16, § 4773(3). Effective November 29, 2023 the protection also covers xylazine testing equipment. (2023 Delaware Laws Ch. 170 (S.B. 189).) A separate law provides protection against some civil damages in some situations related to the delivery of fentanyl testing strips. Del. Code tit. 16, § 2226.

[78] "It is unlawful for any person to deliver, possess with intent to deliver, convert, manufacture, convey, sell or offer for sale drug paraphernalia… knowing or under circumstances where one should reasonably know that it will be used to… test, analyze… a controlled substance." Del. Code tit. 16, § 4771(b). "Any person who delivers, possesses with the intent to deliver, conveys, offers for sale, converts, or manufactures with the intent to deliver drug paraphernalia is guilty of a class G felony." Del. Code tit. 16, § 4774(c). However, effective June 3, 2021, the prohibitions on drug paraphernalia do not apply to "[t]esting strips to determine the presence of fentanyl or fentanyl-related substances." Del. Code tit. 16, § 4773(3). Effective November 29, 2023 the protection also covers xylazine testing equipment. (2023 Delaware Laws Ch. 170 (S.B. 189).) A separate law provides protection against some civil damages in some situations related to the delivery of fentanyl testing strips. Del. Code tit. 16, § 2226.

[79] Delaware authorizes SSPs. *See* Del. Code Ann. tit. 29, § 7991. However, the law does not provide any protection for distribution of DCE from SSPs, nor does it prohibit such distribution. SSPs should therefore be permitted to distribute the objects that are not otherwise prohibited under state law.

[80] Delaware authorizes SSPs. *See* Del. Code Ann. tit. 29, § 7991. However, the law does not provide any protection for distribution of DCE from SSPs, nor does it prohibit such distribution. SSP participants should therefore be permitted to possess DCE obtained from an SSP to the same extent that possession of DCE from other sources is permitted.

[81] "The immunity granted [Good Samaritan law] shall apply to all offenses in this chapter that are not class A, B, or C felonies, including but not limited to … [p]ossession of drug paraphernalia as described in §§ 4762(c) [charges relating to possession of syringes] and 4771 [charges relating to possession of drug paraphernalia] of this title…." Del. Code tit. 29, § 4769(c)(4). Given that a first-time offense of the delivery of drug paraphernalia is a class G felony and delivery to a minor is a class E felony, these offenses would fall under the purview of Delaware's Good Samaritan law. Del. Code tit. 29, §§ 4774(c), 4769(c)(4); *see* Del. Code tit. 29, § 4769(a)-(b) (listing Good Samaritan law definitions and qualifications).

[82] "The term 'drug paraphernalia' means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in … testing, analyzing… a controlled substance in violation of this chapter or s. 877.111." Fla. Stat. § 893.145. "It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia… [t]o … test, analyze … a controlled substance." Fla. Stat. § 893.147(1)(a). However, effective July 1, 2023, the Florida legislature excluded "narcotic-drug-testing products" used solely to determine whether a substance contains for fentanyl and fentanyl analogues from the definition of drug paraphernalia, so long as the product cannot measure or determine the quantity, weight, or potency of a controlled substance. (2023 Fla. Sess. Law Serv. Ch. 2023-297 (C.S.S.B. 164)). Effective July 1, 2026, the exclusion was expanded to "exclude[e] narcotic-drug-testing products that are used solely to determine whether a controlled substance contains fentanyl as described in s. 893.03(2)(b) 9., dangerous fentanyl or fentanyl analogues as specified in s. 893.135(1)(c)4.a., or xylazine as described in s. 893.03(1)(c) 37. This exclusion does not apply to a narcotic-drug-testing product that can measure or determine the quantity, weight, or potency of a

controlled substance." 2026 Fla. Sess. Law Serv. Ch. 2026-157 (C.S.H.B. 477) (modifying Fla. Stat. Ann. § 893.145(4)). Section 893.135(1)(c)4.a references various fentanyl analogs.

[83] "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… [t]o … test … a controlled substance." Fla. Stat. § 893.147(2). However, effective July 1, 2023, the Florida legislature excluded "narcotic-drug-testing products" that used solely to determine whether a substance contains for fentanyl and fentanyl analogues from the definition of drug paraphernalia, so long as the product can no measure or determine the quantity, weight, or potency of a controlled substance. (2023 Fla. Sess. Law Serv. Ch. 2023-297 (C.S.S.B. 164)). Effective July 1, 2026, the exclusion was expanded to "exclude[e] narcotic-drug-testing products that are used solely to determine whether a controlled substance contains fentanyl as described in s. 893.03(2)(b) 9., dangerous fentanyl or fentanyl analogues as specified in s. 893.135(1)(c)4.a., or xylazine as described in s. 893.03(1)(c) 37. This exclusion does not apply to a narcotic-drug-testing product that can measure or determine the quantity, weight, or potency of a controlled substance." 2026 Fla. Sess. Law Serv. Ch. 2026-157 (C.S.H.B. 477) (modifying Fla. Stat. Ann. § 893.145(4)). Section 893.135(1)(c)4.a references various fentanyl analogs.

[84] "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… [t]o … test … a controlled substance." Fla. Stat. § 893.147(2). The definition of "deliver" would include sale: "the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship." Fla. Stat. Ann. § 893.02(6). However, effective July 1, 2023, the Florida legislature excluded "narcotic-drug-testing products" used solely to determine whether a substance contains for fentanyl and fentanyl analogues from the definition of drug paraphernalia, so long as the product can no measure or determine the quantity, weight, or potency of a controlled substance. (2023 Fla. Sess. Law Serv. Ch. 2023-297 (C.S.S.B. 164)). Effective July 1, 2026, the exclusion was expanded to "exclude[e] narcotic-drug-testing products that are used solely to determine whether a controlled substance contains fentanyl as described in s. 893.03(2)(b) 9., dangerous fentanyl or fentanyl analogues as specified in s. 893.135(1)(c)4.a., or xylazine as described in s. 893.03(1)(c) 37. This exclusion does not apply to a narcotic-drug-testing product that can measure or determine the quantity, weight, or potency of a controlled substance." 2026 Fla. Sess. Law Serv. Ch. 2026-157 (C.S.H.B. 477) (modifying Fla. Stat. Ann. § 893.145(4)). Section 893.135(1)(c)4.a references various fentanyl analogs.

[85] Florida authorizes SSPs. Although the SSP law only provides immunity for "needles or syringes as part of an exchange program," Fla. Stat. § 381.0038(7)(c), nothing in the law prohibits SSPs from distributing other items. SSPs should therefore be permitted to distribute objects that are not otherwise prohibited under state law, including fentanyl and xylazine strips.

[86] Florida authorizes SSPs. Although the SSP law only provides immunity for "needles or syringes as part of an exchange program," Fla. Stat. § 381.0038(7)(c), SSP participants should be permitted to possess DCE obtained from an SSP to the same extent that possession of DCE from other sources is permitted.

[87] "A person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose may not be arrested, charged, prosecuted, or penalized for a violation of … s. 893.147(1) [charges relating to the use or possession with intent to use drug paraphernalia] … if the evidence for such offense was obtained as a result of the person's seeking medical assistance." Fla. Stat. § 893.21(1). "A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for a violation of … s. 893.147(1) [charges relating to the use or possession with intent to use drug paraphernalia] … if the evidence for such offense was obtained as a result of the person's seeking medical assistance." Fla. Stat. § 893.21(2). Florida provides "making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose" as a mitigating factor for felony offenses, including charges relating to giving away drug paraphernalia. *See* Fla. Stat. §§ 893.147(2), 921.0026(2)(n).

[88] "It shall be unlawful for any person to use, or possess with the intent to use, any object or materials of any kind for the purpose of…testing, analyzing…a controlled substance." Ga. Code Ann. § 16-13-32.2(a). However, effective July 1, 2023, "[A]ny testing equipment used to determine whether a controlled substance has been adulterated and contains a synthetic opioid shall not be considered a drug related object as defined by Article 2 of Chapter 13 of Title 16." Ga. Code Ann. § 26-3-22(a)(2023) (enacted by 2022 Georgia Laws Act 879 (H.B. 1175)). The exception was expanded to "drug analysis equipment used to determine whether a controlled substance or its packaging has been adulterated" effective July 1, 2025. Ga. Code Ann. § 26-3-22(a).

[89] "It shall be unlawful for any person or corporation to sell, rent, lease, give, exchange, otherwise distribute, or possess with intent to distribute any object or materials of any kind which such person or corporation intends to be used for the purpose of…testing…a controlled substance." Ga. Code Ann. § 16-13-32.1(a). It is also unlawful to advertise the delivery of drug paraphernalia, including drug checking equipment. Ga. Code Ann. § 16-13-32(b). However, effective July 1, 2023, "[A]ny testing equipment used to determine whether a controlled substance has been adulterated and contains a synthetic opioid shall not be considered a drug related object as defined by Article 2 of Chapter 13 of Title 16." Ga. Code Ann. § 26-3-22(a)(2023) (enacted by 2022 Georgia Laws Act 879 (H.B. 1175). The exception was expanded to "drug analysis equipment used to determine whether a controlled substance or its packaging has been adulterated" effective July 1, 2025. Ga. Code Ann. § 26-3-22(a).

[90] "It shall be unlawful for any person or corporation to sell, rent, lease, give, exchange, otherwise distribute, or possess with intent to distribute any object or materials of any kind which such person or corporation intends to be used for the purpose of…testing…a controlled substance." Ga. Code Ann. § 16-13-32.1(a). It is also unlawful to advertise the delivery of drug paraphernalia, including drug checking equipment. Ga. Code Ann. § 16-13-32(b). However, "[A]ny testing equipment used to determine whether a controlled substance has been adulterated and contains a synthetic opioid shall not be considered a drug related object as defined by Article 2 of Chapter 13 of Title 16." Ga. Code Ann. § 26-3-22(a)(2023) (enacted by 2022 Georgia Laws Act 879 (H.B. 1175)). The exception was expanded to "drug analysis equipment used to determine whether a controlled substance or its packaging has been adulterated" effective July 1, 2025. Ga. Code Ann. § 26-3-22(a).

[91] Georgia law may provide protection for the free distribution of all drug checking equipment for employees and volunteers of a syringe exchange: "A person employed by or acting as an agent of a registered syringe services program shall be immune from civil and criminal liability arising from the possession, distribution, or exchange of hypodermic syringes or needles and related supplies as part of such syringe services program." Ga. Code Ann. § 16-13-32(c)(2) (emphasis added). Georgia law does not clarify whether "related supplies" includes drug checking equipment. Georgia's statutes and regulations repeatedly reference the objective of the syringe services program to provide "safer injection supplie[s]" and "evidence based interventions to reduce negative consequences of drug related behaviors." Ga. Code Ann. § 16-13-32(c)(4); Ga. Comp. R. & Regs. 511-2-9-.04(1)(c), 511-2-9-.01(8), 511-2-9-.05(1)(b)(4)-(5). However, since "drug analysis equipment used to determine whether a controlled substance or its packaging has been adulterated" is excluded from the definition of "drug related object" (the term for paraphernalia in Georgia) per Ga. Code Ann. § 26-3-22(a) and SSPs are not prohibited from providing such devices, we think it clear that SSPs may provide those objects.

[92] Georgia law does not provide protection to SSP participants. This is immaterial in the syringe context, as the state paraphernalia statute does not apply to hypodermic needles or syringes. *See* Ga. Code Ann., § 16-13-32.2(a)(1). As noted above, effective July 1, 2025, "[D]rug analysis equipment used to determine whether a controlled substance or its packaging has been adulterated" shall not be considered a drug related object as defined by Article 2 of Chapter 13 of Title 16." Ga. Code Ann. § 26-3-22(a). Therefore, possession of such objects is permitted, regardless of where they are obtained.

[93] "Any person who in good faith seeks medical assistance for a person experiencing or believed to be experiencing a drug overdose shall not be arrested, charged, or prosecuted for a drug violation if the evidence for the arrest, charge, or prosecution of such drug violation resulted solely from seeking such medical assistance. Any person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of such a request shall not be arrested, charged, or prosecuted for a drug violation if the evidence for the arrest, charge, or prosecution of such drug violation resulted solely from seeking such medical assistance…." Ga. Code Ann. § 16-13-5(b). "'Drug violation' means…[a] violation of Code Section 16-13-32.2, relating to possession and use of drug related objects." Ga. Code Ann. § 16-13-5(a)(2)(C); *see* Ga. Code Ann. § 16-13-5(a) (listing relevant definitions).

[94] Drug paraphernalia includes "all equipment, products, and materials of any kind which are used, primarily intended for use, or primarily designed for use, in …testing… a controlled substance in violation of this chapter." Haw. Rev. Stat. Ann. § 329-1. "[I]t it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to…test…a controlled substance in violation of this chapter." Haw. Rev. Stat. Ann. § 329-43.5(a). However, effective June 22, 2023, "'Drug paraphernalia' does not include fentanyl test strips." Haw. Rev. Stat. Ann. § 329-1.

[95] "[I]t 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…test…a controlled substance in violation of this chapter." Haw. Rev. Stat. Ann. § 329-43.5(b). However, effective June 22, 2023, "'Drug paraphernalia' does not include fentanyl test strips." Haw. Rev. Stat. Ann. § 329-1.

[96] "[I]t 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…test…a controlled substance in violation of this chapter." Haw. Rev. Stat. Ann. § 329-43.5(b). The definition of "deliver" would include sale: "the actual, constructive, or attempted transfer or sale from one person to another of a controlled substance or drug paraphernalia, whether or not there is an agency relationship." Haw. Rev. Stat. Ann. § 329-1. However, effective June 22, 2023, "'Drug paraphernalia' does not include fentanyl test strips." Haw. Rev. Stat. Ann. § 329-1.

[97] "Possession or delivery of authorized objects shall not constitute an offense under section 329-43.5 for program staff acting in the course and scope of official duties; provided that delivery is limited to other program staff or to syringe exchange participants pursuant to this part. Possession of authorized objects shall not constitute an offense under section 329-43.5 for syringe exchange participants participating in a program visit. The department shall establish a specific list of authorized objects, which may be updated from time to time as needed." Haw. Rev. Stat. Ann. § 325-114(b). The Department of Health has not yet added any drug checking equipment to its list of authorized objects, therefore, we consider this to be a No for drug checking equipment other than for fentanyl test strips which are exempted from the drug paraphernalia law. The list of authorized objects is located here: https://health.hawaii.gov/harmreduction/syringe-services-program/#legal-authorized-objects

[98] "Possession or delivery of authorized objects shall not constitute an offense under section 329-43.5 for program staff acting in the course and scope of official duties; provided that delivery is limited to other program staff or to syringe exchange participants pursuant to this part. Possession of authorized objects shall not constitute an offense under section 329-43.5 for syringe exchange participants participating in a program visit. The department shall establish a specific list of authorized objects, which may be updated from time to time as needed." Haw. Rev. Stat. Ann. § 325-114(b). The Department of Health has not yet added any drug checking equipment to its list of authorized objects, therefore, we consider this to be a No for drug checking equipment other than for fentanyl test strips which are exempted from the drug paraphernalia law. The list of authorized objects is located here: https://health.hawaii.gov/harmreduction/syringe-services-program/#legal-authorized-objects

[99] "A person or persons who, in good faith, seek medical assistance for someone who is experiencing a drug or alcohol overdose and a person experiencing a drug or alcohol overdose who seeks medical assistance for the person's self or is the subject of such a good faith request shall not be arrested, charged, prosecuted, or convicted; have their property subject to civil forfeiture; or otherwise be penalized for…[p]ossession of a controlled substance or drug paraphernalia under this chapter or part IV of chapter 712…if the evidence for the arrest, charge, prosecution, conviction, seizure, or penalty was gained as a result of the seeking of medical assistance." Haw. Rev. Stat. Ann. § 329-43.6(b)(1). The Good Samaritan law provides the act of seeking medical assistance for someone who is experiencing a drug or alcohol overdose as a mitigating factor for giving away paraphernalia, including drug checking equipment. *See* Haw. Rev. Stat. Ann. § 329-43.6(c); *see also* Haw. Rev. Stat. Ann. § 329-43.6(a) (listing relevant definitions).

[100] "It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to…test…a controlled substance." Idaho Code § 37-2734A(1). "Drug paraphernalia" means "all equipment, products and materials of any kind used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter." Idaho Code § 37-2701(o). However, effective July 1, 2024, "[T]esting equipment used, intended for use, or designed for use in identifying whether a controlled substance contains fentanyl, a fentanyl analog, or any derivative thereof shall not be considered drug paraphernalia." Idaho Code § 37-2701(o)(4).

[101] "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… test… a controlled substance." Idaho Code § 37-2734B. However, effective July 1, 2024, "[T]esting equipment used, intended for use, or designed for use in identifying whether a controlled substance contains fentanyl, a fentanyl analog, or any derivative thereof shall not be considered drug paraphernalia." Idaho Code § 37-2701(o)(4).

[102] "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… test… a controlled substance." Idaho Code § 37-2734B. The definition of "deliver" would include sale: "the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship." Idaho Code Ann. § 37-2701(g). However, effective July 1, 2024, "[T]esting equipment used, intended for

use, or designed for use in identifying whether a controlled substance contains fentanyl, a fentanyl analog, or any derivative thereof shall not be considered drug paraphernalia." Idaho Code § 37-2701(o)(4).

[103] Effective July 1, 2024, Idaho's SSP law formerly located at Idaho Code Ann. § 37-3404 to 37-3406 has been repealed. Since syringe distribution is generally prohibited, SSPs are prohibited in Idaho as of that date. We therefore code this as N/A.

[104] Effective July 1, 2024, Idaho's SSP law formerly located at Idaho Code Ann. § 37-3404 to 37-3406 has been repealed. Since syringe possession is generally prohibited, SSPs are prohibited in Idaho as of that date. We therefore code this as N/A.

[105] "A person acting in good faith who seeks medical assistance for any person experiencing a drug-related medical emergency shall not be charged or prosecuted for… using or possessing with intent to use drug paraphernalia pursuant to section 37-2734A(1), Idaho Code, if the evidence for the charge of possession of or using or being under the influence of a controlled substance or using or possessing drug paraphernalia was obtained as a result of the person seeking medical assistance." Idaho Code § 37-2739C(1). "A person who experiences a drug-related medical emergency and is in need of medical assistance shall not be charged or prosecuted for… using or possessing with intent to use drug paraphernalia pursuant to section 37-2734A(1), Idaho Code, if the evidence for the charge of possession of or using or being under the influence of a controlled substance or using or possessing drug paraphernalia was obtained as a result of the medical emergency and the need for medical assistance." Idaho Code § 37-2739C(2).

[106] "A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing a controlled substance into the human body, or in preparing a controlled substance for that use, is guilty of a Class A misdemeanor for which the court shall impose a minimum fine of $750 in addition to any other penalty prescribed for a Class A misdemeanor." 720 Ill. Comp. Stat. 600/3.5(a). Under Illinois law, drug paraphernalia includes "all equipment, products and materials of any kind… which are intended to be used unlawfully in… testing, analyzing… a controlled substance in violation of the Illinois Controlled Substances Act." 720 Ill. Comp. Stat. 600/2(d). However, effective January 1, 2024, "'Drug paraphernalia' does not include equipment, products, or materials to analyze or test for the presence of fentanyl, a fentanyl analog, or a drug adulterant within a controlled substance." 720 Ill. Comp. Stat. 600/2. (More precisely, the statute read "analogue" from January 1, 2024 but was changed to "analog" effective August 15, 2025).

[107] Illinois does not criminalize the free distribution of drug paraphernalia. *See generally* 720 Ill. Comp. Stat. 600.

[108] Illinois generally criminalizes the sale of drug paraphernalia. 720 Ill. Comp. Stat. 600/3(a). A law effective June 2, 2022, provided that certain health professionals "may dispense drug adulterant testing supplies to any person" and imposes restrictions on where they can be stored and the locations from which they can be distributed. 410 Ill. Comp. Stat. 710/10. Effective January 1, 2024, the law was extended to include "a trained overdose responder for an organization enrolled in the Drug Overdose Prevention Program administered by the Department of Human Services…" 410 Ill. Comp. Stat. 710/10. Additionally, effective January 1, 2024, "a pharmacist or retailer may sell fentanyl test strips over-the-counter to the public to test for the presence of fentanyl, a fentanyl analog, or a drug adulterant within a controlled substance…." 410 Ill. Comp. Stat. 710/15. However, as noted above, effective January 1, 2024, "'Drug paraphernalia' does not include equipment, products, or materials to analyze or test for the presence of fentanyl, a fentanyl analog, or *a drug adulterant* within a controlled substance." (emphasis added) 720 Ill. Comp. Stat. 600/2. We therefore do not believe that it is unlawful to sell any drug checking equipment in Illinois, although 410 Ill. Comp. Stat. 710/10 appears to impose restrictions on the way it can be dispensed.

[109] As noted above, free distribution of drug paraphernalia is not prohibited in Illinois. In addition, possessing drug paraphernalia, including drug checking equipment, is legal for participants, volunteers, and staff of an SSP in Illinois: "Notwithstanding any provision of the Illinois Controlled Substances Act, the Drug Paraphernalia Control Act, or any other law, no employee or volunteer of or participant in a program established under [the Overdose Prevention and Harm Reduction Act] shall be charged with or prosecuted for possession of … [d]rug adulterant testing supplies obtained from or returned, directly or indirectly, to a program established under this Act…" 410 Ill. Comp. Stat. 710/5(c)(3). Furthermore, effective January 1, 2025, SSPs must provide "if feasible, access to fentanyl test strips to test for the presence of fentanyl, a fentanyl analog, or a drug adulterant within a controlled substance." 410 Ill. Comp. Stat. Ann. 710/5(b)(9).

[110] Possessing drug paraphernalia, including drug checking equipment, is legal for participants, volunteers, and staff of an SSP in Illinois: "Notwithstanding any provision of the Illinois Controlled Substances Act, the Drug Paraphernalia Control Act, or any other law, no employee or volunteer of or participant in a program established under [the Overdose Prevention and Harm Reduction Act] shall be charged with or prosecuted for possession of … [d]rug adulterant testing

supplies obtained from or returned, directly or indirectly, to a program established under this Act or a pharmacy, hospital, clinic, or other health care facility or medical office dispensing drug adulterant testing supplies in accordance with Section 10. This paragraph also applies to any employee or customer of a pharmacy, hospital, clinic, or other health care facility or medical office dispensing drug adulterant testing supplies in accordance with Section 10." 410 Ill. Comp. Stat. 710/5(c)(3).

[111] The Illinois Good Samaritan law was modified effective April 27, 2021, to provide immunity for the possession of drug paraphernalia. *See* 720 Ill. Comp. Stat. 570/414(b); 720 Ill. Comp. Stat 646/115(b).

[112] "A person who knowingly or intentionally possesses an instrument, a device, or another object that the person intends to use for…testing the strength, effectiveness, or purity of a controlled substance…commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated judgment or conviction under this section." Ind. Code § 35-48-4-8.3(b). Effective July 1, 2025, the law does not include "an item marketed to detect the presence of a drug or controlled substance, including field test kits and test strips." Ind. Code Ann. § 35-48-4-8.3(a)(2).

[113] "A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for…testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance…commits a Class A infraction for dealing in paraphernalia." Ind. Code § 35-48-4-8.5(a). Effective July 1, 2025, the law does not include "[i]tems marketed to detect the presence of a drug or controlled substance, including field test kits and test strips." Ind. Code § 35-48-4-8.5(c)(5).

[114] "A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for…testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance…commits a Class A infraction for dealing in paraphernalia." Ind. Code § 35-48-4-8.5(a). Effective July 1, 2025, the law does not include "[i]tems marketed to detect the presence of a drug or controlled substance, including field test kits and test strips." Ind. Code § 35-48-4-8.5(c)(5).

[115] The distribution of drug checking equipment is legal for volunteers and staff of a syringe services program: "This section [which prohibits delivery of objects intended, designed, or marketed to be used primarily for testing the strength, effectiveness, or purity of a controlled substance] does not apply to … [a] qualified entity (as defined in IC 16-41-7.5-3) that provides a syringe or needle as part of a program under IC 16-41-7.5 [syringe services program]." Ind. Code § 35-48-4-8.5(c)(3). Qualified entities are "(1) A local health department. (2) A municipality… that operates a program within the boundaries of the municipality. (3) A nonprofit organization that operates a program and has been approved by official action to operate the program…" Ind. Code Ann. § 16-41-7.5-3. Additionally, effective July 1, 2025, the drug paraphernalia distribution law does not include "an item marketed to detect the presence of a drug or controlled substance, including field test kits and test strips." Therefore, anyone can distribute such items regardless of location. Ind. Code Ann. § 35-48-4-8.5(c)(5). Effective March 10, 2026, a new statute prohibits SSPs from providing "chemical reagents or precursors (as defined in IC 35-48-4-14.5)." Ind. Code Ann. § 16-41-7.5-6.5. The list of prohibited "chemical reagents" is located at Ind. Code Ann. § 35-48-4-14.5(a).

[116] The provision that permits SSPs to distribute DCE does not provide any protection to individuals who obtain it. However, effective July 1, 2025, the drug paraphernalia possession law does not include "an item marketed to detect the presence of a drug or controlled substance, including field test kits and test strips," therefore individuals can possess such items regardless of where there are obtained from. Ind. Code Ann. § 35-48-4-8.3(a)(2).

[117] "A law enforcement officer may not take an individual into custody based solely on the commission of an offense described in subsection (h) [including IC 35-48-4-8.3 (possession of paraphernalia)], if the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that the individual…[lists factors including seeking medical emergency response for another person experiencing an overdose]." Ind. Code § 16-42-27-2(g), (h)(4); *see* Ind. Code § 16-42-27-2(g)(1)-(7) (lists Good Samaritan law qualifications).

[118] "It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia." Iowa Code § 124.414(2). The definition of "drug paraphernalia" includes equipment and products "to knowingly or intentionally and primarily…test the strength, effectiveness, or purity of a controlled substance." Iowa Code § 124.414(1)(a)(3).

[119] "It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia." Iowa Code § 124.414(2). "A person who violates this section commits a simple misdemeanor." Iowa Code § 124.414(3).

[120] "It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia." Iowa Code § 124.414(2). "A person who violates this section commits a simple misdemeanor." Iowa Code § 124.414(3).

[121] Iowa does not explicitly authorize SSPs nor generally allow syringe distribution. We therefore code this as N/A.

[122] Iowa does not explicitly authorize SSPs nor generally allow syringe distribution. We therefore code this as N/A.

[123] "Protected information shall not be considered to support probable cause and shall not be admissible as evidence against an overdose patient or overdose reporter for … [v]iolation of section 124.414 [prohibits knowingly and unlawfully testing the strength, effectiveness of purity of a controlled substance]." Iowa Code § 124.418(2)(d).

[124] "It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to…test…a controlled substance." Kan. Stat. Ann. § 21-5709(b)(1). Drug paraphernalia means "all equipment and materials of any kind that are used, or primarily intended or designed for use in…testing, analyzing… a controlled substance and in violation of this act." Kan. Stat. Ann. § 21-5701(f)(1). However, effective July 1, 2023, drug paraphernalia does not include "any materials used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine or gamma hydroxybutyric acid." Kan. Stat. Ann. § 21-5701(f)(3)(B).

[125] "It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used as such in violation of [provisions including subsection (b) of 21-5709 relating to the use or possession with intent to use of drug paraphernalia]." Kan. Stat. Ann. § 21-5710(c). "It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such in violation of subsection (b) of K.S.A. 21-5706 [possession of a controlled substance]." Kan. Stat. Ann. § 21-5710(d). However, effective July 1, 2023, drug paraphernalia does not include "any materials used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine or gamma hydroxybutyric acid." Kan. Stat. Ann. § 21-5701(f)(3)(B).

[126] "It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used as such in violation of [provisions including subsection (b) of 21-5709 relating to the use or possession with intent to use of drug paraphernalia]." Kan. Stat. Ann. § 21-5710(c). "It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such in violation of subsection (b) of K.S.A. 21-5706 [possession of a controlled substance]." Kan. Stat. Ann. § 21-5710(d). The definition of "distribute" explicitly includes sale. Kan. Stat. Ann. § 21-5701(d). However, effective July 1, 2023, drug paraphernalia does not include "any materials used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine or gamma hydroxybutyric acid." Kan. Stat. Ann. § 21-5701(f)(3)(B).

[127] Kansas does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[128] Kansas does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[129] Effective July 1, 2024, Kansas has an overdose Good Samaritan law. The law provides immunity from criminal prosecution for a violation of Kan. Stat. Ann. § 21-5706 (possession of controlled substances) or § 21-5709(b)(2) (possession of drug paraphernalia with intent to "store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body). However, it does not provide immunity for a violation of Kan. Stat. Ann. § 21-5709(b)(1) (possession of drug paraphernalia with intent to "… test, analyze or distribute a controlled substance"). Kan. Stat. Ann. § 22-2312.

[130] "It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of…testing…a controlled substance in violation of this chapter." Ky. Rev. Stat. Ann. § 218A.500(2). Drug paraphernalia includes "all equipment, products and materials of any kind which are used, intended for use, or designed for use in…testing, analyzing… or otherwise introducing into the human body a controlled substance in violation of this chapter." Ky. Rev. Stat. Ann. § 218A.500(1). Effective June 29, 2023, "identifying" was removed from the definition of testing equipment as drug paraphernalia and "narcotic drug testing products utilized in determining whether a controlled substance contains a synthetic opioid or its analogue" were specifically exempted from the drug paraphernalia definition. Ky. Rev. Stat. Ann. § 218A.500(7)(c). That same law holds that possession of a drug testing product that contains "residual or trace amounts" of a synthetic opioid or analog "shall not be prosecuted as possession of a controlled substance under any provision of this chapter." Ky. Rev. Stat. Ann. § 218A.500(7)(d).

[131] "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…test, analyze…a controlled substance in violation of this chapter." Ky. Rev. Stat. Ann. § 218A.500(3). Effective June 29, 2023, "identifying" was removed from the explanation of testing equipment as drug paraphernalia and "narcotic drug testing products utilized in determining whether a controlled substance contains a synthetic opioid or its analogue" was specifically exempted from the drug paraphernalia definition. Ky. Rev. Stat. Ann. § 218A.500(7)(c).

[132] "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…test, analyze…a controlled substance in violation of this chapter." Ky. Rev. Stat. Ann. § 218A.500(3). There is no definition of "deliver", however, it likely includes sale as is the case with most states. Effective June 29, 2023, "identifying" was removed from the explanation of testing equipment as drug paraphernalia and "narcotic drug testing products utilized in determining whether a controlled substance contains a synthetic opioid or its analogue" was specifically exempted from the drug paraphernalia definition. Ky. Rev. Stat. Ann. § 218A.500(7)(c).

[133]Per Kentucky law, "Items exchanged at the program shall not be deemed drug paraphernalia under this section [includes possessing and giving away drug paraphernalia] while located at the program." Ky. Rev. Stat. Ann. § 218A.500(5)(c). According to an opinion by the state's Attorney General regarding whether harm reduction and syringe exchange programs (HRSEPs) may provide syringes regardless of whether the participant has syringes to exchange, "If the legislature had wished to limit HRSEPs to a specific type of program, rather than allowing flexibility in determining which type of HRSEP to offer, it could have done so." Ky. Att'y Gen. Op. No. 15-018 (Dec 18, 2015), 2015 Ky. AG LEXIS 232. Following the same line of reasoning, if the legislature had wished to limit the items exempt from the drug paraphernalia statute while located at a syringe services program, it could have done so. Further, the Kentucky Cabinet for Health and Family Services website notes that "[syringe services programs] are a great resource to obtain harm reduction supplies such as sterile syringes, naloxone, wound care kits and fentanyl test strips." Harm Reduction Program, KY. DEP'T FOR PUB. HEALTH, https://chfs.ky.gov/agencies/dph/Pages/harmreduction.aspx (last visited Jan. 1, 2026).

[134]Per Kentucky law, "Items exchanged at the program shall not be deemed drug paraphernalia under this section [includes possessing and giving away drug paraphernalia] while located at the program [a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes]." Ky. Rev. Stat. Ann. § 218A.500(5)(c). Since SSPs do not permit the items to be used at the site, they must be possessed off site, and no immunity is provided for such possession. We therefore code this as a No for DCE other than for synthetic opioids which are exempted under the drug paraphernalia law.

[135] "A person shall not be charged with or prosecuted for a criminal offense prohibiting the possession of a controlled substance or the possession of drug paraphernalia… if… [lists relevant factors]." Ky. Rev. Stat. Ann. § 218A.133(2).

[136] "It is unlawful for any person to use, or to possess with intent to use, any drug paraphernalia, to…test, analyze…a controlled substance in violation of this Part." La. Stat. Ann. § 40:1023(C). Drug paraphernalia means all "equipment, products, and materials of any kind which are used, intended for use, or designed for use in…testing, analyzing… or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Dangerous Substances Law." La. Stat. Ann. § 40:1021(A)(1). Effective August 1, 2022, the definition of 'drug paraphernalia' excluded "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." La. Stat. Ann. § 40:1021(B)(2022). Effective June 8, 2025, the exclusion was expanded to "any controlled dangerous substance or chemical compound that can cause physical harm or death, provided that the testing equipment is not used to facilitate the manufacture or distribution of any controlled substance in violation of R.S. 40:961 et seq." La. Stat. Ann. § 40:1021(B).

[137] "It is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug paraphernalia." La. Stat. Ann. § 40:1023(A). "It is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to…possess with the intent to distribute, any drug paraphernalia." La. Stat. Ann. § 40:1023(B). Effective August 1, 2022, the definition of "drug paraphernalia" excluded "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." La. Stat. Ann. § 40:1021(B)." Effective June 8, 2025, the exclusion was expanded to "any controlled dangerous substance or chemical compound that can cause physical harm or death, provided that the testing equipment is not used to facilitate the manufacture or distribution of any controlled substance in violation of R.S. 40:961 et seq." La. Stat. Ann. § 40:1021(B).

[138] "It is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug paraphernalia." La. Stat. Ann. § 40:1023(A). "It is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to…possess with the intent to distribute, any drug paraphernalia." La. Stat. Ann. § 40:1023(B). Effective August 1, 2022, the definition of "drug paraphernalia" excluded "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." La. Stat. Ann. § 40:1021(B). Effective June 8, 2025, the exclusion was expanded to "any controlled dangerous substance or chemical compound that can cause physical harm or death, provided that the testing equipment is not used to facilitate the manufacture or distribution of any controlled substance in violation of R.S. 40:961 et seq." La. Stat. Ann. § 40:1021(B).

[139] Although it does not clearly exempt particular individuals, Louisiana law provides a broad exemption to the state paraphernalia law for SSPs: "Any provision of law to the contrary herein notwithstanding, the provisions of this Part [including prohibitions on the use, possession with intent to use, and delivery of drug paraphernalia] shall not prohibit the establishment and implementation of a needle exchange program within the jurisdiction of a local governing authority, including but not limited to a city, town, or parish, upon the express approval of the local governing authority." La. Stat. Ann. § 40:1024(C). We interpret this as meaning that those provisions do not apply to SSP operators or clients. In addition, as noted above, fentanyl test strips and equipment that tests for "any controlled dangerous substance or chemical compound that can cause physical harm or death" have been removed from the definition of drug paraphernalia.

[140] Although it does not clearly exempt particular individuals, Louisiana law provides a broad exemption to the state paraphernalia law for SSPs: "Any provision of law to the contrary herein notwithstanding, the provisions of this Part [including prohibitions on the use, possession with intent to use, and delivery of drug paraphernalia] shall not prohibit the establishment and implementation of a needle exchange program within the jurisdiction of a local governing authority, including but not limited to a city, town, or parish, upon the express approval of the local governing authority." La. Stat. Ann. § 40:1024(C). We interpret this as meaning that those provisions do not apply to SSP operators or clients. In addition, as noted above, fentanyl test strips and equipment that tests for "any controlled dangerous substance or chemical compound that can cause physical harm or death" have been removed from the definition of drug paraphernalia.

[141] Effective August 1, 2022, Louisiana's overdose Good Samaritan law provides protection from paraphernalia-related charges: "A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or of possession of drug paraphernalia as defined in R.S. 40:1021, if the evidence for such offenses was obtained as a result of the person's seeking medical assistance." La. Stat. Ann. § 14:403.10(A)(1).

[142] Effective October 18, 2021, all references to testing and analyzing, as well as specific mentions of testing equipment, were removed from Maine's definition of drug paraphernalia. *See* Me. Rev. Stat. tit. 17-A, § 1111-A(1) (modified by 2021 Me. Legis. Serv. Ch. 434 (H.P. 732) (L.D. 994)).

[143] Effective October 18, 2021, all references to testing and analyzing, as well as specific mentions of testing equipment, were removed from Maine's definition of drug paraphernalia. *See* Me. Rev. Stat. tit. 17-A, § 1111-A(1) (modified by 2021 Me. Legis. Serv. Ch. 434 (H.P. 732) (L.D. 994)).

[144] Effective October 18, 2021, all references to testing and analyzing, as well as specific mentions of testing equipment, were removed from Maine's definition of drug paraphernalia. *See* Me. Rev. Stat. tit. 17-A, § 1111-A(1) (modified by 2021 Me. Legis. Serv. Ch. 434 (H.P. 732) (L.D. 994)).

[145] Maine law impliedly permits the possession, transportation, and exchange of "hypodermic apparatuses" distributed by or returned to syringe services programs. No such carve-out exists for drug checking equipment; however, possession and distribution are not generally prohibited. *See* Me. Rev. Stat. Ann. tit. 22, § 1341.

[146] Maine law impliedly permits the possession, transportation, and exchange of "hypodermic apparatuses" distributed by or returned to syringe services programs. No such carve-out exists for drug checking equipment; however, possession and distribution are not generally prohibited. *See* Me. Rev. Stat. Ann. tit. 22, § 1341.

[147] Except for certain specified crimes unrelated to drug paraphernalia, "a protected person is immune from arrest or prosecution for a violation of law if: A. The grounds for the arrest or prosecution are obtained as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance; or B. The identity of the protected person is learned or the protected person is identified as a person subject to arrest or prosecution as a result

of a medical professional's or law enforcement officer's responding to a request for medical assistance." Me. Stat. tit. 17-A, §1111-B(2).

[148] The definition of "drug paraphernalia" continues to include "testing equipment used, intended for use, or designed for use in analyzing the strength, effectiveness, or purity of a controlled dangerous substance." *See* Md. Code Ann., Crim. Law § 5-101(p)(2)(iv). However, state law was modified effective June 1, 2018, to remove "identify" from the definition and "test" and "analyze" from the list of activities that it is impermissible to undertake with drug paraphernalia. The law currently reads as follows: "Unless authorized under this title, a person may not use or possess with intent to use drug paraphernalia to: (i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance; or (ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance." Md. Code Ann., Crim. Law § 5–619(c)(1)(i)-(ii).

[149] The definition of "drug paraphernalia" continues to include "testing equipment used, intended for use, or designed for use in analyzing the strength, effectiveness, or purity of a controlled dangerous substance." *See* Md. Code Ann., Crim. Law § 5-101(p)(2)(iv). However, state law was modified effective June 1, 2018, to remove "test" and "analyze" from the list of activities that it is impermissible to undertake with drug paraphernalia. The law currently reads as follows: "Unless authorized under this title, a person may not deliver or sell… drug paraphernalia to: (i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance; or (ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance." Md. Code Ann., Crim. Law § 5–619(d)(1)(i)-(ii). It is also unlawful to advertise the delivery of drug paraphernalia in certain circumstances. Md. Code Ann., Crim. Law § 5–619(e).

[150] The definition of "drug paraphernalia" continues to include "testing equipment used, intended for use, or designed for use in analyzing the strength, effectiveness, or purity of a controlled dangerous substance." *See* Md. Code Ann., Crim. Law § 5-101(p)(2)(iv). However, state law was modified effective June 1, 2018, to remove "test" and "analyze" from the list of activities that it is impermissible to undertake with drug paraphernalia. The law currently reads as follows: "Unless authorized under this title, a person may not deliver or sell… drug paraphernalia to: (i) plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance; or (ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance." Md. Code Ann., Crim. Law § 5–619(d)(1)(i)-(ii). It is also unlawful to advertise the delivery of drug paraphernalia in certain circumstances. Md. Code Ann., Crim. Law § 5–619(e).

[151] "No Program staff member or Program participant may be found guilty of violating [laws related to controlled substances and drug paraphernalia] for possessing or distributing controlled paraphernalia or drug paraphernalia whenever the possession or distribution of the controlled paraphernalia or drug paraphernalia is a direct result of the employee's or participant's activities in connection with the work of the Program authorized under this subtitle." Md. Code Ann., Health - General § 24-808(a).

[152] "No Program staff member or Program participant may be found guilty of violating [laws related to controlled substances and drug paraphernalia] for possessing or distributing controlled paraphernalia or drug paraphernalia whenever the possession or distribution of the controlled paraphernalia or drug paraphernalia is a direct result of the employee's or participant's activities in connection with the work of the Program authorized under this subtitle." Md. Code Ann., Health - General § 24-808(a).

[153] "A person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person reasonably believed to be experiencing a medical emergency after ingesting or using alcohol or drugs shall be immune from criminal arrest, charge, or prosecution for a violation of…§ 5-619 [including use, possession with intent to use, and the delivery of drug paraphernalia]…of the Criminal Law Article if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person's seeking, providing, or assisting with the provision of medical assistance." Md. Code Ann., Crim. Law § 1–210(b). "A person who reasonably believes that the person is experiencing a medical emergency after ingesting or using alcohol or drugs shall be immune from criminal arrest, charge, or prosecution for a violation of…§ 5-619 [including charges for use, possession with intent to use, and delivery of drug paraphernalia] … of the Criminal Law Article if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person seeking or receiving medical assistance." Md. Code Ann., Crim. Law § 1–210(c); *see* Md. Code Ann., Crim. Law § 1–210(a) (listing relevant definitions). Effective October 1, 2023, the language "reasonably believes that the person" is removed from Md. Code Ann., Crim. Law § 1–210(c). 2023 Maryland Laws Ch. 717 (H.B. 427).

[154] Massachusetts does not criminalize the use or possession with intent to use drug paraphernalia. *See generally* Mass. Gen. Laws ch. 94C, § 32I. Additionally, effective March 23, 2025, protections from charge and prosecution for sale of drug paraphernalia, possession of controlled substances and conspiracy to violate the controlled substances act for people performing and those seeking "drug testing services" were added. Mass. Gen. Laws Ann. ch. 94C, § 34A1/2.

[155] Massachusetts does not criminalize the free distribution of drug paraphernalia. *See generally* Mass. Gen. Laws ch. 94C, § 32I.

[156] Massachusetts criminalizes the sale and possession or purchase with intent to sell drug paraphernalia. Mass. Gen. Laws ch. 94C, § 32I(a). The definition of drug paraphernalia includes equipment for testing and analyzing controlled substances. Mass. Gen. Laws Ann. ch. 94C, § 1. However, effective March 23, 2025, a new section was added that, among other things, provides that "A person acting in good faith and within the scope of such person's role providing or assisting in the provision of harm reduction services as an owner, employee, intern, volunteer or third-party contractor of an entity providing harm reduction services who provides or assists in the provision of drug testing services" cannot be charged or prosecuted for sale of drug paraphernalia. Mass. Gen. Laws Ann. ch. 94C, § 34A1/2.

[157] There is no specific carve out for distribution of DCE for SSPs, however, possession and free distribution are not generally prohibited.

[158] There is no specific carve out for possession of DCE obtained from SSPs, however, possession and free distribution are not generally prohibited.

[159] The Massachusetts Good Samaritan law does not provide protection from the possession or distribution of drug paraphernalia, as those activities are not prohibited in the state. *See* Mass. Gen. Laws ch. 94C, § 34A.

[160] Michigan does not criminalize the use or possession with intent to use drug paraphernalia. *See generally* Mich. Comp. Laws § 333.7451-61.

[161] Michigan does not criminalize the free delivery of drug paraphernalia. *See generally* Mich. Comp. Laws §§ 333.7451-333.7461.

[162] It is unlawful to sell or offer for sale drug paraphernalia knowing that it will be used to "…test, analyze…" a controlled substance, although the person accused must be notified in writing not less than two business days before they are to be arrested that they are subject to arrest under this provision. Mich. Comp. Laws § 333.7453.

[163] Michigan does not criminalize the use, possession with intent to use, or non-sale delivery of drug paraphernalia, and it has a statutory provision that exempts the sale or distribution of DCE from government-authorized SSPS : "Sections 7451 to 7455 [including Section 7453, which criminalizes the sale of drug paraphernalia] do not apply to … [a]n object sold, offered for sale, 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." Mich. Comp. Laws § 333.7457(f).

[164] Michigan does not criminalize the use, possession with intent to use, or non-sale delivery of drug paraphernalia, and it has a statutory provision that exempts the sale and distribution of drug checking equipment from government-authorized SSPs: "Sections 7451 to 7455 [including Section 7453, which criminalizes the sale of drug paraphernalia] do not apply to … [a]n object sold, offered for sale, 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." Mich. Comp. Laws § 333.7457(f).

[165] Michigan does not criminalize the use, possession with intent to use, or non-sale delivery of drug paraphernalia. *See generally* Mich. Comp. Laws §§ 333.7451-61. Michigan's Good Samaritan laws do not mention drug paraphernalia. *See* Mich. Comp. Laws Ann. §§ 333.7403(3), 333.7404(3).

[166] Effective August 1, 2023, all references to testing were removed from Minnesota's definition of drug paraphernalia. *See* Minn. Stat. Ann. § 152.01 subdiv. 18(a). Minnesota's drug paraphernalia possession statute (Minn. Stat. Ann. § 152.092) was repealed effective August 1, 2023. 2023 Minn. Sess. Law Serv. Ch. 52 (S.F. 2909). In addition, "products that detect the presence of fentanyl or a fentanyl analog in a controlled substance" remain specifically excluded from the definition of drug paraphernalia (they were originally excluded as of July 1, 2021). Minn. Stat. § 152.01 subdiv. 18(b)(2). Also effective August 1, 2023, the possession of residual amounts of "one or more mixtures of controlled substances contained in drug paraphernalia" is not a crime. Minn. Stat. Ann. § 152.025 subdiv. 2(1)

[167] The portions of the statute that previously prohibited the delivery of drug paraphernalia (Minn. Stat. § 152.093) were removed effective August 1, 2023. 2023 Minn. Sess. Law Serv. Ch. 52 (S.F. 2909). Intentional manufacture of drug paraphernalia for delivery and delivery of drug paraphernalia to a minor that was intentionally manufactured for delivery remain illegal. Minn. Stat. § 152.093; Minn. Stat. § 152.094. In addition, "products that detect the presence of fentanyl or a fentanyl analog in a controlled substance" remain specifically excluded from the definition of drug paraphernalia. Minn. Stat. § 152.01 subdiv. 18(b)(2).

[168] The portions of the statute that previously prohibited the delivery of drug paraphernalia (Minn. Stat. § 152.093) were removed effective August 1, 2023. 2023 Minn. Sess. Law Serv. Ch. 52 (S.F. 2909). Intentional manufacture of drug paraphernalia for delivery and delivery of drug paraphernalia to a minor that was intentionally manufactured for delivery remain illegal. Minn. Stat. § 152.093; Minn. Stat. § 152.094. In addition, "products that detect the presence of fentanyl or a fentanyl analog in a controlled substance" remain specifically excluded from the definition of drug paraphernalia. Minn. Stat. § 152.01 subdiv. 18(b)(2).

[169] Minnesota authorizes SSPs. See Minn. Stat. Ann. § 151.40(1)(xvii). The law does not provide criminal immunity for distribution of DCE from SSPs, but does not prohibit such distribution. SSPs should therefore be permitted to distribute objects that are not otherwise prohibited under state law.

[170]Minnesota authorizes SSPs. See Minn. Stat. Ann. § 151.40(1)(xvii). The law does not provide any protection for distribution of DCE from SSPs, nor does it prohibit such distribution. SSP participants should therefore be permitted to possess DCE obtained from an SSP to the same extent that possession of DCE from other sources is permitted.

[171] "A person who experiences a drug-related overdose and is in need of medical assistance may not be charged or prosecuted for… possession of drug paraphernalia. A person qualifies for the immunities provided in this subdivision only if the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for medical assistance." Minn. Stat. § 604A.05 subdiv. 2. "The act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose" may be a mitigating factor for charges including the delivery of drug paraphernalia. *See* Minn. Stat. § 604A.05 subdiv. 4; *see also* Minn. Stat. § 604A.05 subdiv. 5 (defining drug-related overdose). As noted above, the statute that previously prohibited paraphernalia possession has been repealed, and the simple delivery of paraphernalia is no longer prohibited. *See* 2023 Minn. Sess. Law Serv. Ch. 52 (S.F. 2909).

[172] "[I]t is unlawful for a person who is not authorized by the State Board of Medical Licensure, State Board of Pharmacy, or other lawful authority to use, or to possess with intent to use, paraphernalia to…test, analyze…a controlled substance in violation of the Uniform Controlled Substances Law." Miss. Code Ann. § 41-29-139(d)(1). "'Paraphernalia' means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in…testing, analyzing … or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Law." Miss. Code. Ann. § 41-29-105(v)(i). However, effective July 1, 2023, paraphernalia "does not include any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance." Miss. Code. Ann. § 41-29-105(v)(iii).

[173] "It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled substance in violation of the Uniform Controlled Substances Law." Miss. Code Ann. § 41-29-139(d)(2). However, effective July 1, 2023, paraphernalia "does not include any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance." Miss. Code. Ann. § 41-29-105(v)(iii).

[174] "It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled substance in violation of the Uniform Controlled Substances Law." Miss. Code Ann. § 41-29-139(d)(2). However, effective July 1, 2023, paraphernalia "does not include any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance." Miss. Code. Ann. § 41-29-105(v)(iii).

[175] Mississippi does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[176] Mississippi does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[177] Mississippi's overdose Good Samaritan law exempts offenses located in Miss. Code Ann. § 41-29-139(d)(2), which prohibits delivery, sales, possession with intent to deliver or sell, and manufacture of drug paraphernalia. Miss. Code Ann. § 41-29-149.1(2)(b)(iii). However, the law refers to this provision as "relating to possession and use of paraphernalia," so it is not clear whether use, possession with intent to use, and/or the delivery of drug paraphernalia are exempted (possession and use are prohibited by Miss. Code Ann. § 41-29-139(d)(1)). *See* Miss. Code Ann. § 41-29-149.1(2)(b)(iii).

[178] "A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses with intent to use, drug paraphernalia to…test, analyze…a controlled substance or an imitation controlled substance." Mo. Rev. Stat. § 579.074(1). However, effective August 28, 2023, "it shall not be unlawful to manufacture, possess, sell, deliver, or use any device, equipment, or other material for the purpose of analyzing controlled substances to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue." Mo. Rev. Stat. § 579.088.

[179] "A person commits the offense of unlawful distribution, delivery, or sale of drug paraphernalia if he or she unlawfully distributes, delivers, or sells, or possesses with intent to distribute, deliver, or sell drug paraphernalia knowing, or under circumstances in which one reasonably should know, that it will be used to… test, analyze… a controlled substance or an imitation controlled substance in violation of this chapter." Mo. Rev. Stat. § 579.040(1). However, effective August 28, 2023, "it shall not be unlawful to manufacture, possess, sell, deliver, or use any device, equipment, or other material for the purpose of analyzing controlled substances to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue." Mo. Rev. Stat. § 579.088.

[180] "A person commits the offense of unlawful distribution, delivery, or sale of drug paraphernalia if he or she unlawfully distributes, delivers, or sells, or possesses with intent to distribute, deliver, or sell drug paraphernalia knowing, or under circumstances in which one reasonably should know, that it will be used to… test, analyze… a controlled substance or an imitation controlled substance in violation of this chapter." Mo. Rev. Stat. § 579.040(1). However, effective August 28, 2023, "it shall not be unlawful to manufacture, possess, sell, deliver, or use any device, equipment, or other material for the purpose of analyzing controlled substances to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue." Mo. Rev. Stat. § 579.088.

[181] Missouri does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[182] Missouri does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[183] "A person who, in good faith, seeks or obtains medical assistance for someone who is experiencing a drug or alcohol overdose or other medical emergency or a person experiencing a drug or alcohol overdose or other medical emergency who seeks medical assistance for himself or herself or is the subject of a good faith request shall not be arrested, charged, prosecuted, convicted, or have his or her property subject to civil forfeiture or otherwise be penalized for the following if the evidence for the arrest, charge, prosecution, conviction, seizure, or penalty was gained as a result of seeking or obtaining medical assistance: … [c]ommitting a prohibited act under section…579.074 [including use or possession with intent to use drug paraphernalia]." Mo. Rev. Stat. § 195.205(2)(1).

[184] "[I]t is unlawful for a person to use or to possess with intent to use drug paraphernalia to… analyze… a dangerous drug." Mont. Code Ann. § 45-10-103. Effective May 22, 2023, the term "test" was removed from the list of activities it is illegal to possess drug paraphernalia to undertake. (2023 Montana Laws Ch. 723 (H.B. 437).)

[185] "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…test, analyze… a dangerous drug." Mont. Code Ann. § 45-10-104. The modification that removed "test" from the law prohibiting paraphernalia possession was not extended to the distribution of paraphernalia.

[186] "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…test, analyze… a dangerous drug." Mont. Code Ann. § 45-10-104. There is no definition of deliver, however the law has been used to prosecute sales. *See Stoianoff v. State of Mont.*, 695 F.2d 1214, 1217 (9th Cir. 1983).

[187] Under Montana law, "The provisions of this part [including prohibitions on possessing and giving away drug paraphernalia] do not apply to…persons acting as employees or volunteers of an organization, including a nonprofit community-based organization, local health department, or tribal health department, that provides needle and syringe exchange services to prevent and reduce the transmission of communicable diseases." Mont. Code Ann. § 45-10-107(3).

[188] Under Montana law, "The provisions of this part [including prohibitions on possessing and giving away drug paraphernalia] do not apply to…persons acting as employees or volunteers of an organization, including a nonprofit community-based organization, local health department, or tribal health department, that provides needle and syringe exchange services to prevent and reduce the transmission of communicable diseases." Mont. Code Ann. § 45-10-107(3). The protection does not apply to participants. However, since the law prohibiting paraphernalia possession was modified to remove "test" on May 22, 2023, such possession, including by SSP participants, was permitted as of that date.

[189] "The provisions of [law relating to paraphernalia possession] do not apply to: (a) a person who, acting in good faith, seeks medical assistance for another person who is experiencing an actual or reasonably perceived drug-related overdose if the evidence supporting an arrest, charge, or prosecution was obtained as a result of the person's seeking medical assistance for another person; or (b) a person who experiences a drug-related overdose and is in need of medical assistance if the evidence supporting an arrest, charge, or prosecution was obtained as a result of the drug-

related overdose and the need for medical assistance." Mont. Code Ann. § 50-32-609(1). They also do not apply to "a pregnant woman seeking or receiving evaluation, treatment, or support services for a substance use disorder." Mont. Code Ann. § 50-32-609(2). Further, "A person's act of providing first aid or other medical assistance to a person who is experiencing an actual or reasonably perceived drug-related overdose may be used as a mitigating factor in a criminal prosecution for which immunity is not provided under this section [including the delivery of drug paraphernalia]." Mont. Code Ann. § 50-32-609(5).

[190] "It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance." Neb. Rev. Stat. § 28-441(1). Nebraska's definition of drug paraphernalia does not include references to testing or analyzing. Although it includes "all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in manufacturing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance," Neb. Rev. Stat. § 28-439, the lack of inclusion of the testing and analyzing language contained in the model law and most state laws strongly suggests that its lack of inclusion was a conscious decision. Further, drug checking equipment is not used to manufacture, inject, ingest, inhale, or otherwise introduce controlled substances into the body. We therefore believe that DCE is not drug paraphernalia in Nebraska.

[191] "It shall be unlawful for any 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 manufacture, inject, ingest, or inhale or otherwise be used to introduce into the human body a controlled substance." Neb. Rev. Stat. § 28-442(1). As noted above, Nebraska's definition of drug paraphernalia does not include equipment for testing or analyzing controlled substances.

[192] "It shall be unlawful for any 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 manufacture, inject, ingest, or inhale or otherwise be used to introduce into the human body a controlled substance." Neb. Rev. Stat. § 28-442(1). The definition of "deliver" would include sale: "the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship" Neb. Rev. Stat. Ann. § 28-401(12). As noted above, Nebraska's definition of drug paraphernalia does not include equipment for testing or analyzing controlled substances.

[193] Nebraska does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[194] Nebraska does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[195] "A person shall not be in violation of section 28-441 [use and possession with intent to use drug paraphernalia] … if… [s]uch person made a good faith request for emergency medical assistance in response to a drug overdose of himself, herself, or another… [listing additional factors]." Neb. Rev. Stat. § 28-472(1); *see* Neb. Rev. Stat. § 28-472(1)(b)-(d), (2) (including additional relevant factors). "A person shall not be in violation of section 28-441 [use and possession with intent to use drug paraphernalia] … if such person was experiencing a drug overdose and the evidence for such violation was obtained as a result of the drug overdose and a request for medical assistance by another person made in compliance with subsection (1) of this section." Neb. Rev. Stat. § 28-472(3); *see* Neb. Rev. Stat. § 28-472(6) (defining "drug overdose").

[196] "Any person who uses, or possesses with intent to use, drug paraphernalia to…test, analyze…a controlled substance in violation of this chapter is guilty of a misdemeanor." Nev. Rev. Stat. § 453.566. Drug paraphernalia includes "[t]esting equipment, other than testing products, used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances". Nev. Rev. Stat. § 453.554(1)(d). However, as of May 28, 2021, the definition of drug paraphernalia does not include "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." Nev. Rev. Stat. § 453.554(2)(b); (3).

[197] "[A] person who delivers or sells, possesses with the intent to deliver or sell, or manufactures 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…test, analyze…a controlled substance in violation of this chapter is guilty of a category E felony and shall be punished as provided in NRS 193.130 [categories and punishment of felonies]." Nev. Rev. Stat. § 453.560. However, as of May 28, 2021, the definition of drug paraphernalia does not include "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." Nev. Rev. Stat. § 453.554(2)(b); (3). Also effective May 28, 2021, "[i]t is not unlawful to provide, administer

or use a testing product to assist a person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds." Nev. Rev. Stat. Ann. § 453.557(1).

[198] "[A] person who delivers or sells, possesses with the intent to deliver or sell, or manufactures 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…test, analyze…a controlled substance in violation of this chapter is guilty of a category E felony and shall be punished as provided in NRS 193.130 [categories and punishment of felonies]." Nev. Rev. Stat. § 453.560. There are increased penalties for delivering drug paraphernalia, including drug checking equipment, to a minor. Nev. Rev. Stat. § 453.562.

[199] Likely because hypodermic syringes, needles, and other injection equipment are not considered paraphernalia in Nevada, the state syringe access law only provides exemption from civil liability. *See* Nev. Rev. Stat. § 439.992. However, state law permits a "sterile hypodermic device program" to provide "[s]terile hypodermic devices and other related material for safer injection drug use," which may permit the provision of drug checking equipment. Nev. Rev. Stat. § 439.991. Additionally, possession and free distribution are not generally prohibited. Also effective May 28, 2021, "[i]t is not unlawful to provide, administer or use a testing product to assist a person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds." Nev. Rev. Stat. Ann. § 453.557(1).

[200] Likely because hypodermic syringes, needles, and other injection equipment are not considered paraphernalia in Nevada, the state syringe access law only provides exemption from civil liability. *See* Nev. Rev. Stat. § 439.992. However, state law permits a "sterile hypodermic device program" to provide "[s]terile hypodermic devices and other related material for safer injection drug use," which may permit the provision of drug checking equipment. Nev. Rev. Stat. § 439.991. However, possession and free distribution are not generally prohibited. Also effective May 28, 2021, "[i]t is not unlawful to provide, administer or use a testing product to assist a person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds." Nev. Rev. Stat. Ann. § 453.557(1).

[201] "Notwithstanding any other provision of law, a person who, in good faith, seeks medical assistance for a person who is experiencing a drug or alcohol overdose or other medical emergency or who seeks such assistance for himself or herself, or who is the subject of a good faith request for such assistance may not be arrested, charged, prosecuted or convicted, or have his or her property subjected to forfeiture, or be otherwise penalized for violating…a provision of chapter 453 of NRS relating to…[d]rug paraphernalia, including, without limitation, NRS 453.554 to 453.566 [including the use, possession with intent to use, and delivery of drug paraphernalia], inclusive." Nev. Rev. Stat. § 453C.150(1)(a)(1); *see* Nev. Rev. Stat. § 453C.150(3), (5) (defining relevant terms).

[202] New Hampshire does not criminalize the use or possession with intent to use drug paraphernalia. *See* N.H. Rev. Stat. Ann. § 318-B:2.

[203] "It shall be 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 or is customarily intended to be used to…test, analyze…a controlled substance." N.H. Rev. Stat. Ann. § 318-B:2(II). "A person shall be guilty of a misdemeanor who…[m]anufactures 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 for one or more of the uses set forth in RSA 318-B:2, II [including testing a controlled substance]." N.H. Rev. Stat. Ann. § 318-B:26(III)(c). However, effective October 3, 2023, the definition of drug paraphernalia does not include "fentanyl test strips, xylazine test strips, or other materials used or intended for use in testing for the presence of fentanyl, xylazine, or a fentanyl or xylazine analog in a substance, unless possessed in conjunction with other evidence forming the basis of a criminal charge involving the manufacturing, possessing with the intent to sell, or compounding…" N.H. Rev. Stat. Ann. § 318-B:1(X-b).

[204] "It shall be 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 or is customarily intended to be used to…test, analyze…a controlled substance." N.H. Rev. Stat. Ann. § 318-B:2(II). "It shall be unlawful for any person, at retail, to sell or offer for sale any drug paraphernalia listed in RSA 318-B:1, X-a." N.H. Rev. Stat. Ann. § 318-B:2(II-a). "A person shall be guilty of a misdemeanor who…[m]anufactures 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 for one or more of the uses set forth in RSA 318-B:2, II [including testing a controlled substance]." N.H. Rev. Stat. Ann. § 318-B:26(III)(c). However, effective October 3, 2023, the definition of drug paraphernalia does not include "fentanyl test strips, xylazine test strips, or other materials used or intended for use in testing for the presence of fentanyl, xylazine, or a fentanyl or xylazine analog in a substance, unless possessed in conjunction with other evidence forming the basis of a criminal charge involving the manufacturing, possessing with the intent to sell, or compounding…" N.H. Rev. Stat. Ann. § 318-B:1(X-b).

[205] State law permits certain entities to operate syringe services programs "to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts." N.H. Rev. Stat. Ann. § 318-B:43(1)(a). Effective June 28, 2025, SSPs in New Hampshire are allowed to purchase, obtain, provide, transport, distribute and use drug checking equipment. Such equipment is broadly defined to include any materials used to identify, analyze, or detect "the composition of a drug or the presence or composition of an unexpected substance within the drug." N.H. Rev. Stat. Ann. § 318:43-a(b). No protection is provided for possession of the actual drug, however.

[206] State law permits certain entities to operate syringe services programs "to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts." N.H. Rev. Stat. Ann. § 318-B:43(1)(a). As noted, SSPs are permitted to distribute all drug checking equipment, and possession of drug paraphernalia is not illegal in the state

[207] The New Hampshire Good Samaritan law exempts "an offense of possessing or having under his or her control, a controlled drug in violation of RSA 318-B:2." N.H. Rev. Stat. Ann. § 318-B:28-b(II), (III). Although prohibitions related to the delivery of drug paraphernalia are included in that subsection, a plain reading of the Good Samaritan law only exempts offenses specifically related to the possession of a "controlled drug". *See* N.H. Rev. Stat. Ann. § 318-B:28-b(II), (III).

[208] "It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to… test, analyze… or otherwise introduce into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title, other than when used, or possessed with intent to use, for ingesting, inhaling, or otherwise introducing marijuana or hashish into the human body." N.J. Stat. § 2C:36-2(a). However, fentanyl test strips were excluded from the definition of drug paraphernalia effective January 18, 2022. Additionally, effective January 8, 2024 the definition of 'drug paraphernalia' excludes harm reduction supplies, which includes "naloxone hydrochloride and other opioid antidotes; test strips and other supplies or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances, controlled substance analogs, toxic chemicals, or other substances used to potentiate or enhance the effects of controlled dangerous substances, controlled substance analogs, or toxic chemicals; and supplies or equipment provided by an entity authorized to provide harm reduction services". *See* N.J. Stat. § 2C:36-1(a) (modified by 2023 N.J. Sess. Law Serv. Ch. 224 (S.B. 3957)). Furthermore, effective January 8, 2024, the definition of "drug paraphernalia" no longer includes a reference to "testing equipment". *See* N.J. Stat. § 2C:36-1(a)(4) (modified by 2023 N.J. Sess. Law Serv. Ch. 224 (S.B. 3957)).

[209] "It shall be unlawful for any person to distribute or dispense, or possess with intent to distribute or dispense, or manufacture with intent to distribute or dispense, drug paraphernalia, knowing that it will be used to… test, analyze… or otherwise introduce into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title." N.J. Stat. 2C:36-3. However, effective January 8, 2024, the definition of 'drug paraphernalia' excludes harm reduction supplies, which includes "naloxone hydrochloride and other opioid antidotes; test strips and other supplies or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances, controlled substance analogs, toxic chemicals, or other substances used to potentiate or enhance the effects of controlled dangerous substances, controlled substance analogs, or toxic chemicals; and supplies or equipment provided by an entity authorized to provide harm reduction services". *See* N.J. Stat. § 2C:36-1(a) (modified by 2023 N.J. Sess. Law Serv. Ch. 224 (S.B. 3957)). Furthermore, effective January 8, 2024, the definition of "drug paraphernalia" no longer includes a reference to "testing equipment". *See* N.J. Stat. § 2C:36-1(a)(4) (modified by 2023 N.J. Sess. Law Serv. Ch. 224 (S.B. 3957)).

[210] "It shall be unlawful for any person to distribute or dispense, or possess with intent to distribute or dispense, or manufacture with intent to distribute or dispense, drug paraphernalia, knowing that it will be used to… test, analyze… or otherwise introduce into the human body a controlled dangerous substance, controlled substance analog or toxic chemical in violation of the provisions of chapter 35 of this title." N.J. Stat. 2C:36-3. There is no definition of "distribute" or "dispense", however, the law has been used to prosecute sales. *See* Town Tobacconist v. Kimmelman, 94 N.J. 85, 93, 462 A.2d 573, 576 (1983). However, effective January 8, 2024, the definition of 'drug paraphernalia' excludes harm reduction supplies, which includes "naloxone hydrochloride and other opioid antidotes; test strips and other supplies or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances, controlled substance analogs, toxic chemicals, or other substances used to potentiate or enhance the effects of controlled dangerous substances, controlled substance analogs, or toxic chemicals; and supplies or equipment provided by an entity authorized to provide harm reduction services". *See* N.J. Stat. § 2C:36-1(a) (modified

by 2023 N.J. Sess. Law Serv. Ch. 224 (S.B. 3957)). Furthermore, effective January 8, 2024, the definition of "drug paraphernalia" no longer includes a reference to "testing equipment". *See* N.J. Stat. § 2C:36-1(a)(4) (modified by 2023 N.J. Sess. Law Serv. Ch. 224 (S.B. 3957)).

[211] New Jersey law requires the health department "permit the establishment and operation of harm reduction services." N.J. Stat. Ann. § 26:5C-27. Authorized harm reduction services is defined as "a suite of harm reduction services, approved by the Department of Health and provided in a manner that is consistent with State and federal law, which services shall include, but shall not be limited to: syringe access, syringe disposal, referrals to health and social services, harm reduction counseling and supplies including, but not limited to, fentanyl test strips, and HIV and hepatitis C testing." N.J. Stat. Ann. § 26:5C-26.1. Harm reduction supplies is further defined as "any materials or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances or controlled substance analogs, including, but not limited to, fentanyl test strips; opioid antidotes and associated supplies; and any other materials or equipment that may be used to prevent, reduce or mitigate the harms of disease transmission, overdose, and other harms associated with personal drug use as are designated through rules prescribed by the Commissioners of Health or Human Services." N.J. Stat. Ann. § 26:5C-26.1. Pursuant to the department of health regulations, a harm reduction center can further authorize secondary distribution of harm reduction supplies, so long as there is a policy in place for doing so. N.J. Admin. Code § 8:63-3.1(e). Furthermore, effective January 8, 2024, the definition of "drug paraphernalia" no longer includes a reference to "testing equipment". See N.J. Stat. § 2C:36-1(a)(4).

[212] New Jersey law also requires the health department "permit the establishment and operation of harm reduction services." N.J. Stat. Ann. § 26:5C-27. Authorized harm reduction services is defined as "a suite of harm reduction services, approved by the Department of Health and provided in a manner that is consistent with State and federal law, which services shall include, but shall not be limited to: syringe access, syringe disposal, referrals to health and social services, harm reduction counseling and supplies including, but not limited to, fentanyl test strips, and HIV and hepatitis C testing." N.J. Stat. Ann. § 26:5C-26.1. Harm reduction supplies is further defined as "any materials or equipment designed to identify or analyze the presence, strength, effectiveness, or purity of controlled dangerous substances or controlled substance analogs, including, but not limited to, fentanyl test strips; opioid antidotes and associated supplies; and any other materials or equipment that may be used to prevent, reduce or mitigate the harms of disease transmission, overdose, and other harms associated with personal drug use as are designated through rules prescribed by the Commissioners of Health or Human Services." N.J. Stat. Ann. § 26:5C-26.1. Pursuant to the department of health regulations, a harm reduction center can further authorize secondary distribution of harm reduction supplies, so long as there is a policy in place for doing so. N.J. Admin. Code § 8:63-3.1(e). Furthermore, effective January 8, 2024, the definition of "drug paraphernalia" no longer includes a reference to "testing equipment". *See* N.J. Stat. § 2C:36-1(a)(4).

[213] "A person who experiences a drug overdose and who seeks medical assistance or is the subject of a good faith request for medical assistance pursuant to section 4 of this act shall not be… arrested, charged, prosecuted, or convicted for using or possessing with intent to use drug paraphernalia pursuant to N.J. Stat. 2C:36-2." N.J. Stat. 2C:35-31(a)(6). "The provisions of subsection a. of this section shall only apply if the evidence for an arrest, charge, prosecution, conviction or revocation was obtained as a result of the seeking of medical assistance." N.J. Stat. 2C:35-31(b).

[214] Drug paraphernalia includes "testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs." N.M. Stat. Ann. § 30-31-2(T)(4). "It is unlawful for a person to use or possess with intent to use drug paraphernalia to…test, analyze…a controlled substance in violation of the Controlled Substances Act." N.M. Stat. Ann. § 30-31-25.1(A). However, "supplies or devices used for the testing of controlled substances or controlled substance analogs for dangerous adulterants" were exempted from this prohibition effective May 18, 2022. N.M. Stat. Ann. § 30-31-25.1(A)(3) (modified by 2022 New Mexico Laws Ch. 4 (H.B. 52)).

[215] "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…test, analyze…a controlled substance in violation of the Controlled Substances Act." N.M. Stat. Ann. § 30-31-25.1(B). The exemption that applies to paraphernalia possession does not extend to its distribution.

[216] "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…test, analyze…a controlled substance in violation of the Controlled Substances Act." N.M. Stat. Ann. § 30-31-25.1(B). "The

definition of “deliver” would include sale: “deliver” means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is an agency relationship.” N.M. Stat. Ann. § 30-31-2(G). The exemption that applies to paraphernalia possession does not extend to its distribution.

[217] New Mexico law provides exemptions to the paraphernalia law for syringe services program staff, volunteers, and participants: “The provisions of this subsection do not apply to a person who is in possession of: (1) hypodermic syringes or needles for the purpose of participation in or administration of the Harm Reduction Act; (2) supplies or devices obtained pursuant to the Harm Reduction Act in accordance with rules established by the department of health for the harm reduction program; or (3) supplies or devices used for the testing of controlled substances or controlled substance analogs for dangerous adulterants.” N.M. Stat. Ann. § 30-31-25.1(A). As of May 18, 2022, New Mexico law requires that a harm reduction program provide participants “supplies or devices used for testing controlled substances or controlled substance analogs for potentially dangerous adulterants.” N.M. Stat. Ann. § 24-2C-5(C).

[218] New Mexico law provides exemptions to the paraphernalia law for syringe services program staff, volunteers, and participants: “The provisions of this subsection do not apply to a person who is in possession of: (1) hypodermic syringes or needles for the purpose of participation in or administration of the Harm Reduction Act; (2) supplies or devices obtained pursuant to the Harm Reduction Act in accordance with rules established by the department of health for the harm reduction program; or (3) supplies or devices used for the testing of controlled substances or controlled substance analogs for dangerous adulterants.” N.M. Stat. Ann. § 30-31-25.1(A). As of May 18, 2022, New Mexico law requires that a harm reduction program provide participants “supplies or devices used for testing controlled substances or controlled substance analogs for potentially dangerous adulterants.” N.M. Stat. Ann. § 24-2C-5(C).

[219] “A person who, in good faith, seeks medical assistance for someone experiencing an alcohol- or drug-related overdose shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating [subsection A of section 30-31-25.1 NMSA 1978, including charges related to the use or possession with intent to use drug paraphernalia] if the evidence for the alleged violation was obtained as a result of the need for seeking medical assistance.” N.M. Stat. Ann. § 30-31-27.1(A)(1). “A person who experiences an alcohol- or drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating [subsection A of section 30-31-25.1 NMSA 1978, including charges related to the use or possession with intent to use drug paraphernalia] if the evidence for the alleged violation was obtained as a result of the overdose and the need for seeking medical assistance.” N.M. Stat. Ann. § 30-31-27.1(B)(1). “The act of seeking medical assistance for someone who is experiencing an alcohol- or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided pursuant to this section [including for charges related to the delivery of drug paraphernalia].” N.M. Stat. Ann. § 30-31-27.1(C); *see* N.M. Stat. Ann. § 30-31-27.1(D) (defining “seeking medical assistance”).

[220] New York does not criminalize the use or possession with intent to use drug checking equipment. *But see* N.Y. Penal Law § 220.50 (Criminal provisions for using certain drug paraphernalia, not including drug checking equipment).

[221] New York does not criminalize the free distribution of drug paraphernalia. *See generally* N.Y. Penal Law § 220.50. Nevertheless, healthcare professionals and pharmacists are “authorized to dispense drug adulterant testing supplies to any person”. N.Y. Pub. Health Law § 3309-b(2)-(3). When first effective December 17, 2023, N.Y. Pub. Health Law § 3309-b applied only to fentanyl and fentanyl analogs. (2023 Sess. Law News of N.Y. Ch. 654 (S. 2099-C).) It was expanded to include xylazine and “other substances” effective January 16, 2025.

[222] It is unlawful in New York to possess with intent to sell, offer for sale, or purchase drug-related paraphernalia. N.Y. Gen. Bus. Law § 851. However, the definition of drug-related paraphernalia does not include drug testing equipment. *See* N.Y. Gen. Bus. Law § 850.

[223] SSPs are authorized by New York state law. *See generally* N.Y. Comp. Codes R. & Regs. tit. 10, § 80.135. Although the law does not provide immunity from paraphernalia laws, possession and free distribution of DCE is not generally prohibited.

[224] SSPs are authorized by New York state law. *See generally* N.Y. Comp. Codes R. & Regs. tit. 10, § 80.135. Although the law does not provide immunity from paraphernalia laws, possession and free distribution of DCE is not generally prohibited.

[225] New York does not criminalize the use, possession with intent to use, or free distribution of drug checking equipment. However, the Good Samaritan law exempts charges relating to the sale of drug paraphernalia. N.Y. Penal Law § 220.78(1).

[226] Drug paraphernalia means "all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act, including…testing, analyzing…or otherwise introducing controlled substances into the human body." N.C. Gen. Stat. § 90-113.21(a). North Carolina criminalizes the use or possession with intent to use "drug paraphernalia to…test, analyze…a controlled substance other than marijuana." N.C. Gen. Stat. § 90-113.22(a). However, as of July 22, 2019, the law exempts drug checking equipment for personal use from these provisions: "Notwithstanding the provisions of subsection (a) of this section [concerning the use of and possession with intent to use drug paraphernalia], it is not unlawful for a person who introduces a controlled substance into his or her body, or intends to introduce a controlled substance into his or her body, to knowingly use, or to possess with intent to use, testing equipment for identifying or analyzing the strength, effectiveness, or purity of that controlled substance…." N.C. Gen. Stat. § 90-113.22(d)(i).

[227] "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… test, analyze… a controlled substance which it would be unlawful to possess." N.C. Gen. Stat. § 90-113.23(a). "Delivery, possession with intent to deliver, or manufacture with intent to deliver, of each separate and distinct item of drug paraphernalia is a separate offense." N.C. Gen. Stat. § 90-113.23(b)..

[228] "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… test, analyze… a controlled substance which it would be unlawful to possess." N.C. Gen. Stat. § 90-113.23(a). There is no definition of "deliver", however, it likely includes sale as is the case with most states. "Delivery, possession with intent to deliver, or manufacture with intent to deliver, of each separate and distinct item of drug paraphernalia is a separate offense." N.C. Gen. Stat. § 90-113.23(b).

[229] North Carolina exempts numerous organizations, including SSPs, from provisions related to distributing drug checking equipment: "Notwithstanding the provisions of subsection (a) of this section [concerning the use or possession with intent to use drug paraphernalia], 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 such testing equipment or distribute such testing equipment to a person who intends to introduce a controlled substance into his or her body." N.C. Gen. Stat § 90-113.22(d)(ii). Further, North Carolina's Department of Health and Human Services website notes that "most syringe exchange programs operate according to the practices and philosophy of harm reduction" and describes harm reduction techniques as including "drug-checking with fentanyl test strips." *Syringe and Naloxone Access*, N.C. DEP'T OF HEALTH AND HUM. SERVS., https://www.ncdhhs.gov/about/department-initiatives/opioid-epidemic/syringe-and-naloxone-access (last visited Aug. 24, 2023).

[230] North Carolina exempts "…a person who introduces a controlled substance into his or her body, or intends to introduce a controlled substance into his or her body, to knowingly use, or to possess with intent to use, testing equipment for identifying or analyzing the strength, effectiveness, or purity of that controlled substance" from the prohibition against possessing paraphernalia. N.C. Gen. Stat § 90-113.22(d).

[231] A person acting in good faith who seeks medical assistance in the good faith belief that they are the first to seek assistance for an individual experiencing a drug-related overdose shall not be prosecuted for a violation of G.S. 90-113.22 [including use or possession with intent to use drug paraphernalia] if the person provides their name and does not seek assistance during the execution of a warrant or lawful search, and evidence for prosecution under those sections was obtained as a result of the person seeking medical assistance for the drug-related overdose. N.C. Gen. Stat § 90-96.2(b). The same protections apply to the person who experienced the overdose. N.C. Gen. Stat § 90-96.2(c).

[232] "A person may not use or possess with intent to use drug paraphernalia to…test, analyze…a controlled substance." N.D. Cent. Code § 19-03.4-03(1). Drug paraphernalia includes "[t]esting equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances." N.D. Cent. Code § 19-03.4-01(1).

[233] "A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to…test, analyze…a controlled substance." N.D. Cent. Code § 19-03.4-04. There are increased penalties for delivering drug paraphernalia, including drug checking equipment, to a minor. N.D. Cent. Code § 19-03.4-05.

[234] "A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to…test, analyze…a controlled substance." N.D. Cent. Code § 19-03.4-04. There is no definition of "deliver", however, it likely includes sale as is the case with most states. There are increased penalties for delivering drug paraphernalia, including drug checking equipment, to a minor. N.D. Cent. Code § 19-03.4-05.

[235] North Dakota law permits the department of health and human services to authorize qualified entities to operate syringe services programs. N.D. Cent. Code § 23-01-44(3). The law requires syringe services programs to provide supplies as part of their operations and specifically includes “testing strips” under the definition of “supplies.” *See* N.D. Cent. Code § 23-01-44(1)(c). Under North Dakota law, "A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes, needles, and supplies appropriately collected under this section are not considered drug paraphernalia as provided in chapter 19-03.4 or possession of a controlled substance under section 19-03.1-23." N.D. Cent. Code Ann. § 23-01-44(7).

[236] North Dakota law requires syringe services programs to provide supplies as part of their operations and specifically includes “testing strips” under the definition of “supplies.” *See* N.D. Cent. Code § 23-01-44(1)(c). The law further specifies that “A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes, needles, and supplies appropriately collected under this section are not considered drug paraphernalia….” N.D. Cent. Code § 23-01-44(7).

[237] “An individual is immune from criminal prosecution under…section 19-03.4-03 [use or possession with intent to use drug paraphernalia] if in good faith that individual seeks medical assistance for another individual in need of emergency medical assistance due to a drug overdose. To receive immunity under this section, the individual receiving immunity must have remained on the scene until assistance arrived, cooperated with the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in a condition a layperson would reasonably believe to be a drug overdose requiring immediate medical assistance. Neither the individual who experiences a drug-related overdose and is in need of emergency medical assistance nor the cooperating individual seeking medical assistance may be charged or prosecuted for the criminal offenses listed in this section or for the sharing of controlled substances among those present. Immunity from prosecution under this section does not apply unless the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for emergency medical assistance.” N.D. Cent. Code § 19-03.1-23.4.

[238] “As used in this section, ‘drug paraphernalia’ means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in…testing, analyzing…or otherwise introducing into the human body, a controlled substance in violation of this chapter.” Ohio Rev. Code Ann. § 2925.14(A). “[N]o person shall knowingly use, or possess with purpose to use, drug paraphernalia.” Ohio Rev. Code Ann. § 2925.14(C)(1). However, effective April 4, 2023, the statute “does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.” Ohio Rev. Code Ann. § 2925.14(D)(4) (2023). Effective September 30, 2025, the exception was expanded to “not apply to a person's use, or possession with purpose to use, drug testing strips to determine the presence of fentanyl or a fentanyl-related compound or any other equipment, product, or material approved by the state board of pharmacy, in rules adopted under section 4729.261 of the Revised Code, as a type of instrument that demonstrates efficacy in reducing drug poisoning by determining the presence of a specific compound or group of compounds.” Ohio Rev. Code Ann. § 2925.14(D)(4). Also effective September 30, 2025, the state board of pharmacy must adopt standards and procedures for determining “types of instruments” that are not drug paraphernalia “because they demonstrate efficacy in reducing drug poisoning by determining the presence of a specific compound or group of compounds.” Ohio Rev. Code Ann. § 4729.261(A). Effective November 1, 2025, the board adopted those standards and procedures and decided test strips and reagent kits for fentanyl and fentanyl-related compounds, xylazine, medetomidine, benzimidazole-opioids or nitazenes; and benzodiazepines and benzodiazepine-related compounds are not drug paraphernalia. Ohio Admin. Code 4729-8-02. The board may approve additional instruments by resolution. Ohio Admin. Code 4729-8-02(B).

[239] Ohio does not criminalize the free distribution of drug paraphernalia.

[240] It is unlawful in Ohio to “sell, or possess or manufacture with purpose to sell” drug paraphernalia. Ohio Rev. Code Ann. § 2925.14(C)(2).

[241] Ohio law exempts participants of bloodborne infectious disease prevention programs (what the state terms SSPs) from paraphernalia possession under strict circumstances: “If participating in a component of a bloodborne infectious disease prevention program would be considered a violation of [Division (C)(1) of section 2925.14 of the Revised Code regarding the prohibition against illegal possession of drug paraphernalia], a program participant who is within one thousand feet of a program facility and is in possession of documentation from the program identifying the individual as an active participant in the program is not subject to criminal prosecution for the violation.” Ohio Rev. Code Ann. § 3707.57(F)(2)(c). Ohio also exempts volunteers and staff of a program: “If carrying out a duty under a component of a bloodborne infectious disease prevention program [authorized by Ohio Rev. Code Ann. § 3707.57] would be considered a violation of [Division (C)(1) of section 2925.14 of the Revised Code regarding the prohibition against illegal possession

of drug paraphernalia], an employee or volunteer of the program, when carrying out the duty, is not subject to criminal prosecution for the violation." Ohio Rev. Code Ann. § 3707.57(F)(1)(c). However, as noted above, the free distribution of paraphernalia is not prohibited in Ohio.

[242] Ohio law exempts participants of bloodborne infectious disease prevention programs (what the state terms SSPs) from paraphernalia possession under strict circumstances: "If participating in a component of a bloodborne infectious disease prevention program would be considered a violation of [Division (C)(1) of section 2925.14 of the Revised Code regarding the prohibition against illegal possession of drug paraphernalia], a program participant who is within one thousand feet of a program facility and is in possession of documentation from the program identifying the individual as an active participant in the program is not subject to criminal prosecution for the violation." Ohio Rev. Code Ann. § 3707.57(F)(2)(c). Ohio also exempts volunteers and staff of a program: "If carrying out a duty under a component of a bloodborne infectious disease prevention program [authorized by Ohio Rev. Code Ann. § 3707.57] would be considered a violation of [Division (C)(1) of section 2925.14 of the Revised Code regarding the prohibition against illegal possession of drug paraphernalia], an employee or volunteer of the program, when carrying out the duty, is not subject to criminal prosecution for the violation." Ohio Rev. Code Ann. § 3707.57(F)(1)(c).

[243] Ohio law provides protection from the crime of possessing controlled substances in certain circumstances. Ohio Rev. Code Ann. § 2925.11(B)(2). Effective April 4, 2023, those protections extend to the statute criminalizing the use and possession with intent to use drug paraphernalia "when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose." Ohio Rev. Code Ann. § 2925.14(D)(3)

[244] "No person shall use drug paraphernalia to…test, analyze…a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act." Okla. Stat. tit. 63 § 2-405(B). Drug paraphernalia includes "testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances." Okla. Stat. tit. 63 § 2-101(36)(d). However, effective June 9, 2023, "the term drug paraphernalia shall not include … drug testing strips possessed by a person for purposes of determining the presence of fentanyl or a fentanyl-related compound." Okla. Stat. Ann. tit. 63, § 2-101(18).

[245] "No person shall deliver, sell, possess or manufacture drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act." Okla. Stat. tit. 63 § 2-405(C). However, effective June 9, 2023 "the term drug paraphernalia shall not include … drug testing strips possessed by a person for purposes of determining the presence of fentanyl or a fentanyl-related compound." Okla. Stat. Ann. tit. 63, § 2-101(18).

[246] "No person shall deliver, sell, possess or manufacture drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act." Okla. Stat. tit. 63 § 2-405(C). However, effective June 9, 2023 "the term drug paraphernalia shall not include … drug testing strips possessed by a person for purposes of determining the presence of fentanyl or a fentanyl-related compound." Okla. Stat. Ann. tit. 63, § 2-101(18).

[247] Effective April 20, 2021, harm reduction organizations that have registered with the State Department of Health were authorized to "[p]ossess and distribute hypodermic needles, cleaning kits, test kits and opioid antagonists." Okla. Stat. tit. 63 § 2-1101(B)(6). The paraphernalia law was also modified to note that "nothing in this section shall apply to objects in the possession of harm-reduction services providers as authorized by [the syringe services program law]." Okla. Stat. tit. 63 § 2-101.1. However, the syringe services program law sunset on July 1, 2026. Okla. Stat. Ann. tit. 63, § 2-1101(A).

[248] "No person shall use drug paraphernalia to…test, analyze…a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act." Okla. Stat. tit. 63 § 2-405(B). Drug paraphernalia includes "testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances." Okla. Stat. tit. 63 § 2-101(36)(d). However, effective June 9, 2023, "the term drug paraphernalia shall not include … drug testing strips possessed by a person for purposes of determining the presence of fentanyl or a fentanyl-related compound." Okla. Stat. Ann. tit. 63, § 2-101(18). However, the syringe services program law sunset July 1, 2026. Okla. Stat. Ann. tit. 63, § 2-1101(A).

[249] "A person who meets the criteria of subsection A of this section [listing the factors to meet the Good Samaritan law] is immune from criminal prosecution for…possession of drug paraphernalia associated with a controlled dangerous substance, as defined in paragraph 36 of Section 2-101 of Title 63 of the Oklahoma Statutes." Okla. Stat. tit. 63 § 2-413.1(B); *see also* Okla. Stat. tit. 63 § 2-413.1(A) (listing the factors to qualify for the Good Samaritan exception).

[250] Oregon does not criminalize the use or possession with intent to use drug paraphernalia. *See generally* Or. Rev. Stat. §§ 475.525-.744.

[251] "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 to unlawfully…test, analyze…a controlled substance." Or. Rev. Stat. § 475.525(1). Violations are punishable by a civil penalty of between $2,000 and $10,000. Or. Rev. Stat. § 475.565. Effective August 4, 2023, testing equipment was removed from the list of examples of drug paraphernalia and "single-use drug test strips, drug testing tools or any other item designed to prevent or reduce the potential harm associated with the use of controlled substances, including but not limited to items that reduce the transmission of infectious disease or prevent injury, infection or overdose" are explicitly excluded from the definition of "drug paraphernalia". Or. Rev. Stat. § 475.525(3) (modified by 2023 Oregon Laws Ch. 593 (H.B. 2395)). However, the bill added a section specifically making it against the law "to provide single-use drug test strips or drug testing tools to a minor who is under 15 years of age unless the strips or tools are provided to the minor as part of the minor's substance use disorder treatment provided by a mental health care provider and the strips or tools are provided by the mental health care provider." Or. Rev. Stat. § 475.528(1) (modified by 2023 Oregon Laws Ch. 593 (H.B. 2395)).

[252] "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 to unlawfully…test, analyze…a controlled substance." Or. Rev. Stat. § 475.525(1). Violations are punishable by a civil penalty of between $2,000 and $10,000. Or. Rev. Stat. § 475.565. Effective August 4, 2023, testing equipment was removed from the list of examples of drug paraphernalia and "single-use drug test strips, drug testing tools or any other item designed to prevent or reduce the potential harm associated with the use of controlled substances, including but not limited to items that reduce the transmission of infectious disease or prevent injury, infection or overdose" are explicitly excluded from the definition of "drug paraphernalia". Or. Rev. Stat. § 475.525(3) (modified by 2023 Oregon Laws Ch. 593 (H.B. 2395)). However, the bill added a section specifically making it against the law "to provide single-use drug test strips or drug testing tools to a minor who is under 15 years of age unless the strips or tools are provided to the minor as part of the minor's substance use disorder treatment provided by a mental health care provider and the strips or tools are provided by the mental health care provider." Or. Rev. Stat. § 475.528(1) (modified by 2023 Oregon Laws Ch. 593 (H.B. 2395)).

[253] "Sterile needles and syringes and *other items provided by a syringe service program* may not be considered 'drug paraphernalia,' as that term is defined in ORS 475.525 [related to the delivery of drug paraphernalia]." Or. Rev. Stat. § 475.757(3) (emphasis added). Syringe services program employees and volunteers also have an affirmative defense to possession of controlled substances when acting in their capacity as an employee or volunteer of the SSP. Or. Rev. Stat. Ann. § 475.757(2).

[254] "Sterile needles and syringes and *other items provided by a syringe service program* may not be considered 'drug paraphernalia,' as that term is defined in ORS 475.525 [related to the delivery of drug paraphernalia]." Or. Rev. Stat. § 475.757(3) (emphasis added). Syringe services program employees and volunteers also have an affirmative defense to possession of controlled substances when acting in their capacity as an employee or volunteer of the SSP. Or. Rev. Stat. Ann. § 475.757(2).

[255] "The immunity conferred under subsections (1) and (2) of this section [listing the factors to qualify for the Good Samaritan exception] applies to arrest, prosecution, and the imposition of a civil penalty for…[u]nlawful possession of drug paraphernalia with intent to sell or deliver as described in ORS 475.525." Or. Rev. Stat. § 475.898(3)(k); *see also* Or. Rev. Stat. §§ 475.898(1),(2) (listing the factors to qualify for the Good Samaritan exception). The immunity from the imposition of civil penalties was added effective July 17, 2025. (2025 Oregon Laws Ch. 532 (S.B. 236)). When enacted effective January 1, 2016, the protections were only for arrest and prosecution.

[256] "The following acts and the causing thereof within the Commonwealth are hereby prohibited: … [t]he use of, or possession with intent to use, drug paraphernalia for the purpose of…testing, analyzing…a controlled substance in violation of this act." 35 Pa. Stat. § 780-113(a)(32). Drug paraphernalia includes "[t]esting equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances." 35 Pa. Stat. § 780-102(b)(4). However, effective January 3, 2023 "[t]his definition does not include testing products utilized in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds in quantities which can cause physical harm or death [and] [t]he term "testing products" shall include, but is not limited to, fentanyl test strips." 35 Pa. Stat. Ann. § 780-102.

[257] "The delivery of, possession with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it would be used to…test, analyze…a controlled substance in violation of this act." 35 Pa. Stat. § 780-113(a)(33). However, effective January 3, 2023 "[t]his definition

does not include testing products utilized in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds in quantities which can cause physical harm or death [and] [t]he term "testing products" shall include, but is not limited to, fentanyl test strips." 35 Pa. Stat. Ann. § 780-102.

[258] "The delivery of, possession with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it would be used to…test, analyze…a controlled substance in violation of this act." 35 Pa. Stat. § 780-113(a)(33). However, effective January 3, 2023 "[t]his definition does not include testing products utilized in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds in quantities which can cause physical harm or death [and] [t]he term "testing products" shall include, but is not limited to, fentanyl test strips." 35 Pa. Stat. Ann. § 780-102. The definition of "deliver" would include sales "the actual, constructive, or attempted transfer from one person to another of a controlled substance, other drug, device or cosmetic whether or not there is an agency relationship." 35 Pa. Stat. Ann. § 780-102(b).

[259] While syringe services programs operate in Allegheny and Philadelphia counties under local authorization, neither provides explicit legal protection from paraphernalia laws. *See* Allegheny County Health Department Rules and Regulations Article II: https://www.alleghenycounty.us/files/assets/county/v/2/government/health/documents/human-health-regulations/article-2-syringe-services.pdf (Revised Effective July 2, 2023); Phila. Exec. Order No. 04-92 (July 27, 1992).

[260] While syringe services programs operate in Allegheny and Philadelphia counties under local authorization, neither provides explicit legal protection from paraphernalia laws. *See* Allegheny County Health Department Rules and Regulations Article II: https://www.alleghenycounty.us/files/assets/county/v/2/government/health/documents/human-health-regulations/article-2-syringe-services.pdf (Revised Effective July 2, 2023); Phila. Exec. Order No. 04-92 (July 27, 1992).

[261] "The prohibition on charging or prosecuting a person as described in subsection (a) [listing the factors to qualify for the Good Samaritan exception] bars charging or prosecuting a person for probation and parole violations and for violations of section 13(a)(5), (16), (19), (31), (32) [use and possession with intent to use drug paraphernalia], (33) [delivery of drug paraphernalia] and (37)." 35 Pa. Stat. § 780-113.7(b); *see also* 35 Pa. Stat. § 780-113.7(a), (c) (listing the factors to qualify for the Good Samaritan exception).

[262] "It shall be unlawful for any person to knowingly and with criminal intent, use or possess with the intention of using drug paraphernalia to …test, analyze…a controlled substance in violation of this chapter." P.R. Laws Ann. tit. 24, § 2411b(c)(2). Drug paraphernalia includes "[t]esting equipment, or chemicals or alcohol used, or destined or designed for use in the identification, analysis or measurement of the potency, effectiveness, purity or quality of controlled substances." P.R. Laws Ann. tit. 24, § 2411b(a)(4).

[263] "It shall be unlawful for any person to knowingly, and with criminal intent, manufacture, distribute, sell, dispense, deliver, transport, conceal, or possess with the intent of distributing, selling, disposing, delivering, transporting or concealing drug paraphernalia, as this term is defined in subsection (a) of this section, in order to…test, analyze…a controlled substance into the human body in violation of this chapter." P.R. Laws Ann. tit. 24, § 2411b(c)(1).

[264] "It shall be unlawful for any person to knowingly, and with criminal intent, manufacture, distribute, sell, dispense, deliver, transport, conceal, or possess with the intent of distributing, selling, disposing, delivering, transporting or concealing drug paraphernalia, as this term is defined in subsection (a) of this section, in order to…test, analyze…a controlled substance into the human body in violation of this chapter." P.R. Laws Ann. tit. 24, § 2411b(c)(1). There are increased penalties for a person over 18 delivering paraphernalia to a person under 18. P.R. Laws Ann. tit. 24, § 2405(c).

[265] "The provisions of § 2411b and 2405 of this title shall not apply to: (1) The Department of Health. (2) Non-profit entities duly authorized by the Department of Health that, with the purpose of preventing the transmission of contagious diseases, or as part of an educational or prevention program, distribute hypodermic needles and other accessories. (3) Duly identified participants of said programs for distribution and exchange of hypodermic needles and other accessories." P.R. Laws Ann. Tit. 24, § 2608.

[266] "The provisions of § 2411b and 2405 of this title shall not apply to: (1) The Department of Health. (2) Non-profit entities duly authorized by the Department of Health that, with the purpose of preventing the transmission of contagious diseases, or as part of an educational or prevention program, distribute hypodermic needles and other accessories. (3) Duly identified participants of said programs for distribution and exchange of hypodermic needles and other accessories." P.R. Laws Ann. Tit. 24, § 2608.

[267] Puerto Rico enacted a Good Samaritan law in August 2021 that provides protection from some drug paraphernalia charges, but not charges related to testing equipment. *See* P.R. Laws Ann. tit. 24, § 2644(a)(1).

[268] Rhode Island does not criminalize the use or possession with intent to use drug paraphernalia. *See generally* R.I. Gen. Laws §§ 21-28.5-1–4.

[269] "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 … test, analyze … or introduce into the human body a controlled substance in violation of chapter 28 of this title." 21 R.I. Gen. Laws Ann. § 21-28.5-2. However, effective July 2, 2018, Rhode Island has explicitly legalized the provision and utilization of drug checking equipment: "(a) Any 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. Narcotic testing products shall include, but not be limited to, fentanyl test strips." R.I. Gen. Laws § 21-28.9-3.1.

[270] Rhode Island has explicitly legalized the provision and utilization of drug checking equipment: "(a) Any 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. Narcotic testing products shall include, but not be limited to, fentanyl test strips. (b) A person who provides, administers, or utilizes a narcotic testing product to assist another person shall not be subject to civil liability or criminal prosecution as a result of providing, administering, or utilizing the narcotic testing product to assist another person." R.I. Gen. Laws § 21-28.9-3.1.

[271] While syringe services programs are authorized in Rhode Island, the law does not provide explicit protection from paraphernalia-related crimes. *See* R.I. Gen. Laws § 23-11-19. However, effective July 2, 2018, Rhode Island has explicitly legalized the provision and utilization of drug checking equipment: "(a) Any 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. Narcotic testing products shall include, but not be limited to, fentanyl test strips. R.I. Gen. Laws § 21-28.9-3.1.

[272] While syringe services programs are authorized in Rhode Island, the law does not provide explicit protection from paraphernalia-related crimes. *See* R.I. Gen. Laws § 23-11-19. However, the possession of drug paraphernalia is not a crime in the state.

[273] The Rhode Island Good Samaritan law exempts possession of drug paraphernalia, even though this is not a crime in the state. *See* R.I. Gen. Laws § 21-28.9-4. The Good Samaritan law is confusingly written, although we believe it was intended to apply to the delivery of drug paraphernalia under the general rule that legislatures are presumed not to create laws that would have no effect: "Any person who, in good faith, without malice and in the absence of evidence of an intent to defraud, seeks medical assistance for someone experiencing a drug overdose or other drug-related medical emergency shall not be charged or prosecuted for any crime related to the possession of a controlled substance or drug paraphernalia, or the operation of a drug-involved premises, if the evidence for the charge was gained as a result of the seeking of medical assistance." R.I. Gen. Laws § 21-28.9-4(a); *see also* R.I. Gen. Laws § 21-28.9-4(b) (containing the Good Samaritan exception as applied to a person experiencing an overdose).

[274] South Carolina's definition of paraphernalia does not explicitly include drug checking equipment, nor does it encompass items used for injecting controlled substances: "'Paraphernalia' means any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, manufacturing, or preparing a controlled substance and does not include cigarette papers and tobacco pipes but includes, but is not limited to [lists examples not including drug checking equipment]." S.C. Code § 44-53-110(33). "Administering" is defined in the Code as "the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (a) a practitioner (or, in his presence, by his authorized agent); or (b) the patient or research subject at the direction and in the presence of the practitioner." S.C. Code of Laws § 44-53-110(1). "Practitioner" is defined as "a physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this State." S.C. Code of Laws § 44-53-110(36). We therefore conclude that it is not contrary to South Carolina law for a person who uses drugs to possess drug checking equipment. In South Carolina the possession of paraphernalia is a civil offense: "It shall be unlawful for any person to advertise for sale, manufacture, possess, sell or deliver, or to possess with the intent to deliver, or sell paraphernalia." S.C. Code § 44-53-391(a). "Any person found guilty of violating the provisions of this section shall be subject to a civil fine of not more than five hundred dollars except that a corporation shall be subject to a civil fine of not more than fifty thousand dollars. Imposition of such fine shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense." S.C. Code § 44-53-391(c). Effective June 15, 2023, the

definition of “drug paraphernalia” also explicitly does not include fentanyl and fentanyl analogue testing equipment. S.C. Code Ann. § 44-53-393.

[275] South Carolina prohibits the delivery of paraphernalia: “It shall be unlawful for any person to advertise for sale, manufacture, possess, sell or deliver, or to possess with the intent to deliver, or sell paraphernalia.” S.C. Code § 44-53-391(a). However, South Carolina’s definition of paraphernalia does not explicitly include drug checking equipment. ‘Paraphernalia’ means any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, manufacturing, or preparing a controlled substance and does not include cigarette papers and tobacco pipes but includes, but is not limited to [lists examples not including drug checking equipment].” S.C. Code § 44-53-110(33). Effective June 15, 2023, the definition of “drug paraphernalia” also explicitly does not include fentanyl and fentanyl analogue testing equipment. S.C. Code Ann. § 44-53-393.

[276] South Carolina prohibits the delivery of paraphernalia: “It shall be unlawful for any person to advertise for sale, manufacture, possess, sell or deliver, or to possess with the intent to deliver, or sell paraphernalia.” S.C. Code § 44-53-391(a). However, South Carolina’s definition of paraphernalia does not explicitly include drug checking equipment. ‘Paraphernalia’ means any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, manufacturing, or preparing a controlled substance and does not include cigarette papers and tobacco pipes but includes, but is not limited to [lists examples not including drug checking equipment].” S.C. Code § 44-53-110(33). Effective June 15, 2023, the definition of “drug paraphernalia” also explicitly does not include fentanyl and fentanyl analogue testing equipment. S.C. Code Ann. § 44-53-393.

[277] Syringe services programs are not explicitly permitted in South Carolina, however, they are not explicitly prohibited and free distribution of testing equipment is not generally prohibited.

[278] Syringe services programs are not explicitly permitted in South Carolina, however, they are not explicitly prohibited and possession of testing equipment is not generally prohibited.

[279] “A person who seeks medical assistance for another person in accordance with the requirements of subsection (A) may not be prosecuted for…(5) possessing paraphernalia in violation of Section 44-53-391; (6) selling or delivering paraphernalia in violation of Section 44-53-391, when the sale or delivery is to the person who appears to be experiencing a drug-related overdose.” S.C. Code § 44-53-1920(B)(5), (6); *see also* S.C. Code § 44-53-1920(A), (C), (D) (listing the factors to qualify for the Good Samaritan exception). The protection also covers the person experiencing an overdose. S.C. Code Ann. § 44-53-1930.

[280] “No person, knowing the drug related nature of the object, may use or to possess with intent to use, drug paraphernalia to…test, analyze…any controlled substance.” S.D. Codified Laws § 22-42A-3. Drug paraphernalia includes “any equipment, products and materials of any kind which are primarily used, intended for use, or designed for use by the person in possession of them, in…testing, analyzing…or otherwise introducing into the human body any controlled substance or marijuana in violation of the provisions of this chapter.” S.D. Codified Laws § 22-42A-1. However, effective July 1, 2023, “drug paraphernalia does not include a product that detects the presence of fentanyl or a fentanyl analog in a controlled substance.” S.D. Codified Laws § 22-42A-1.

[281] “No person, knowing the drug related nature of the object, may 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… test, analyze… a controlled substance… in violation of this chapter.” S.D. Codified Laws § 22-42A-4. There is no definition of “deliver”, however, the law has been used to prosecute for sales. See State v. Holway, 2002 S.D. 50, ¶ 1, 644 N.W.2d 624, 626. However, effective July 1, 2023, “drug paraphernalia does not include a product that detects the presence of fentanyl or a fentanyl analog in a controlled substance.” S.D. Codified Laws § 22-42A-1.

[282] “No person, knowing the drug related nature of the object, may 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… test, analyze… a controlled substance… in violation of this chapter.” S.D. Codified Laws § 22-42A-4. However, effective July 1, 2023, “drug paraphernalia does not include a product that detects the presence of fentanyl or a fentanyl analog in a controlled substance.” S.D. Codified Laws § 22-42A-1.

[283] South Dakota does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[284] South Dakota does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[285] South Dakota’s Good Samaritan exception does not provide protection for drug paraphernalia crimes. *See* S.D. Codified Laws §§ 34-20A-110, 34-20A-111. However, the Good Samaritan law might apply as a mitigating factor for charges relating to the use, possession with intent to use, or delivery of drug paraphernalia: “providing first aid or other

medical assistance to someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution for which immunity is not provided under §§ 34-20A-109 to 34-20A-113, inclusive." S.D. Codified Laws § 34-20A-112; *see also* S.D. Codified Laws §§ 34-20A-109, 34-20A-113 (listing factors to qualify for the Good Samaritan law, definitions, and other relevant information).

[286] "Except when used or possessed with the intent to use by a person authorized…to dispense, prescribe, manufacture or possess a controlled substance, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to…test, analyze…a controlled substance or controlled substance analogue in violation of this part." Tenn. Code Ann. § 39-17-425(a)(1). Drug paraphernalia includes "[t]esting equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances." However, effective March 31, 2022, it does not include "narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid, unless the narcotic testing equipment is possessed for purposes of the defendant's commission of an offense under § 39-17-417." Tenn. Code Ann. § 39-17-402(12)(B). This provision previously was set to sunset on July 1, 2025, but the legislature removed the sunset provision effective April 3, 2025.

[287] "Except when delivered, possessed with the intent to deliver, or manufactured with the intent to deliver by a person authorized… to dispense, prescribe, manufacture or possess a controlled substance, 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…test, analyze…a controlled substance or controlled substance analogue in violation of this part." Tenn. Code Ann. § 39-17-425(b)(1). Drug paraphernalia includes "[t]esting equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances." However, effective March 31, 2022, it does not include "narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid, unless the narcotic testing equipment is possessed for purposes of the defendant's commission of an offense under § 39-17-417." Tenn. Code Ann. § 39-17-402(12)(B)). This provision was previously set to sunset on July 1, 2025, but the legislature removed the sunset provision effective April 3, 2025. Tenn. Code Ann. § 39-17-417 prohibits the knowing manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell a controlled substance.

[288] "Except when delivered, possessed with the intent to deliver, or manufactured with the intent to deliver by a person authorized… to dispense, prescribe, manufacture or possess a controlled substance, 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…test, analyze…a controlled substance or controlled substance analogue in violation of this part." Tenn. Code Ann. § 39-17-425(b)(1). The definition of "deliver" would include sale: "the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship." Tenn. Code Ann. § 39-17-402(6). Drug paraphernalia includes "[t]esting equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances." However, effective March 31, 2022, it does not include "narcotic testing equipment used to determine whether a controlled substance contains a synthetic opioid, unless the narcotic testing equipment is possessed for purposes of the defendant's commission of an offense under § 39-17-417." Tenn. Code Ann. § 39-17-402(12)(B)). This provision was previously set to sunset on July 1, 2025, but the legislature removed the sunset provision effective April 3, 2025. Tenn. Code Ann. § 39-17-417 prohibits the knowing manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell a controlled substance.

[289] Tennessee exempts participants, volunteers, and employees from the state paraphernalia law for some paraphernalia obtained from or returned to a syringe exchange: "It is an exception to the application of title 39, chapter 17, part 4 [related to possessing or giving away drug paraphernalia, including drug checking equipment], if an employee, volunteer, or participant of a program established pursuant to this section [needle and hypodermic syringe exchange program] possesses…[n]eedles, hypodermic syringes, or *other injection supplies obtained from or returned to a program established pursuant to this section*." Tenn. Code Ann. § 68-1-136(c)(1)(A) (emphasis added). "The exception provided in this subsection (c) shall apply only if the person claiming the exception provides written verification that a needle, syringe, or other injection supplies were obtained from a needle and hypodermic syringe exchange program established pursuant to this section. For a participant in the program, this exception shall only apply to possession when the participant is engaged in the exchange or in transit to or from the exchange." Tenn. Code Ann. § 68-1-136(c)(2)(A). The statute authorizing the creation of a syringe exchange explains that syringe exchanges should include supplies in addition to syringes, likely including drug checking equipment: "Programs established pursuant to this section shall offer all of the following: … [n]eedles, hypodermic syringes, and *other injection supplies*." Tenn. Code Ann. § 68-1-136(b)(2)

(emphasis added). However, it is not clear whether this would extend to drug checking equipment other than that which has been removed from the paraphernalia law (see above).

[290] Tennessee exempts participants, volunteers, and employees from the state paraphernalia law for paraphernalia obtained from or returned to an SSP. *See* Tenn. Code Ann. § 68-1-136(c)(1)(A). However, "[f]or a participant in the program, this exception shall only apply to possession when the participant is engaged in the exchange or in transit to or from the exchange." It is not clear whether this limited protection applies to items are than those that have been removed from the paraphernalia law (see above).

[291] "Any person who in good faith seeks medical assistance for a person experiencing or believed to be experiencing an overdose shall not be arrested, charged, or prosecuted for a drug or alcohol violation if the evidence for the arrest, charge, or prosecution of the drug or alcohol violation resulted from seeking such medical assistance. Any person who is experiencing an overdose and who in good faith seeks medical assistance for or is the subject of a request for medical assistance shall not be arrested, charged, or prosecuted for a drug or alcohol violation if the evidence for the arrest, charge, or prosecution of the drug or alcohol violation resulted from seeking such medical assistance. This immunity from being arrested, charged, or prosecuted shall apply to the person experiencing an overdose on the person's first such overdose. This immunity from being arrested, charged, or prosecuted may be applied if the person experiences subsequent overdoses at the discretion of the responding law enforcement officer or the district attorney general's office." Tenn. Code Ann. § 63-1-156(b). As defined by the same provision, a "drug or alcohol violation" includes a violation of § 39-17-425 [including the use, possession with intent to use, and delivery of drug paraphernalia]. Tenn. Code Ann. § 63-1-156(a)(2)(B); *see also* Tenn. Code Ann. § 63-1-156(a) (listing additional relevant definitions). Effective July 1, 2025, the law was expanded to include certain alcohol violations. 2025 Tennessee Laws Pub. Ch. 231 (S.B. 940).

[292] "A person commits an offense if the person knowingly or intentionally uses or possesses with intent to use drug paraphernalia to…test, analyze…a controlled substance in violation of this chapter or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter." Tex. Health & Safety Code Ann. § 481.125(a). Drug paraphernalia includes "testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance." Tex. Health & Safety Code Ann. § 481.002(17)(D).

[293] "A person commits an offense if the person knowingly or intentionally delivers, possesses with intent to deliver, or manufactures with intent to deliver drug paraphernalia knowing that the person who receives or who is intended to receive the drug paraphernalia intends that it be used to… test, analyze… a controlled substance in violation of this chapter." Tex. Health & Safety Code Ann. § 481.125(b).

[294] "A person commits an offense if the person knowingly or intentionally delivers, possesses with intent to deliver, or manufactures with intent to deliver drug paraphernalia knowing that the person who receives or who is intended to receive the drug paraphernalia intends that it be used to… test, analyze… a controlled substance in violation of this chapter." Tex. Health & Safety Code Ann. § 481.125(b). The definition of "deliver" explicitly includes sale: "to transfer, actually or constructively, to another a controlled substance, counterfeit substance, or drug paraphernalia, regardless of whether there is an agency relationship. The term includes offering to sell a controlled substance, counterfeit substance, or drug paraphernalia." Tex. Health & Safety Code Ann. § 481.002(8).

[295] Texas does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[296] Texas does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[297] Effective September 1, 2021, Texas law provides a "defense to prosecution" for paraphernalia possession if certain criteria are met. Tex. Health & Safety Code Ann. § 481.125(g)–(i) (modified by 2021 Tex. Sess. Law Serv. Ch. 808 (H.B. 1694)).

[298] "An actor commits unlawful use of drug paraphernalia if the actor uses, or possesses with intent to use, drug paraphernalia to…test, analyze…a controlled substance…in violation of this part." Utah Code Ann. § 76-18-304(2). Drug paraphernalia includes "testing equipment used, or intended for use, to identify or to analyze the strength, effectiveness, or purity of a controlled substance." Utah Code Ann. § 76-18-301(1)(b)(iv). However, effective May 3, 2023, drug paraphernalia "does not include a testing product or equipment, including a fentanyl test strip, used or intended for use to determine whether a substance contains: (i) a controlled substance that can cause physical harm or death; or (ii) a chemical or compound that can cause physical harm or death. Utah Code Ann. § 76-18-301(c). Effective May 6, 2026, Utah renumbered, relocated and, in some instances, reworded its drug paraphernalia laws. They are now

located at Title 76 Utah Criminal Code rather than Title 58 Occupations and Professions. 2026 Utah Laws Ch. 362 (H.B. 301).

[299] "An actor commits unlawful delivery of drug paraphernalia if the actor delivers, possesses with intent to deliver, or manufactures with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to…test, analyze…a controlled substance into the human body in violation of this part." Utah Code Ann. § 76-18-301(2). However, effective May 3, 2023, drug paraphernalia "does not include a testing product or equipment, including a fentanyl test strip, used or intended for use to determine whether a substance contains: (i) a controlled substance that can cause physical harm or death; or (ii) a chemical or compound that can cause physical harm or death. Utah Code Ann. § 76-18-301(c). Effective May 6, 2026, Utah renumbered, relocated and, in some instances, reworded its drug paraphernalia laws. They are now located at Title 76 Utah Criminal Code rather than Title 58 Occupations and Professions. 2026 Utah Laws Ch. 362 (H.B. 301).

[300] "An actor commits unlawful delivery of drug paraphernalia if the actor delivers, possesses with intent to deliver, or manufactures with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to…test, analyze…a controlled substance into the human body in violation of this part." Utah Code Ann. § 76-18-301(2). There is no definition of "deliver". However, the law has been used to prosecute sales. State v. Murphy, 674 P.2d 1220, 1225 (Utah 1983). However, effective May 3, 2023, drug paraphernalia "does not include a testing product or equipment, including a fentanyl test strip, used or intended for use to determine whether a substance contains: (i) a controlled substance that can cause physical harm or death; or (ii) a chemical or compound that can cause physical harm or death." Utah Code Ann. § 76-18-301(c). Effective May 6, 2026, Utah renumbered, relocated and, in some instances, reworded its drug paraphernalia laws. They are now located at Title 76 Utah Criminal Code rather than Title 58 Occupations and Professions. 2026 Utah Laws Ch. 362 (H.B. 301).

[301] SSPs are authorized in Utah. *See* Utah Code Ann. § 26B-7-117. In addition, possession and free distribution of DCE is not generally prohibited, as noted above. Effective May 6, 2026, SSPs in Utah are explicitly prohibited from providing drug paraphernalia other than syringes. 2026 Utah Laws Ch. 113 (H.B. 205).DCE is not affected as it is not considered drug paraphernalia.

[302] SSPs are authorized in Utah. *See* Utah Code Ann. § 26B-7-117. In addition, possession and free distribution of DCE is not generally prohibited, as noted above. Effective May 6, 2026, SSPs in Utah are explicitly prohibited from providing drug paraphernalia other than syringes. 2026 Utah Laws Ch. 113 (H.B. 205).DCE is not affected as it is not considered drug paraphernalia.

[303] "It is an affirmative defense to an allegation of the commission of an offense under this part if the actor or bystander [lists the factors to qualify for the Good Samaritan exemption]." Utah Code Ann. § 76-18-303(2). Utah Code Ann. § 76-18-303 is located in Part 3 Offenses Concerning Drug Paraphernalia which includes the prohibitions on the use, possession with intent to use, and delivery of drug paraphernalia." *See* Utah Code Ann. §§ 76-18-301 through 76-18-306. Prior to May 6, 2026, the provision was worded slightly differently and located at Utah Code Ann. § 58-37-8. 2026 Utah Laws Ch. 362 (H.B. 301).

[304] Vermont does not criminalize the use or possession with intent to use drug paraphernalia. *See generally* Vt. Stat. Ann. tit. 18, §§ 4475-78. Additionally, effective May 25, 2023, "Drug paraphernalia' does not include needles, syringes, or other harm reduction supplies distributed or possessed as part of an organized community-based needle exchange program." Vt. Stat. Ann. tit. 18, § 4475. Finally, also effective May 25, 2023, Vermont affirmatively allows for approved drug checking service providers to collect samples and perform drug checking and includes protections for the possession of substances being tested by both the person performing the testing and the person providing the sample. Vt. Stat. Ann. tit. 18, § 4258 (formerly Vt. Stat. Ann. tit. 18, § 4240a)

[305] The free distribution of drug paraphernalia is not criminalized in Vermont. *See generally* Vt. Stat. Ann. tit. 18, §§ 4475-78.

[306] It is illegal in Vermont to sell drug paraphernalia to a minor. Vt. Stat. Ann. tit. 18, § 4476(a).

[307] SSPs are authorized by state law, but no explicit immunity is provided. *See* Vt. Stat. Ann. tit. 18, § 4478. However, possession and free distribution are not generally prohibited.

[308] SSPs are authorized by state law, but no explicit immunity is provided. *See* Vt. Stat. Ann. tit. 18, § 4478. However, possession and free distribution are not generally prohibited.

[309] The use, possession with intent to use, and free distribution of drug paraphernalia is not criminalized in Vermont. *See generally* Vt. Stat. Ann. tit. 18, §§ 4475-78. The Good Samaritan law may provide a mitigating factor for selling drug paraphernalia, including drug checking equipment, to a minor. *See* Vt. Stat. Ann. tit. 18, § 4254(f).

[310] Virginia defines two types of paraphernalia – "controlled paraphernalia" and "drug paraphernalia". *See* Va. Code Ann. § 54.1-3466(A) (definition of "controlled paraphernalia"); Va. Code Ann. § 18.2-265.1 (definition of "drug paraphernalia"). "Controlled paraphernalia" is generally limited to instruments "adapted for the administration of controlled dangerous substances by hypodermic injections" and containers "suitable for the packaging of individual quantities of controlled drugs." Va. Code Ann. § 54.1-3466(A). Effective July 1, 2025, the definition of controlled paraphernalia also explicitly excludes "drug checking products used to determine the presence or concentration of a contaminant that can cause physical harm or death." Va. Code Ann. § 54.1-3466(A). "Drug paraphernalia" includes "[t]esting equipment intended for use or designed for use in identifying or in analyzing the strength or effectiveness of marijuana or controlled substances, other than drug checking products used to determine the presence or concentration of a contaminant that can cause physical harm or death." Va. Code Ann. § 18.2-265.1(4)(effective July 1, 2027 the words "marijuana or" will be removed from this definition. See 2026 Virginia Laws 1st Sp. Sess. Ch. 1 (H.B. 30)). From July 1, 2019 to July 1, 2025 the exclusion only applied to fentanyl and fentanyl analogs. It is unlawful to possess controlled paraphernalia. Va. Code Ann. § 54.1-3466(B). No law, however, prohibits the possession of drug paraphernalia. It is therefore legal to possess all drug checking equipment in Virginia.

[311] While Virginia does prohibit the free distribution of drug paraphernalia from an adult to a minor, no law prohibits its free distribution to adults. *See* Va. Code Ann. § 18.2-265.3(C). However, as noted above, the definition of "drug paraphernalia" includes "[t]esting equipment intended for use or designed for use in identifying or in analyzing the strength or effectiveness of marijuana or controlled substances, other than drug checking products used to determine the presence or concentration of a contaminant that can cause physical harm or death." Va. Code Ann. § 18.2-265.1(4). (effective July 1, 2027 the words "marijuana or" will be removed from this definition. See 2026 Virginia Laws 1st Sp. Sess. Ch. 1 (H.B. 30)). Thus, free distribution to minors of all drug checking equipment is not prohibited as of July 1, 2025. From July 1, 2019 through that date, the exception applied only to "narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog."

[312] It is illegal to sell or possess with intent to sell drug paraphernalia. Va. Code Ann. § 18.2-265.3. However, as of July 1, 2025, the definition of "drug paraphernalia" excludes "drug checking products used to determine the presence or concentration of a contaminant that can cause physical harm or death." Va. Code Ann. § 18.2-265.1(4). From July 1, 2019 to July 1, 2025 the exclusion only applied to fentanyl and fentanyl analogs.

[313] "The provisions of [sections related to possessing or giving away drug paraphernalia and controlled paraphernalia] and of § 18.2-265.3 [related to delivery of drug paraphernalia to a minor] shall not apply to (i) a person who possesses or distributes controlled paraphernalia on behalf of or for the benefit of a comprehensive harm reduction program established pursuant to § 32.1-45.4 or (ii) a person who possesses controlled paraphernalia obtained from a comprehensive harm reduction program established pursuant to § 32.1-45.4." Va. Code Ann. § 54.1-3466(G). These exemptions are restated in the statute authorizing comprehensive harm reduction programs. Va. Code Ann. § 32.1-45.4(E)-(G).

[314] "The provisions of [sections related to possessing or giving away drug paraphernalia and controlled paraphernalia] and of § 18.2-265.3 [related to delivery of drug paraphernalia to a minor] shall not apply to (i) a person who possesses or distributes controlled paraphernalia on behalf of or for the benefit of a comprehensive harm reduction program established pursuant to § 32.1-45.4 or (ii) a person who possesses controlled paraphernalia obtained from a comprehensive harm reduction program established pursuant to § 32.1-45.4." Va. Code Ann. § 54.1-3466(G). These exemptions are restated in the statute authorizing comprehensive harm reduction programs. Va. Code Ann. § 32.1-45.4(E)-(G).

[315] "No individual shall be subject to arrest or prosecution for…possession of controlled paraphernalia pursuant to § 54.1-3466 if [lists factors to qualify for the Good Samaritan exemption]." Va. Code Ann. § 18.2-251.03(B); *see also* Va. Code Ann. § 18.2-251.03(A), (B)(1)-(4) (listing a definition for "overdose" and factors to qualify for the Good Samaritan exemption).

[316] D.C. generally criminalizes the use or possession with intent to use drug paraphernalia, including drug checking equipment. *See* D.C. Code Ann. §§ 48–1101(3)(D), 48–1103(a)(1). However, D.C. exempts the use and possession with the intent to use drug paraphernalia for the personal use of a controlled substance. D.C. Code Ann. § 48–1103(a)(1)(1A). When originally enacted effective April 11, 2019, this carveout was specific to testing equipment. However, it was extended to all paraphernalia as of March 16, 2021.

[317] "[I]t 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, knowingly, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled substance." D.C. Code Ann. § 48–1103(b)(1). Effective April 21, 2023, "it shall not

be unlawful for District government employees, contractors, and grantees, acting within the scope of their employment, contract, or grant, to deliver, or possess with intent to deliver, drug paraphernalia for the personal use of a controlled substance." D.C. Code Ann. § 48-1103 (b)(1B).

[318] "[I]t 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, knowingly, or under circumstances where one reasonably should know, that it will be used to…test, analyze…a controlled substance." D.C. Code Ann. § 48–1103(b)(1).

[319] "Notwithstanding paragraph (1) of this subsection [related to giving away drug paraphernalia], it shall not be unlawful for a community-based organization, as that term is defined in § 7-404(a)(1) to deliver or sell, or possess with intent to deliver or sell, drug paraphernalia for the personal use of a controlled substance [including drug checking equipment]." D.C. Code Ann. § 48-1103(b)(1A)). Community-based organization is defined as "an organization that provides services, including medical care, counseling, homeless services, or drug treatment, to individuals and communities impacted by drug use. The term 'community-based organization' includes all organizations currently participating in the Needle Exchange Program with the Department of Human Services under § 48-1103.01." D.C. Code Ann. § 7-404(a)(1).

[320] D.C. generally criminalizes the use or possession with intent to use drug paraphernalia, including drug checking equipment. *See* D.C. Code Ann. §§ 48–1101(3)(D), 48–1103(a)(1). However, D.C. exempts the use, and possession with the intent to use, drug paraphernalia for the personal use of a controlled substance. D.C. Code Ann. § 48–1103(a)(1)(1A). When originally enacted effective April 11, 2019, this carveout was specific to testing equipment. However, it was extended to all paraphernalia as of March 16, 2021.

[321] The District's overdose Good Samaritan law provides that use or possession with intent to use drug paraphernalia "shall not be considered" a crime if the requirements of the law are met. D.C. Code Ann. § 7-403(a).

[322] Effective May 13, 2021, Washington law was modified to remove "test, analyze" and "otherwise introduce into the human body" from the list of prohibited activities. Wash. Rev. Code § 69.50.412(1). It seems clear that this change was made to remove criminal sanctions associated with the use and distribution of drug checking equipment (among other previously prohibited objects).

[323] Effective May 13, 2021, the law was modified to remove "test" and "otherwise introduce into the human body" from the list of prohibited activities related to paraphernalia. Wash. Rev. Code § 69.50.412(2). Effective July 1, 2023, the law governing selling or giving away drug paraphernalia was modified to remove "gives", "given", "testing" and "analyzing" as well as provide "[p]ublic health and syringe service program staff taking samples of substances and using drug testing equipment for the purpose of analyzing the composition of the substances or detecting the presence of certain substances" protection from arrest and prosecution for certain possession charges. Wash. Rev. Code § 69.50.4121.

[324] It is unlawful in Washington to sell drug paraphernalia. Wash. Rev. Code § 69.50.4121(1). However, effective July 1, 2023, the law was modified to remove "test" and "otherwise introduce into the human body" from the definition of drug paraphernalia in the sales law. Wash. Rev. Code § 69.50.4121(1).

[325] SSPs are authorized with a specific exemption from the law prohibiting sale of drug paraphernalia. Wash. Rev. Code Ann. § 69.50.4121. As noted above, free distribution of DCE is not generally prohibited.

[326] SSPs are authorized with a specific exemption from the law prohibiting sale of drug paraphernalia. Wash. Rev. Code Ann. § 69.50.4121. As noted above, possession of DCE is not generally prohibited.

[327] Washington's overdose Good Samaritan law does not provide protection from the law that makes it a civil infraction to sell or give away drug paraphernalia. *See* Wash. Rev. Code § 69.50.315. However, effective July 1, 2023, language related to drug checking equipment was removed from the civil infraction regarding selling or giving away drug paraphernalia. 2023 Wash. Legis. Serv. 1st Sp. Sess. Ch. 1 (S.S.S.S.B. 5536)

[328] West Virginia does not criminalize the use or possession with intent to use drug paraphernalia. *See generally* W. Va. Code §§ 47-19-1–8.

[329] West Virginia does not criminalize the free distribution of drug paraphernalia. *See generally* W. Va. Code §§ 47-19-1–8.

[330] It is unlawful in West Virginia to sell drug paraphernalia to minors. W. Va. Code § 47-19-6. It is also unlawful to sell drug paraphernalia at certain events or outdoors. W. Va. Code § 47-19-8. As of June 10, 2022, fentanyl test strips are explicitly excluded from the definition of drug paraphernalia. *See* W. Va. Code Ann. § 47-19-3(a)(4) (modified by 2022 West Virginia Laws Ch. 60 (H.B. 4373)). As of January 26, 2024, the law was modified to remove "fentanyl" so that test strips generally are not considered drug paraphernalia. *See* W. Va. Code Ann. § 47-19-3(a)(4) (modified by 2024 West Virginia Laws Ch. 57 (H.B. 4429)).

[331] SSPs are authorized in West Virginia. W. Va. Code Ann. § 16-64-3. The SSP law does not provide immunity from DCE-related crimes. However, possession and free distribution of DCE are not generally prohibited, as noted above.

[332] SSPs are authorized in West Virginia. W. Va. Code Ann. § 16-64-3. The SSP law does not provide immunity from DCE-related crimes. However, possession and free distribution of DCE are not generally prohibited, as noted above.

[333] West Virginia does not criminalize the use, possession with intent to use, or free distribution of drug paraphernalia. *See generally* W. Va. Code §§ 47-19-1–8. West Virginia's Good Samaritan law does not include protections related to drug checking equipment. *See* W. Va. Code §§ 16-47-4, 16-47-5.

[334] Wisconsin criminalizes the use or possession with primary intent to use drug paraphernalia: "No person may use, or possess with the primary intent to use, drug paraphernalia to…test, analyze…a controlled substance or controlled substance analog in violation of this chapter." Wis. Stat. § 961.573(1). Wisconsin's drug paraphernalia definition includes "[a]ll equipment…used for…testing, analyzing" with "testing equipment" listed explicitly. Wis. Stat. § 961.571(1)(a). However, as of March 18, 2022, "Any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance" and, as of March 28, 2024, "Any materials used or intended for use in testing for the presence of xylazine or a xylazine analog in a substance" are excluded from the definition of drug paraphernalia under Wisconsin law. *See* Wis. Stat. § 961.571(1)(b)(3)-(4).

[335] Wisconsin criminalizes the act of giving away drug paraphernalia: "No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to…test, analyze…a controlled substance or controlled substance analog in violation of this chapter." Wis. Stat. § 961.574(1). Wisconsin's drug paraphernalia definition includes "[a]ll equipment… used for…testing, analyzing" with "testing equipment" listed explicitly. Wis. Stat. § 961.571(1)(a). However, as of March 18, 2022, "Any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance" and, as of March 28, 2024, "Any materials used or intended for use in testing for the presence of xylazine or a xylazine analog in a substance" are excluded from the definition of drug paraphernalia under Wisconsin law. *See* Wis. Stat. § 961.571(1)(b)(3)-(4) (modified by 2021-2022 Wisc. Legis. Serv. Act 180 (2021 S.B. 600) and by 2023-2024 Wisc. Legis. Serv. Act 217 (2023 S.B. 875)).

[336] "No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to…test, analyze…a controlled substance or controlled substance analog in violation of this chapter." Wis. Stat. § 961.574(1). Wisconsin's drug paraphernalia definition includes "[a]ll equipment… used for…testing, analyzing" with "testing equipment" listed explicitly. Wis. Stat. § 961.571(1)(a). However, as of March 18, 2022, "Any materials used or intended for use in testing for the presence of fentanyl or a fentanyl analog in a substance" and, as of March 28, 2024, "Any materials used or intended for use in testing for the presence of xylazine or a xylazine analog in a substance" are excluded from the definition of drug paraphernalia under Wisconsin law. *See* Wis. Stat. § 961.571(1)(b)(3)-(4) (modified by 2021-2022 Wisc. Legis. Serv. Act 180 (2021 S.B. 600) and by 2023-2024 Wisc. Legis. Serv. Act 217 (2023 S.B. 875)). The definition of "deliver" likely includes sale based on the "unless context requires otherwise" language: "'Deliver' or 'delivery', unless the context otherwise requires, means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is any agency relationship." Wis. Stat. Ann. § 961.01(6).

[337] SSPs are not explicitly authorized. However, they are not prohibited as syringes are not included in Wisconsin's definition of drug paraphernalia. See Wis. Stat. Ann. § 961.571(1)(b); Wis. Stat. Ann. § 961.573(1). Because SSPs are not prohibited and free distribution and possession of fentanyl and xylazine testing equipment are not generally prohibited, we have coded this Yes.

[338] SSPs are not explicitly authorized. However, they are not prohibited as syringes are not included in Wisconsin's definition of drug paraphernalia. See Wis. Stat. Ann. § 961.571(1)(b); Wis. Stat. Ann. § 961.573(1). Because SSPs are not prohibited and free distribution and possession of fentanyl and xylazine testing equipment are not generally prohibited, we have coded this Yes.

[339] "An aider is immune from prosecution under s. 961.573 for the possession of drug paraphernalia." Wis. Stat. § 961.443(2); *see also* Wis. Stat. § 961.443(1) (listing the definition for "aider" and factors to qualify under the Good Samaritan exemption).

[340] Wyoming does not criminalize the use or possession with intent to use drug paraphernalia. *See generally* Wyo. Stat. Ann. §§ 35-7-1056–1057. Further, unlike in most states, the definition of "drug paraphernalia" under Wyoming law does not include "testing," "analyzing," or similar terms. Wyo. Stat. Ann. § 35-7-1002.

[341] Wyoming criminalizes the act of giving away drug paraphernalia. Wyo. Stat. Ann. § 35-7-1056. While Wyoming's definition of drug paraphernalia does not explicitly include drug checking equipment, it does include "all equipment,

products and materials of any kind when used, advertised for use, intended for use or designed for use for manufacturing, converting, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act." Wyo. Stat. Ann. § 35-7-1002(a)(xxvii). There is no case law on the application of this definition to drug checking equipment.

[342] Wyoming criminalizes the delivery of drug paraphernalia. Wyo. Stat. Ann. § 35-7-1056. The definition of "deliver" would include sale: "the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship." Wyo. Stat. Ann. § 35-7-1002(a)(vi). While Wyoming's definition of drug paraphernalia does not explicitly include drug checking equipment, it does include "all equipment, products and materials of any kind when used, advertised for use, intended for use or designed for use for manufacturing, converting, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act." Wyo. Stat. Ann. § 35-7-1002(a)(xxvii). There is no case law on the application of this definition to drug checking equipment, but we assume that, since the legislature chose not to include the terms included in the model law and most state laws, they intended not to criminalize those activities.

[343] Wyoming does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[344] Wyoming does not explicitly authorize SSPs nor generally allow syringe distribution or possession. We therefore code this as N/A.

[345] Wyoming enacted an overdose Good Samaritan law effective July 1, 2025, but it does not provide protections for drug paraphernalia charges. Wyo. Stat. Ann. § 35-7-1064.