

# SENATE BILL REPORT

## EHB 1209

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As of March 14, 2023

**Title:** An act relating to restricting the possession, purchase, delivery, and sale of certain equipment used to illegally process controlled substances.

**Brief Description:** Restricting the possession, purchase, delivery, and sale of certain equipment used to illegally process controlled substances.

**Sponsors:** Representatives Leavitt, Griffey, Fey, Bronoske and Davis.

**Brief History:** Passed House: 3/7/23, 95-0.

**Committee Activity:** Law & Justice: 3/16/23.

### Brief Summary of Bill

- Creates a class C felony for any person to possess, purchase, deliver, sell, or possess with intent to sell, a tableting machine or encapsulating machine knowing or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance other than cannabis.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Joe McKittrick (786-7287)

**Background:** 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.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Controlled substance means a drug, substance, or immediate precursor included in schedules I through V, excluding hemp or industrial hemp as those terms are defined by statute. The Pharmacy Quality Assurance Commission may modify the schedule for any given substance based on its potential for abuse, whether there is a currently accepted medical use in treatment, and the safety of the substance and risk for dependence. Schedule I substances are the most highly regulated, and schedule V substances are the least regulated.

It is unlawful for any person to deliver, possess with the intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where the person reasonably should know, that it will be used to plant, propagate, grow, harvest, manufacture, compound, convert, produce, process, or prepare a controlled substance other than cannabis. Violation of this prohibition constitutes a misdemeanor punishable by up to 90 days in jail, a \$1,000 fine, or both.

A person who is 18 or older who violates this prohibition by delivering drug paraphernalia to a person under 18 years old, who is at least three years the deliverer's junior, is guilty of a gross misdemeanor, punishable by 365 days in jail, a \$5,000 fine, or both.

Any person who places in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where the person reasonably should have known, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia is guilty of a misdemeanor.

**Summary of Bill:** A new crime is created related to the use of tableting and encapsulating machines in connection with controlled substances.

It is a class C felony, punishable by up to five years in prison, a \$10,000 fine, or both, for any person to possess, purchase, deliver, sell, or possess with intent to sell a tableting or encapsulating machine knowing, or under circumstance were the person reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance other than cannabis. The crime is classified as a seriousness level II crime, meaning a person convicted of this crime with no relevant criminal history would face a standard sentence range between 0 and 90 days imprisonment.

Encapsulating machine is defined as any manual, semiautomatic, or fully automatic equipment that can be used to fill shells or capsules with powdered or granular solids or semisolid material to produce coherent solid contents.

Tableting machine is defined as any manual, semi-automatic, or fully automatic equipment that can be used to compact, compress, or mold powdered or granular solids or semisolid material to produce fused coherent solid tablets.

This act is known as the Tyler Lee Yates Act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.