

Cherokee Nation Code Annotated
Title 21: Crimes and Punishments
Part VIII. Controlled Dangerous Substances
Chapter 75: Uniform Controlled Dangerous Substances Act
Article I. Definitions
§ 2101.1. Drug paraphernalia—Factors used in determining
Cite as: 21 CNCA § 2101.1

In determining whether an object is "drug paraphernalia", a court shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use.
2. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Dangerous Substances Act.
3. The proximity of the object to controlled dangerous substances.
4. The existence of any residue of controlled dangerous substances on the object.
5. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who intend to use the object to facilitate a violation of the Uniform Controlled Dangerous Substances Act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is drug paraphernalia.
6. Instructions, oral or written, provided with the object which either state directly or imply that the object is to be used for the consumption of controlled substances.
7. Descriptive materials accompanying the object which explain or depict its use as an object for the consumption of controlled substances.
8. The manner in which the object is displayed for sale.
9. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
10. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
11. The existence and scope of legitimate uses for the object in the community.
12. Expert testimony concerning its use.

Historical Data

LA 3-91, eff. February 9, 1991.

Renumbered from 63 CNCA § 2-101.1.