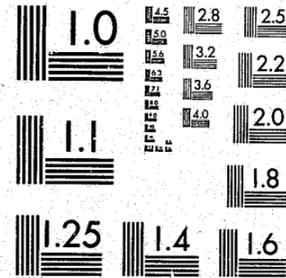


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National Institute on Drug Abuse  
**SERVICES  
RESEARCH  
REPORT**



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ACQUISITIONS

Community  
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Legal Responses  
to  
Drug Paraphernalia

67511

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Public Health Service  
Alcohol, Drug Abuse, and Mental Health Administration

The Services Research Reports and Monographs Series are issued by the Services Research Branch, Division of Resource Development, National Institute on Drug Abuse (NIDA). Their primary purpose is to provide reports to the drug treatment community on the service delivery and policy-oriented findings of Branch-sponsored studies. These will include state-of-the-art studies, innovative service delivery models for different client populations, innovative treatment management and financing techniques, and treatment outcome studies.

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FOREWORD

Concern about paraphernalia merchandising and sales has grown nearly as rapidly as the paraphernalia industry itself. That concern is associated with the real threat that paraphernalia acts to support, if it does not encourage, a use of illicit substances. This report is intended to provide the reader with an understanding of the current state of paraphernalia sales and availability as well as portraying the history of the development of the paraphernalia market. Most importantly, the report describes the legal and social action alternatives that are available to community groups and the successes and failures of strategies undertaken.

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## 1. INTRODUCTION

Concomitant with the growth in the distribution and use of illicit substances over the past decade has come a dramatic increase in the manufacture and sale of paraphernalia for use in association with these substances. Within the past few years, especially as drug use has spread to younger persons, there has been a growing wave of community reaction, a good deal of which is directed at the advertising and sale of paraphernalia to minors. As pipes, bongs, and other items related to the use of illicit recreational drugs have become more visible and available in suburban stores, formal and informal groups of citizens around the country have pressured local authorities for action. In many communities, local ordinances have been passed controlling or banning paraphernalia sales. Several States have passed antiparaphernalia laws. At the request of the White House Domestic Policy Staff, the Drug Enforcement Administration (DEA) has recently drafted a model antiparaphernalia act that might be adopted by the States. Both the House of Representatives and the Senate have recently held hearings on paraphernalia that might have implications for Federal legislative action. The National League of Cities has adopted resolutions supporting both local and congressional antiparaphernalia action.

The paraphernalia industry has not been passive in the face of the numerous challenges brought against it. Several local ordinances have been overturned on legal grounds, and challenges to others are being mounted. State legislation has also been vetoed or enjoined. A significant segment of the paraphernalia industry has organized into national and regional associations. To some degree, these associations are self-protective and have the aim of supporting legal actions against antiparaphernalia bills. And yet these associations are also concerned with developing self-controls that heretofore have been lacking. For example, the National Accessories Trade Association (NATA) is currently reviewing, for possible adoption, its

own version of legislation to regulate sales and advertising. Some industry journals are changing their advertising policies.

The grassroots movement protesting various aspects of paraphernalia display and sales seems to be one of the most extensive and most visible primary prevention efforts yet attempted in the drug abuse field. It has taken place, to date, almost entirely outside the Federal government. This movement and its associated issues may be a catalyst for further prevention activities.

The National Institute on Drug Abuse (NIDA), as part of its role to discourage the use of illicit substances, has expressed concern about the sale of articles that can serve as aids to the use of these illicit substances (Pollin 1979). This state-of-the-art report was prepared in response to NIDA's concern about exploring the significance of paraphernalia manufacture and sale, community response, and legislative action as issues of drug abuse prevention and research.

This chapter has three major sections: (1) an analysis of the paraphernalia industry; (2) an analysis of community responses across the country; and (3) an analysis of legal, legislative, and regulatory reactions on the Federal, State, and local levels and by the industry itself.

A summary of the methodology used in the study is included as appendix A, and copies of model bills prepared by the Government and by industry are appendixes B and C. A list of major references consulted to prepare this report is also included. (Throughout the text, "H.T." refers to High Times magazine, and "P.D." refers to Paraphernalia and Accessories Digest (now Accessories Digest). No other journal references are abbreviated.)

Table 1 presents in chronological form a brief overview of the events and developments with which this paper deals.

Table 1. Chronology

Mid-1960's	Demand for marijuana and hashish smoking accessories intensifies.
Mid- to late 1960's	The paraphernalia industry is born.
1972	E-Z Wider rolling papers, tailored specifically to the marijuana market are introduced.
Summer 1974	The first magazine for "recreational" drug consumers--High Times--premiers with 20,000 copies.
1974-75	Ads in High Times for new herbs and teas reach their peak.
1975	Brief fad for Quaalude-related jewelry begins.
1976-77	Boom in pipes, bongs, rolling papers takes place.
June 1976	Publication of first trade magazine, Dealer, occurs; only three issues were published.
1977	First statewide antiparaphernalia law is passed in Indiana. (On Nov. 1, 1979, an injunction was issued against enforcement of this law.)
June 1977	First issue of new trade publication, Paraphernalia Magazine, appears.
November 1977	DeKalb Families in Action, the first community antiparaphernalia group, is formed in Georgia.
1977-78	Boom in cocaine paraphernalia occurs.
1977-79	Emphasis on paraphernalia for purifying or increasing potency of marijuana and cocaine begins.
February 1978	A city councilman in Lakewood, Calif., begins a movement against paraphernalia sales that results in the passage of antiparaphernalia ordinances in many cities throughout the State.
March 1978	A grand jury in Essex County, N.J., investigates increases in youthful drug misuse and advocates antiparaphernalia ordinances. Later in 1978, the county is joined by parents' groups, spearheaded by Milburn Township PTA, in suit against local headshops. This led to passage of ordinance in Milburn and later to 25 other New Jersey townships. State laws in New Jersey and North Dakota also resulted from this effort.
June 1978	First official meeting of the Paraphernalia Trade Association (PTA) takes place. Organizational activities had begun in January.
June 1978	First issue of another trade magazine, The Paraphernalia and Accessories Digest, is published.
Early 1979	Rash of activity occurs in seven States by the paraphernalia industry to organize trade associations.
May 1979	Responding to concerns of State authorities, the White House asks the Justice Department to consider legislation that could be used by State and local jurisdictions to deal with the growing drug paraphernalia problem.
August 1979	At the request of the White House Domestic Policy Staff, the Drug Enforcement Administration of the U.S. Department of Justice drafts a Model Drug Paraphernalia Act for distribution to State and local jurisdictions.

Table 1 (Continued)

September 1979	Some 6,700 7-Eleven stores in the United States and Canada discontinue sales of roll-your-own cigarette papers in company-operated stores.
Sept. 30, 1979	The CBS news program "60 Minutes" broadcasts a segment on "Getting High at School," which discusses antiparaphernalia concerns.
October 1979	The board of directors of the Mid-Atlantic Accessories Trade Association adopts an organizational statement of policy by unanimous vote that states that (1) the MATA deplors the recreational use of legal and illegal drugs by minors; (2) the MATA opposes the sale of smoking and snuff accessories to minors; and (3) the MATA supports responsible legislation forbidding the sale of such accessories to minors.
November 1979	The House Select Committee on Narcotics and Drug Abuse Control holds hearings on the subject of drug paraphernalia and the possible linkage between the sale and advertising of drug paraphernalia and the rising incidence of drug abuse among youth. Hearings on the same subject are held by the Senate Judiciary Subcommittee on Criminal Justice. Two drugstore chains in the Washington, D.C., area discontinue rolling paper sales. Articles on paraphernalia issue proliferate in local and national media. A periodical serving the drug treatment/prevention community editorializes against headshops and for antiparaphernalia ordinances. (U.S. Journal of Drug and Alcohol Dependence, Nov. 1979) A major newspaper in Washington, D.C., editorializes against a local antiparaphernalia ordinance, saying it avoids the real issue; the illegal use of drugs by youth. The National League of Cities adopts resolutions urging Congress to control interstate commerce in paraphernalia, and also urges cities to explore local antiparaphernalia options. The paraphernalia industry drafts its own model regulatory bill.
December 1979	The major consumer-oriented journal, High Times, promulgates a new advertising policy that rejects advertising aimed at juveniles, advertising for paraphernalia that enhances the potency of the common recreational drugs; and generally urges discretion in the acceptance of advertising. "The drug paraphernalia issue" is increasingly discussed in the national media.

## 2. THE PARAPHERNALIA INDUSTRY

### CULTURAL ORIGINS

The paraphernalia industry is a technological outgrowth of the phenomenal expansion of recreational drug use in the United States over the past 15 years. The industry's history begins in the "counterculture" movement of the mid-1960's, and its development parallels the emergence of "alternative lifestyles," which were reflected in preferences in clothing, hairstyles, and music. Blue jeans, T-shirts, poster art, rock music, and facial hair, as well as "joints" and "acid," were originally the badges of the college students and drop-out "hippies" who brought us Haight-Ashbury, the Beatles, Grant Park, Woodstock, May Day, and Kent State.

Large manufacturers and marketers soon discovered and coopted the jeans, candles, and sandals. Sound studios recorded an amazing variety of musical "pop" stars and groups who had cults of followers both younger and older than the initial rebellious generation. While the counterculture students and their Vietnam veteran counterparts settled down as wage earners during the 1970's, business executives grew sideburns and society matrons and high school students alike wore jeans and turtleneck sweaters. Concerts and festivals for rock, folk, bluegrass, and soul abounded. The disco scene is the latest of these fads.

Individuals involved in drug use have come to view selected drugs as "recreational." The term generally applies to drugs perceived by their users to be relatively benign and controllable in their effects. Marijuana and cocaine are the drugs most popularly considered to be recreational. Marijuana derivatives such as hashish might also be included. Some persons extend the term to encompass natural or organic "highs" that have been used by herbalists and various religious groups for centuries, such as coca leaves, peyote buttons, opium, psilocybin mushrooms, and ginseng root. Some high-risk experimenters would add to the list of recreational drugs such substances as LSD, PCP, minor tranquilizers such as Valium and Librium, various stimulants and depressants, and the "legal highs" that are not listed on Federal control schedules, such as isobutyl nitrite, nitrous oxide ("laughing gas"), and procaine hydrochloride.

The so-called "hard" or "dangerous" drugs, especially narcotics such as heroin and methadone, are not usually considered by these same users as recreational. Substances that are typically administered by injection are also generally excluded.

### THE POTENTIAL MARKET

Despite large-scale Federal efforts to reduce availability and control use, marijuana and cocaine use has risen steadily over the past decade, and the age of first experimentation has dropped. In 1979, NIDA estimated that more than 43 million Americans had tried marijuana at least once and as many as 11 percent of high school seniors may be daily users. Persons who use marijuana at least once a month total more than 16 million; 25 percent of them are 12 to 17 years old (4.1 million), 51 percent are 18 to 25 years old (8.3 million), and 24 percent are 26 years or older (3.8 million) (Federal Strategy, 1979). A 1977 Gallup Poll found that 24 percent of the U.S. population has smoked marijuana (Paraphernalia Magazine, 1979).

During the 1970's, cocaine also gained popularity as a very expensive recreational drug. In 1978, NIDA estimated that almost 10 million persons had tried cocaine. The number of 18- to 25-year-olds who had tried cocaine jumped by more than 40 percent between 1976 and 1977, and the number of regular (at least monthly) users nearly doubled. By 1979, estimates indicated that 19 percent of this entire age group had experimented with cocaine, and approximately 4 percent were regular users. Thus, at least 1.3 million Americans constitute a potential market for cocaine and its associated paraphernalia. Probably fewer than 20 percent of this potential market are youth under 18 years old, although the number of high school seniors who had tried cocaine jumped 20 percent between 1977 and 1978. The popularity of cocaine may continue to filter into the age groups on either side of young adulthood (Petersen, 1979; Federal Strategy, 1979).

### CAPITALIZING ON ILLICIT DRUG USE

The extensive use of marijuana, cocaine, and other drugs now proclaimed as recreational has created enormous social, health, and legal problems, as well as controversies and confusions. There are factions that proclaim the dangerous consequences of all nonmedical drug use as well as those that advocate the legalization and availability of all substances; other groups have taken a variety of intermediate positions. Lobby groups for the reform of marijuana laws have been active. Civil fines have been substituted for criminal penalties for possession of small amounts of marijuana in 11 States.

Meanwhile, researchers have been trying to determine the health implications of marijuana and other drug use; since 1967, \$35 million worth of studies on marijuana alone have been conducted. While further investigation is still required, there seems to be a growing basis for concern about long-term, frequent use of marijuana.

At the same time, the large-scale illegal importation, cultivation, production, and distribution systems for these drugs combine the youth and pleasure cultures with the glamorized excitement of the smuggler's underworld and the potential for big and easy money outside the law. One of the more visible repercussions of the drug revolution has been the multi-million-dollar industry that has developed to supply the equipment used to grow, process, store, conceal, and use illicit recreational drugs and to profit from the demands of their customers. The manufacturers and retailers of implements associated with recreational drug use are new entrepreneurs who acknowledge the precarious nature of their prosperity and capitalize on their connections with illegal activities and the benefits of a capitalistic, free enterprise system.

### WHAT ARE DRUG PARAPHERNALIA?

Paraphernalia, a term originally applied to the personal property of married women, has increasingly come to mean the articles used in administering, preparing, packaging, and storing drugs. The term has also been used to refer to items commonly associated with criminal activities, such as burglary tools. It is not a precise term. Even when limited to drugs, paraphernalia can refer to equipment for legal or illegal administration of legal or illegal substances. For example, hypodermic needles can be used to inject medically approved drugs as well as illicit substances, such as heroin. Similarly, rolling papers have a legitimate use with loose tobacco but can also be used to smoke marijuana.

The industry that manufactures, distributes, and sells the drug paraphernalia discussed in this paper has limited itself to the creation of an enormous and varied number of products primarily related to the two most popular recreational drugs, marijuana and cocaine. A minor interest has been shown in equipment to grow psychedelic mushrooms and to cultivate opium and various herbs, spices, and teas.

So far as we know, no retailers or distributors in the paraphernalia industry sell, display, advertise, or in any way glamorize implements for making, storing, or

administering so-called "hard drugs" (narcotics, amphetamines, etc.). This includes syringes, "cookers," needles, gear for making veins more prominent and thus more easily injectable, gelatin capsules, powder-like substances for diluting narcotics, purifying equipment, and the like.

Factions within the paraphernalia industry disagree about the extension of the term and products beyond equipment related to drugs. The more conservative group will not develop or merchandise as paraphernalia any "ingestible" item, whether it be tea, nitrous oxide, or a product to adulterate cocaine.

Table 2 lists types of paraphernalia available through headshops, advertisements, and distributors' catalogs in mid- to late-1979. Later sections of this chapter indicate trends in paraphernalia sales over the past 6 years as well as anecdotal information gathered during the field work concerning paraphernalia sales to particular segments of the purchasing community.

### GROWTH AND DEVELOPMENT OF THE PARAPHERNALIA INDUSTRY: AN OVERVIEW

Table 3 summarizes key events and significant developments in the paraphernalia industry since its birth in the 1960's.

### PUBLICIZING THE INDUSTRY

There have been a variety of publications aimed both at consumers and at the industry itself. Table 4 summarizes key data about these journals.

### SIZE OF THE INDUSTRY

#### Estimated Gross Sales

Hard facts about the total size of the paraphernalia industry are seemingly unattainable. Few trade representatives seem willing to provide specific profit figures or gross sales volumes in the midst of the current controversy. It appears that the news media and opponents of paraphernalia sales consistently inflate their estimates, while trade representatives lower their figures substantially.

Estimates of current annual sales volume nationwide run from \$50 million to \$3 billion:

- A 1979 article on "the dope industry" estimated \$50 million (H.T., Apr. 1979).
- An ad in High Times selling a book to recruit new blood into the business proclaimed that the "U.S. paraphernalia

Table 2. Paraphernalia Items Sold at Retail: Categories, Price Ranges, and Descriptions, 1979

Category	Price range	Varieties/description
<u>MARIJUANA</u>		
Smoking papers	10¢-\$1.00	300-400 types: sizes--regular, 1 1/2, double wide Flavors--strawberry, cherry, banana, cannabis, grape, mentholated Prints--porno, comics, personalized, psychedelic Specialties--tipped, uncut party roll, built-in roach clip, tabbed Paper--wheat, rice, thin, perforated, linen, hemp
Rolling machines	\$1 and up	Adjustable or matched to paper sizes boxed or with papers
Roach clips	\$1 and up	Alligator, hemostat, wire, wood, switchblade, every possible novelty shape (keys, earrings, pens, tie clasps, animals)
Lighters and matches	\$1 and up	Solar, fueled, imprinted, disposable, combined with pipes or bongs
Other smoking accessories	10¢ and up	Pipe/bowl screens in assorted sizes; single, party, and revolving bowls; bowl loaders; pipe parts; pipe cleaners; smoke stones; bong cleaners; brushes; humidifiers; paper cases; ashtrays; pipe racks
Bongs and water pipes	\$2-\$25 and up	Acrylic, ceramic, glass, metal; freestanding or handheld; with tubing; with mask; single, double, or more mouth pieces; tubular, round, bubble, bottled-shaped; chillums, hookahs
Pipes	\$1-\$600 and up	Acrylic and metal, ceramic, metal, wood, wood and metal, laminated, onyx, soap stone, shell, smokeless, pinch, meerscham, power hitter, frisbee, glass-oil, dashboard, electric, chamber, porcelain, inlaid bronze, Edmond
Stash cleaners	\$3-\$75	Sieves, strainers, boxes, bowls, rotary, acrylic, record cover, shaker
Stash containers	\$1 and up	Ceramic, metal, novelty, plastic, stone, wood, pouches, poly-bags, paper, cloth, with built-in pipes or lighters
Growing supplies	\$2.95-\$75	Fertilizers, hydrotops, lamps, plant terrariums, colchicine
Scents	\$1-\$10	Candles, incense, aerosol mist sprays, holders (in every possible scent)
Isomerizers	\$30-\$180	3-4 brand names: Kik, Maximizer, Iso-2
Books	\$2-\$17.95	For cultivation, preparation, smoking and eating, smuggling, celebrating/identifying, increasing potency

Table 2 (Continued)

Category	Price range	Varieties/description
<u>MARIJUANA (Cont.)</u>		
Kits	\$3 and up	Boxes containing assortment of wares necessary for smoking: usually pipe, papers, matches, roach clip in a stash--concert kit
<u>COCAINE</u>		
Spoons	\$2-\$200 and up	Gold, metal, silver, ivory, bone, scrimshaw, jeweled in all shapes/decorations
Straws (tooters)	\$1.50-\$150 and up	Silver, gold, metal, glass, ivory, bone, plastic
Snorters (that deliver a precise amount of powder)	\$3-\$6	Plastic, metal, acrylic
Preparation equipment	\$.50-\$200	Metal or nylon screens, grinder/preparation system, strainers, mortar and pestles, mirrors, stones, slabs, funnels, razors, agates
Containers	\$.50-\$300	Vials of glass, gold, silver, jeweled, inlaid, plastic, and all combinations Salt servers, small jars and stashes, built-in absorbent crystals, plastic bags
Adulterants (cuts)	\$5/block	Mannite, mannitol, lactose
Drying devices (dessicators)	\$3-\$30	Crystals (absorbent)
Test kits	\$3-\$300	Chemical, melt point
Conversion/purification kits	\$10 and up	Free Base System, Sno-Cleaner (including glass pipes for smoking "freebase" cocaine)
Kits	\$3.50-\$30	Compacts/cases/novelty items containing equipment for use: usually a mirror, vial, spoon straw, and razor
Books	\$4.95-\$9.95	For testing, consuming, selecting/buying, smuggling, purifying/converting
Nasal irrigator	\$3-\$6.50	For reducing chance of nasal membrane damage
<u>SCALES</u>		
For marijuana and cocaine primarily	\$1.50-\$200	Pocket, spring weight, counterbalance, triple beam, weights, grams, scoop, digital

Table 2 (Continued)

Category	Price range	Varieties/description
<u>MUSHROOMS</u> (usually psilocybin)		
Kits	\$5-\$50	Sterilized media and spores
Books	\$2-\$10	For growing, identifying, and consuming
<u>CHEMICALS</u>		
Isobutyl nitrite	\$4-\$10 a bottle	Sold under trade names such as Rush, Locker Room, Head, Joc Aroma
Nitrous oxide	\$2-\$26	Inflators (large and small), balloons, cartridges, carbureted joint holder
Procaine HCl	\$10 a bottle	Simulated cocaine sold as Coca Snow, Rock Crystal
<u>ORGANIC/HERBS</u>		
Tea Smokes Seeds	\$5 and up	Woodrose, Lobelia, Kava-Kava, Ginseng Root, Lettuce Extract, "Opium," Yohimbe Bark
<u>OPIUM AND HASHISH</u>		
Seeds Books	-- --	For growing opium For cultivation, use, preparation
<u>SMUGGLING/ CONCEALING</u>		
Equipment	\$4.50-\$75	Safes, I.D., antibugging equipment, packaging materials, night goggles, books, passports, money belts
<u>MISCELLANEOUS SALES ITEMS</u>		
	Varies, depending on product	Magazines, comics, body lotions, massage oils and creams, games, clothing (especially T-shirts), jewelry, posters, greeting cards, sexual aids and devices, calendars, wrapping paper, other novelties, and records describing or idealizing the use of recreational drugs.

Source: 1979 issues of *High Times*, *Paraphernalia Digest*, *Paraphernalia Magazine* (including its *First Annual Paraphernalia Trade Directory*), the catalog of a medium-sized paraphernalia distributor serving the Middle Atlantic States, and interviews with an owner of a Washington-area headshop.

Table 3. Growth of the Paraphernalia Industry

Key events	Significant developments
The mid-1960's: the beginnings of demand for "smoking" accessories	Marijuana smokers in the 1960's gravitated to the small market of available marijuana rolling papers or small-bowled pipes, often simple corncob pipes from dime stores and novelty shops. More inventive users created their own smoking accessories out of brass lamp parts or auto supplies.
Mid- to late-1960's: the birth of "the industry"	A few local and enterprising crafts people and cigarette jobbers began to supply paraphernalia to the "alternative" stores that sprang up to sell T-shirts, embroidered clothing, leather sandals, kaleidoscopes, incense, "hippie" beads, handmade pottery, belt buckles. In the beginning, there was more demand than supply, resulting in a high markup on paraphernalia items and guaranteed high profits.
Early- to mid-1970's: the paper boom	In 1972, Burt Rubin, president of Robert Burton Associates, conceived the idea of double-width rolling papers, and his Spanish import, the E-Z Wider, became the first nationally advertised brand exclusively designed for marijuana use. As early as 1974, connoisseurs of papers debated the importance of burn rates, tensility, paper composition, white ash tests, and perforations in the different brands and styles (H.T., Fall 1974). Rolling papers experienced their fastest growth period in the mid-1970's, reaching a peak of 300 to 400 types by 1976-77 (P.D., Sept. 1979). As paper sales soared, tobacco sales decreased, indicating the switch to usage for marijuana (H.T., Sept. 1978).
Early 1970's: manufacture of pipes and bongs	The explosion of the paper industry was paralleled by an equal growth in the manufacture of specialty pipes and bongs for marijuana smokers. Bongs now run a close second to papers in dollar value of sales (P.D., Apr. 1979). Sarah's Family in California began manufacturing brass pipes in 1969 and acrylic pipes in 1971. The bamboo bong, a traditional smoke enhancer of the Orient, was brought back from Vietnam about 1972 and quickly gained widespread popularity for its prevention of wasted smoke. The glass and acrylic tubes of the early 1970's were followed by molded bubble bongs in 1974 and ceramic creations shortly thereafter. Prices ranged from \$2 and up, with the most popular U.S. bong model listed at \$20.
Mid-1970's: consumer trade publications support the growth of the paraphernalia industry	Since 1974, three trade publications and ten consumer-oriented magazines were created, reflecting and influencing the growth of the paraphernalia industry. <i>High Times</i> , first published in the summer of 1974, was the first magazine dedicated to the recreational drug user. Since their beginnings in the mid-1970's, seven of the consumer journals and one trade journal have gone out of business.

Table 3 (Continued)

Key events	Significant developments
Late-1970's: technical sophistication of the industry	The paraphernalia industry has taken an aggressive approach to technological development and innovation. As the industry continued to grow, profits were re-invested in new product research and development. A major example of this approach is demonstrated by the Deering Preparation System, a \$20 (retail) plastic, injection-molded grinder for cocaine introduced by Adams Apple, one of the industry's major distributors. The product was an immediate hit at the New York Boutique Show in the fall of 1978, where 15,000 orders were placed in 4 days. The increased product sophistication was also reflected in new business practices, which include computerized inventory control systems and automated store-stocking programs for larger retailers and chain stores that have paraphernalia departments.
Late-1970's: expansion and diversification	The paraphernalia industry experienced its greatest growth during 1976 and 1977. Cigarette paper jobbers were already distributing by then to most places where tobacco products were sold. Other retail outlets, such as record stores and novelty gift shops, began to handle paraphernalia as part of their standard inventory. Distributors encouraged this expansion of their networks as paraphernalia grew more visible and apparently acceptable. Gradually, a few stores in suburban shopping malls, especially those that were members of chains, also created paraphernalia sections. A special liaison between the record and paraphernalia industries developed to reap the high profit margins on paraphernalia that would counter fierce competitive discounts on records. This was further reinforced by a recent massive slump in the record industry, brought on by inflation. The paraphernalia industry has also begun marketing its wares at national and regional trade shows, although there has been some negative reactions from some trade groups because of the legal controversies and community concerns about the legality of the business.
Late-1970's: an industry under attack	With the spate of local, State, and now Federal activities against aspects of paraphernalia sales and use, the industry has begun to organize. There are now several regional associations and one national trade association that are geared both to defend industry members from legal attack and to attempt, in part, to promote more responsive and responsible sales and advertising approaches. A model bill has been developed by the industry itself and is being considered for possible adoption by the major national trade association, as of early Dec. 1979. The major consumer journal distributes a new and more cautious advertising policy.

Table 4. Paraphernalia Industry Publications

Publication	Description
<u>CONSUMER JOURNALS</u>	
<u>High Times</u> , "the magazine for high society"	First "slick" aimed at recreational drug users. First publication was in the summer of 1974, with \$20,000 investment and 20,000 initial press run. Reached 250,000 copies within a year and a peak of 425,000 (H.T., Fall 1975). Currently 300,000 circulation ( <u>San Francisco Chronicle</u> , Oct. 29, 1979). Grosses \$5.5 million a year, 47th largest newsstand circulation (ABC Audit figures). Ads comprise 40% of total space and appear on 60% of pages. Four-color full page ads cost \$4,200 each ( <u>Washington Post</u> , Dec. 17, 1978) and are usually purchased by major paraphernalia manufacturers. Features center-fold photos of drugs; articles about drug smuggling; science fiction escapades; how to grow and use marijuana, opium, mushrooms. Regular departments on legal and medical information; interviews with variety of gurus and cult figures. Credited with "providing a subculture with a magazine and the paraphernalia industry with a way of reaching consumers and each other on a national level" (P.D., Dec. 1978). H.T. is not generally available at newsstands; it is sold principally in headshops.
	Stated advertising policy (as of Dec. 10, 1979, to be effective with April 1980 issue) is to no longer accept ads for freebase cocaine and isomerizers or for any chemical adulterants; to reject advertising aimed at juvenile audiences and advertising referring to use of illegal substances; and to generally urge advertisers to observe discretion. In a letter "To Our Friends in the Paraphernalia Industry" stating this policy, the publisher urges these changes "to protect both your business and your mutual constituency" (Schenge, 1979).
Defunct journals including <u>Rush</u> , <u>Marijuana Monthly</u> , <u>National Weed</u> , <u>Head</u> , <u>Stone Age</u> , <u>Flash</u> , <u>Homegrown</u>	Mostly <u>High Times</u> imitations, these magazines discontinued publication after a few sporadic issues mainly because of a lack of advertising and high production costs (P.D., Aug. 1978, Nov. 1979).
<u>Hi-Life</u> , "the magazine of leisure highs"	First published in Nov. 1978. Aimed at "college smokers and Wall Street tokers." Although it boasts 200,000 copies per issue, the 90-odd pages carry far fewer ads than <u>High Times</u> and print and photo quality is inferior.
<u>Daily Dope</u>	Premiered in Sept. 1979. Apparently aims at a diversity of ads, not limited to paraphernalia. The first press run was 175,000 copies.
<u>TRADE JOURNALS</u>	
<u>Dealer</u>	First published in June 1976 by <u>High Times</u> publisher. Folded after three issues.

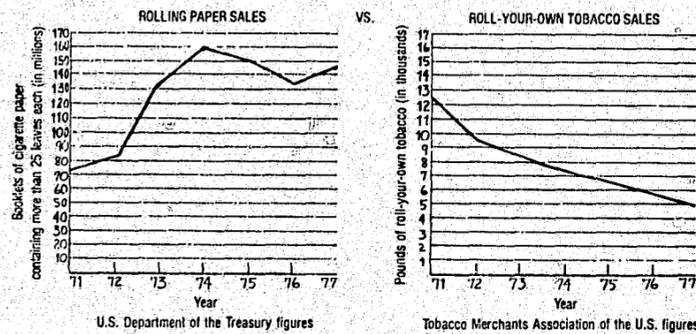
Table 4 (Continued)

Publication	Description
<u>TRADE JOURNALS (Cont.)</u>	
<u>Paraphernalia Magazine</u>	First published in June 1977. Current circulation is 17,500. Derives bulk of income from ads. Each issue includes 10 to 12 pages of pullout newsprint articles written by guest contributors, reprints of news releases, and coverage of the trade meetings and legal involvements. Includes retailing "how-to's." Each issue has a one-page Drug Education Report prepared by the Do It Now Foundation describing uses and dangers of such drugs as PCP, free-base cocaine, butyl nitrite, nitrous oxide, and Quaaludes. Contains postage-paid reader service card of which 300 to 400 are returned each month with information about the size and sales volume of the responding retailer, best-selling items, number of employees, age of the business, other inventory items, and whether or not the shop will sell ingestibles or favors the prohibition of sales to minors. [85% of respondents (number unknown) favor a ban on sales to minors; about half sell legal ingestibles such as butyl nitrite and cocaine cuts, according to the publisher.] Stated editorial policy is to present all sides of any argument within the industry as objectively as possible. Stated advertising policy is to accept all ads but to caution against distribution of journal outside the industry.
<u>First Annual Paraphernalia Trade Directory</u>	This is the May 1979 issue of <u>Paraphernalia Magazine</u> and is the most complete picture of the industry presently available. The directory categorizes paraphernalia products and lists the suppliers of each category (e.g., wire clips, ceramic bongs). A total of 325 distributors, manufacturers, importers, exporters, publishers, and associations are listed. Each organization is listed alphabetically, geographically, and by category of paraphernalia and related items they make or distribute.
<u>Paraphernalia and Accessories Digest (recently changed to The Accessories Digest)</u>	First published in June 1978 by former <u>High Times</u> publisher. Varying from 30 to 65 pages of mostly news about the legal battles and trade association stances, this publication carries fewer ads than its competitor. Editorial policy urges self-regulation and industrial reform. Advertising policy refuses all ads for ingestibles, including the "legal highs" such as butyl nitrite, nitrous oxide, simulated cocaine, and cocaine adulterants. The editor recognizes that these substances are not illegal, have a right to be sold, and create high turnover and profit. Still, he argues, greed is the only compelling reason for such sales in the face of strong community concern about pseudodrugs and sales to minors (P.D., July 1978). Digest offers advice to retailers/distributors on business survival. Articles, editorials, and interviews with industry figures--from reputable retailers to the

Table 4 (Continued)

Publication	Description	Id.
<u>TRADE JOURNALS (Cont.)</u>		
<u>Paraphernalia and Accessories Digest (Cont.)</u>	trade associations' general counsel--tell how to fight back against community harassment and how to diversify into new profit centers and become a "macro" store with T-shirts, candy, posters, records, books, and other "lifestyle accessories" (P.D., Aug. 1978; July, 1979). Digest directives to the industry have tightened since the legal battles with the community have toughened. A centerfold in the Aug. 1978 issue is designed to be hung in stores and declares "Certain items will NOT BE SOLD TO CHILDREN." The editorial commentary in the same issue suggests "you can still sell to whomever you damn well please" since the sign sets no age limits. By Jan. 1979, however, the advice was completely straightforward: "Keep paraphernalia out of the hands of children" (P.D., Aug. 1978; Jan. 1979). Interestingly enough, there is an ad in the Nov. 1979 issue advertising a marijuana pipe called the "Pocket Size Power Hitter," which claims it "Fits Small Hands, Delivers a Big Hit." Some might view this ad as aimed at children.	
	business will soon explode to more than three times its present level...from \$12 million in 1972 to \$50 million in 1976, and by 1978 could reach as high as \$150 million following further decriminalization [of marijuana]" (H.T., Dec. 1977).	\$1 to \$3 billion have been used in connection with Federal efforts in the area.
	<ul style="list-style-type: none"> <li>The New York Times estimated that the largest and most visible manufacturers, distributors, and retailers, the so-called "czars," grossed about \$200 million in 1975 (H.T., May 1976). But when five of these czars sat together in a symposium the next year, their own estimates varied from \$40 million to \$250 million for total annual gross sales.</li> <li>The chief counsel for the industry's trade association believes estimates as high as \$350 million per year for gross sales are exaggerations (P.D., Oct. 1979). His observation is based on the number of internal ownership transfers, sales of subsidiaries, and the vertical integration of the trade, where many distributors are also importers, manufacturers, or retailers.</li> <li>The industry scoffed at the \$3 billion a year figure used by Time Magazine in a Feb. 12, 1979, article (P.D., Mar. 1979). Gross sales figure estimates ranging from</li> </ul>	<u>Statistics on Sales of Rolling Papers</u>  By all estimates, rolling papers are the single largest selling item on the paraphernalia market. The profits on rolling papers are large, according to the importer/distributor for E-Z Wider, who claims to have netted \$400,000 in 1978 on \$7 million in sales. A booklet of papers costs about 6 cents to produce, wholesales at 10 cents to 11 cents, and retails up to 60 cents (P.D., Oct. 1978). These papers are carried in many corner pharmacies, drug chains, liquor stores, delicatessens, and other places where cigarettes are sold.  The rolling paper business has experienced a remarkable growth, as shown in table 5, which compares rolling paper and loose tobacco sales from 1971 through 1977. As paper sales soared, tobacco sales decreased, indicating a switch to use of these papers for marijuana.  The U.S. Bureau of Alcohol, Tobacco, and Firearms levies a half-cent tax on each booklet of rolling papers containing more than 25 leaves. Although some of the types manufactured for marijuana smoking contain fewer than

Table 5. A Comparison of Rolling Paper and Loose Tobacco Sales, 1971-77



Source: High Times, Sept. 1978.

25 papers and are not taxed, the taxes paid reflect the remarkable growth and size of the paper industry. In 1967, \$727,000 was collected by the Treasury in Federal taxes on cigarette papers. This figure grew to \$1,573,000 by 1977 (*Florida Times-Union*, Feb. 17, 1979). More than 5 billion packages of papers have been sold in the United States since 1968. The Tobacco Merchants Association figures on sales of cigarette papers showed domestic sales down and imported sales up in fiscal years 1977 and 1978. Most rolling paper manufacturers and distributors import materials from Spain, Taiwan, France, and Italy (P.D., June 1979).

Table 6. Rolling Paper Sales, Domestic and Imported, FY 1977 and 1978

(in thousands of dollars)

Fiscal year	Domestic sales	Imported sales
1977	120,675	48,700
1978	116,125	55,075

Source: Tobacco Merchants Association of the United States.

Number of Companies in the Industry

There are considerable difficulties involved in estimating the number of paraphernalia retail outlets, even from local phone book listings. For example, the Yellow Pages does not specifically list paraphernalia stores or headshops. Stores that sell paraphernalia, however, can be found under such headings as "Pipes and Smoker's Articles," "Record Retailers," "Boutique Items," and "Novelties." The rationale for this, according to the telephone company business office, is that there has not been sufficient demand to create a separate heading.

Maximum estimates of retail outlets range from 15,000 to 25,000 (P.D., Aug. 1979; Bensing, 1979). The *Paraphernalia Digest* subscription list is reportedly 18,000, mostly retailers, according to the publisher; he believes that no single manufacturer or distributor in the industry mails to more than 10,000 retailers. The *Paraphernalia Magazine* subscription list is reportedly 17,500 and has been developed from a larger list of 35,000 addresses, mostly of retailers, according to the publisher. This magazine's *First Annual Trade Directory* lists only 325 manufacturers and distributors, but the publisher estimates the list should double in size by the second issue. This publisher thinks there are 12,000 to 14,000 manufacturers and distributors "if

the truck jobbers and paper boys" are included.

In sum, the paraphernalia industry seems to be a business of many small manufacturers and distributors, many small retailers, and a few relative "giants." A giant in this business seems to be a company that does \$5 million or more in business annually. Paraphernalia Magazine's publisher believes the "influential group" is limited to 50 to 75 companies nationwide, most of whom probably know each other.

Geographic Distribution of the Industry

Limited data concerning the geographic distribution of companies in the industry were obtained from an analysis of the subscription list for *Paraphernalia Magazine* and addresses of the major manufacturers and distributors listed in the Trade Director (see table 7). Manufacturers and distributors are heavily concentrated on the west coast (primarily California) and in the New York and Pennsylvania areas (53 percent for the two geographic sections combined). The larger list of subscribers contains mostly retailers in addition to the manufacturers and distributors. This distribution parallels the smaller list rather closely, with 40 percent having ZIP codes on the west coast or the New York area and the rest spread evenly across the United States.

THE RETAIL LEVEL OF THE INDUSTRY

Sales Estimates for Individual Retail Outlets

As indicated earlier, 15,000 to 25,000 retail paraphernalia outlets may be operating nationwide. It has been argued by some groups concerned about paraphernalia sales that the annual sales figure for the average retail outlet is \$100,000 (P.D., Oct. 1978). This figure seems to be an exaggeration. Field work for this project and reports in industry publications indicate that the figure is considerably lower. Only the major outlets appear to have gross annual sales in the \$75,000 to \$100,000 range. It is estimated that 60 percent to 85 percent of their sales are in paraphernalia, with the rest in nondrug items. Many record stores carry small lines of paraphernalia that represent an estimated 3 percent to 20 percent of their gross sales annually. As will be discussed later, this figure may represent a larger proportion of their gross profit, however.

One small aspect of the retail business should be noted--the mail-order retail business. Only two companies specialize in this area: one publishes comic books aimed at

adults and distributes paraphernalia, principally to servicemen here and abroad; the other company, the larger of the exclusively mail-order retailers, is a relatively small business, grossing considerably less than \$1 million annually, according to its president. He feels the mail-order component comprises less than 1 percent of the industry and estimates the total industry sales at about \$100 million. This firm sells only smoking accessories and reports making an effort to discourage sales to persons under 18.

Paraphernalia Sales in Record Stores

Markups on paraphernalia items are often double or triple their cost, especially if the distributor gives good discounts. In contrast, record albums may sell with a markup of only 30 percent, especially in stores that are part of nationwide, high-volume chains. The president of a chain of record shops in Cleveland estimated that one-third of the retail paraphernalia business nationally was being conducted by record stores as of October 1978 (P.D., Oct. 1978).

A 20-city survey in the fall of 1978 by Music Retailer magazine found that the "relatively higher profit on nonrecords paid the rent for some music merchants" and described common nonrecord inventories as T-shirts, posters, jewelry, magazines, and paraphernalia (P.D., Aug. 1978). Record retailers from Michigan, Pennsylvania, Indiana, and Minnesota reported that 10 percent to 20 percent of their sales were from paraphernalia, usually described as pipes, clips, and papers; these sold well all year, especially in outlets where customers favored rock or rhythm and blues records.

The president of the fastest growing record store chain in southern California (with 18 stores), who was named Music Retailer of the Year by the National Association of Music Retailers, proudly reported that 3 percent of his sales and a larger proportion of his profits (perhaps as high as 18 percent) came from paraphernalia, which is displayed in glass cases in the front of his stores. This owner is a respected member of his community who is reported to have enforced stringent sales and advertising guidelines, such as no window displays, strict prohibition of sales to minors, and a refusal to stock ingestibles (P.D., Oct. 1978).

For this report, researchers conducted a telephone poll of record stores listed in the District of Columbia Yellow Pages, as of May 1979, to determine if they sold paraphernalia. There were 62 record store retail listings, excluding mail-order shops. Researchers

Table 7. Geographic Distribution of the Paraphernalia Industry

ZIP code	Region	Paraphernalia magazine subscription list (%) <sup>a</sup>	Paraphernalia magazine list of manufacturers/distributors (%) <sup>b</sup>
00	New England and New Jersey	10	7
10	New York and Pennsylvania	20	15
20	Middle Atlantic	9	5
30	Southeast	6.5	6
40	Central	9	8
50	Great Lakes	5.5	5
60	Plains	6	5
70	Southwest	7.5	4
80	Rockies	6.5	7
90	West coast	20	38
Total number		17,500	311 <sup>c</sup>

<sup>a</sup> Provided directly by the magazine's publisher.

<sup>b</sup> From analysis of the magazine's First Annual Paraphernalia Industry Trade Directory, May 1979.

<sup>c</sup> Figure includes U.S. corporations only.

dialled each number listed; 16 had been disconnected, leaving 46. Several stores that also sold records were not included in the Yellow Pages listing, principally department stores and musical instrument stores. Findings are shown in table 8.

Of the 93 stores, 43 percent sold some paraphernalia; most of these (60 percent of the total) were single-store operations. Three-fourths of the single-store operations sold paraphernalia, although some owners said it was a very small part of their business, or said they only sold "one or two pipes." With the exception of one chain of 11 stores, none of the chains having three or more stores sold paraphernalia. The owner of the largest chain said that his stores do not carry paraphernalia because "we don't want to further the drug industry." Area record distributors and retailers' associations have not

issued official statements regarding paraphernalia, and individual merchants are free to sell whatever they want.

It appears that in the Washington, D.C., area, at least, the smaller and perhaps more marginal stores sell paraphernalia, whereas the larger stores do not. The profit margin is much higher on paraphernalia than on records, and it seems likely that paraphernalia sales represent a significant portion of the profits of the smaller stores. The retail record business seems to be fairly competitive, as witnessed by the number of businesses listed in the May 1979 Yellow Pages that are no longer in operation.

#### Characteristics of Retail Customers

Statistical information about the socio-demographic characteristics of the customers

Table 8. Paraphernalia Sales by Selected Washington, D.C., Area Record Stores

Number of stores operated under same trade name	Total stores in category	Number of stores selling paraphernalia	% of stores in category that sell paraphernalia
One store	32	24	75.0
Two stores	14	5 <sup>a</sup>	35.7
Three stores	6	0	0.0
Six or more stores	41 <sup>b</sup>	11 <sup>c</sup>	26.8
Total	93	40	43.0

<sup>a</sup> One store of a two-store chain sells papers only; the other store did not sell paraphernalia.

<sup>b</sup> One store in this category is part of a 27-store nationwide chain, none of the stores in the chain sell paraphernalia. The 41 stores here represent 5 chain-store operations.

<sup>c</sup> All of these stores are part of one chain.

who purchase paraphernalia are difficult to obtain. Because most store owners interviewed also worked in their stores, they generally believed that they had no need for sophisticated product and consumer analyses. Questions that store owners asked customers were usually targeted at advertising results or brand-name preferences and identification.

The following discussion of consumer characteristics is derived from three sources: field research observations, retailers' reports about their customers, and a readership survey conducted for High Times in 1977 by Roger Seasonwein and Associates, a consulting firm that specializes in constituency surveys and analyses.

Without exception, the paraphernalia merchants in the Washington, D.C., and San Francisco metropolitan areas said their clients were primarily young adults aged 18 to 30 years. Although they had different policies about allowing children in the store, sales to minors, and procedures for verifying identity and age, none reported minors as a major portion of the purchasing public. These reports were no doubt influenced by the current controversies about sales to minors, but field researchers observed nothing to the contrary while interviewing and visiting 23 different types of stores at different hours.

Field research reported by various community groups and treatment personnel (notably Phoenix House in New York City and citizens' groups in Montgomery and Prince George's Counties, Md.), however, have demonstrated beyond a doubt that sales to minors occur regularly. Several of these groups sent children as young as 12 and 13 into paraphernalia outlets. The youngsters were able to purchase a variety of drug-related goods and reported no difficulties.

The majority of merchants interviewed said that "professionals and executives" made more visits to their stores in the past year or two than they had previously. More male than female customers were reported. Stores with a specialty line, stores that sell the "legal highs," and stores with a reputation for serving a particular minority (e.g., gays, Chicanos, or in one case, deaf persons) tend to draw their clients from a wider geographic area than do the small neighborhood shops.

The one owner-conducted customer survey that was identified (see table 9) is in agreement with the researchers' independent observations and retailers' reports. By far, the majority of clients from a sample of 127 customers during a 4-day period in a Washington, D.C., headshop were reported between the ages of 21 and 35 years (84.3 percent), with annual

Table 9. Customer Survey at a Washington, D.C., Area Headshop, October 1979

Survey of customer responses Oct. 26-29, 1979, at:

Earthworks, Inc.  
1724 20th Street, N.W.  
Washington, D.C. 20009

Total respondents: 127 (random sampling)

Age breakdown: (no customers under age 19)

19 - 20	6.3%
21 - 24	20.5%
25 - 35	63.8%
36 - 40	7.0%
41 - 60	2.4%

Income breakdown (per annual income):

Under \$10,000	18.8%
(mostly college students)	
\$10 - \$20,000	52.5%
\$20 - \$30,000	13.9%
Over \$30,000	14.8%

Occupational breakdown:

The variety of responses makes statistical analysis difficult. The largest number of responses were from professional people (doctors, lawyers, and accountants), business administrators and managers, clerical and government workers, people in the arts, and sales and marketing specialists. A small number of unskilled, blue-collar workers and college students were also included. Only one respondent in this sample was unemployed.

Voter registration:

Registered to vote	86.4%
Unregistered	13.6%

Source: Testimony given at House Subcommittee hearings by Maccubbin (1979).

incomes between \$10,000 and \$20,000. However, this survey deals only with that self-selected sample of customers who chose to complete data cards made available by the store.

In a survey conducted several years ago, the owner of a record store chain in southern California reported that 25 percent of his customers were under age 18 or over age 34 (P.D., Aug. 1979). Not all readers of *High Times* may purchase paraphernalia, but they are exposed to the ads for every variety of available product. The 1977 readership survey findings are, therefore, about as objective a description of potential, if not actual, paraphernalia purchasers as can be found.

The survey also found that the typical reader was in the affluent 18- to 34-year-old market, with an average age of 23.7 years; 77 percent were male, and 39 percent were either college or graduate students. Readers were found to be "in tune with music"; approximately three-fourths purchased record albums in the month prior to the survey, and the same percentage had one or more musical instruments in their households. Lifestyle aspects of these readers included beer drinking (90 percent), outdoor camping (54 percent), health food consumption (50 percent), recent blue jean purchase (60 percent), and credit card use (49 percent).

One interesting finding that may confound comparisons of readership characteristics and paraphernalia consumers is that *High Times* has a 9.4 percent pass-along readership, compared with an average rate of 3.4 percent for most magazines; that is, each copy of *High Times* is read by more than nine persons, whose demographics may be the same as or different from those of the primary readers.

#### Observations in Retail Outlets

Field visits were made to several paraphernalia outlets, both headshops and record stores, in the Washington, D.C., and San Francisco Bay areas. None of these stores encouraged customers to "hang out" or browse for very long. Nearby parking was a frequent problem, and purchasers tended to drop in and quickly buy papers or a small pipe. Conversations with the merchants were casual and friendly. No chairs were available in any of the stores visited, and there were seldom enough books or magazines to encourage browsing. Most places did carry back issues of such drug-related publications as *High Times*, *Stone Age*, and *HiLife*.

Merchants reported few problems with minors being high or "strung out" in the store. Merchants whose experience dated

to the early 1970's described changes in customer behavior patterns, they noted an older, more settled, wage-earning group now; fewer rip-offs (although pilferage is still a problem, and almost all merchandise is kept inside glass display cases or on walls behind counters), and more demand for handcrafted, high-quality merchandise.

#### TRENDS IN PARAPHERNALIA SALES AND ADVERTISING

##### General

Although both sales and advertising for marijuana-related products dominate the market, the single most obvious trend is the growing availability and purchase of products related to cocaine. Evidence is available from interviews with retailers; from comments in the trade journals, and from analysis of ads in trade publications. Although cocaine-related paraphernalia have been on the market for years, the acceleration in sales and advertising seems to have begun during 1977 and 1978. An informal survey at the 17th National Fashion and Boutique Show conducted by *Paraphernalia Digest* in June 1978 showed that the sale of marijuana paraphernalia was down 20 percent while the sale of cocaine paraphernalia was up 50 percent from the previous year's show (P.D., June 1978). Tables 10, 11, and 12 document and chronicle this development.

Anecdotal information obtained from interviews with retailers provides additional impressions on trends in the industry:

- Headshops tend to carry more paraphernalia stock items of each type than do most record stores, but there are exceptions to this generalization.
- The type of merchandise in stock depends on a complex interaction of the customers' economic status, race, sex, and lifestyle; the store's economic stability and profit rate; the owner's tastes and ethics; and the availability of product lines from local distributors.
- The popularity and availability of drugs in the community influences what is purchased.
- The number of items on display in glass cases and on shelves behind the counters is overwhelming...even small record stores in poor neighborhoods seem to overstock and crowd the one or two display cases they devote to paraphernalia.
- Retailers can seldom comment on brand-name popularity or best sellers; runs on

any one item are apparently short-lived.

- Less affluent stores carry fewer expensive items, such as Ohaus scales and melt point testers. Stores that carry these items may well sell to drug dealers in addition to recreational drug users.
- Product preferences vary by geographic location; "legal highs" (for example, butyl nitrite and nitrous oxide) are more visible and popular in San Francisco than in Washington, D.C., headshops; cocaine is more popular in the Bay area than in New Mexico or Washington, D.C. (as of November 1979).
- Blacks on both coasts reportedly favor mentholated rolling papers; "Tops" is their favorite brand.
- "Bambu" is a generic as well as a brand name for rolling papers in New York City slums.
- "Club" papers are reportedly preferred by college students.
- Women reportedly favor the flavored papers.
- "Gays" and "bikers" reportedly use the butyl nitrites more frequently than do other recreational drug users.

#### Analysis of Advertising in Industry Publications

Detailed analyses were made of the ads in the Christmas (December) issues of *High Times* magazine from the journal's inception in 1974 through 1979. *High Times* has the largest circulation of any journal in the industry (currently 300,000). The Christmas issues contain the greatest number of ads for each year. Table 10 presents a general analysis, summarizing overall changes as well as advertising trends for paraphernalia and nonparaphernalia items. Table 11 displays a more detailed analysis of advertising trends for specific types of paraphernalia-related items.

Table 10 shows that both the length of the magazine and the percentage of pages containing ads increased rapidly after its initial publication. The magazine's peak circulation was reached in 1976 and 1977, a fact reflected in the advertising. The Christmas issues for those years included the greatest number of ads. The total number of ads and the percentage of total full-page ads have decreased since 1977. This decrease coincides with the growth of the industry trade

Table 10. General Advertising Trends in High Times Magazine, 1974-79  
(number of ads and percentages)

Ad category	Publication date and issue number											
	Fall 1974 #2		Dec./Jan. 1975 #7		Dec. 1976 #16		Dec. 1977 #28		Dec. 1978 #40		Dec. 1979 #52	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Paraphernalia	19	59	85	62	116	61	112	69	110	74	89	63
Nonparaphernalia	13	41	53	38	73	39	50	31	38	26	72	37
Total	32	100	138	100	189	100	162	100	148	100	161	100
Subcategories of paraphernalia ads												
Marijuana	11	58	58	68	76	66	71	63	68	62	48	54
Cocaine	2	11	6	7	16	14	17	15	22	20	19	21
Mushrooms	-	-	-	-	3	2	6	6	3	3	4	5
Chemicals	-	-	2	2	-	-	4	4	1	0	1	1
Herbs	2	11	9	11	9	8	7	6	3	3	1	1
Nonspecific <sup>a</sup>	4	20	10	12	12	10	7	6	13	12	16	18
Subcategories of nonparaphernalia ads												
Books/magazines	5	38	6	11	15	20	12	24	7	18	19	26
Posters/graphics	-	-	9	17	9	12	4	8	4	11	5	7
Jewelry	-	-	11	21	8	11	5	10	6	16	1	1
Clothing/T-shirts	-	-	7	13	7	10	9	18	5	13	15	21
Miscellaneous <sup>b</sup>	8	62	20	38	34	47	20	40	16	42	32	45
General information												
Total pages	68		146		178		176		172		172	
% of total pages with ads	32		48		56		62		62		58	
% of ad pages with full-page ads	34		12		19		29		23		17	

<sup>a</sup>The nonspecific paraphernalia category includes scales, equipment for testing the purity of drugs, catalogs for all types of paraphernalia, devices to intercept wiretaps, and kits for establishing personal identification.

<sup>b</sup>The miscellaneous nonparaphernalia category includes ads for such items and services as records, stereo equipment, air mattresses, massage lotions, abortions, hot tubs, soaps, and games. It also encompasses distributors who advertise by name only (no products) and organizations such as NORML, Arica, and ACTION.

Table 11. Trends in Drug-Related Paraphernalia Ads in High Times Magazine, 1974-79  
(numbers of ads and percentages)

(Rounding accounts for slight differences in totals between Table 10 and Table 11.)

Ad category	Publication date and issue number											
	Fall 1974 #2		Dec./Jan. 1975 #7		Dec. 1976 #16		Dec. 1977 #28		Dec. 1978 #40		Dec. 1979 #52	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
<b>Marijuana</b>												
Growing aids	-	-	6	7	7	6	8	7	8	7	6	7
Isomerizers	1	5	1	1	-	-	3	3	4	4	5	6
Cleaners	-	-	4	5	7	6	6	5	2	2	2	2
Stashes	-	-	7	8	9	8	3	3	6	5	1	1
Rollers	1	5	3	-	1	1	1	1	2	2	-	-
Incense/mist	-	-	4	5	2	2	2	2	3	3	2	2
Clips	2	-	6	7	5	4	3	3	4	4	2	2
Matches/lighters	-	-	-	-	2	2	3	3	1	1	1	1
Parts	-	-	-	-	-	-	3	3	2	2	1	1
Papers	5	26	10	12	9	8	11	10	12	11	5	6
Pipes	1	5	9	11	20	17	19	17	12	11	14	16
Bongs	2	11	5	6	14	12	10	9	10	9	8	9
Kits	1	5	3	4	-	-	-	-	1	1	1	1
Total	11	57	58	66	76	66	72	66	67	62	48	54
<b>Cocaine</b>												
Cuts	-	-	-	-	-	-	1	1	4	4	4	4
Screens	-	-	-	-	2	2	2	2	1	1	2	2
Mirrors	-	-	-	-	4	3	3	3	3	3	1	-
Razors	-	-	-	-	1	1	-	-	-	-	-	-
Free-base kits	-	-	-	-	-	-	-	-	-	-	1	1
Vials	-	-	1	1	3	3	2	2	2	2	2	2
Spoons	-	-	1	1	3	3	1	1	1	1	1	1
Straws	-	-	-	-	1	1	1	1	1	1	1	1
Kits	1	5	4	5	2	2	7	6	10	9	6	7
Miscellaneous	1	5	-	-	-	-	-	-	-	-	1	1
Total	2	10	6	7	16	15	17	16	22	21	19	19
<b>Miscellaneous</b>												
Other drugs	2	11	11	13	12	10	17	15	7	6	6	7
Scales	-	-	-	-	5	4	2	2	3	3	2	2
Tester's	2	11	2	2	2	2	1	1	2	2	2	2
I.D. kits	-	-	-	-	-	-	1	1	2	2	4	4
Antibugging	-	-	3	4	3	3	2	2	4	4	5	6
Catalogs	2	11	5	6	2	2	1	1	2	2	3	3
Total	6	33	21	25	24	21	24	22	20	19	22	24

journals, however, and may represent a transfer of advertising funds. Within broad limits, the ratio of paraphernalia to nonparaphernalia ads increased strikingly until 1978 and is now considerably off (the 1979 ratio is 1.6:1).

The percentage of cocaine-related ads has shown a steady increase, from 11 percent of drug-related ads in 1974 to 21 percent in 1979. Marijuana-related ads have consistently been in the majority, however.

Four percent of the ads in the 1977 Christmas issue were related to the use of chemical products (e.g., nitrous oxide and butyl nitrite), but such ads are no longer carried in *High Times* as part of their editorial policy. Ads for various herbs and teas were more prevalent during 1974 and 1975 than in later years.

Table 11 summarizes trends in ads for specific paraphernalia categories. Of the marijuana-related products, ads for rolling papers and for various kinds of pipes and bongs have been the consistent leaders. This reflects their positions as the top two sales items in the industry. However, there has been a steady decrease in the proportion of ads devoted to rolling papers, from 26 percent of all paraphernalia ads in 1974 to 6 percent in 1979.

As noted earlier, there has been a striking increase in the proportion of ads devoted to cocaine, peaking in the past 2 years. These ads usually feature "cocaine kits"--vials, spoons, straws, mirrors, and razors either boxed together or displayed in a single sales line. In the past 2 years, cocaine kits have been featured in 7 percent to 9 percent of all paraphernalia ads and in 31 percent to 45 percent of all cocaine ads. No ads for cocaine adulterants were included until the December 1977 issue, and the number of these ads has increased slightly since then.

From 1978 to 1979, there was a 19 percent drop in the number of paraphernalia ads in the Christmas issue, from 110 to 89, due almost entirely to a decrease in marijuana-related ads, principally stash cans and rolling papers.

The number of ads for miscellaneous drugs (mushroom spores, herbs) peaked in 1977 and has declined markedly since. No ads for free-base conversion kits were included until the 1979 Christmas issue. Ads for isomerizers, claimed to increase the potency of marijuana by activating the tetrahydrocannabinol content, have increased gradually since their

1977 introduction. Finally, there has been a gradual increase in ads for kits to establish identification (I.D.) most likely for use by minors who are trying to prove they are of adult age. The first such ad was included in the 1977 issue; in the 1979 issue, these ads comprised 4 percent of all paraphernalia ads in the journal.

Table 12 presents a comparison of ads for different categories of paraphernalia in the October 1979 issue of the two major trade publications (the traditional preholiday copies) and the *High Times* Christmas issue. The majority of ads are for marijuana-related items in both the consumer journal and the trade journals. Cocaine-related items comprise approximately one-quarter of the ads in all three publications. Ads by distributors who carry products for more than a single drug inflate the trade journal figures in the multidrug category. *Paraphernalia Magazine* carries a considerably higher proportion of ads for "chemical highs" (primarily butyl nitrites) than does *High Times*. *Paraphernalia Digest's* policy is to not include ads for ingestible products, synthetic or organic.

Analysis of the 1979 *First Annual Paraphernalia Trade Directory* published by *Paraphernalia Magazine* shows that 67 of the 97 pages are devoted to listings of organizations by the type of paraphernalia they handle. Approximately 46 percent of these pages are devoted to marijuana-related items and 31 percent to cocaine-related items; the remainder is almost evenly split between items that can be used with a variety of drugs and miscellaneous nonparaphernalia items (books, incense, candles, jewelry).

Analysis of the 1979 supply catalog of a medium-sized east coast wholesale distributor contained approximately 750 items. Roughly 60 percent of these (around 450) were for use in direct ingestion of drugs. In fact, many of the remaining 40 percent were parts for bongs or other ingestion devices. Of the catalog items directly used for preparation or ingestion of drugs, approximately 11 percent were cocaine related and the remaining 89 percent were marijuana related.

#### Other Attempts To Broaden Sales

The paraphernalia industry has sought to gain recognition and acceptability through display of their wares at national and regional trade shows. Merchants pay fees to a show or convention sponsor to rent display booths and hold gala parties to fete each other. The paraphernalia industry, although not large enough to hold its own major show, has traditionally gathered as a part of the

Table 12. Comparative Distribution of Paraphernalia Ads by Drug-Related Category in Trade and Consumer Publications, 1979 (percent)

Drug	High Times, Dec. 1979	Paraphernalia Magazine, Oct. 1979	Paraphernalia Digest, Oct. 1979
Marijuana	54	32	41
Cocaine	21	23	29
Organic <sup>a</sup>	6	4	-
Chemicals <sup>b</sup>	1	14	-
Multidrug <sup>c</sup>	18	27	30
Number of ads	89	44	37

<sup>a</sup>Includes ads for growing mushrooms, poppy seeds, and various herbs.

<sup>b</sup>Includes butyl nitrite, nitrous oxide, and procaine hydrochloride.

<sup>c</sup>Refers to displays of bongs and dessicators or cocaine tooters with pipes and roach clips together in a single ad.

fashion and boutique shows held six to eight times a year for the clothing accessories trades in New York, Los Angeles, and Dallas. In the spring of 1978, the New York show drew 24 major paraphernalia wholesalers among the 40,000 retailers on exhibit (P.D., June 1978).

The paraphernalia industry has also tried to display in other types of trade shows with varying success. By the fall of 1978, the paraphernalia merchants' newly founded trade association was encouraging representation at the music and sound shows. Representatives of the paraphernalia industry attended these shows and sponsored a "profit-merchandising seminar" to attract even more record store owners to handle paraphernalia items. The seminar leader promised that "an investment of \$100 per month in rolling papers alone will bring \$50 a week income." Since they sell quickly, papers have a high turnover rate of 12 times a year; this also contributes to the profit margin.

Rolling paper manufacturers have had only moderate success in gaining entry to the vending machine industry, especially in placing ads for rolling paper into the trade publication, *Vending Times* (P.D., Oct. 1978).

The National Association of Tobacco Distributors (NATB) reversed its previous stand on paraphernalia displays at its annual convention and merchandising fair. In 1978, the NATB permitted paraphernalia dealers to

exhibit, reportedly because the organization did not understand the purpose of bongs. Rolling paper exhibitions were allowed at its 1979 show, but bongs, concert kits, and specialty pipes were banned (P.D., Mar. 1979).

The National Association of Convenience Stores, representing 600 retailers with more than 30,000 outlets, blocked the manufacturers of rolling papers and other paraphernalia from displaying at their September 1979 show, ostensibly because the products were offensive to some members of the trade group. The restriction applied only to exhibitors, not to sales to retailers. Some chains still carry papers, even after the publicity over 7-Eleven's withdrawal of the items from the company-owned stores (P.D., May 1979) and the more recent removal of papers for sale from two large drugstore chains in the Washington, D.C., area.

#### RECENT INDUSTRY SLOWDOWN: ECONOMIC AND COMMUNITY IMPACTS

The rapid growth of the paraphernalia industry appears to have slowed somewhat over the past 2 years. A serious sales slump was noted during the first two quarters of 1978 and was attributed to a variety of factors (P.D., Sept. 1978):

- The paraquat panic that slowed the smoking rate among many marijuana users.
- Effective curtailment of importation of

Colombian marijuana by the Drug Enforcement Administration that sent street prices soaring.

- A saturated novelties market that had already peaked out in rolling paper and bong sales and seemed to be heading for a similar shakeout in the cocaine accessories lines then flooding the shops.
- Limitations on sales to minors in many communities that may have cut retail sales by as much as 30 percent.

In effect, severe economic problems may already have developed within the paraphernalia industry, and these problems may be further exacerbated by the new rash of antiparaphernalia laws. The continuing impact of several forces is likely to forestall any further rapid expansion by the industry:

- The economic inflation/recession that gives most people less recreational spending money.
- Health hazards and scare stories about some drugs that are heard by a constituency of recreational drug users who are environmentally aware, older, and more cautious than the 1960's generation.
- Law enforcement efforts that cause illicit drug shortages in different places and times. (The marijuana drought in the Washington, D.C., area at the time of this study was widely reported as a reason for increased sales of cocaine equipment.)
- Social and community pressures that have forced stores to change merchandising patterns, especially of items identified by opponents as having a special appeal for children. As an example, every store owner interviewed for this study had removed or stopped displaying some product line that had drawn criticism from concert kits to Power Hitters and frisbee pipes.

The full impact of community efforts to pass antiparaphernalia ordinances on the industry are by no means clear at this point, but some stories point to a ripple effect in many communities and companies. In Indiana, one distributor is slowly phasing out of the paraphernalia business because of increased community pressures and personal threats to the business owners (P.D., Oct. 1979); one large manufacturer, after being denied permission to exhibit at the convention of tobacco distributors, is reducing prices on bongs, and cutting back production (P.D.,

Oct. 1979); the former owner of a distributorship in Georgia, who left the State in 1978 after the paraphernalia ban, absconded from Florida, where he had moved his business, and left a quarter of a million dollars in unpaid debts (P.D., Aug. 1979); High Times, along with several other magazines, was pulled off the shelves of Majik Mart, a convenience store chain with more than 1,000 outlets in the East (P.D., June 1979); and as indicated earlier, all rolling papers were banned from 7-Eleven stores, an action that has forced rolling papers behind the checkout counters in many other drug chains and convenience stores (P.D., Oct. 1979). In mid-November 1979, two major drugstore chains in the Washington, D.C., area--People's and Drugfair--announced that they had decided to stop sales of rolling papers. People's Drug, a 400-store chain, had been selling papers for 75 years. "I hope the older community (of cigarette makers) will understand, but whatever we were selling was being abused," said the company's president (Mansfield, Nov. 14, 1979).

#### FORMATION OF INDUSTRY TRADE ASSOCIATIONS

In response to the pressures outlined in the preceding section, the industry has begun to organize. The first meeting of what is now the National Accessories Trade Association (NATA) was held in New York City in January 1978 following a trade show. A steering committee drew up bylaws, which were modeled on those of similar trade groups, and submitted them to an association official at their first meeting in June 1978, which was attended by 70 of the 83 paid members at that time (P.D., June 1978). Official goals adopted at this meeting were:

- To foster communication and cooperation within the paraphernalia industry in order to promote better business and increased profits.
- To protect the paraphernalia industry against unwarranted interference by governmental, social, or other outside forces.
- To increase public awareness and acceptance of the paraphernalia industry.
- To recognize industry responsibilities to protect the consumer and to limit their own liability from potentially hazardous products.

Membership, initially limited to distributors, soon expanded to manufacturers and importers and more recently to retailers (P.D., June 1979). Before the retailers were allowed to join the association, there was an attempt

by west coast retailers to organize a separate retailers' group. Few retailers responded to the offer to join, however, and the checks sent for membership fees were returned to members later in 1979 (P.D., Mar. 1979; July 1979).

The national organization has about 150 members at present, who were developed from a mailing list of 250, another indication of the relatively small number of sizable organizations in the industry (P.D., Mar. 1979; July 1979). Dues have increased from \$250 a year to \$100 a month. The industry's public image has been a major concern. In its brief history, the association has changed its name three times. Initially it was the Paraphernalia Trade Association, then the National Paraphernalia Association, and most recently the National Accessories Trade Association. The most recent name change was made partly to escape "guilt by association" with a word--paraphernalia--that has been under litigation 1,750 times. A search is still underway for a name that does not have illicit connotations. "General merchandisers" is one suggested name (P.D., June 1979; Oct. 1979).

NATA has struggled with the priority and scope of its commitments. The organization's initial response was to hire lawyers and go to court in every community where paraphernalia ordinances were threatened or introduced. A "hotline" for free assistance was advertised in High Times and trade publications for several months (P.D., June 1978). As fees for lawyers mounted, and as the organization came into increasing debt, priorities changed. Keith Stroup, National Organization to Reform Marijuana Laws (NORML) founder, resigned as NATA's chief counsel over the association's failure to make prompt payments to lawyers. He was replaced by Michael Pritzker, a partner in Stroup's law firm, who now authorizes legal actions in advance and is considerably more cautious about entering court challenges unless they are landmark cases or politically important actions. NATA provides a central bank of legal briefs and guidance, but its main emphasis was switched to lobbying efforts as a prevention remedy (P.D., Oct. 1979). Realistically, the handful of industry leaders who are the mainstay of the national effort cannot be expected to fight legal battles nationwide. Increased local and regional responses have also been encouraged, although NATA has not yet resolved how to mesh its activities with those of grassroots efforts. Some form of chartering is under consideration (P.D., Oct. 1979).

#### Regionalization

Paraphernalia merchants at the local

level in at least eight States or regions have banded together to form their own trade groups, usually in response to community threats against the industry. Table 13 summarizes activities of these groups as of June 1979.

#### SUMMARY OF INDUSTRY TRENDS AND ISSUES

Community response to the paraphernalia industry, as will be discussed in the next chapter, has apparently been precipitated by the perceived influence of paraphernalia on drug abuse by minors, and by the increased visibility of headshops and their wares in suburban locations. The industry has mobilized to defend itself in several ways to protect its future growth and survival.

The industry has simultaneously undergone other changes in business practices unrelated to the current legal developments. Although it is difficult to separate the economic, social, and legal causes to changes, this section will attempt to summarize some of the most visible trends and issues of current concern to the paraphernalia industry.

- In sum, the paraphernalia industry has 15,000 to 25,000 retail outlets, with estimated annual sales somewhere between \$50 million and several billions. The distribution of retail outlets parallels the population, with the greatest number of such shops in California and the metropolitan New York area. Record stores account for perhaps one-third of all retail paraphernalia sales. Less than 1 percent of the retail business is conducted via mail order.
- The industry does not appear to sell items principally intended for use with hard drugs (opiates, amphetamines, etc.). Sales of marijuana-related products continue to dominate the market. More recently, reflecting changes in the market, a growing number of products have been introduced related to cocaine use.
- The development of paraphernalia products has reflected a continuous search for new ways to enhance the effects and minimize the waste of more expensive, less available, and more adulterated recreational drugs, primarily marijuana and cocaine. From the bong to the Power Hitter and the isomerizer, the marijuana-related products reflect this goal. The trend now is to purify cocaine before use and to smoke it for more rapid and intensified effects.
- There appears to be a trend toward product sophistication and costliness. One

Table 13. Activities of State and Regional Paraphernalia Trade Associations, in Order of Their Organization, June 1979

North Dakota--Music Retailers Association, began in spring 1978:

- Retains a lawyer lobbyist
- Opposes proposed legislation

California--Western National Paraphernalia Association (WNPA), organized in January 1979:

- Compiles materials and directories for members upon request
- Operates a telephone hotline
- Raises funds
- Hires lawyers to challenge ordinances (two court battles are underway)

Arizona--Arizona Association of Independent Merchants (AAIM), formed in February 1979:

- Lobbies against detrimental legislation
- Hires legal counsel
- Solicits pledges
- Works with regular and alternative media to gain support (successful in Tucson)
- Tries to overcome apathy of retailers

Florida--Florida Businessmen for Free Enterprise, originated in April 1979:

- Lobbies against legislative efforts to ban paraphernalia
- Campaigns in name of free enterprise
- Solicits contributions
- Develops guidelines for the industry

Minnesota--Minnesota Progressive Trade Organization, formed in April 1979:

- Processes membership applications based on dues and sponsorship
- Accepts associate, nonvoting members for an annual fee
- Seeks to overturn the 7-year-old Maplewood ordinance that prohibits sales of paraphernalia

Wisconsin--Wisconsin Contemporary Gift Association, Inc., founded in May 1979:

- Opposes threatening legislation
- Processes membership applications and collects dues (paid on a sliding scale based on sales figures)
- Retains legal counsel and lobbyist

Ohio--Ohio Boutique Association, organized in June 1979. (No data were obtained concerning this organization)

Maryland, Virginia, D.C.--Mid-Atlantic Accessories Trade Association, founded October 1979:

- Lobbies in public forums and legislative bodies
- Issues policy statements supporting increased drug education efforts, opposing the sale of paraphernalia to minors, and advocating the legalization of marijuana.

Source: principally Paraphernalia Digest, 1978-79 issues.

explanation is the desire to improve the esthetics of recreational drug rituals by using handcrafted, high-quality paraphernalia that are expensive status symbols. Another tendency is to market complex equipment, such as digital scales and programmable melt-point testers. Sales of such expensive items may reflect the general affluence of the consumers, a desire for higher profit margins, and the decreased distinction between dealers and consumers among illicit drug users.

- Serious splits have developed within the industry over the sale of legal highs

and other consumables by paraphernalia dealers.

- In response to the legal challenges, the industry will feel itself under increasing pressure to avoid sales to minors (although preferring a definition of 16 years rather than 18 years as the legal age) and to change advertising and merchandising policies to avoid explicit connections of products with the use or advocacy of illegal drugs. The major consumer journal as of Dec. 1979 has promulgated such a policy for its own advertising.

### 3. COMMUNITY RESPONSE

#### INTRODUCTION

A grassroots antiparaphernalia movement --spurred, in part, by the well-documented increases in drug abuse among youth in general and younger age groups in particular-- has spread throughout communities across the country. Moreover, Federal, State, and local governments are becoming increasingly aware of the social and political importance attached to parents' efforts to protect their children and their communities from drug abuse through control of the drug paraphernalia industry.

The significant increase in adolescent drug abuse is being linked by the antiparaphernalia movement to the existence of headshops and the growth of the paraphernalia industry. Community groups have become alarmed by the movement of headshops into suburban shopping centers and local neighborhoods, by the size of the paraphernalia industry, and by the mass advertising campaign for paraphernalia sales aimed at attracting minors.

The issues around which community groups have organized include the following:

- "...repeated exposure of minors to narcotics and drug paraphernalia will encourage and invite the use of drugs, encourage immoral conduct, and may lead to early and serious drug abuse and criminal behavior" (Zeltner, 1979).
- "Headshops exist for just one reason... to provide a distribution network for literature, equipment, and materials that facilitate or enhance the use of illicit drugs" (Rosenthal, 1979).
- The existence of headshops in local neighborhoods give drug use an aura of respectability.
- Children have a basic right to go to school in a drug-free environment.
- The literature teaches kids how to use drugs and how to avoid getting caught by the law, thereby teaching a disrespect for the law.

Background information for this report was collected from telephone interviews with representatives of nine community groups in five States: Maryland, Georgia, New Jersey, Florida, and California. An interview guide was used to collect uniform data on the history of the group's involvement in the issue,

the overall community reaction to headshops, the profile of the group, linkages with other groups, the group's activities and their impact, and key issues in support of antiparaphernalia laws. The following are the significant findings of this survey.

#### KEY FACTORS AND EVENTS PROMPTING COMMUNITY ACTION

Although there are common issues around which community groups have organized to address the dangers of widespread availability of drug paraphernalia, many community antiparaphernalia actions were triggered by a single event or series of events. In several cases, an "event" involved the children of the action's organizers--a very personal impetus.

In November 1977 DeKalb Families in Action, the first group formed specifically to address the problem of drug paraphernalia, began as a result of a series of events that enraged families in the county: (1) a group of 12- and 13-year-olds started using drugs; (2) there were two drug-related murders of students attending Emory University, which is located in the community; and (3) there was a sudden influx of drug paraphernalia for sale in neighborhood stores and shopping centers. The sale of paraphernalia in local stores triggered a movement which began at the neighborhood level in DeKalb County (in which Atlanta is located), spread to four other communities in Georgia, and is now reaching communities throughout the country. The group has "helped stimulate the formation of...hundreds of similar parent groups in 30 States... most recently in Camden, Maine, and Anne Arundel County, Maryland" (Rusche, 1979a).

One couple in Naples, Fla. became concerned about marijuana use by their own teenagers and later about seemingly widespread drug use on campuses of local schools. They began meeting with groups of friends and urging police and school action. In April 1978 they read about the efforts of a group of parents in Atlanta and contacted them. The Atlanta group urged them to do something on the antiparaphernalia front. In October 1978 they held a kick-off meeting, at which a representative from the Atlanta group spoke. NIDA's Pyramid Project, a prevention effort, provided funds to pay this speaker's expenses. After the meeting, the group decided on a name --Naples Informed Parents (NIP)--and decided to begin working toward city and county antiparaphernalia ordinances. These were passed in early 1979, and paraphernalia sales ceased,

with the exception of cigarette rolling papers. The group has continued to present bi-monthly education meetings for the public aimed at reducing adolescent drug and alcohol abuse and has helped other communities develop similar parent groups. The former Director of NIDA and the Associate Director for Drug Policy on the Domestic Policy Staff, have addressed the NIP membership; both have been strong supporters of this grassroots effort.

A statewide antiparaphernalia movement began in New Jersey on October 4, 1978, when a concerned parent, alarmed at discovering two headshops at the Livingston Shopping Mall, called the president of the Drug Abuse Committee of the Milburn Township PTA. The PTA president later called together PTA groups from all over Essex County (suburban to New York City), alerting them to the problem and soliciting their support to help close the shops. The activities in Milburn Township against drug paraphernalia spread throughout the State, resulting in 25 townships passing antiparaphernalia ordinances in a 1-year period.

The Milburn PTA's effort overlapped official efforts in Essex County. As a result of a grand jury investigation of drug misuse among youth starting in March 1978, the Essex County prosecutor filed a criminal complaint against the two shopping mall headshops, charging them with being a public nuisance. The civil suit entered by the PTA and the criminal suit were joined together.

Similarly, just 1 month earlier, in February 1978, in Lakewood, Calif. (a town of 80,000 in southern Los Angeles County), a councilman from the Lakewood City Council noticed that a new record store in Lakewood Center was selling a wide selection of drug paraphernalia items at the store's tape counter. This matter was brought before the city council for consideration, resulting in the adoption of a city ordinance against paraphernalia sales to minors that was later modeled by 21 other cities throughout the State.

One year later, in February 1979, in Los Altos, Calif. (a suburb of San Francisco), a mother of five children visited a local record store close to the junior high school attended by one of her children and noted a number of display cases containing paraphernalia for sale. She became aware of "the tremendous pressures that must be on youngsters concerning paraphernalia," organized a group of parents in the community, and began a campaign that resulted in the passage of a local ordinance that makes it illegal for minors to be in the same room where paraphernalia is sold.

The ordinance was passed in May 1979, just 4 months after the parents' group organized.

The Los Altos situation shows how linkages have developed among community groups across the Nation concerning the paraphernalia issue. The initial approach of the Los Altos group was to petition the record store owner to stop selling paraphernalia. The owner refused. In the course of gathering signatures, the organizer met a merchant who told her about a similar effort in his hometown--Milburn, N.J. The organizer talked to the president of the Milburn PTA's Drug Abuse Committee, who convinced the Los Altos organizer to push for a city antiparaphernalia ordinance. While the Los Altos city attorney was carrying out research for the ordinance, he discovered that Lakewood had earlier passed a similar bill, and Los Altos essentially adopted the Lakewood ordinance. Subsequent to this, other communities in the Bay region adopted similar ordinances.

#### PROFILE OF COMMUNITY GROUPS

The following community groups, through telephone interviews, contributed background information for the development of this report:

- Georgia: DeKalb Families in Action  
Parent Resource Institute for  
Drug Education (PRIDE)
- Florida: Naples Informed Parents (NIP)
- California: Lakewood City Council  
Los Altos (a parents' group)
- Maryland: Interstate Movement Against  
Decriminalization of Dangerous  
Drugs (IMADDD)  
Montgomery County Civic  
Federation  
Montgomery County Citizens  
for Education
- New Jersey: Milburn Township PTA

The groups and organizations surveyed vary in range in organizational structure, size, basic purpose, and their approaches to attacking the problem of drug paraphernalia. Moreover, the groups represent some of the most active and best known organizations working in this area.

Montgomery County Citizens for Education in Maryland is primarily involved in basic educational issues. The group's philosophy of education is as follows: back to the basics, back to discipline, and back to parents' having the ultimate responsibility. Together

with the Interstate Movement Against Decriminalization of Dangerous Drugs (IMADDD), the group drafted the Maryland State antiparaphernalia bill, which will be introduced when the legislative session begins in January 1980.

In Lakewood, Calif., most of the effort leading to the passage of the city ordinance was provided by one city councilman--a former Los Angeles County police official. There was no body of concerns articulated by any concerned "group." In some California cities that were stimulated by Lakewood's experience, citizens' groups have lobbied for the passage of antiparaphernalia ordinances.

PRIDE is an umbrella organization in Georgia that helps groups get started at the community level. Their purpose is "to try to educate parents and get them to understand the 'kiddie drug culture' and know how to take appropriate action where necessary." Their role is primarily informational and educational. Their mailing list includes 5,000 individuals nationwide.

DeKalb Families in Action in Georgia is a formally incorporated organization with a board of directors, 12 functioning committees, and a membership of 800 families. Their purpose is to educate parents, children, and community leaders about the rising use of drugs by youngsters, the commercial and social pressures that encourage drug use by youth, and the consequences of drug use to youth. Their stated goals are to "(1) stop drug use among children and teenagers; (2) counteract pressures in society that condone and promote drug use; and (3) create a drug-free environment in the home, school, and community for the healthy growth of children." DeKalb Families in Action has established linkages with other groups, including religious, educational, civic, fraternal, business, social services, and youth organizations.

Naples Informed Parents (NIP) in Florida is a nonprofit corporation spearheaded by a small group of parents, many of whom are and have been active in local civic affairs in the affluent community of 40,000. Their aim is to educate and inform parents about the dangers of drug and alcohol abuse among adolescents and thereby to lessen that danger in their community. They have actively forged relationships with a variety of community groups and agencies--the police, the schools, the medical society, the community mental health center, and the city council; in addition, several civic groups and at least one business have made donations.

Although the community groups vary in organizational structure and size, there are

similarities in their memberships--most persons involved in antiparaphernalia movements are concerned parents whose children are currently "at risk" for drug abuse.

Interviews in California suggested that participants in antiparaphernalia actions in the State are primarily upper middle class professionals and/or their spouses who have children in the 7th through 12th grades. They tend to be somewhat conservative politically and concerned about such issues as reasserting parental control, returning to educational basics, and renewing emphasis on family structure.

Many parents who joined NIP had children who were deeply involved in marijuana use at the local high school. Members of the group included several persons active in a variety of civil groups.

The board of directors of DeKalb Families in Action in Georgia includes physicians, mental health personnel, politicians, State representatives, the chief of police, school supervisors, ministers, concerned parents, attorneys, and juvenile court probation officers.

#### COMMUNITY ACTIVITIES AND OUTCOMES

In addition to lobbying for legislation to restrict the manufacture, sale, and possession of drug-related paraphernalia, community groups have undertaken numerous local activities aimed at curbing the availability of drug-related paraphernalia. Such activities have included influencing public opinion through newspaper editorials; threatening boycotts of stores that sell paraphernalia and paraphernalia literature; speaking to PTA's, citizens' groups, and church groups; petitioning county council members and State legislators; contacting parents whose children are "in trouble" with drugs; contacting the Federal Trade Commission about paraphernalia retailers using trade names of legitimate products for paraphernalia; and initiating drug education programs in the schools.

The following are examples of the impact and effectiveness of various community actions:

- The Drug Abuse Committee of the Milburn Township PTA in New Jersey contacted the management of a neighborhood shopping mall where two headshops were located, charging that the stores were selling drug-related paraphernalia aimed primarily at a teenage market. The mall management visited each store and asked that paraphernalia sales be stopped. The PTA threatened that if sales were not halted,

they would institute a boycott and picket the mall during the Christmas shopping season. Although a superior court judge refused to issue a temporary restraint sought by management of the mall to enjoin the two stores from selling paraphernalia, the Essex County grand jury, looking into drug use in area schools, indicted the store owners for "creating a public nuisance." This criminal suit was apparently independent of the civil suit instituted by the community group. The two suits, civil and criminal, were joined together in a spirit of cooperation between the community and the prosecutor's office. The two store owners subsequently pleaded guilty to a lesser disorderly persons charge and paid fines of \$150 each. Both the prosecutor and the PTA feel their efforts were successful. The outcomes seem to be:

- Widespread community awareness in New Jersey and elsewhere of the paraphernalia issue. The prosecutor says that his office received 100 requests for information from all over the country after a recent article in Ladies Home Journal (Mann, 1979).
- Communities in New Jersey and adjoining States have passed similar ordinances. The State of New Jersey itself has pending a bill that readily passed both houses. A bill modeled on the New Jersey legislation has been adopted statewide in North Dakota.
- Many high schools in Essex County have cracked down on drug use on school grounds, which had reportedly been widespread prior to the ordinance.
- The grand jury recommended adoption of a statewide drug education bill, which is now awaiting the governor's signature.
- Many PTA's throughout the State have held public meetings to educate parents on the issues.
- In Los Altos, Calif., a group of concerned parents drew up a petition asking a local record store owner to remove drug paraphernalia from his shop. After gathering 3,000 signatures, they took the petition to the owner of the record store chain, who refused the request. They also approached a local liquor store that had several display cases of paraphernalia and were also turned down. Spurred by a serendipitous contact with the Milburn, N.J., PTA, the group decided to go through legal channels. They contacted the city attorney, who drafted an ordinance based on the Lakewood model. They then lobbied for the ordinance, which was passed in July 1979. Since then, the liquor store has removed the paraphernalia and the record store has erected a fence around the paraphernalia cases and tries to keep youngsters out. Since passage of the ordinance, the parents have become more active. Students in all Los Altos schools have taken part in a "drug information evening," in which a police representative talked about drugs, another speaker talked on the "whys" of youth drug use, and an anti-drug-use film was shown.
- New Jersey parents notified the State Department of Weights and Measures about the sale of stash cans and similar products. The State ruled "that a can whose label said it contained 11 ounces of Cheddar Cheese Soup, for example, but contained instead a compartment for concealing drugs, was in violation of the laws governing weights and measures. The State is levying fines against 'stash' can sellers on a per-can basis" (Rusche, 1979b).
- DeKalb Families in Action in Georgia took a different approach to this problem. The group notified presidents of companies whose products were being altered and resold as "stash" cans or other items of drug paraphernalia, pointing out that this practice violates trademark laws. Several companies have filed and won suits against stash can manufacturers, specifically the Coca Cola Company and Smith, Kline, and French (Messelonghites, 1978).
- Naples Informed Parents in Florida stimulated passage of city and county antiparaphernalia ordinances that have resulted in removal of most paraphernalia from sale in the community. The county's State legislator introduced a comparable bill in the State legislature. Although its passage is doubtful, NIP's organizers feel this statewide effort is rapidly raising consciousness around the State concerning the problems of adolescent drug abuse. More immediately, NIP has provided drug education files for the local schools, and NIP members present regular drug education talks as part of the schools' Preventicare program for fourth, fifth, and sixth graders. NIP members have made public presentations to most major organizations in this community of 40,000 and have otherwise sensitized the community to what they see as the issues.

- Although not spearheaded by a citizens' group as such, antiparaphernalia efforts in Lakewood, Calif., have had widespread impact. For example, more than 20 communities in California have modeled their ordinances on Lakewood's. The city council member who introduced the bill has worked to have such ordinances more widely adopted. At a recent Annual Conference of the National League of Cities, Lakewood, through its public information office, mounted a paraphernalia and media display. More than 1,000 people stopped to view the display and discuss the issues, according to the city's public information director. In addition, due in large measure to Lakewood lobbying efforts, the League adopted a resolution on Nov. 28, 1979, as part of its public safety package to urge Congress to adopt legislation to control interstate commerce in paraphernalia. Another League resolution encourages cities to explore local options for antiparaphernalia legislation. Finally, the League released a public statement urging adoption of the Justice Department's Model Act (see appendix B).

#### DISSENTING VIEWPOINTS

Although many communities have passed antiparaphernalia ordinances, some communities have elected not to. In West Covina, Calif., a suburb of Los Angeles, representatives of the city council and the chamber of commerce received complaints from parents and religious groups about the sale of paraphernalia in gift shops in the local shopping mall. Upon investigation, they decided that paraphernalia sales were keeping these two shops alive and that paraphernalia sales served as an "economic stabilizer" for the community. The representatives decided, therefore, not to pass an ordinance. They felt that if they banned paraphernalia sales, customers would go elsewhere, taking their business to other communities. One of the representatives--a physician who works in drug/alcohol treatment, teaches at a medical school, and is currently a candidate for the city council--has publicly come out against antiparaphernalia ordinances on these grounds.

Even in areas where antiparaphernalia ordinances have passed, community support has not been unanimous. Two editorials from different parts of the country are illustrative:

- Several San Francisco Bay area communities have passed ordinances modeled on

the ordinance passed in Lakewood, Calif. An editorial in the San Jose Mercury suggested that "...a back-door approach is being used to solve a legitimate problem. The concern [in the laws] about impressionable children is valid. Yet instead of banning the drug-related items from the stores, or banning sales to minors, the approach is to ban the children themselves....The sale of drug paraphernalia is not illegal in this state, and to prohibit children from entering a store where nothing illegal is being sold is a questionable and over-reaching approach" (San Jose Mercury, June 20, 1979).

- On Nov. 27, 1979, the county council in Prince George's County, Md., suburban to Washington, D.C., voted to ban the sale of any item that could be used "for inhaling, smoking or administering into the body illegal drugs." The council also requested the county executive's signature on a bill to make it illegal to possess drug accessories. A subsequent editorial in the Washington Post stated, "The council's heart is in the right place. But its actions amount to little more than doing something to avoid having done nothing. Prohibiting the sale of drug-related implements does not deal with the real problem: the illegal use of drugs, particularly by youths." The Post continued, "...banning the sale or possession of a slew of everyday items is going too far. It invites misuse of the law and harassment of citizens innocently possessing an item like cigarette papers. Something should be done...but the council's final actions do not seem to be the answer" (Washington Post, Nov. 30, 1979).

The letters-to-the-editor column of the same issue of the Washington Post further illustrates the increased awareness of the issues concerning paraphernalia. As indicated earlier in this paper, two Washington area drugstore chains have recently banned rolling paper sales. A citizen wrote a letter to the Post arguing that the stores were guilty of "pure hypocrisy" and "Orwellian doublethink" because they discontinued the sale of rolling papers while continuing to sell cigarettes. The president of the Drugfair chain answered this letter by arguing that, since "Virtually all the rolling papers in question are used to smoke marijuana...Drugfair would, in effect, abet the commission of an illegal act." The president further argued that the store feels "obliged to refrain from aiding in the violation of the drug laws, particularly by minors."

#### 4. LEGAL CODES AND REGULATORY ISSUES: FEDERAL, STATE, AND LOCAL

##### INTRODUCTION

The growth of illicit drug use in this country, especially among youth, has prompted community groups to seek legislative action at the State and municipal levels of government to control the widespread availability of drug-related paraphernalia. This section provides a historical overview of legislative activities at the Federal, State, and local levels that addresses the manufacture, sale, possession, and advertising of drug-related paraphernalia and drug-related literature. Data were gathered from a review of the literature; from newspaper clippings; from telephone interviews with community groups, State and local officials, and legal representatives in Georgia, New Jersey, and California; from testimony presented at recent congressional hearings on the subject of drug paraphernalia; and from interviews with Federal officials and industry representatives.

This section discusses the various legal options available to States and communities attempting to control paraphernalia sales. It also presents the common legal arguments used in support of antiparaphernalia laws and against such laws. Finally, this section discusses broader issues concerning the feasibility of antiparaphernalia laws.

##### THE FEDERAL MODEL ACT

Recognizing the growing problem of drug abuse among adolescents and responding to requests from State and community leaders for governmental action to deal with the "widespread availability of drug paraphernalia," the White House Domestic Policy Staff in May 1979 asked the Drug Enforcement Administration and the Justice Department to consider the need for Federal legislation or a model act for the States that would prohibit the manufacture, sale, and possession of drug paraphernalia. The Justice Department concluded that such Federal legislation was not advisable because "it would not represent the most efficient allocation of Federal drug enforcement resources." Given this assessment, and the facts that (1) States and communities differ on the issue of decriminalization of marijuana, and (2) communities vary regarding the existence of headshops and the open sale of drug paraphernalia, the executive branch of the Federal Government has taken the position in recent testimony before the Congress that "the problem is best handled at the State and local levels by both government entities, parents, teachers and civic leaders"

(Nathan, 1979).

Many State and local antiparaphernalia laws have not held up under attack on constitutional grounds. To help the States, the Drug Enforcement Administration has reviewed the legal issues and considerations in drafting antiparaphernalia legislation and prepared, at the request of the White House, a Model Drug Paraphernalia Act that States could incorporate as an amendment to the Uniform Controlled Substances Act and that local government entities could modify for their use. Federal officials believe that the model act is "as constitutionally sound as possible, given its wide range" (Bensinger, 1979; Nathan, 1979).

The following are the basic provisions of the model act:

- Provides a comprehensive definition of the term "drug paraphernalia" with specific descriptions of the most common forms of paraphernalia.
- Outlines the relevant factors a court or other authority should consider in determining whether an object comes within the definition.
- Makes the manufacture, advertisement, delivery, or use of drug paraphernalia a criminal offense.
- Makes the delivery of drug paraphernalia to a minor (a person under 18 years of age) a special offense.
- Defines clearly what conduct is prohibited regarding the manufacture, advertisement, delivery, or use of drug paraphernalia and specifies what criminal state of mind must accompany such conduct.
- Provides for the civil seizure and forfeiture of drug paraphernalia.

##### INDUSTRY SELF-REGULATION

Paraphernalia industry representatives have recommended self-regulation versus regulation at the Federal, State, and local government levels. The following "Suggested Paraphernalia Industry Guidelines," covering the areas of advertising and sales to minors, were developed by the National Accessories Trade Association (NATA):

- Smoking-related products and other novelty

items should not be advertised or merchandised with any reference or illustration involving:

- the possible illegal use of the products,
- any illegal drugs or substances, or
- claims that the product can increase the strength or effectiveness of illegal drugs or substances.
- The retail seller of smoking-related products and other novelty items should:
  - post signs prominently indicating "Smoking-Related Items Not Sold to Minors,"
  - require proper identification if a customer's age is in question,
  - instruct sales personnel that customer requests for specific illegal products (e.g., "hash pipes," "marijuana rolling papers," "cocaine spoons") should be courteously turned aside, while indicating that pipes, rolling papers, and other novelty items are available.

A formal policy statement prohibiting sales of paraphernalia items to minors has been adopted by the NATA board of directors and approved by the full membership. This policy has become part of the bylaws of the association. NATA enforces its policy on prohibiting sales to minors by refusing to provide legal counsel to any retailer involved in legal actions resulting from paraphernalia sales to minors. In addition, NATA has refused to provide legal counsel for lawsuits involving sales of "ingestibles." NATA is currently considering the adoption of a formal policy statement on this issue.

In addition, Michael Pritzker, NATA chief counsel, has drafted a model law regulating the paraphernalia industry. This model legislation was being reviewed by the NATA board of directors in early December 1979 for recommended action to the full membership. It is included here as appendix C.

In an editorial published in the June 1979 issue of Paraphernalia Digest, Pritzker stated that "irresponsible advertising invites regulation" and called for merchants to "leave behind their 'Head Shop' psychology and market their items in a manner devoid of inferences or ties to illicit drugs or suffer costly and often unneeded litigation."

#### STATE AND LOCAL GOVERNMENT STATUTES

In the past 2 years there has been significant legislative activity at the State and local government levels aimed at restricting or prohibiting the manufacture, sale, possession, and advertising of drug paraphernalia and drug-related literature. Three States have enacted antiparaphernalia legislation: Georgia, Indiana, and North Dakota. In 10 States where antiparaphernalia proposals had been introduced in the legislature, the proposals were either defeated, vetoed by the governor, or allowed to die in committee at the end of the 1979 legislative session. Three States (New Jersey, Washington, and Wisconsin) presently have legislative proposals pending action. The New Jersey bill has passed both houses and is awaiting action by the governor.

Table 14. Status of Antiparaphernalia Legislation at the State Level as of Nov. 1, 1979

#### States with statewide antiparaphernalia laws:

Georgia  
Indiana  
North Dakota

#### States with legislation pending:

New Jersey  
Washington  
Wisconsin

#### States with legislation defeated during 1979:

Arizona	Texas
California	Delaware
Connecticut	Missouri
Florida	New York
Mississippi	Pennsylvania

Although there have been mixed results from legislative activity at the State level, numerous antiparaphernalia ordinances have been adopted in cities throughout the country. The historical review of antiparaphernalia legislation conducted for this report identified 77 local statutes adopted in 13 States.

Although many local jurisdictions have been successful in adopting antiparaphernalia laws, many of the existing ordinances have been enjoined, preventing the cities from

Table 15. Summary of Local Government Antiparaphernalia Ordinances

State	Number of local jurisdictions that had adopted antiparaphernalia ordinances as of Nov. 1, 1979
California	22
Connecticut	1
Florida	2
Illinois	10
Maryland	1
Massachusetts	1
Michigan	4
Minnesota	6
New Jersey	25
New York	1
Oklahoma	1
Oregon	2
Pennsylvania	1
Total	77

initiating any criminal action against violators. Other local ordinances have not gone into effect pending a ruling on their constitutionality. In some instances, local officials who "don't want any more law suits" have worked out agreements with local retailers on items that may be sold and the conditions under which merchants may operate their businesses.

Table 16 presents a summary analysis of proposed and adopted State and municipal antiparaphernalia legislation.

Because of the numerous and costly lawsuits involved in enforcing antiparaphernalia laws, States and local jurisdictions are taking a harder look at the legal issues and considerations in drafting antiparaphernalia legislation.

Can antiparaphernalia laws be adopted that will withstand constitutional attack? If constitutionally sound laws can be adopted, are the laws enforceable? If the laws are enforceable, is it the best use of State and local enforcement resources? What alternative legal options are available to States and communities to help control the availability of drug-related paraphernalia?

This report does not attempt to offer solutions; however, it does present the various legal options, considers the common legal arguments for and against antiparaphernalia statutes, and discusses enforcement considerations.

#### LEGAL CONSIDERATIONS

##### Legal Options

The legal options available to States and communities that attempt to control paraphernalia sales include zoning and licensing regulations, advertising restrictions, prohibiting sales to minors, banning all drug paraphernalia, and civil forfeiture.

**Zoning and Licensing Regulations.** States and local jurisdictions can adopt zoning and licensing regulations barring sales of paraphernalia to minors (as discussed further below), limiting the type of advertising and display of drug paraphernalia items, and controlling where headshops can be located. Such regulations are similar to those governing pornography shops and adult theaters. The Department of Justice, in studying this issue, "believes that it would be constitutionally permissible for State and local governments to pass reasonable zoning and licensing regulations concerning drug paraphernalia" (Nathan, 1979). Examples of such measures include (1) the Philadelphia Zoning ordinance, which requires zoning board approval to open a headshop within 1,000 feet of a school, church, or library; (2) the Westfield, Mass., ordinance, which requires current paraphernalia merchants to be licensed and prevents new stores from offering the merchandise; and (3) the Mount Prospect, Ill., ordinance, which makes it unlawful to sell or display paraphernalia "in premises...in close proximity (1,500 feet) to any public or private school, day care center, nursery, church, synagogue or other place of worship, park, or liquor licensee." Following court hearings, Westfield city officials agreed not to enforce the ordinance. In another action, NATA attorneys have argued that "even if paraphernalia sales were legal in Mount Prospect, there would be no place left where it could be sold."

**Advertising Restrictions.** Laws adopted in an attempt to ban the sale of drug-related literature have been attacked as being violations of the first amendment. However, the Justice Department commentary on the model act states that "laws prohibiting the printed advertisement of the sale of paraphernalia do not compromise First Amendment rights. Commercial solicitation of illegal activities is not protected speech" (U.S. Department of Justice, 1979). Collier County, Fla., and several townships in New Jersey have adopted antiparaphernalia ordinances that include bans against the promotion or advertisement of drug paraphernalia.

**Prohibiting Sales to Minors.** Because many movements at the community level to

Table 16. Summary Analysis of Proposed and Adopted Antiparaphernalia Legislation

Description	Key provisions	Status
ARIZONA: H.B. 2021	<p>Would outlaw the sale of paraphernalia and drug-related literature to minors.</p> <p>Would treat a violation as a misdemeanor, which carries up to 1 year in jail.</p>	<p>The bill was passed by the House in March and later killed by the Senate Judiciary Committee on Apr. 18, 1979, on the basis that the legislative proposal was of dubious constitutionality and would be difficult to enforce.</p>
CALIFORNIA: Assembly Bill 477	<p>Would prohibit the sale of all devices, contrivances, instruments, or paraphernalia for the smoking or using of marijuana.</p>	<p>The proposal was defeated in the Assembly Criminal Justice Committee by a 7-2 vote on Mar. 26, 1979.</p>
Lakewood ordinance	<p>Forbids the sale of drug paraphernalia to minors under age 18 unless accompanied by a parent or legal guardian.</p> <p>Requires that such paraphernalia be kept in a separate room or enclosure to which unaccompanied minors are not allowed access.</p> <p>Requires that the separate room or enclosure be clearly posted, indicating that unaccompanied minors are not allowed access.</p>	<p>Glasshead, Inc., brought suit against the city on the grounds of restraint of trade, due process, and freedom of speech. The city's position has been upheld. A consortium of manufacturers and distributors plan to appeal the legality of Lakewood's ordinance and those passed by other cities in California.</p>
<p>California cities: Azusa, Bellflower, Downey, El Cajon, Garden Grove, Glendale, Hawthorne, Huntington Beach, La Mirada, Lawndale, Mountain View, Norwalk, Oroville, Paramount, Port Hueneme, Santa Clara, Simi Valley, Upland, Westminster, Oxnard, and Los Altos</p>	<p>These cities have all passed separate ordinances based on the Lakewood model.</p>	<p>On May 23, 1979, a superior court judge granted a temporary restraining order against Westminster city officials preventing them from prosecuting retailers who did not abide by the antiparaphernalia ordinance.</p> <p>On May 30, 1979, a preliminary injunction was granted preventing the cities of Azusa, Glendale, and Lawndale from initiating any criminal action against violators of the paraphernalia ordinances. The judge felt the ordinances were constitutionally vague.</p>

Table 16 (Continued)

Description	Key provisions	Status
CALIFORNIA (Cont.):		On Sept. 13, 1979, a superior court judge issued a preliminary injunction against enforcement of the El Cajon ordinance. The judge ruled that the law was vague as to what could and could not be sold, and violated the fifth amendment.
CONNECTICUT: H.B. 5034  Windsor ordinance	Would prohibit the sale of drug-related devices to persons under the age of 18.  Defines "drug-related devices" as those "intended for preparing, smoking, ingesting, inhaling, or administering to the human body in any way a controlled substance."  Prohibits the sale, gift, or delivery of tobacco and paraphernalia to people under the age of 16.	The measure was allowed to die when the legislative session ended on June 6, 1979.  The ordinance was approved by the Town Council earlier this year. Windsor is the first town in Connecticut to pass such an ordinance.
DELAWARE: H.B. 220	Would prohibit the sale or delivery of any drug-related paraphernalia.	On July 16, 1979, the bill was vetoed by the governor, who sympathized with the intent of the bill but felt it was "blatantly unconstitutional."
FLORIDA: H.B. 177 & S.B. 203	Would subject any person who sells "drug-related paraphernalia or drug-related printed matter" to a fine of up to \$1,000 per violation.	The bill was killed in the State Senate. It received an unfavorable committee report in the House and subsequently died.
Florida: H.B. 1258	Would place a 25% tax on the sale of paraphernalia. The money raised from the tax would be channeled to drug rehabilitation programs.	The bill died at the end of the legislative session.

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Table 16 (Continued)

Description	Key provisions	Status
FLORIDA (Cont.):		
Naples ordinances	<p>Bans the sale of rolling papers, pipes, and cigarettes to anyone under 18.</p> <p>Bans the sale of drug-related printed matter to minors.</p> <p>Bans the advertising of drug-related literature.</p>	The city is awaiting an opinion on the constitutionality of the ordinances before enforcing them.
Collier County ordinances	<p>Prohibit the sale of paraphernalia.</p> <p>Ban the advertisement of such items.</p> <p>Make it illegal to sell such literature to anyone under 18.</p>	The ordinances went into effect on June 22, 1979.
GEORGIA: State paraphernalia laws		
	<p>Passed three separate bills:</p> <ol style="list-style-type: none"> <li>1. A ban on paraphernalia sales.</li> <li>2. A ban on paraphernalia sales to minors.</li> <li>3. A ban on the sale of drug-related books and magazines to minors.</li> </ol> <p>Violation is a misdemeanor or a felony with successive arrests.</p>	Four days after the bills were signed into law, a Federal district court judge, citing first amendment freedom of press and speech arguments, ordered a temporary restraining order against enforcement of the ban on literature sales. The order has since been extended indefinitely. The judge refused to rule on the other two laws, referring the case to the higher circuit court of appeals in New Orleans.
ILLINOIS:		
Oak Lawn ordinance	Prohibits a retailer from displaying or exhibiting paraphernalia and from selling such items to minors.	The law was passed in Mar. 1978. It has been temporarily enjoined.
Hoffmann Estates ordinance	Requires merchants to record the names and addresses of customers purchasing paraphernalia.	A U.S. district judge denied a preliminary injunction on the ordinance. A permanent trial date is to be scheduled.

Table 16 (Continued)

Description	Key provisions	Status
<p>ILLINOIS (Cont.):</p> <p>Morton Grove, Prospect Heights, Tinley Park, Alsip, Naperville, Carpentersville, and Elgin ordinances</p> <p>Mount Prospect ordinance</p>	<p>All have adopted individual city ordinances.</p> <p>Makes it unlawful for any person, firm, or corporation to have, possess, offer to sell, dispense, or give away any pipe, device, or contrivance adopted for use with smoking or ingesting a controlled substance.</p> <p>Makes its unlawful for any person to sell or display any instrument in premises open to minors (17 and under) and in close proximity (1,500 feet) to any public or private school, day care center, nursery, church, synagogue, or other place of worship, park, or liquor licensee.</p>	<p>In Tinley Park, record stores have worked out an agreement with officials and are selling most paraphernalia items. Officials "don't want any more lawsuits."</p> <p>NATA attorneys have argued that "even if paraphernalia sales were legal in Mount Prospect, there would be no place left where it could be sold."</p>
<p>INDIANA: State law passed in 1977</p>	<p>Bans the sale of drug-related paraphernalia.</p> <p>Defines paraphernalia as any instrument or device which could be used to smoke marijuana including "pipes," "bongs," and "roach clips."</p>	<p>The State is awaiting a decision from a U.S. District Court in Indianapolis that would make permanent a temporary injunction against enforcement of the Indiana paraphernalia law. For a good discussion of the legislative history of this law, see Valparaiso University Law Review, winter 1976.</p>
<p>MARYLAND: Prince George's County ordinance</p>	<p>Prohibits vendors and peddlers from selling to minors items that the vendor "knows or should know will be used to smoke or administer drugs."</p>	<p>The ordinance was passed by the county council Nov. 21, 1978, and went into effect Mar. 1, 1979.</p>

Table 16 (Continued)

Description	Key provisions	Status
<b>MASSACHUSETTS:</b>		
Westfield zoning licensing ordinance	Requires current paraphernalia merchants to be licensed and prevents new stores from offering the merchandise. The ordinance amends the city's zoning code and applies to all commercial districts.	The ordinance was passed unanimously by the city council on Dec. 7, 1978. In Feb. 1979 Westfield city officials voluntarily agreed not to enforce the zoning ordinance pending a hearing on the suit filed by NATA attorneys. The city attorney subsequently agreed in court, with the approval of the judge, not to enforce the ordinance.
<b>MICHIGAN:</b>		
Novi ordinance	Prohibits the sale, display, or gift of paraphernalia.	A U.S. district judge upheld the ordinance on May 14, 1979. NATA attorneys succeeded in obtaining a temporary restraining order in Federal court; no final decision has been made to date.
Berkeley ordinance	Bans the sale of items primarily suited for use with controlled substances.	The law was passed in Feb. 1978. An Oakland County circuit court judge directed the city not to enforce the antiparaphernalia ordinance pending the outcome of the lawsuit attempting to get the law declared unconstitutional.
Canton Township ordinance	Similar to the Berkeley ordinance.	The ordinance was passed but not enforced pending the court challenge in Berkeley.
Ferndale ordinance	Bans paraphernalia sales.	The ordinance was passed in Sept. 1979.
<b>MINNESOTA:</b>		
Maplewood ordinance	Declares the "possession, sale, distribution... (of) smoking paraphernalia or accessories used for the smoking or inhalation of narcotics or controlled substances" as dangerous to the public health and a menace to the public welfare.	The ordinance was passed in 1972. On May 24, 1979, a U.S. district judge issued a permanent injunction against the ordinance on the basis that it was "vague and overbroad."

Table 16 (Continued)

Description	Key provisions	Status
MINNESOTA (Cont.):		
Hopkins ordinance	Prohibits the sale of paraphernalia.	In Apr. 1979 the Minnesota Paraphernalia Association filed suit in Federal district court to prevent officials from enforcing the ordinance.
Crystal, Mound, and Pridley ordinances	Similar to the Hopkins ordinance.	These laws have not been enforced.  The primary legal argument is that a municipality cannot enforce a law more stringent than the State's law. Since Minnesota has decriminalized possession of personal amounts of marijuana, the local ordinances are more stringent than the State's decriminalization law and therefore unenforceable.
41 Eagen ordinance	Bans the sale of "drug-related devices."	The law was scheduled to go into effect July 26, 1979. On July 20, a U.S. district judge issued a temporary restraining order against enforcement of the ordinance. On Aug. 30, a Federal district judge upheld the ordinance as constitutional.
MISSISSIPPI:		
	Statewide antiparaphernalia law which was incorporated with the Uniformed Controlled Substances Act adopted in 1977.	A Hinds County circuit judge dismissed a civil suit by the county against a record shop that sought to stop the store from selling paraphernalia. The judge ruled that the old State statute on which the county was basing its suit was "unconstitutional."  Following the ruling, a bill was introduced into the House that would make paraphernalia sales a misdemeanor. The bill died in committee at the end of the legislative session.

Table 16 (Continued)

Description	Key provisions	Status
MISSOURI: S.B. 159	Proposal outlawing possession of all drug-related paraphernalia.	The Senate passed the measure in Mar. 1979. The bill died in the House at the close of the legislative session.
NEW JERSEY: State bills	<p>Senate 3069--Subjects persons who manufacture or sell marijuana, hashish, or cocaine paraphernalia to a maximum of 3 to 5 years' imprisonment and fines of up to \$7,500.</p> <p>Assembly 1594--Prohibits the sale of "drug accessories," specifically cigarette papers, hookahs, roach clips, and hashish pipes, to persons under the age of 18. Also makes it unlawful for such items to be advertised or displayed.</p> <p>Assembly 3013--Prohibits the sale of "drug accessories" to everyone and bans their display and advertising.</p>	The measures await action by the governor.
<p>Paramus, Hillsdale, Hamilton, Belleville, Franklin, Lawrence, Livingston, Fairfield, Verma, Milburn, Kearney, Montclair, Wildwood, North Wildwood, Bloomfield, Cedar Grove, Irvington, Maplewood, South Orange, Verona, West Orange, Washington, Old Bridge, West Cape May, and Newark ordinances</p>	Each township has passed separate antiparaphernalia ordinances banning the sale and promotion of drug paraphernalia.	<p>In June 1979 a U.S. district judge issued a preliminary injunction against enforcement of the Paramus ordinance. The judge ruled that the law "may not be particular enough in delineating the types of items prohibited, and leaves open the chance of arbitrary and erratic arrests."</p> <p>In Apr. 1979, a U.S. district court judge barred Hamilton Township from enforcing the local ordinance.</p> <p>On July 25, 1979, a Federal judge issued a temporary restraining order against the Newark law banning paraphernalia sales. On Aug. 6 the order was made permanent on the basis that the ordinance was unenforceable.</p>

Table 16 (Continued)

Description	Key provisions	Status
NEW YORK STATE:		
Floral Park ordinance	Would outlaw the sale of paraphernalia and drug-related magazines in New York State.  Prohibits the sale and display of paraphernalia including printed matter.	The bill cleared the Senate Mar. 29, 1979, but died in committee at the end of the legislative session.  The ordinance was unanimously adopted Sept. 17, 1979.
NORTH DAKOTA: State law	Prohibits the sale of paraphernalia throughout the State.  Makes the manufacture, sale, or delivery of such equipment a class A misdemeanor.	The governor signed the bill into law Mar. 27, 1979.  A Bismarck attorney has been tentatively retained by paraphernalia merchants to seek an injunction preventing enforcement.
OKLAHOMA:		
Midwest City ordinance	Outlaws possession, sale, gift, or delivery to any person or "narcotic drug addict of...water or hash pipes or other smoking devices, cigarette rolling machines, roach clips, coke spoons, and 'High Times' magazine." Violators are fined up to \$35.  Defines a "headshop" as a "place of business...patronized and frequented by narcotic drug addicts."	The ordinance was passed Dec. 13, 1977.
OREGON:		
Brookings ordinance	Bans paraphernalia sales. Paraphernalia is defined as "any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, or preparing marijuana, hashish or hashish oil, cocaine, opium, or any other dangerous drug or narcotic."	The town council unanimously passed the ordinance Oct. 17, 1978. On Feb. 17, 1979, a county judge ruled the ordinance unconstitutional. The case is now before the court of appeals.

Table 16 (Continued)

Description	Key provisions	Status
OREGON (Cont.): Lake Oswego ordinance	Prohibits possession and sale of paraphernalia.	Passed in 1977, the ordinance was declared unconstitutional by a municipal court judge Jan. 3, 1979 on the grounds that it "impermissibly intrudes upon the right of privacy."
PENNSYLVANIA: S.B. 634	Would prohibit the possession, manufacture, or sale of "controlled paraphernalia for use with drugs," which includes scales, spoons, and capsules.	The bill was tabled Aug. 1979.
Philadelphia zoning ordinance	Requires zoning board approval to open a headshop within 1,000 feet of a school, church, or library.	The ordinance was adopted by the city council early in 1979.
TEXAS: S.B. 786	Would authorize municipalities in Texas to regulate possession and sale of paraphernalia.	The measure was reported favorably out of the State Affairs Committee Mar. 15, 1979. The bill died when the legislative session ended.

control paraphernalia sales were initiated as a result of parental concern over the growing abuse of drugs among youth, many legislative proposals include specific provisions prohibiting the sale, gift, or delivery of drug paraphernalia to minors. The antiparaphernalia "wave" in California resulted in the adoption of 22 local ordinances that forbid the sale of drug paraphernalia to minors unless accompanied by a parent or legal guardian; these ordinances also require that paraphernalia be kept in a separate room that is clearly posted and where minors are not allowed access. Two State laws adopted in Georgia (1) prohibit the sale or display of drug-related objects to minors, and (2) prohibit the sale or display to minors of printed materials that advocate the use of illegal drugs. These laws are intended "to keep children out of any store that chooses to sell drug paraphernalia or drug literature."

Drug Paraphernalia Bans. Full-scale bans on the manufacture, sale, and possession of drug paraphernalia have been repeatedly attacked for being too broad and have been declared "void for vagueness." Recent court rulings against "broad" antiparaphernalia laws were decided on the basis that the laws were constitutionally vague (Azusa, Glendale, and Lawndale, Calif.); violated the fifth amendment because the law was not precise about what could and could not be sold (El Cajon, Calif., and Paramus, N.J.); or the law was deemed unenforceable (Newark, N.J.). There are additional legal considerations in States that have decriminalized marijuana. The primary legal argument used against local ordinances in the Minnesota cities of Crystal, Mound, and Pridley is that a municipality cannot enforce a law that is more stringent than the State's law. Because Minnesota has decriminalized possession of "personal" amounts of marijuana, the local ordinances are more stringent than the State's decriminalization law and therefore deemed unenforceable. The converse to this argument was made in the State of Delaware, which recently passed an antiparaphernalia bill later vetoed by the governor. "If it's illegal to use drugs in the State of Delaware, why is it legal to sell paraphernalia?" (Wilmington, Delaware, Evening Journal, May 9, 1979)

Civil Forfeiture. Adoption of a statute of civil forfeiture, requiring a lesser standard of proof than a criminal charge, may alleviate the problems of criminal enforcement posed by many existing antiparaphernalia statutes. States may amend the civil forfeiture section of the Uniform Controlled Substances Act to include drug paraphernalia, thereby allowing States to seize and destroy drug paraphernalia rather than return it after

criminal proceedings have ended. Subjecting drug paraphernalia to civil forfeiture actions permits enforcement officers to seize paraphernalia items without arresting the retailer or the person possessing the paraphernalia object.

#### COMMON LEGAL ARGUMENTS

The antiparaphernalia laws adopted by communities have been the subject of constant attack by industry representatives. Of the 77 local ordinances identified for this report, 17 have not been enforced pending court rulings on the constitutionality of the ordinance and 5 have been permanently enjoined on the basis that they are not constitutionally sound. The courts have repeatedly recognized that "there are practical limitations in drafting legislation where the subject matter of the statute does not lend itself to exact description..." (U.S. Department of Justice, 1979). Table 17 summarizes the common legal arguments concerning antiparaphernalia legislation. Although somewhat redundant, the statements reflect the different emphases and concerns of the several parties who have joined this issue.

#### ATTITUDES AND ACTIONS OF LAW ENFORCEMENT

In areas where enacted antiparaphernalia laws and ordinances are under legal attack in the courts, there has been a general reluctance on the part of law enforcement officials to undertake any enforcement measures until the lawsuits are settled. There have been a variety of enforcement efforts, however.

In an attempt to enforce a State forfeiture law, Framingham, Mass., police conducted a raid on a store in April 1979 and seized drug paraphernalia merchandise. An attorney representing NORML was successful in getting the police to return the merchandise shortly following the incident, however, because the merchandise was taken without a warrant. Richard Evans, Massachusetts coordinator of NORML, was quoted as saying that "this case illustrates dramatically how frustrated the police are, trying to enforce drug laws that are virtually unenforceable" (Herald-American, Apr. 23, 1979).

In Lawndale, Calif., a community in Los Angeles County, an ordinance is in effect prohibiting the display or sale of drug-related paraphernalia to minors. The county sheriff's department reported that it will probably cite violations if and when citizens' complaints are filed. This seems to indicate that the department will not actively seek out violations of the ordinance (Lawndale Community News, Mar. 7, 1979).

Table 17. Common Legal Arguments

Supporting Antiparaphernalia Laws

"The free and unrestricted sale of drug paraphernalia leads children to believe that the controlled substances they are designed to administer are equally accepted and legal" (Light, 1979).

"The increased availability of...paraphernalia at retail outlets of all kinds is a matter of national concern and is contrary to the goal of containing and eliminating the abuse of controlled substances..." (Zeltner, 1979).

The sale of paraphernalia in stores frequented by youngsters causes a reasonably obvious spillover--from the sale of paraphernalia to the use of drugs.

Paraphernalia outlets represent an incursion of unwanted business into communities.

Drug paraphernalia sales condone a drug lifestyle and glamorize the use of drugs. A city, therefore, has a right to protect its youth from harmful lifestyles.

Antiparaphernalia laws will help curb the illicit use of drugs by spreading a message that drug use is not accepted by society.

The existence of headshops gives a credence to using drugs. It imparts a strong message to youth that drugs are "in."

Paraphernalia is a teaching tool to children, telling them that not only marijuana, but also cocaine and other drugs are acceptable and okay to use (Rusche, 1979).

Paraphernalia literature teaches children how to use drugs and how to avoid getting caught by the law, thereby teaching a complete disrespect for law enforcement.

Opposing Antiparaphernalia Laws

Drug paraphernalia laws often do not adequately define the term "paraphernalia."

The laws are often not specific in what conduct is prohibited--the use, the possession, or the sale of paraphernalia.

The laws are often unclear regarding the criminal state of mind that must accompany the prohibited conduct.

The laws are void for vagueness because they do not give fair notice as to what is proscribed.

"There is no rational relationship between the sale of smoking accessories and the increase in drug abuse among youth" (Caplan, 1979).

Based on the fifth amendment, if items sold in paraphernalia outlets are ruled to be illegal, anyone entering such a store would be inadvertently incriminating himself, which would be a violation of the fifth amendment protection against self-incrimination.

If the law does not clearly delineate the types of items prohibited, it leaves open the chance of arbitrary and erratic arrests.

A retailer doesn't have any knowledge of what an item is going to be used for.

The laws regarding paraphernalia literature violate first amendment freedom of speech and press rights.

The laws often violate the 14th amendment, which guarantees the right to due process.

In Upland, Calif., 6 months after the passage of an antiparaphernalia ordinance aimed at restricting the sale and display of drug-related devices to minors, the city police chief reported that "the ordinance presented no enforcement problems" (Upland News, June 28, 1979).

In Washington, D.C., a law exists that bans the street sale of paraphernalia. Nevertheless, a number of street vendors sell a variety of drug-related implements. According to a city government representative, the police enforce the law only when there is a flagrant violation, as in one recent case where some street vendors were charged with dealing in cocaine. The police tend to feel that enforcement of this law is a questionable use of their resources. Key police officials seem to favor a total ban on paraphernalia, while noting that the majority of

persons arrested on drug-related charges are in possession of homemade rather than store-bought paraphernalia.

Police in Atlanta, however, have actively enforced both misdemeanor and felony laws they believe apply to paraphernalia outlets. Headshop clerks and owners have been charged with transacting in drug-related objects--a misdemeanor. More recently, an owner was charged with selling dangerous drugs--a felony. The drug was butyl nitrite, which had been added to the State's Controlled Substances List in February 1979. The defense in this case claims the list was illegally amended and the owner was given no notice of the amendment. Several Atlanta outlets have closed or are about to close. The State's antiparaphernalia ordinances are currently under attack in the U.S. court of appeals (P.D., Nov. 1979).

## APPENDIX A

### METHODOLOGY

#### OVERVIEW

Data collection for this study involved a general review of the literature and of legislation both adopted and proposed; brief case studies of community, paraphernalia industry, and policymaker response in three diverse communities where antiparaphernalia ordinances have been passed; attempts to determine the size, scope, and nature of the paraphernalia industry; and attempts to develop a national overview of responses to the issues. The bulk of the information was gathered between mid-October and mid-November 1979. The study procedure is briefly summarized below by class of research activity.

#### LITERATURE SEARCH

Search of the major computer-based data bases produced very little pertinent information. The principal items were newspaper stories in communities where there has been antiparaphernalia activity, especially within the past 2 years. Little in the literature predates late 1977. There have been articles in law journals and in several major popular magazines. Most of the pertinent published material has been in trade journals produced for the paraphernalia industry itself, as well as in magazines catering to the consumers (e.g., High Times).

Considerable printed information was obtained from persons interviewed during the project. Newspaper clipping files were requested from community groups. Policymakers provided copies of local and State ordinances. Industry representatives provided journals, industry directories, and sales catalogs. Printed testimony was available from the House of Representatives Select Committee on Narcotics Abuse and Control from Nov. 1, 1979, hearings (attended by the researchers).

#### LITERATURE ANALYSIS

(1) Legal codes: this analysis drew from existing analyses conducted by attorneys working for the National Paraphernalia Association (now the National Accessories Trade Association, the industry's lobbying arm) (Stroup, 1979); from commentary provided by Department of Justice attorneys in response to the Model Drug Paraphernalia Act drafted by the Drug Enforcement Administration; and from an analysis of pertinent laws prepared by the Congressional Research Service

(Murphy, 1979). The tabular array of this information is original. (2) Paraphernalia industry: various quantitative and qualitative analyses were made of industry literature, including a content analysis of items included in a catalog provided by a regional wholesaler, a content analysis of the major industry directory to date, content analyses of news articles in the major trade journals, and semiquantitative analyses of ads included in major industry periodicals.

Content analyses were made of the ads and articles in ten issues of trade journals. Further data were gathered from in-depth reading of 25 other journals, principally consumer magazines. In these journals, researchers counted the number of advertisements and the frequency of appearance of ads by drug category and paraphernalia type, and attempted to chart product development trends.

The limited data obtained as to characteristics of paraphernalia customers comes from a 1977 readership survey conducted for High Times magazine by Roger Seasonwein Associates, an in-store customer survey conducted by a headshop owner and reported at House hearings (Nov. 1, 1979), observations made by researchers in site visits to paraphernalia outlets on both coasts, and unsubstantiated descriptions of their clientele by retailers.

#### INTERVIEWS

Ninety-seven interviews were conducted with 65 persons for various aspects of this report. Of the total, 44 interviews were conducted in person and 53 by telephone. Interviews were conducted with 13 community representatives (7 in person, 12 by phone); with 49 industry representatives (31 in person, 18 by phone); with 15 representatives of the legal/legislative community (5 in person, 15 by phone); and with 9 other persons, mostly researchers, treatment and prevention personnel, or media representatives (1 in person, 8 by phone). As these numbers indicate, the greatest number of interviews involved industry representatives; many of them were involved with setting up appointments and obtaining sales and other information. Several persons were contacted or interviewed at length several times.

Telephone interviews were conducted with persons across the country. Personal interviews were conducted in the metropolitan Washington, D.C.-Baltimore area and in the San Francisco Bay area. Personal interviews ranged from 15 minutes to 3-1/2 hours. Telephone interviews ranged from 10 minutes to more than 3 hours.

Separate informal interview guides were prepared for community representatives, representatives of the legal/legislative community, retail paraphernalia store operators, and paraphernalia manufacturers, wholesalers, and distributors. Efforts were made to collect as much of the information listed on these informal guides as possible, although not necessarily in the order in which items were listed. Not all of the information was forthcoming from all representatives of each group. Representatives of the different groups were asked several of the same questions, permitting some intergroup comparison.

#### COMMUNITY CASE STUDIES

Brief case studies were conducted of the development of the paraphernalia issue in three communities around the country that have taken different approaches and that have stimulated responses elsewhere: DeKalb County, Ga., Essex County, N.J., and Lakewood, Calif. In each community, interviews were conducted with community, legal/legislative, and industry representatives. Analyses were made of legal codes, newspaper clippings, and other pertinent literature. A lengthy interview was also conducted with one of the founders of a community group in Naples, Fla.

#### STUDY OF THE PARAPHERNALIA INDUSTRY

##### Survey of Record Stores

A telephone survey was conducted of all retail record outlets listed in the Washington, D.C., Yellow Pages (May 1979). Telephone respondents were asked if their stores sold "papers or pipes, or stuff like that." Responses were tabulated by size of operation (single store vs. multiple stores operated by same owners). Respondents at outlets of chain operations were asked if their policies held for all stores of the chain, and asked how many stores were in the chain.

##### East Coast

Visits were made to five headshops and four record stores that carry paraphernalia in the Washington, D.C., area, and personal interviews conducted with the owners or managers. A Baltimore area headshop owner was interviewed off-site. Personal interviews and telephone conversations were conducted with the two major trade journal publishers (one from the east coast, one from the west

coast). A visit was made to the plant of a major paraphernalia manufacturer, and a personal interview was conducted. An interview was also conducted with the owner of a medium-size paraphernalia wholesaler distributorship that serves the Middle Atlantic States.

Researchers also canvassed all stores in a major suburban mall (and found no paraphernalia available), as well as a strip of stores in a suburban neighborhood center (where only papers were sold). Owners of seven paraphernalia outlets in the area refused interviews. The researchers were unable to contact the owner of the only major area record chain that carries paraphernalia, despite repeated attempts.

##### West Coast

Visits were made to four headshops and personal interviews conducted with their owners in the San Francisco Bay area. Visits were made to ten paraphernalia specialty shops (observations and informal interviews only). Personal and telephone interviews were held with two west coast paraphernalia distributors. Owners of six paraphernalia outlets refused interviews.

#### A GENERAL CAVEAT ON THE QUALITY OF THE ANALYSIS CONDUCTED OF THE PARAPHERNALIA INDUSTRY

The paraphernalia industry has just recently begun the process of formally organizing trade associations, developing national directories, and the like. Accordingly, dollar figures for sales during the early years of the 1968-78 period have been extremely difficult to come by. Even more recent figures were hard to obtain, with industrywide annual sales figure estimates ranging from \$100 million to several billions of dollars. This lack of hard data is principally a function of the freewheeling character of the industry. A representative of NATA told the researchers that he has had difficulty obtaining such figures to date. Obtaining access to data that were available largely depended on the quality of rapport the researchers were able to establish with industry figures because, so far as we have been able to determine, there are no published sales data.

Much data were drawn from industry trade publications, by far the most available information source. Given the current attacks on the industry, some of the information could be self-serving.

APPENDIX B

MODEL FEDERAL ANTIPARAPHERNALIA ACT  
(For adoption by States)

MODEL DRUG PARAPHERNALIA ACT

Prefatory Note

The Uniform Controlled Substances Act, drafted by the National Conference of Commissioners on Uniform State Laws, has been enacted by all but a handful of states. The Uniform Act does not control the manufacture, advertisement, sale or use of so-called "Drug Paraphernalia." Other state laws aimed at controlling Drug Paraphernalia are often too vaguely worded and too limited in coverage to withstand constitutional attack or to be very effective. As a result, the availability of Drug Paraphernalia has reached epidemic levels. An entire industry has developed which promotes, even glamorizes, the illegal use of drugs by adults and children alike. Sales of Drug Paraphernalia are reported as high as three billion dollars a year. What was a small phenomenon at the time the Uniform Act was drafted has now mushroomed into an industry so well-entrenched that it has its own trade magazines and associations.

This Model Act was drafted, at the request of state authorities, to enable states and local jurisdictions to cope with the paraphernalia problem. The Act takes the form of suggested amendments to the Uniform Controlled Substances Act. The Uniform Act is extremely well-organized. It contains a definitional section, an offenses and penalties section, a civil forfeiture section, as well as miscellaneous sections on administration and enforcement. Instead of creating separate, independent paraphernalia laws, it seems desirable to control Drug Paraphernalia by amending existing sections of the Uniform Controlled Substances Act.

Article I provides a comprehensive definition of the term "Drug Paraphernalia" and includes particular descriptions of the most common forms of paraphernalia. Article I also outlines the more relevant factors a court or other authority should consider in determining whether an object comes within the definition.

Article II sets out four criminal offenses intended to prohibit the manufacture, advertisement, delivery or use of Drug Paraphernalia. The delivery of paraphernalia to a minor is made a special offense. Article II clearly defines what conduct is prohibited, and it specifies what criminal state of mind must accompany such conduct.

Article III provides for the civil seizure and forfeiture of Drug Paraphernalia. Civil forfeiture can be an effective deterrent, particularly to commercial suppliers whose capital is invested in inventory. Civil forfeiture can also be utilized in circumstances where criminal penalties seem unjustified.

ARTICLE I

(Definitions)

1 SECTION (insert designation of definitional section)  
2 of the Controlled Substances Act of this State is  
3 amended by adding the following after paragraph (insert  
4 designation of last definition in section):

5 "( ) The term 'Drug Paraphernalia' means all equip-  
6 ment, products and materials of any kind which are used,  
7 intended for use, or designed for use, in planting,  
8 propagating, cultivating, growing, harvesting, manufac-  
9 turing, compounding, converting, producing, processing,  
10 preparing, testing, analyzing, packaging, repackaging,  
11 storing, containing, concealing, injecting, ingesting,  
12 inhaling, or otherwise introducing into the human body  
13 a controlled substance in violation of this Act (mean-  
14 ing the Controlled Substances Act of this State). It  
15 includes, but is not limited to:

16 (1) Kits used, intended for use, or designed for  
17 use in planting, propagating, cultivating, growing or  
18 harvesting of any species of plant which is a con-  
19 trolled substance or from which a controlled substance  
20 can be derived;

21 (2) Kits used, intended for use, or designed for  
22 use in manufacturing, compounding, converting, pro-  
23 ducing, processing, or preparing controlled substances;

24 (3) Isomerization devices used, intended for use,  
25 or designed for use in increasing the potency of any  
26 species of plant which is a controlled substance;

27 (4) Testing equipment used, intended for use, or  
28 designed for use in identifying, or in analyzing the  
29 strength, effectiveness or purity of controlled sub-  
30 stances;

31 (5) Scales and balances used, intended for use,  
32 or designed for use in weighing or measuring controlled  
33 substances;

34 (6) Diluents and adulterants, such as quinine  
35 hydrochloride, mannitol, mannite, dextrose and lactose,  
36 used, intended for use, or designed for use in cutting  
37 controlled substances;

38 (7) Separation gins and sifters used, intended  
39 for use, or designed for use in removing twigs and  
40 seeds from, or in otherwise cleaning or refining,  
41 marijuana;

42 (8) Blenders, bowls, containers, spoons and  
43 mixing devices used, intended for use, or designed  
44 for use in compounding controlled substances;

45 (9) Capsules, balloons, envelopes and other con-  
46 tainers used, intended for use, or designed for use  
47 in packaging small quantities of controlled substances;

48 (10) Containers and other objects used, intended  
49 for use, or designed for use in storing or concealing  
50 controlled substances;

51 (11) Hypodermic syringes, needles and other  
52 objects used, intended for use, or designed for use  
53 in parenterally injecting controlled substances into  
54 the human body;

55 (12) Objects used, intended for use, or designed  
56 for use in ingesting, inhaling, or otherwise intro-  
57 ducing marijuana, cocaine, hashish, or hashish oil  
58 into the human body, such as:

59 (a) Metal, wooden, acrylic, glass, stone,  
60 plastic, or ceramic pipes with or without  
61 screens, permanent screens, hashish heads, or  
62 punctured metal bowls;

63 (b) Water pipes;

64 (c) Carburetion tubes and devices;

65 (d) Smoking and carburetion masks;

66 (e) Roach clips: meaning objects used to  
67 hold burning material, such as a marijuana  
68 cigarette, that has become too small or too  
69 short to be held in the hand;

70 (f) Miniature cocaine spoons, and cocaine  
71 vials;

72 (g) Chamber pipes;

73 (h) Carburetor pipes;

74 (i) Electric pipes;

75 (j) Air-driven pipes;

76 (k) Chilams;

77 (l) Bongs;

78 (m) Ice pipes or chillers;

79 "In determining whether an object is Drug parapher-  
80 nalia, a court or other authority should consider, in  
81 addition to all other logically relevant factors, the  
82 following:

83 (1) Statements by an owner or by anyone in con-  
84 trol of the object concerning its use;

85 (2) Prior convictions, if any, of an owner, or  
86 of anyone in control of the object, under any State  
87 or Federal law relating to any controlled substance;

88 (3) The proximity of the object, in time and  
89 space, to a direct violation of this Act;

90 (4) The proximity of the object to controlled  
91 substances;

- 92 (5) The existence of any residue of controlled  
 93 substances on the object;  
 94 (6) Direct or circumstantial evidence of the  
 95 intent of an owner, or of anyone in control of the  
 96 object, to deliver it to persons whom he knows, or  
 97 should reasonably know, intend to use the object to  
 98 facilitate a violation of this Act; the innocence of  
 99 an owner, or of anyone in control of the object, as  
 100 to a direct violation of this Act shall not prevent  
 101 a finding that the object is intended for use, or  
 102 designed for use as Drug paraphernalia;  
 103 (7) Instructions, oral or written, provided with  
 104 the object concerning its use;  
 105 (8) Descriptive materials accompanying the object  
 106 which explain or depict its use;  
 107 (9) National and local advertising concerning its  
 108 use;  
 109 (10) The manner in which the object is displayed  
 110 for sale;  
 111 (11) Whether the owner, or anyone in control of  
 112 the object, is a legitimate supplier of like or related  
 113 items to the community, such as a licensed distributor  
 114 or dealer of tobacco products;  
 115 (12) Direct or circumstantial evidence of the ratio  
 116 of sales of the object(s) to the total sales of the  
 117 business enterprise;  
 118 (13) The existence and scope of legitimate uses  
 119 for the object in the community;  
 120 (14) Expert testimony concerning its use."

ARTICLE II

(Offenses and Penalties)

1 SECTION (designation of offenses and penalties section)  
 2 of the Controlled Substances Act of this State is amended  
 3 by adding the following after (designation of last sub-  
 4 stantive offense):

1 "SECTION (A) (Possession of Drug Paraphernalia)  
 2 It is unlawful for any person to use, or to  
 3 possess with intent to use, drug paraphernalia to  
 4 plant, propagate, cultivate, grow, harvest, manu-  
 5 facture, compound, convert, produce, process, pre-  
 6 pare, test, analyze, pack, repack, store, contain,  
 7 conceal, inject, ingest, inhale, or otherwise  
 8 introduce into the human body a controlled substance  
 9 in violation of this Act. Any person who violates

10 this section is guilty of a crime and upon con-  
 11 viction may be imprisoned for not more than ( ),  
 12 fined not more than ( ), or both."

1 "SECTION (B) (Manufacture or Delivery of Drug  
 2 Paraphernalia)

3 It is unlawful for any person to deliver,  
 4 possess with intent to deliver, or manufacture  
 5 with intent to deliver, drug paraphernalia,  
 6 knowing, or under circumstances where one rea-  
 7 sonably should know, that it will be used to  
 8 plant, propagate, cultivate, grow, harvest, manu-  
 9 facture, compound, convert, produce, process,  
 10 prepare, test, analyze, pack, repack, store, con-  
 11 tain, conceal, inject, ingest, inhale, or other-  
 12 wise introduce into the human body a controlled  
 13 substance in violation of this Act. Any person  
 14 who violates this section is guilty of a crime  
 15 and upon conviction may be imprisoned for not  
 16 more than ( ), fined not more than ( ), or both."

1 "SECTION (C) (Delivery of Drug Paraphernalia to  
 2 a Minor)

3 Any person 18 years of age or over who  
 4 violates Section (B) by delivering drug parapher-  
 5 nalia to a person under 18 years of age who is at  
 6 least 3 years his junior is guilty of a special  
 7 offense and upon conviction may be imprisoned for  
 8 not more than ( ), fined not more than ( ), or  
 9 both."

1 "SECTION (D) (Advertisement of Drug Paraphernalia)

2 It is unlawful for any person to place in  
 3 any newspaper, magazine, handbill, or other publi-  
 4 cation any advertisement, knowing, or under circum-  
 5 stances where one reasonably should know, that the  
 6 purpose of the advertisement, in whole or in part,  
 7 is to promote the sale of objects designed or  
 8 intended for use as drug paraphernalia. Any person  
 9 who violates this section is guilty of a crime and  
 10 upon conviction may be imprisoned for not more than  
 11 ( ), fined not more than ( ), or both."

ARTICLE III

(Civil Forfeiture)

1 SECTION (insert designation of civil forfeiture section)  
 2 of the Controlled Substances Act of this State is amended

3 to provide for the civil seizure and forfeiture of drug  
4 paraphernalia by adding the following after paragraph  
5 (insert designation of last category of forfeitable  
6 property):  
7 " ( ) all drug paraphernalia as defined by Section  
8 ( ) of this Act."

ARTICLE IV  
(Severability)

1 If any provision of this Act or the application  
2 thereof to any person or circumstance is held invalid,  
3 the invalidity does not affect other provisions or  
4 applications of the Act which can be given effect  
5 without the invalid provision or application, and to  
6 this end the provisions of this Act are severable.

APPENDIX C

MODEL PARAPHERNALIA INDUSTRY REGULATORY ACT

(Reprinted with permission of Michael  
Pritzker, Chief Counsel, National  
Accessories Trade Association--NATA)

PROPOSED MODEL LAW PROHIBITING THE  
SALE OF SMOKING PARAPHERNALIA TO MINORS.

WHEREAS, it is recognized that smoking tobacco and other  
smoking material can be injurious to the health of the smoker,  
and

WHEREAS, it is in the best interests of the citizens of  
(State or Municipality) to seek to prohibit the spread of smoking  
of tobacco and other smoking materials by Minors, for their  
general welfare, and

WHEREAS, the prohibition of the sale of cigarettes, cigars,  
pipes of all types, and other loose tobacco and smoking herbs  
to Minors would further the prevention of the spread of smoking  
by Minors,

NOW, THEREFORE, be it ordained by (legislative body) of the  
(State or Municipality):

- Section 1. (a) That the sale, barter, gift or exchange  
of all cigarettes, cigars, pipes of all  
types, pipe and other loose tobacco and  
smoking herbs is hereby prohibited to  
Minor children.
- (b) If any person contemplating the sale or  
furnishing of smoking materials believes  
or has reason to believe that a sale or  
delivery of smoking materials is prohibited  
because of the non-age of the prospective  
recipient, he shall before making such sale  
or delivery, demand presentation of some  
form of positive identification, containing  
proof of age, issued by a public officer  
in the performance of his official duties.  
No person shall transfer, alter or deface  
such an identification card; use the iden-  
tification card of another; carry or use a  
false or forged identification card; or  
obtain an identification card by means of  
false information.

(c) Every person engaged in the business of selling smoking materials shall display at all times in a prominent place in his place of business a printed card, which shall be issued by the (State or Municipality) and which shall read substantially as follows:

"WARNING TO MINORS. You are subject to a fine up to \$500.00 under the (Ordinance or Statute - Title and number) of the (State or Municipality) if you purchase smoking materials or misrepresent your age for the purpose of purchasing or obtaining smoking materials."

Section 2. That a minor child is a person who has not yet attained the age of \_\_\_\_\_ years of age.

Section 3. That any person violating the provisions of this section shall be subjected to a fine of not less than \$50.00 nor more than \$500.00.

PASSED and APPROVED by the President and Trustees of the (City or Village) this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

APPROVED:

\_\_\_\_\_  
(President)

ATTEST:

\_\_\_\_\_  
(Village Clerk)

ROLL CALL VOTE: AYES: \_\_\_\_\_  
NAYS: \_\_\_\_\_  
ABSTENTIONS: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

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#### GLOSSARY OF PARAPHERNALIA TERMS

bong	a tubular device used for smoking marijuana which concentrates the smoke in an enclosed chamber allowing the smoker to inhale the large volume of smoke inside and produce a quicker, more intense "high."
carbureted joint	a pipe or bong equipped with a carburetion mechanism whereby the smoke in the pipe is forced out in an explosive manner.
cocaine kit	vials (for storing cocaine), spoons (for snorting cocaine), straws (for snorting cocaine), mirrors, and razor blades (for scraping powdered cocaine into a "line" to snort from a straw) bound together.
dessicators	glass pipes for smoking "freebase."
"freebase"	cocaine alkaloid or base. Freebase is an intermediate compound in the preparation of the hydrochloride salt from coca leaf extracts and is less susceptible to decomposition upon heating. It can be reobtained from street cocaine via simple extraction kits available in commercial paraphernalia shops. Users distribute approximately 300 mg throughout a cigarette or place the "freebase" in special cocaine water pipes.
freebase conversion kit	contains chemicals which reduce cocaine to a paste suitable for smoking.
hash or hashish	resin of the cannabis plant containing a higher concentration of THC.
hookah	a pipe for smoking that has a long flexible tube whereby the smoke is cooled by passing through water.
isobutyl nitrite	a vasodilator which produces a "chemical high."
isomerizers	devices which increase the potency of marijuana by activating the THC content.
"joint"	a marijuana cigarette.
nasal irrigator	reduces the chance of nasal membrane damage from cocaine snorting and enhances the sensation from subsequent "hits."
nitrous oxide	a colorless gas that when inhaled produces incoordination of movement and loss of sensation to pain preceded by exhilaration and sometimes laughter.
Procaine HCL	a synthetic cocaine-like drug.
psilocybin mushrooms	"sacred" or "magic" mushrooms which have been used for centuries in traditional Indian rites. When eaten, these mushrooms affect mood and perception in a manner similar to mescaline and LSD. Their active ingredients, psilocybin and psilocyn, are chemically related to LSD.
psilocybin mushroom spores	seeds used to grow psilocybin mushrooms.

roach the end of a "joint": a marijuana cigarette butt.

roach clips devices used to hold the end of a burning joint that has become too small or too short to be held in one's hand.

rolling machines devices used for rolling marijuana cigarettes.

rolling paper double-width rolling papers designed for use in rolling marijuana cigarettes.

sifters devices used to remove twigs and seeds from marijuana during the cleaning and refining process.

snorters items such as straws, tooters, spoons, used for snorting cocaine.

stash a supply of drugs in a secure place.

stash containers containers used for storing illicit drugs.

THC (Delta - 9 tetrahydrocannabinol) one of four psychoactive chemicals in marijuana that makes the user feel high.

water pipes pipes where the smoke is drawn through water to cool the smoke and remove impurities.

**END**