

Bong bill opponents seek injunction

By Val Swinton

Opponents of Nebraska's ban-the-bong bill go to court this morning to try and obtain a preliminary injunction preventing enforcement of the bill.

But regardless of the outcome of today's hearing, which will be in Omaha's U.S. District Court, it could be a long time before Nebraska head shops are prevented from selling cigarette papers, pipes and other drug paraphernalia.

Don Fiedler, the attorney representing a group of several head shops called the Nebraska Trade Accessories Association said that a ruling on the request for a preliminary injunction would probably not be made for a couple of weeks, until Judge Richard Robinson had time to consider the briefs filed in today's hearing.

Gov. Charles Thone signed LB991 into law on April 23. The bill, which outlaws the sale of drug paraphernalia in Nebraska, contained an emergency clause allowing it to go into effect immediately.

However, the same day, Fiedler and Omahan Bruce Van Langen, representing Nebraska pipesmokers, successfully sought a temporary injunction, preventing the law from being enforced.

Today's hearing for preliminary injunction is the second step in the legal process towards a permanent injunction, which would prevent enforcement of the bill in its present form.

Fiedler said that if the preliminary injunction is granted, it might be six months to a year before a trial on the permanent injunction.

If Judge Robinson does not grant the preliminary injunction, Fiedler said he would ask for a stay of the temporary injunction, until the ruling on the preliminary injunction could be appealed to circuit court.

While Fiedler was hesitant about predicting exactly when a decision would be reached, he predicted "It would be a long time before an ultimate decision is made."

There is a chance the Omaha judge would not grant a stay of the temporary injunction, in the event he rules against Fiedler and Van Langen, but Fiedler said it's normal procedure to grant such a stay while an appeal is being made.

Opponents of LB991 say the bill is so vague it is unconstitutional and discriminates against headshops.

Fiedler said the bill would encourage "arbitrary and selective enforcement" against Nebraska headshops.

Local headshops apparently have a large stake in the outcome of current legal action.

Terry Moore, co-owner of Lincoln's Dirt Cheap Enterprises, 227 N. 11th St., estimated in an earlier interview that the store takes in a quarter of a million dollars a year in the sale of drug paraphernalia, a figure that is increasing annually.

Proponents of the ban-the-bong bill say the sale of paraphernalia only encourages drug use in Nebraska.

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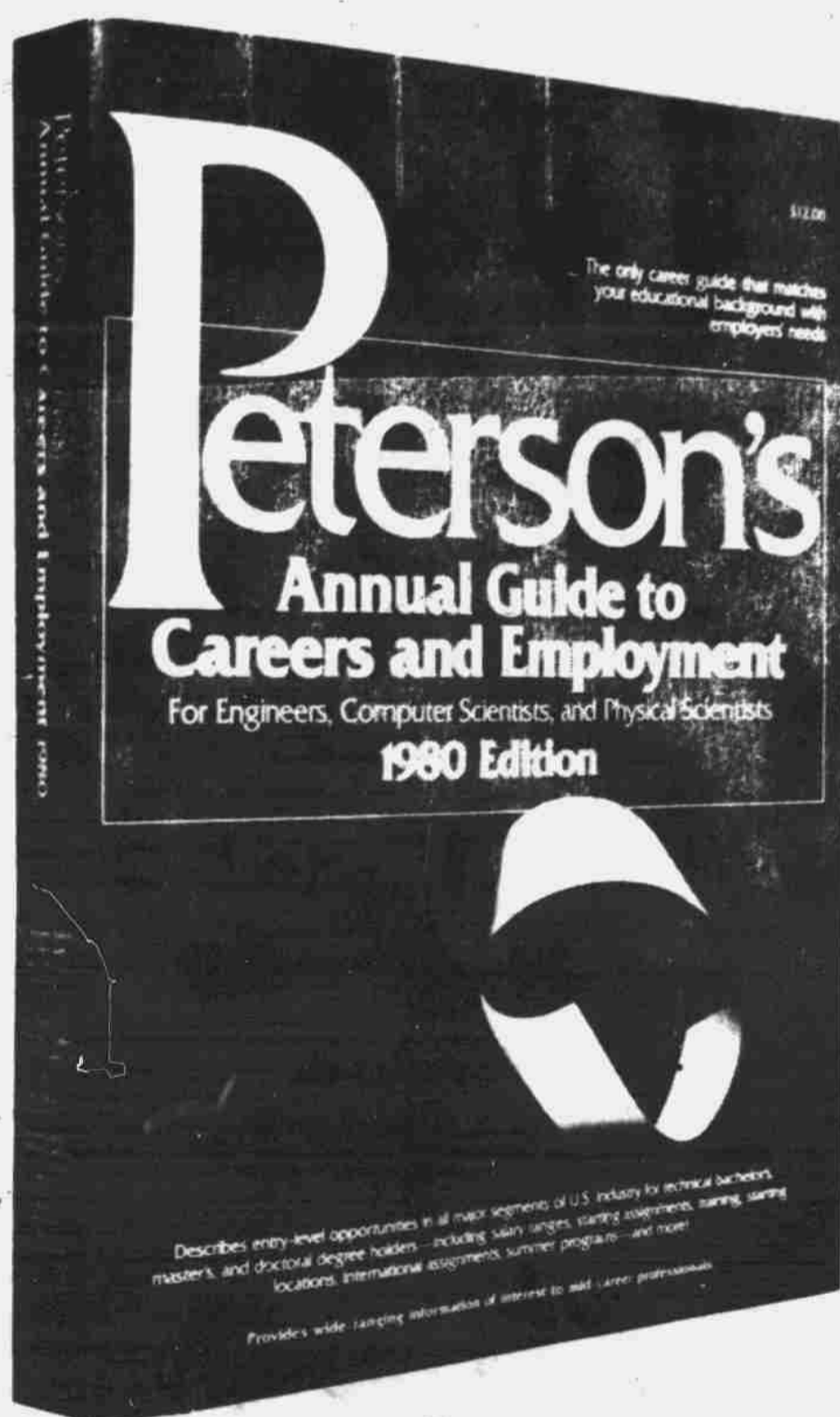
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