



The ins and outs of identifying contraband

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When you hear about contraband in the news, the typical thought concerns illicit drugs or weapons, a drug ring or cartel using proceeds to fund terrorism or the like. But the definition of contraband is far more extensive and includes any items which are illegal to import into a particular country, as well as those used to commit a crime.

3 Classes of contraband

In its simplest form, contraband items are illicit goods referring to items that are imported or exported illegally, most commonly drugs, weapons, counterfeited items like cigarettes, software, music and videos. However some items considered contraband may surprise you, such as wild animal parts including feathers. Some states may allow certain items like fireworks or marijuana, but in states where they are not legal these items would not be covered by a policy.

When considering illicit items from the eyes of law enforcement, the first and most obvious type of contraband is called *prima facie*, which in short means “at face value?” Basically it is seeing something that is obviously illegal, like a bag of cocaine—at its face value, it is contraband.

Similarly, the term “*contraband per se*” is used to refer to property that is in and of itself unlawful to possess, produce or transport. Possession of such property is illegal, no matter how it is used. This can vary from state to state, with products like fireworks, or even marijuana with its varied state laws.

The third class of contraband is called ‘*derivative*’ – and here it gets a bit fuzzier. Let’s take an example from illicit drugs. In a case where loose cocaine is found on top of a digital scale, the cocaine is *prima facie* contraband and the scale, normally perfectly legal to own, has now become part of the crime and is therefore considered *derivative* contraband.



If both of these items were seized by law enforcement, they would both be labeled as contraband. However, if the perpetrator can prove that the scale was used for other legal means such as in a kitchen to weigh food, he is entitled to its return. On the claims side, if the scale is included under a homeowner policy, even though it is used for illegal

purposes, the scale may be covered.

As the University of Albany's Center for Problem Orienting Policing explains, because contraband is illegal to possess, no one can assert a legal interest in it.

Cloudy issue on cosmetic contact lenses

Recent stories in the news point to the level of complexity and obscurity of what defines contraband. For example, the U.S. Immigration and Customs Enforcement office warned consumers not to purchase contact lenses from places like Halloween or novelty shops, salons, beauty supply stores, or online if the entity did not require a valid doctor's prescription.

Although many places illegally sell decorative contact lenses to consumers without valid prescriptions for as little as \$20, these vendors are not authorized distributors of contact lenses, which by law require a prescription. While \$20 represents a small amount relative to a claim, because it was sold illegally, coverage would not necessarily extend to it.

For adjusters, the take-away here is that products sold without proper authorization may be contraband and not covered by a policy. The best rule of thumb is to consult an expert on the item involved.

Insurance carriers differ in terms of their own best practices for handling contraband items, and states can differ widely in their laws governing the use and possession of items such as fireworks and marijuana.

To sort out the wide variety of goods considered illicit and the complexity associated with properly identifying legal from illegal objects, Enservio will be presenting a short webinar "Recognizing Contraband in Contents Claims" on Thursday, December 18th at 11:30 am EDT with a Q&A session to follow. Attendees can register by clicking [here](#).