

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1689

S.P. 554

In Senate, May 7, 2019

An Act To Address the Opioid Crisis through Evidence-based Public Health Policy

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator SANBORN, L. of Cumberland.
Cosponsored by Representative McCREIGHT of Harpswell and
Senators: CLAXTON of Androscoggin, MOORE of Washington, Representatives: FECTEAU
of Biddeford, GATTINE of Westbrook, HUBBELL of Bar Harbor, JORGENSEN of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §1110, sub-§1-A**, as amended by PL 2001, c. 383, §132 and
3 affected by §156, is repealed.

4 **Sec. 2. 17-A MRSA §1110, sub-§1-B, ¶B**, as enacted by PL 2001, c. 383, §133
5 and affected by §156, is repealed.

6 **Sec. 3. 17-A MRSA §1110, sub-§1-C**, as amended by PL 2007, c. 695, Pt. A,
7 §20, is repealed.

8 **Sec. 4. 17-A MRSA §1111**, as amended by PL 2007, c. 346, Pt. B, §4, is repealed.

9 **Sec. 5. 17-A MRSA §1111-A, sub-§2**, as enacted by PL 1981, c. 266, is
10 amended to read:

11 **2.** For purposes of this section, drug paraphernalia does not include hypodermic
12 apparatus. ~~Possession of, furnishing or trafficking in hypodermic apparatus constitute~~
13 ~~separate offenses under sections 1110 and 1111.~~

14 **Sec. 6. 17-A MRSA §1301, sub-§6**, as amended by PL 2011, c. 464, §22, is
15 further amended to read:

16 **6.** In addition to any other authorized sentencing alternative, the court shall impose a
17 minimum fine of \$400, none of which may be suspended, for a person convicted of a
18 crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108;
19 1109; 1110; ~~1111~~; 1111-A, subsection 4-A; 1116; 1117; or 1118.

20 **Sec. 7. 22 MRSA §1341, sub-§1**, as amended by PL 2015, c. 507, §1, is further
21 amended to read:

22 **1. Certification of programs.** The Maine Center for Disease Control and
23 Prevention may certify hypodermic apparatus exchange programs that meet the
24 requirements established by rule under subsection 2, ~~paragraphs A to D~~.

25 A. The Maine Center for Disease Control and Prevention may not limit the number
26 of hypodermic apparatuses provided by the programs to participants.

27 B. The Maine Center for Disease Control and Prevention may not limit the number
28 of hypodermic apparatuses that participants served by the programs may legally
29 possess, transport or exchange.

30 **Sec. 8. 22 MRSA §1341, sub-§2, ¶D**, as amended by PL 2015, c. 507, §1, is
31 repealed and the following enacted in its place:

32 D. Distribution of educational material regarding:

33 (1) The dangers associated with the use of used hypodermic apparatuses;

34 (2) Safer drug use; and

35 (3) Overdose prevention;

1 **Sec. 9. 22 MRSA §1341, sub-§2, ¶¶E and F**, as enacted by PL 2015, c. 507, §1,
2 are amended to read:

3 E. Application procedures for a certified hypodermic apparatus exchange program to
4 apply for funds to operate the program, including, but not limited to, the purchase and
5 disposal of hypodermic needles, naloxone hydrochloride and other safer drug use
6 supplies;

7 F. Criteria for the award of funds to certified hypodermic apparatus exchange
8 programs; that, without limitation:

9 (1) Provide for the distribution of naloxone hydrochloride;

10 (2) Perform testing for HIV, AIDS and hepatitis C;

11 (3) Are directed by a board that includes members with a history of drug use or
12 that establish and maintain a client advisory board; and

13 (4) Maintain referral agreements with or have the capacity to provide:

14 (a) Psychosocial counseling services that are informed by the recognition of
15 trauma;

16 (b) Medication-assisted substance use treatment services; and

17 (c) Infectious disease care;

18 **Sec. 10. 22 MRSA §1341, sub-§4**, as enacted by PL 2015, c. 507, §2, is amended
19 to read:

20 **4. Funding.** This subsection governs the use of state funds for hypodermic
21 apparatus exchange programs certified pursuant to this section. This subsection is not
22 intended to limit the ability of certified programs to secure other sources of funding or to
23 discourage fund-raising for the purpose of operating such programs. The Maine Center
24 for Disease Control and Prevention shall allocate any funds appropriated for hypodermic
25 apparatus exchange programs among new and existing certified programs based on rates
26 of intravenous drug use and negative health outcomes related to drug use in the
27 geographic area surrounding a program; if applicable, the amount of services historically
28 provided by the certified program; the geographic distribution of services provided by the
29 certified program; and other relevant factors. The award of funds must occur not later
30 than 60 days after the effective date of this subsection and annually thereafter based on
31 the availability of funding.

32 **Sec. 11. 22 MRSA §2383-B, sub-§6**, as amended by PL 2015, c. 27, §1, is
33 further amended to read:

34 **6. Lawful possession of hypodermic apparatuses by livestock owners; sale to**
35 **livestock owners.** A person who owns livestock is authorized to possess and have
36 control of hypodermic apparatuses for the purpose of administering antibiotics, vitamins
37 and vaccines to treat medical conditions or promote the health of that person's livestock;
38 ~~and such possession and control are expressly authorized within the meaning of Title~~
39 ~~17-A, section 1111, subsection 1, paragraph A.~~ For the purposes of this subsection,

1 "livestock" means cattle, equines, sheep, goats, swine, members of the genus Lama,
2 poultry, rabbits and cervids as defined in Title 7, section 1333, subsection 1.

3 A. An agricultural supply store authorized to sell hypodermic apparatuses pursuant
4 to Title 32, section 13787-A, subsection 1 may furnish or sell, without limit in
5 number, hypodermic apparatuses to a person authorized to possess and have control
6 of hypodermic apparatuses pursuant to this subsection, ~~and such furnishing or sale is~~
7 ~~expressly authorized within the meaning of Title 17-A, section 1110, subsection 1-B.~~

8 **Sec. 12. 32 MRSA §13787-A, sub-§3**, as amended by PL 2003, c. 688, Pt. A,
9 §39, is repealed.

10 SUMMARY

11 This bill expands the scope and capabilities of hypodermic apparatus exchange
12 programs certified by the Department of Health and Human Services, Maine Center for
13 Disease Control and Prevention. This bill requires the center to adopt rules that:

14 1. Allow the programs to distribute naloxone hydrochloride and other safer drug use
15 supplies; and

16 2. Expand the criteria a program must meet in order to be awarded funds, including
17 distributing naloxone hydrochloride and other safer drug use supplies; providing HIV,
18 AIDS and hepatitis C testing; and maintaining referral agreements or having the capacity
19 to provide counseling services, medication-assisted treatment services and infectious
20 disease care.

21 The center is also required to consider geographic distribution of services provided
22 by a program when allocating funding.

23 This bill also amends the Maine Criminal Code to remove the crimes of furnishing
24 hypodermic apparatuses and illegal possession of hypodermic apparatuses and makes
25 changes to other statutes to reflect that decriminalization.