

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 287, L.D. 351, Bill, "An Act to Decrease Infectious Disease Transmission"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 17-A MRSA §1110, as amended by PL 1989, c. 384, §5, is further amended to read:

§1110. Trafficking in or furnishing hypodermic apparatuses

1. A person is guilty of trafficking in ~~or--furnishing~~ hypodermic apparatuses if he the person intentionally or knowingly trafficks in ~~or--furnishes--a one or more~~ hypodermic apparatus apparatuses, unless the conduct which that constitutes such trafficking ~~or--furnishing~~ is either:

A. Expressly authorized by ~~Title--22--or~~ Title 32, ~~or~~ section 13787-A.

~~B.--Expressly-made-a-civil-violation-by-Title-22.~~

1-A. A person is guilty of furnishing hypodermic apparatuses if the person intentionally or knowingly furnishes 11 or more hypodermic apparatuses, unless the conduct that constitutes such furnishing is expressly authorized by Title 22, section 2383-B.

2. Trafficking in hypodermic apparatuses is a Class C crime. Furnishing hypodermic apparatuses is a Class D crime.

COMMITTEE AMENDMENT

January 15, 1999 and annually thereafter on hypodermic apparatus exchange programs certified under this section. The report must include but is not limited to: the number, location and operators of hypodermic apparatus exchange programs; data on hypodermic apparatuses distributed and collected; and the number of persons served by the programs.

Sec. 4. 22 MRSA c. 558 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 558
MARIJUANA, SCHEDULED DRUGS, IMITATION
SCHEDULED DRUGS AND HYPODERMIC APPARATUSES

Sec. 5. 22 MRSA §2383-B, sub-§2, as amended by PL 1995, c. 499, §3 and affected by §5, is further amended to read:

2. Others lawfully in possession. Except as otherwise authorized or restricted, the following persons are authorized to possess, furnish and have control of scheduled or prescription drugs ~~ex.~~ controlled substances or hypodermic apparatuses:

A. Common carriers or warehouse operators while engaged in lawfully transporting or storing prescription drugs, or hypodermic apparatuses or any of their employees acting within the scope of their employment;

B. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession while acting within the scope of their employment or agency;

C. Persons whose possession is for the purpose of aiding public officers in performing their official duties while acting within the scope of their employment or duties;

D. Law enforcement officers while acting within the scope of their employment and official duties; and

E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs ~~ex.~~ controlled substances, or hypodermic apparatuses while acting within the course of their professional practice; and

F. With regard to the possession or furnishing of hypodermic apparatuses, persons authorized by the Bureau of Health pursuant to a hypodermic apparatus exchange program, certified under chapter 252-A while acting within the scope of their employment under such programs.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

This bill may reduce prosecutions for Class C and D crimes. The State may realize savings from reductions in the number of persons sentenced for Class C crimes. Sentences of more than 9 months imposed for Class C crimes must be served in state correctional institutions. The cost to the State per sentence is \$53,033 based upon an average length of stay of 1 year and 10 months. The State also must reimburse counties for sentences served in county jails of 9 months or less for Class C crimes. For Class D crimes, if jail sentences are reduced, the savings to the counties are estimated to be \$83.78 per day per prisoner. These savings do not affect reimbursement by the State. The reduction in the number of prosecutions that would have resulted in a jail sentence and the resulting savings to the county jail system are expected to be insignificant.

The Judicial Department may realize savings from reductions of indigent defense costs related to those cases where the class of crime is decreased. The amounts can not be estimated at this time. Reductions in the collection of fines may decrease General Fund revenue by minor amounts.

The Department of Human Services will incur some minor additional costs to certify hypodermic exchange programs and to prepare the required annual report. These costs can be absorbed within the department's existing budgeted resources.'

SUMMARY

This amendment replaces the bill. It requires the Bureau of Health to adopt rules governing hypodermic apparatus exchange programs. The rules must address at least the following:

1. The safe disposal of hypodermic apparatuses;
2. Tracking the distribution and collection of hypodermic apparatuses; and
3. Drug abuse prevention and treatment education.

The rules are major substantive rules, which will require legislative review prior to final adoption by the bureau.

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COMMITTEE AMENDMENT "A" to H.P. 287, L.D. 351

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Once the rules are in place, the Bureau of Health may certify hypodermic apparatus exchange programs that meet the requirements of the rules.

The Bureau of Health must report to the joint standing committees of the Legislature having jurisdiction over judiciary matters and health and human services matters on the hypodermic apparatus exchange programs, beginning in January of 1999 and every year thereafter.

This amendment amends the Criminal Code in the sections establishing crimes related to trafficking, furnishing and possessing hypodermic apparatuses. It separates the crime of furnishing from the crime of trafficking. The amendment creates an exception from the crime of furnishing hypodermic apparatuses for employees of hypodermic apparatus exchange programs. No such exception is necessary for the crime of trafficking because that offense involves selling or otherwise trading for consideration.

This amendment provides specific cross-references to the sections in the Maine Revised Statutes, Title 22 and Title 32 that authorize possession and furnishing of hypodermic apparatuses. It also revises the criminal act of possessing hypodermic apparatuses to apply to the possession of 11 or more, thus legalizing the possession of 10 or fewer hypodermic apparatuses.

COMMITTEE AMENDMENT