

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1786

H.P. 1248

House of Representatives, March 29, 2007

An Act To Reduce the Spread of Infectious Disease through Shared Hypodermic Apparatuses

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MILLER of Somerville.
Cosponsored by President EDMONDS of Cumberland and
Representatives: BEAUDOIN of Biddeford, GERZOFKY of Brunswick, GROSE of
Woolwich, HASKELL of Portland, HAYES of Buckfield, PERRY of Calais, WALKER of
Lincolnville.

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

2 **PART A**

3 **Sec. A-1. 22 MRSA §1341**, as enacted by PL 1997, c. 340, §3, is amended to
4 read:

5 **§1341. Hypodermic apparatus exchange programs**

6 **1. Certification of programs.** ~~The Bureau of Health~~ Maine Center for Disease
7 Control and Prevention may certify hypodermic apparatus exchange programs that meet
8 the requirements established by rule under subsection 2.

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

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

14 **2. Rules.** ~~The Bureau of Health~~ Maine Center for Disease Control and Prevention
15 shall adopt rules pursuant to the Maine Administrative Procedure Act establishing
16 requirements for hypodermic apparatus exchange programs. The rules must include but
17 are not limited to:

18 A. Procedures for the safe disposal of hypodermic apparatuses;

19 B. Tracking the number of hypodermic apparatuses distributed and collected; ~~and~~

20 C. Drug abuse prevention and treatment education; and

21 D. Measures to discourage the utilization of used hypodermic apparatuses.

22 Rules adopted or amended pursuant to this section are ~~major substantive~~ routine technical
23 rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

24 **3. Reports.** ~~The Bureau of Health~~ Maine Center for Disease Control and Prevention
25 shall report to the joint standing committees of the Legislature having jurisdiction over
26 judiciary matters and health and human services matters by January 15, 1999 and
27 annually thereafter on hypodermic apparatus exchange programs certified under this
28 section. The report must include but is not limited to: the number, location and operators
29 of hypodermic apparatus exchange programs; data on hypodermic apparatuses distributed
30 and collected; and the number of persons served by the programs.

31 **Sec. A-2. 22 MRSA §2383-B, sub-§2, ¶F**, as enacted by PL 1997, c. 340, §5, is
32 amended to read:

33 F. With regard to the possession or furnishing of hypodermic apparatuses, persons
34 authorized by the Bureau of Health pursuant to a Persons furnishing, possessing and
35 transporting hypodermic apparatus exchange program, certified apparatuses or
36 residual amounts of any scheduled drug that is contained in any hypodermic

1 apparatus, to the extent authorized under chapter 252-A while acting within the scope
2 of their employment under such programs.

3 **PART B**

4 **Sec. B-1. 17-A MRSA §1106, sub-§6**, as enacted by PL 2003, c. 61, §6, is
5 repealed and the following enacted in its place:

6 6. It is an affirmative defense to prosecution under this section that the substance
7 furnished is:

8 A. Industrial hemp; or

9 B. A residual amount of any scheduled drug that is contained in one or more
10 hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange
11 program that is certified by the Department of Health and Human Services, Maine
12 Center for Disease Control and Prevention and is furnishing the hypodermic
13 apparatuses to an employee of such a program.

14 **Sec. B-2. 17-A MRSA §1107-A, sub-§5**, is enacted to read:

15 5. It is an affirmative defense to prosecution under this section that the substance
16 furnished is:

17 A. Industrial hemp; or

18 B. A residual amount of any scheduled drug that is contained in one or more
19 hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange
20 program that is certified by the Department of Health and Human Services, Maine
21 Center for Disease Control and Prevention and is transporting the hypodermic
22 apparatuses to the program.

23 **Sec. B-3. 17-A MRSA §1110, sub-§1-C** is enacted to read:

24 1-C. It is an affirmative defense to prosecution under section 1-A that the person
25 furnishing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange
26 program that is certified by the Department of Health and Human Services, Maine Center
27 for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an
28 employee of such a program.

29 **Sec. B-4. 17-A MRSA §1111, sub-§3** is enacted to read:

30 3. It is an affirmative defense to prosecution under this section that the person
31 possessing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange
32 program that is certified by the Department of Health and Human Services, Maine Center
33 for Disease Control and Prevention and is transporting the hypodermic apparatuses to the
34 program.

1

SUMMARY

2 This bill prohibits the Department of Health and Human Services, Maine Center for
3 Disease Control and Prevention from limiting the number of hypodermic apparatuses that
4 a certified hypodermic apparatus program may provide to enrolled participants or the
5 number that enrolled participants may legally possess, transport or exchange. The bill
6 requires the Maine Center for Disease Control and Prevention to adopt rules for measures
7 to discourage the utilization of used hypodermic apparatuses and makes rules adopted or
8 amended routine technical rules. It authorizes persons to lawfully possess, furnish or
9 transport hypodermic apparatuses or residual amounts of scheduled drugs that may be
10 present in the hypodermic apparatuses or a residual amount of any scheduled drug that is
11 contained in one or more hypodermic apparatuses to the extent authorized under the
12 Maine Revised Statutes, Title 22, chapter 252-A. The bill provides an affirmative
13 defense for the furnishing, transporting or possession of hypodermic apparatuses or a
14 residual amount of any scheduled drug that is contained in one or more hypodermic
15 apparatuses by a person enrolled in a hypodermic apparatus exchange program that is
16 certified by the Maine Center for Disease Control and Prevention under Title 22, section
17 1341 when the person is transporting the hypodermic apparatuses to the certified
18 program.