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

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

PART A

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

§ 1341. Hypodermic apparatus exchange programs

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

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

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

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

A. Procedures for the safe disposal of hypodermic apparatuses;

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

C. Drug abuse prevention and treatment education; ~~and~~

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

Rules adopted ~~or amended~~ pursuant to this section are ~~major substantive~~routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A2-A~~.

3. Reports. ~~The Bureau of Health~~Maine Center for Disease Control and Prevention shall report to the joint standing committees of the Legislature having jurisdiction over judiciary matters and health and human services matters by 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. A-2. 22 MRSA §2383-B, sub-§2, ¶F, as enacted by PL 1997, c. 340, §5, is amended to read:

~~F. With regard to the possession or furnishing of hypodermic apparatuses, persons authorized by the Bureau of Health pursuant to a Persons furnishing, possessing and transporting hypodermic apparatus exchange program, certified apparatuses or residual amounts of any scheduled drug that is contained in any hypodermic apparatus, to the extent authorized under chapter 252-A while acting within the scope of their employment under such programs.~~

PART B

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

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

A. Industrial hemp; or

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

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

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

A. Industrial hemp; or

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

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

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

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

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

SUMMARY

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