

AN ACT in relation to hypodermic syringes and needles.

Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:

Section 5. The Drug Paraphernalia Control Act is amended  
by changing Sections 3.5 and 4 as follows:

(720 ILCS 600/3.5)

Sec. 3.5. Possession of drug paraphernalia.

(a) A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use, is guilty of a Class A misdemeanor for which the court shall impose a minimum fine of \$750 in addition to any other penalty prescribed for a Class A misdemeanor. This subsection (a) does not apply to a person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.

(b) In determining intent under subsection (a), the trier of fact may take into consideration the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia.

(Source: P.A. 88-677, eff. 12-15-94.)

(720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

Sec. 4. Exemptions. This Act shall not apply to:

(a) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(b) Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette-rolling papers.

(c) Items listed in Section 2 of this Act which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Act.

(d) A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.

In determining whether or not a particular item is exempt under this subsection, the trier of fact should consider, in addition to all other logically relevant factors, the following:

(1) the general, usual, customary, and historical use to which the item involved has been put;

(2) expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;

(3) any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;

(4) any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;

(5) any national or local advertising concerning

the design, purpose or use of the item involved, and the entire context in which such advertising occurs;

(6) the manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;

(7) whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(8) the existence and scope of legitimate uses for the object in the community.

(Source: P.A. 91-357, eff. 7-29-99.)

Section 10. The Hypodermic Syringes and Needles Act is amended by changing Sections 1, 2, 4, and 5 and adding Section 2.5 as follows:

(720 ILCS 635/1) (from Ch. 38, par. 22-50)

Sec. 1. Possession of hypodermic syringes and needles.

(a) Except as provided in subsection (b), no person, not being a physician, dentist, chiropracist or veterinarian licensed under the laws of this State or of the state where he resides, or a registered professional nurse, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, industrial user, official of any government having possession of the articles hereinafter mentioned by reason of his official duties, nurse or a medical laboratory technician acting under the direction of a physician or dentist, employee of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the

transportation of such articles, or the holder of a permit issued under Section 5 of this Act, or a farmer engaged in the use of such instruments on livestock, or a person engaged in chemical, clinical, pharmaceutical or other scientific research, shall have in his possession a hypodermic syringe, hypodermic needle, or any instrument adapted for the use of controlled substances or cannabis by subcutaneous injection.

(b) A person who is at least 18 years of age may purchase from a pharmacy and have in his or her possession up to 20 hypodermic syringes or needles.

(Source: P.A. 77-771.)

(720 ILCS 635/2) (from Ch. 38, par. 22-51)

Sec. 2. Sale of hypodermic syringes and needles.

(a) Except as provided in subsection (b), no such syringe, needle or instrument shall be delivered or sold to, or exchanged with, any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, industrial user, a nurse upon the written order of a physician or dentist, the holder of a permit issued under Section 5 of this Act, a registered chiropractist, or an employee of an incorporated hospital upon the written order of its superintendent or officer in immediate charge; provided that the provisions of this Act shall not prohibit the sale, possession or use of hypodermic syringes or hypodermic needles for treatment of livestock or poultry by the owner or keeper thereof or a person engaged in chemical, clinical, pharmaceutical or other scientific research.

(b) A pharmacist may sell up to 20 sterile hypodermic syringes or needles to a person who is at least 18 years of age. A syringe or needle sold under this subsection (b) must be stored at a pharmacy and in a manner that limits access to

the syringes or needles to pharmacists employed at the pharmacy and any persons designated by the pharmacists. A syringe or needle sold at a pharmacy under this subsection (b) may be sold only from the pharmacy department of the pharmacy.

(Source: Laws 1955, p. 1408.)

(720 ILCS 635/2.5 new)

Sec. 2.5. Educational materials; guidelines for disposal.

(a) The Illinois Department of Public Health must develop educational materials and make copies of the educational materials available to pharmacists. Pharmacists must make these educational materials available to persons who purchase syringes and needles as authorized under subsection (b) of Section 1. The educational materials must include information regarding safer injection, HIV prevention, syringe and needle disposal, and drug treatment.

(b) The Illinois Department of Public Health must create guidelines to advise local health departments on implementing syringe and needle disposal policies that are consistent with or more stringent than any available guidelines regarding disposal for home health care products provided by the United States Environmental Protection Agency.

(720 ILCS 635/4) (from Ch. 38, par. 22-53)

Sec. 4. Penalty. A person who ~~Whoever~~ violates any provision ~~provisions~~ of Section ~~Sections~~ 1 or 2, and 3 ~~of~~ this Act is ~~shall be~~ guilty of a Class A misdemeanor for the first such offense; and a Class 4 felony for a second or any succeeding offense, ~~he shall be guilty of a Class 4 felony.~~

(Source: P.A. 77-2830.)

(720 ILCS 635/5) (from Ch. 38, par. 22-54)

Sec. 5. Prescriptions.

Except as provided under Section 2, a licensed physician may direct a patient under his immediate charge to have in possession any of the instruments specified in Sections 1 and 2 which may be dispensed by a registered pharmacist or assistant registered pharmacist in this state only (1) upon a written prescription of such physician, or (2) upon an oral order of such physician, which order is reduced promptly to writing and filed by the pharmacist, or (3) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist in the same manner and under the same conditions as any other prescription issued by a practitioner licensed by law to write prescriptions, or (4) upon a signed statement of a the patient, upon proper identification, stating that the prescriptions or instruments specified in Sections 1 and 2 were lost or broken, as the case may be, the name and address of the prescriber, the name and address of the patient and the purpose for which the prescription was ordered; ~~provided, however, that the registered pharmacists or assistant registered pharmacists who deliver or sell any instruments specified in Sections 1 and 2 shall send a copy of such affidavit to the Department of State Police by the 15th of the month following the month in which such instruments were delivered or sold.~~ Such written or oral prescriptions when reduced to writing for instruments specified in Sections 1 and 2 shall contain the date of such prescription, the name and address of the prescriber, the name and address of the patient, the purpose for which the prescription is ordered, the date when dispensed and by whom dispensed.

Provided, however, that a licensed physician or other allied medical practitioner, authorized by the laws of the State of Illinois to prescribe or administer controlled

substances or cannabis to humans or animals, may authorize any person or the owner of any animal, to purchase and have in his possession any of the instruments specified in Sections 1 and 2, which may be sold to him without a specific written or oral prescription or order, by any person authorized by the laws of the State of Illinois to sell and dispense controlled substances or cannabis, if such authorization is in the form of a certificate giving the name and address of such licensed physician or other allied medical practitioner, the name, address and signature of the person, or of the owner of the animal, so authorized, the purpose or reason of such authorization, and the date of such certificate and in that event, no other prescription, writing or record shall be required to authorize the possession or sale of such instruments.

(Source: P.A. 84-25.)

(720 ILCS 635/3 rep.)

Section 15. The Hypodermic Syringes and Needles Act is amended by repealing Section 3.

Section 99. Effective date. This Act takes effect upon becoming law.