

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 926 Session of 2021

INTRODUCED BY BROWNE, A. WILLIAMS, MENSCH, COSTA, SCHWANK,
KEARNEY, CAPPELLETTI AND FONTANA, NOVEMBER 1, 2021

REFERRED TO JUDICIARY, NOVEMBER 1, 2021

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 the definition of "drug paraphernalia" and for prohibited
12 acts and penalties.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The definition of "drug paraphernalia" in section
16 2(b) of the act of April 14, 1972 (P.L.233, No.64), known as The
17 Controlled Substance, Drug, Device and Cosmetic Act, is amended
18 to read:

19 Section 2. Definitions.--* * *

20 (b) As used in this act:

21 * * *

22 "Drug paraphernalia" means all equipment, products and
23 materials of any kind which are used, intended for use or

1 designed for use in planting, propagating, cultivating, growing,
2 harvesting, manufacturing, compounding, converting, producing,
3 processing, preparing, testing, analyzing, packaging,
4 repackaging, storing, containing, concealing, injecting,
5 ingesting, inhaling or otherwise introducing into the human body
6 a controlled substance in violation of this act. It includes,
7 but is not limited to:

8 (1) Kits used, intended for use or designed for use in
9 planting, propagating, cultivating, growing or harvesting of any
10 species of plant which is a controlled substance or from which a
11 controlled substance can be derived.

12 (2) Kits used, intended for use or designed for use in
13 manufacturing, compounding, converting, producing, processing or
14 preparing controlled substances.

15 (3) Isomerization devices used, intended for use or designed
16 for use in increasing the potency of any species of plant which
17 is a controlled substance.

18 (4) Testing equipment used, intended for use or designed for
19 use in identifying or in analyzing the strength, effectiveness
20 or purity of controlled substances.

21 (5) Scales and balances used, intended for use or designed
22 for use in weighing or measuring controlled substances.

23 (6) Diluents and adulterants, such as quinine hydrochloride,
24 mannitol, mannite, dextrose and lactose, used, intended for use
25 or designed for use in cutting controlled substances.

26 (7) Separation gins and sifters used, intended for use or
27 designed for use in removing twigs and seeds from or in
28 otherwise cleaning or refining marihuana.

29 (8) Blenders, bowls, containers, spoons and mixing devices
30 used, intended for use or designed for use in compounding

1 controlled substances.

2 (9) Capsules, balloons, envelopes and other containers used,
3 intended for use or designed for use in packaging small
4 quantities of controlled substances.

5 (10) Containers and other objects used, intended for use or
6 designed for use in storing or concealing controlled substances.

7 (11) Hypodermic syringes, needles and other objects used,
8 intended for use, or designed for use in parenterally injected
9 controlled substances into the human body[.], subject to the
10 following:

11 (i) The term does not include:

12 (A) A syringe, needle or other object used to reduce the
13 risk of disease transmission or other harm, provided by a public
14 or private entity, volunteer or health care provider through a
15 syringe services program to a participant in the syringe
16 services program.

17 (B) A syringe, needle or other object used to reduce the
18 risk of disease transmission or other harm, provided by a
19 pharmacist in accordance with the rules and regulations of the
20 State Board of Pharmacy.

21 (C) A syringe, needle or other object that is used to reduce
22 the risk of disease transmission or other harm and distributed
23 to an individual in the usual course of business by a health
24 care provider otherwise authorized to distribute the item.

25 (ii) A participant in a syringe services program shall
26 evidence participation in the syringe services program by
27 producing an identification card, which shall contain at least
28 the following:

29 (A) A unique identification number generated by the syringe
30 services program from data elements determined by the syringe

1 services program.

2 (B) The contact information for the syringe services
3 program, including a number at which the program may be reached.

4 (iii) As used in this paragraph:

5 "Health care provider" means an individual or health care
6 facility that is licensed, certified or otherwise authorized to
7 provide health care under the laws of this Commonwealth. The
8 term also includes an officer, employee or agent of a health
9 care provider acting within the scope of the person's duties and
10 authority and a legal entity through which one or more health
11 care providers deliver health care, including, but not limited
12 to, a professional corporation, a partnership or limited
13 liability company.

14 "Syringe services program" means a program that, at a
15 minimum, provides or arranges for the provision of the
16 following:

17 (A) Access to sterile syringes, needles and other objects
18 used to reduce the risk of disease transmission or other harm.

19 (B) Safe disposal of used syringes, needles and drug
20 preparation equipment.

21 (C) Information and educational materials to each syringe
22 services program participant regarding substance use disorder
23 prevention and treatment.

24 (D) Information for syringe services program participants to
25 reduce injection and overdose risks.

26 (E) Naloxone to syringe services program participants to
27 reverse opioid overdoses or information about where naloxone can
28 be obtained at low or no cost.

29 (F) Information on health care, including mental health
30 services.

1 (12) Objects used, intended for use or designed for use in
2 ingesting, inhaling or otherwise introducing marihuana, cocaine,
3 hashish or hashish oil into the human body, such as:

4 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic
5 pipes with or without screens, permanent screens, hashish heads
6 or punctured metal bowls.

7 (ii) Water pipes.

8 (iii) Carburetion tubes and devices.

9 (iv) Smoking and carburetion masks.

10 (v) Roach clips; meaning objects used to hold burning
11 material such as a marihuana cigarette, that has become too
12 small or too short to be held in the hand.

13 (vi) Miniature cocaine spoons and cocaine vials.

14 (vii) Chamber pipes.

15 (viii) Carburetor pipes.

16 (ix) Electric pipes.

17 (x) Air-driven pipes.

18 (xi) Chillums.

19 (xii) Bonges.

20 (xiii) Ice pipes or chillers.

21 In determining whether an object is drug paraphernalia, a
22 court or other authority should consider, in addition to all
23 other logically relevant factors, statements by an owner or by
24 anyone in control of the object concerning its use, prior
25 convictions, if any, of an owner, or of anyone in control of the
26 object, under any State or Federal law relating to any
27 controlled substance, the proximity of the object, in time and
28 space, to a direct violation of this act, the proximity of the
29 object to controlled substances, the existence of any residue of
30 controlled substances on the object, except as provided under

1 section 13(q), direct or circumstantial evidence of the intent
2 of an owner, or of anyone in control of the object, to deliver
3 it to persons who he knows, or should reasonably know, intend to
4 use the object to facilitate a violation of this act, the
5 innocence of an owner or of anyone in control of the object, as
6 to a direct violation of this act should not prevent a finding
7 that the object is intended for use or designed for use as drug
8 paraphernalia, instructions, oral or written, provided with the
9 object concerning its use, descriptive materials accompanying
10 the object which explain or depict its use, national and local
11 advertising concerning its use, the manner in which the object
12 is displayed for sale, whether the owner, or anyone in control
13 of the object, is a legitimate supplier of like or related items
14 to the community, such as a licensed distributor or dealer of
15 tobacco products, direct or circumstantial evidence of the ratio
16 of sales of the objects to the total sales of the business
17 enterprise, the existence and scope of legitimate uses for the
18 object in the community, and expert testimony concerning its
19 use. The following shall be immune from civil or criminal
20 liability under State or local law for activities specifically
21 permitted by this act:

22 (i) A pharmacist under paragraph (11)(i)(B).

23 (ii) A health care provider under paragraph (11)(i)(C).

24 (iii) A syringe services program, including its employees,
25 operators, volunteers or participants, when the syringe services
26 program is in compliance, as determined by the department, with
27 the reporting requirements regarding the following:

28 (A) The number of individuals served.

29 (B) The number of needles and syringes dispensed.

30 (C) The number of naloxone kits dispensed.

1 (D) The number of treatment referrals provided to
2 individuals served by the syringe services program.

3 A law enforcement officer who acts in good faith regarding
4 the enforcement of other provisions of this act that are in
5 conflict with this section shall be immune from civil or
6 criminal liability under State or local law.

7 * * *

8 Section 2. Section 13 of the act is amended by adding a
9 subsection to read:

10 Section 13. Prohibited Acts; Penalties.--* * *

11 (g) Notwithstanding any provision of the of law, no person
12 shall be prosecuted for a residual amount of a controlled
13 substance contained in a used syringe, needle or other object
14 which is excluded from the definition of "drug paraphernalia"
15 under section 2(b)(11)(i) and (ii).

16 Section 3. The following shall apply:

17 (1) The Department of Health shall issue guidance on
18 best practices for syringe services programs.

19 (2) Prior to commencing operations of a syringe services
20 program, the syringe services program shall report the
21 following to the Department of Health:

22 (i) The legal name of the organization, agency or
23 health care facility operating the syringe services
24 program.

25 (ii) The areas and populations to be served by the
26 syringe services program.

27 (iii) The written notice of the proposed location to
28 the governing authority in which the syringe services
29 program is to be located.

30 (3) No later than one year after commencing operations

1 and every 12 months thereafter, each syringe services program
2 shall report the following to the Department of Health:

3 (i) The number of individuals served.

4 (ii) The number of needles and syringes dispensed.

5 (iii) The number of naloxone kits dispensed.

6 (iv) The number of treatment referrals provided to
7 individuals served by the syringe services program.

8 (4) The Department of Health shall post the reports
9 under paragraphs (2) and (3) on its publicly accessible
10 Internet website.

11 Section 4. This act shall take effect in 60 days.