

5312

2011-2012 Regular Sessions

I N S E N A T E

May 4, 2011

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to hypodermic syringes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 1 and 5 of section 3381 of the public health
2 law, subdivision 1 as amended by chapter 178 of the laws of 2010 and
3 subdivision 5 as amended by section 9-a of part B of chapter 58 of the
4 laws of 2007, are amended to read as follows:
5 1. It shall be unlawful for any person to sell or furnish to another
6 person or persons, a hypodermic syringe or hypodermic needle except:
7 (a) pursuant to a prescription of a practitioner, which for the
8 purposes of this section shall include a patient specific prescription
9 form as provided for in the education law; or
10 (b) to persons who have been authorized by the commissioner to obtain
11 and possess such instruments; or
12 (c) by a pharmacy licensed under article one hundred thirty-seven of
13 the education law, health care facility licensed under article twenty-
14 eight of this chapter or a health care practitioner who is otherwise
15 authorized to prescribe the use of hypodermic needles or syringes within
16 his or her scope of practice; provided, however, that such sale or
17 furnishing: (i) shall only be to a person eighteen years of age or
18 older; AND (ii) [shall be limited to a quantity of ten or less hypoderm-
19 ic needles or syringes; and (iii)] shall be in accordance with subdivi-
20 sion five of this section.
21 5. (a) A person eighteen years of age or older may obtain and possess
22 a hypodermic syringe or hypodermic needle pursuant to paragraph (c) of
23 subdivision one of this section.
24 (b) Subject to regulations of the commissioner, a pharmacy licensed
25 under article one hundred thirty-seven of the education law, a health

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 care facility licensed under article twenty-eight of this chapter or a
2 health care practitioner who is otherwise authorized to prescribe the
3 use of hypodermic needles or syringes within his or her scope of prac-
4 tice, may obtain and possess hypodermic needles or syringes for the
5 purpose of selling or furnishing them pursuant to paragraph (c) of
6 subdivision one of this section or for the purpose of disposing of them,
7 provided that such pharmacy, health care facility or health care practi-
8 tioner has registered with the department.

9 (c) Sale or furnishing of hypodermic syringes or hypodermic needles to
10 direct consumers pursuant to this subdivision by a pharmacy, health care
11 facility, or health care practitioner shall be accompanied by a safety
12 insert. Such safety insert shall be developed or approved by the commis-
13 sioner and shall include, but not be limited to, (i) information on the
14 proper use of hypodermic syringes and hypodermic needles; (ii) the risk
15 of blood borne diseases that may result from the use of hypodermic
16 syringes and hypodermic needles; (iii) methods for preventing the trans-
17 mission or contraction of blood borne diseases; (iv) proper hypodermic
18 syringe and hypodermic needle disposal practices; (v) information on the
19 dangers of injection drug use, and how to access drug treatment; (vi) a
20 toll-free phone number for information on the human immunodeficiency
21 virus; and (vii) information on the safe disposal of hypodermic syringes
22 and hypodermic needles including the relevant provisions of the environ-
23 mental conservation law relating to the unlawful release of regulated
24 medical waste. The safety insert shall be attached to or included in the
25 hypodermic syringe and hypodermic needle packaging, or shall be given to
26 the purchaser at the point of sale or furnishing in brochure form.

27 [(d)] In addition to the requirements of paragraph (c) of subdivision
28 one of this section, a pharmacy licensed under article one hundred thir-
29 ty-seven of the education law may sell or furnish hypodermic needles or
30 syringes only if such pharmacy[: (i) does not advertise to the public
31 the availability for retail sale or furnishing of hypodermic needles or
32 syringes without a prescription; and (ii)] at any location where hypo-
33 dermic needles or syringes are kept for retail sale or furnishing,
34 stores such needles and syringes in a manner that makes them available
35 only to authorized personnel and not openly available to customers.

36 [(e)] (D) The commissioner shall promulgate rules and regulations
37 necessary to implement the provisions of this subdivision which shall
38 include a requirement that such pharmacies, health care facilities and
39 health care practitioners cooperate in [a] THE safe disposal of used
40 hypodermic needles or syringes.

41 [(f)] (E) The commissioner may, upon the finding of a violation of
42 this section, suspend for a determinate period of time the sale or
43 furnishing of syringes by a specific entity.

44 S 2. This act shall take effect immediately.