

SENATE, No. 92

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator LIPMAN

1 AN ACT concerning hypodermic needles and syringes, amending  
2 N.J.S.2C:36-6 and P.L.1980, c.133 and supplementing Title 26 of  
3 the Revised Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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8 1. N.J.S.2C:36-6 is amended to read as follows:

9 2C:36-6. Except as otherwise authorized by law, it shall be  
10 unlawful for a person to have under his control or possess with intent  
11 to use [a] in a quantity greater than 10, hypodermic [syringe]  
12 syringes, hypodermic [needle] needles or any other [instrument]  
13 instruments adapted for the use of a controlled dangerous substance  
14 or a controlled substance analog as defined in chapter 35 of this title  
15 or to sell, furnish or give to any person such [syringe, needle or  
16 instrument] syringes, needles or instruments. Any person who violates  
17 this section is guilty of a disorderly persons offense.

18 Hypodermic syringes, hypodermic needles and instruments adapted  
19 for the use of a controlled dangerous substance or a controlled  
20 substance analog as defined in chapter 35 of this title are not "drug  
21 paraphernalia" as defined pursuant to N.J.S.2C:36-1.

22 (cf: P.L.1987, c.106, s.2)

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24 2. Section 6 of P.L.1980, c.133 (C.24:21-51) is amended to read  
25 as follows:

26 6. a. No person shall sell, furnish, or give to any person or persons  
27 other than a duly licensed physician, dentist, veterinarian, undertaker,  
28 nurse, podiatrist, registered pharmacist, or a hospital, sanitarium,  
29 clinical laboratory or any other medical institution, or a State or  
30 governmental agency, or a regular dealer in medical, dental or surgical  
31 supplies, or a resident physician or intern of a hospital, sanitarium or  
32 other medical institution, in a quantity greater than 10, an instrument

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 commonly known as a hypodermic syringe, hypodermic needle or any  
2 instrument adapted for the use of controlled dangerous substances as  
3 defined in P.L.1970, c.226 (C.24:21-1 et seq.) by subcutaneous  
4 injections without a prescription of a duly licensed physician, dentist  
5 or veterinarian. Such prescription shall contain the name and address  
6 of the patient, the description of the instrument prescribed and the  
7 number of instruments prescribed.

8 b. Every person who disposes of, or sells, or furnishes, or gives  
9 away [a] . in a quantity greater than 10, hypodermic [syringe] syringes  
10 or [a] hypodermic [needle] needles or [an instrument] instruments  
11 adapted for the use of controlled dangerous substances by  
12 subcutaneous injections, upon the prescription of a duly licensed  
13 physician, dentist, or veterinarian, shall record the date of the sale or  
14 furnishing of the [instrument] instruments. This prescription shall be  
15 retained on file for a period of two years and shall be open to  
16 inspection by any public officer or employee engaged in the  
17 enforcement of this section. A prescription filed in accordance with  
18 this section shall be sufficient authority, without the necessity of a  
19 renewal or reissuance, to permit subsequent sales or the furnishing of  
20 hypodermic syringes or hypodermic needles or instruments adapted for  
21 the use of controlled dangerous substances by subcutaneous injections  
22 to the person to whom the prescription was issued, for a period of six  
23 months from the date of its original issuance.

24 c. It shall be unlawful for any person or persons, except a duly  
25 licensed physician, dentist, veterinarian, nurse, podiatrist, hospital,  
26 sanitarium or other medical institution, or a resident physician or  
27 intern of a hospital, sanitarium or other medical institution, to have  
28 under control or possess [a] . in a quantity greater than 10,  
29 hypodermic [syringe] syringes, hypodermic [needle] needles or any  
30 other [instrument] instruments adapted for the use of controlled  
31 dangerous substances by subcutaneous injections with intent to use  
32 such [syringe, needle or instrument] syringes, needles or instruments  
33 for such purpose, unless such possession be obtained upon a valid  
34 prescription form, and such use be authorized or directed by a duly  
35 licensed physician or veterinarian. For the purposes of this subsection,  
36 no such prescription shall be valid which has been outstanding for  
37 more than six months.

38 d. Any person who violates this section is guilty of a disorderly  
39 persons offense.

40 e. Hypodermic syringes and needles in a quantity of 10 or less may  
41 be provided or sold at retail without a prescription only by a registered  
42 pharmacist or a health care practitioner for use by his own patients.  
43 (cf: P.L.1986, c.75, s.2)

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45 3. (New Section) The Department of Health shall:

46 a. Prepare an informational pamphlet in English and Spanish which

1 describes the proper disposal of used hypodermic syringes and needles  
2 and make a supply of pamphlets available to pharmacies and to  
3 community health outreach workers;

4 b. Promulgate regulations pursuant to the "Administrative  
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) that would  
6 establish a plan for the proper disposal of used hypodermic syringes  
7 and needles permitted to be sold by registered pharmacists in a  
8 quantity of 10 or less under subsection e. of section 6 of P.L.1980,  
9 c.133 (C.24:21-51).

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11 4. This act shall take effect 180 days after enactment.  
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#### 14 STATEMENT 15

16 This bill would permit hypodermic syringes and needles, in  
17 quantities of 10 or less, to be sold without prescriptions at pharmacies.  
18 It would also amend the law concerning drug paraphernalia by  
19 legalizing the possession of hypodermic syringes and needles, in  
20 quantities of 10 or less, that are not contaminated with illegal drugs.

21 This bill is modeled on a 1992 Connecticut law. A study that  
22 evaluated the effect of this law found that over a year after the law had  
23 taken effect, an estimated 83% of all Connecticut pharmacies were  
24 selling nonprescription hypodermic syringes and needles. More  
25 importantly, the study concluded that there was a significant decrease  
26 in multi-person use of hypodermic syringes and needles after the law  
27 went into effect. The study found that this represented a substantial  
28 reduction in risk that could lead directly to a decrease in the  
29 transmission of the human immunodeficiency virus (HIV), since the  
30 sharing of hypodermic syringes and needles is a major mechanism for  
31 the transmission of HIV.

32 New Jersey ranks fifth in the nation with reported acquired  
33 immunodeficiency syndrome (AIDS) cases. Approximately 52% of  
34 those AIDS cases are a result of injection drug use with contaminated  
35 needles. In light of the data from Connecticut, the deregulation of  
36 hypodermic needles and syringes in New Jersey would be a useful  
37 element of a comprehensive HIV prevention strategy.

38 The bill also requires that the Department of Health prepare  
39 informational pamphlets in English and Spanish that would explain the  
40 proper disposal of used hypodermic syringes and needles. These  
41 pamphlets would then be made available to pharmacies and community  
42 health outreach workers. In addition, the department will be required  
43 to promulgate regulations to establish a plan for the proper disposal of  
44 used hypodermic syringes and needles which may be sold by  
45 pharmacists in quantities of 10 or less pursuant to this bill.

46 Unlike needle exchange programs, this HIV prevention strategy

1 would not require the appropriation of any State funds, except for the  
2 costs of the printing and distribution of the informational pamphlet.  
3 The injection drug users, themselves, would purchase the hypodermic  
4 needles and syringes.

5 It is the intent of the sponsor that anyone who possesses, sells,  
6 furnishes or gives to any person a hypodermic syringe, needle or  
7 instrument shall not be guilty of the crime of complicity pursuant to  
8 N.J.S.2C:2-6.

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13 Deregulates the sale and possession of hypodermic needles and  
14 syringes.