
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1245 Session of
2023

INTRODUCED BY INNAMORATO, STRUZZI, KHAN, ISAACSON, SCHLOSSBERG,
KINKEAD, HOHENSTEIN, SANCHEZ, SOLOMON, GALLOWAY, KRAJEWSKI,
SALISBURY, DELLOSO, KINSEY, MADDEN, HILL-EVANS, FRANKEL,
CERRATO, SMITH-WADE-EL, SHUSTERMAN, KENYATTA, WAXMAN AND
STEELE, MAY 24, 2023

REFERRED TO COMMITTEE ON JUDICIARY, MAY 24, 2023

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 definitions and for prohibited acts and penalties.

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

14 Section 1. The definition of "drug paraphernalia" in section
15 2(b) of the act of April 14, 1972 (P.L.233, No.64), known as The
16 Controlled Substance, Drug, Device and Cosmetic Act, amended
17 November 3, 2022 (P.L.1731, No.111), is amended to read:

18 Section 2. Definitions.--* * *

19 (b) As used in this act:

20 * * *

21 "Drug paraphernalia" means all equipment, products and

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

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

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

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

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

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

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

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

30 (8) Blenders, bowls, containers, spoons and mixing devices

1 used, intended for use or designed for use in compounding
2 controlled substances.

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

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

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

12 (i) The term does not include:

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

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

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

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

30 (A) A unique identification number generated by the syringe

1 services program from data elements determined by the syringe
2 services program.

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

5 (iii) As used in this paragraph:

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

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

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

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

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

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

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

30 (F) Information on health care, including mental health

1 services.

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

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

8 (ii) Water pipes.

9 (iii) Carburetion tubes and devices.

10 (iv) Smoking and carburetion masks.

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

14 (vi) Miniature cocaine spoons and cocaine vials.

15 (vii) Chamber pipes.

16 (viii) Carburetor pipes.

17 (ix) Electric pipes.

18 (x) Air-driven pipes.

19 (xi) Chillums.

20 (xii) Bonges.

21 (xiii) Ice pipes or chillers.

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

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

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

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

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

29 (A) The number of individuals served.

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

1 (C) The number of naloxone kits dispensed.

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

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

8 This definition does not include testing products utilized in
9 determining whether a controlled substance contains chemicals,
10 toxic substances or hazardous compounds in quantities which can
11 cause physical harm or death. The term "testing products" shall
12 include, but is not limited to, fentanyl test strips.

13 * * *

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

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

17 (g) Notwithstanding any provision of law to the contrary, no
18 person shall be prosecuted for a residual amount of a controlled
19 substance contained in a used syringe, needle or other object
20 which is excluded from the definition of "drug paraphernalia"
21 under section 2(b).

22 Section 3. The following shall apply:

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

25 (2) Prior to commencing operations of a syringe services
26 program, the syringe services program shall report the
27 following to the Department of Health:

28 (i) The legal name of the organization, agency or
29 health care facility operating the syringe services
30 program.

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

3 (iii) The written notice of the proposed location to
4 the governing authority in which the syringe services
5 program is to be located.

6 (3) No later than one year after commencing operations
7 and every 12 months thereafter, each syringe services program
8 shall report the following to the Department of Health:

9 (i) The number of individuals served.

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

11 (iii) The number of naloxone kits dispensed.

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

14 (4) The Department of Health shall post the reports
15 under paragraphs (2) and (3) on its publicly accessible
16 Internet website.

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