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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2041

02/20/2023 Authored by Gomez; Koegel; Hanson, J.; Noor; Sencer-Mura and others
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; authorizing syringe services providers to possess,
1.3 distribute, and dispose of syringes; authorizing the possession of hypodermic
1.4 syringes; amending Minnesota Statutes 2022, sections 121A.28; 151.01, by adding
1.5 a subdivision; 151.40, subdivisions 1, 2; 152.01, subdivision 18; 152.205; repealing
1.6 Minnesota Statutes 2022, section 152.092.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2022, section 121A.28, is amended to read:

1.9 121A.28 LAW ENFORCEMENT RECORDS.

1.10 A law enforcement agency shall provide notice of any drug incident occurring within
1.11 the agency's jurisdiction, in which the agency has probable cause to believe a student violated
1.12 section 152.021, 152.022, 152.023, 152.024, 152.025, 152.0262, 152.027, ~~152.092~~, 152.097,
1.13 or 340A.503, subdivision 1, 2, or 3. The notice shall be in writing and shall be provided,
1.14 within two weeks after an incident occurs, to the chemical abuse preassessment team in the
1.15 school where the student is enrolled.

1.16 Sec. 2. Minnesota Statutes 2022, section 151.01, is amended by adding a subdivision to
1.17 read:

1.18 Subd. 43. Syringe services provider. "Syringe services provider" means a
1.19 community-based public health program that offers cost-free comprehensive harm reduction
1.20 services which may include: providing sterile needles, syringes, and other injection
1.21 equipment; making safe disposal containers for needles and syringes available; educating
1.22 participants and others about overdose prevention, safer injection practices, and infectious
1.23 disease prevention; providing blood-borne pathogen testing or referrals to blood-borne

2.1 pathogen testing; offering referrals to substance use disorder treatment, including substance
 2.2 use disorder treatment with medications for opioid use disorder; and providing referrals to
 2.3 medical treatment and services, mental health programs and services, and other social
 2.4 services.

2.5 Sec. 3. Minnesota Statutes 2022, section 151.40, subdivision 1, is amended to read:

2.6 Subdivision 1. **Generally.** It is unlawful for any person to ~~possess, control,~~ manufacture,
 2.7 sell, furnish, dispense, or otherwise dispose of hypodermic syringes or needles or any
 2.8 instrument or implement which can be adapted for subcutaneous injections, except for:

2.9 (1) the following persons when acting in the course of their practice or employment:

2.10 (i) licensed practitioners and their employees, agents, or delegates;

2.11 (ii) licensed pharmacies and their employees or agents;

2.12 (iii) licensed pharmacists;

2.13 (iv) registered nurses and licensed practical nurses;

2.14 (v) registered medical technologists;

2.15 (vi) medical interns and residents;

2.16 (vii) licensed drug wholesalers and their employees or agents;

2.17 (viii) licensed hospitals;

2.18 (ix) bona fide hospitals in which animals are treated;

2.19 (x) licensed nursing homes;

2.20 (xi) licensed morticians;

2.21 (xii) syringe and needle manufacturers and their dealers and agents;

2.22 (xiii) persons engaged in animal husbandry;

2.23 (xiv) clinical laboratories and their employees;

2.24 (xv) persons engaged in bona fide research or education or industrial use of hypodermic
 2.25 syringes and needles provided such persons cannot use hypodermic syringes and needles
 2.26 for the administration of drugs to human beings unless such drugs are prescribed, dispensed,
 2.27 and administered by a person lawfully authorized to do so; ~~and~~

2.28 (xvi) persons who administer drugs pursuant to an order or direction of a licensed
 2.29 practitioner; and

3.1 (xvii) syringe services providers and their employees and agents;

3.2 (2) a person who self-administers drugs pursuant to either the prescription or the direction
3.3 of a practitioner, or a family member, caregiver, or other individual who is designated by
3.4 such person to assist the person in obtaining and using needles and syringes for the
3.5 administration of such drugs;

3.6 (3) a person who is disposing of hypodermic syringes and needles through an activity
3.7 or program developed under section 325F.785; or

3.8 (4) a person who sells, ~~possesses,~~ or handles hypodermic syringes and needles pursuant
3.9 to subdivision 2.

3.10 **EFFECTIVE DATE.** This section is effective August 1, 2023.

3.11 Sec. 4. Minnesota Statutes 2022, section 151.40, subdivision 2, is amended to read:

3.12 Subd. 2. **Sales of ~~limited quantities~~ of clean needles and syringes.** (a) A registered
3.13 pharmacy or a licensed pharmacist may sell, without the prescription or direction of a
3.14 practitioner, unused hypodermic needles and syringes ~~in quantities of ten or fewer,~~ provided
3.15 the pharmacy or pharmacist complies with all of the requirements of this subdivision.

3.16 (b) At any location where hypodermic needles and syringes are kept for retail sale under
3.17 this subdivision, the needles and syringes shall be stored in a manner that makes them
3.18 available only to authorized personnel and not openly available to customers.

3.19 (c) A registered pharmacy or licensed pharmacist that sells hypodermic needles or
3.20 syringes under this subdivision may give the purchaser the materials developed by the
3.21 commissioner of health under section 325F.785.

3.22 (d) A registered pharmacy or licensed pharmacist that sells hypodermic needles or
3.23 syringes under this subdivision must certify to the commissioner of health participation in
3.24 an activity, including but not limited to those developed under section 325F.785, that supports
3.25 proper disposal of used hypodermic needles or syringes.

3.26 Sec. 5. Minnesota Statutes 2022, section 152.01, subdivision 18, is amended to read:

3.27 Subd. 18. **Drug paraphernalia.** (a) Except as otherwise provided in paragraph (b), "drug
3.28 paraphernalia" means all equipment, products, and materials of any kind, except those items
3.29 used in conjunction with permitted uses of controlled substances under this chapter or the
3.30 Uniform Controlled Substances Act, which are knowingly or intentionally used primarily
3.31 in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise

4.1 introducing into the human body a controlled substance, or (3) testing the strength,
4.2 ~~effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled~~
4.3 substance.

4.4 (b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale
4.5 of: (1) ~~hypodermic needles or syringes in accordance with section 151.40, subdivision 2~~
4.6 hypodermic syringes or needles or any instrument or implement which can be adapted for
4.7 subcutaneous injections; or (2) products that detect the presence of fentanyl or a fentanyl
4.8 analog in a controlled substance.

4.9 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
4.10 committed on or after that date.

4.11 Sec. 6. Minnesota Statutes 2022, section 152.205, is amended to read:

4.12 **152.205 LOCAL REGULATIONS.**

4.13 Sections 152.01, subdivision 18, and ~~152.092~~ 152.093 to 152.095 do not preempt
4.14 enforcement or preclude adoption of municipal or county ordinances prohibiting or otherwise
4.15 regulating the manufacture, delivery, possession, or advertisement of drug paraphernalia.

4.16 Sec. 7. **REPEALER.**

4.17 Minnesota Statutes 2022, section 152.092, is repealed.

152.092 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED.

(a) It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.

(b) A person who violates paragraph (a) and has previously violated paragraph (a) on two or more occasions has committed a crime and may be sentenced to imprisonment for up to 90 days or to payment of a fine up to \$1,000, or both.