

ASSEMBLY BILL

No. 1597

Introduced by Assembly Member Laird

February 22, 2005

An act to amend Section 11364.7 of the Health and Safety Code, relating to drug paraphernalia.

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, as introduced, Laird. Drug paraphernalia.

With certain exceptions, existing law makes it a misdemeanor for a person to deliver, furnish, or transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

This bill would make a technical, nonsubstantive change to existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11364.7 of the Health and Safety Code
2 is amended to read:

3 11364.7. (a) Except as authorized by law, any person who
4 delivers, furnishes, or transfers, possesses with intent to deliver,
5 furnish, or transfer, or manufactures with the intent to deliver,
6 furnish, or transfer, drug paraphernalia, knowing, or under
7 circumstances where one reasonably should know, that it will be
8 used to plant, propagate, cultivate, grow, harvest, compound,
9 convert, produce, process, prepare, test, analyze, pack, repack,
10 store, contain, conceal, inject, ingest, inhale, or otherwise
11 introduce into the human body, a controlled substance, except as
12 provided in subdivision (b), in violation of this division, is guilty
13 of a misdemeanor.

14 No public entity, its agents, or employees shall be subject to
15 criminal prosecution for distribution of hypodermic needles or
16 syringes to participants in clean needle and syringe exchange
17 projects authorized by the public entity pursuant to a declaration
18 of a local emergency due to the existence of a critical local public
19 health crisis.

20 (b) Except as authorized by law, any person who manufactures
21 with intent to deliver, furnish, or transfer drug paraphernalia
22 knowing, or under circumstances where one reasonably should
23 know, that it will be used to plant, propagate, cultivate, grow,
24 harvest, manufacture, compound, convert, produce, process,
25 prepare, test, analyze, pack, repack, store, contain, conceal,
26 inject, ingest, inhale, or otherwise introduce into the human body
27 cocaine, cocaine base, heroin, phencyclidine, or
28 methamphetamine in violation of this division shall be punished
29 by imprisonment in a county jail for not more than one year, or in
30 the state prison.

31 (c) Except as authorized by law, any person, 18 years of age or
32 over, who violates subdivision (a) by delivering, furnishing, or
33 transferring drug paraphernalia to a person under 18 years of age
34 who is at least three years his or her junior, or who, upon the
35 grounds of a public or private elementary, vocational, junior
36 high, or high school, possesses a hypodermic needle, as defined
37 in paragraph (7) of subdivision (a) of Section 11014.5, with the
38 intent to deliver, furnish, or transfer the hypodermic needle,

1 knowing, or under circumstances where one reasonably should
2 know, that it will be used by a person under 18 years of age to
3 inject into the human body a controlled substance, is guilty of a
4 misdemeanor and shall be punished by imprisonment in a county
5 jail for not more than one year, by a fine of not more than one
6 thousand dollars (\$1,000), or by both that imprisonment and fine.

7 (d) The violation, or the causing or the permitting of a
8 violation, of subdivision (a), (b), or (c) by a holder of a business
9 or liquor license issued by a city, county, or city and county, or
10 by the State of California, and in the course of the licensee's
11 business shall be grounds for the revocation of that license.

12 (e) All drug paraphernalia defined in Section 11014.5 is
13 subject to forfeiture and may be seized by any peace officer
14 pursuant to Section 11471.

15 (f) If any provision of this section or the application thereof to
16 any person or circumstance is held invalid, it is the intent of the
17 Legislature that the invalidity shall not affect other provisions or
18 applications of this section which can be given effect without the
19 invalid provision or application and to this end the provisions of
20 this section are severable.