ASSEMBLY BILL No. 1858

Introduced by Assembly Member Blumenfield
( Coauthor: Assembly Member Monning)
( Coauthors: Assembly Members Ammiano, Monning, and Skinner)

February 12, 2010

An act to amend Sections 121349, 121349.1, 121349.2, and 121349.3 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL’S DIGEST

AB 1858, as amended, Blumenfield. Hypodermic needles and syringes: exchange services.

Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes, and requires, with certain exceptions, a prescription to purchase a hypodermic needle or syringe for human use. Existing law prohibits any person from possessing or having under his control any hypodermic needle or syringe, except in accordance with those regulatory provisions.

Existing law authorizes a clean needle and syringe exchange project in any city and county, county, or city, as specified.

This bill would permit the State Department of Public Health to authorize certain entities, that meet prescribed conditions, to provide hypodermic needle and syringe exchange services in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling
infections that are infection spread through the sharing of used hypodermic needles and syringes.

The bill would also require the department to allow local entities to apply for authorization to provide hypodermic needle and syringe exchange services and to establish and maintain on its Internet Web site the address and contact information of programs providing hypodermic needle and syringe exchange services. The bill would change related hearing requirements from annually to biennially.


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

SECTION 1. Section 121349 of the Health and Safety Code is amended to read:

121349. (a) The Legislature finds and declares that scientific data from needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b) In order to reduce the spread of HIV infection and bloodborne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any city and county, county, or city upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health department, or upon the action of the city council and the mayor of a city without a health department.

(c) In order to reduce the spread of HIV infection, viral hepatitis, and other potentially deadly bloodborne infections, the State Department of Public Health may, notwithstanding any provision of law, authorize clinics, health services organizations, community-based organizations, clinics that apply for authorization and that have sufficient staff and capacity to provide services as described in Section 121349.1, as determined by the department.
or other entities that apply for authorization, to provide hypodermic needle and syringe exchange services consistent with state and federal standards, including those of the United States Public Health Service, in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes.

(d) The State Department of Public Health shall, in addition to activity authorized pursuant to subdivision (c), allow local entities to apply for authorization to provide hypodermic needle and syringe exchange services.

(e) The State Department of Public Health shall establish and maintain on its Internet Web site the address and contact information of programs providing hypodermic needle and syringe exchange services pursuant to subdivision (c).

(f) The authorization provided under this section shall only be for a clean needle and syringe exchange project as described in Section 121349.1.

SEC. 2. Section 121349.1 of the Health and Safety Code is amended to read:

121349.1. The State Department of Public Health, or a city and county, or a county, or a city with or without a health department, in consultation with the State Department of Public Health, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Secretary of Health and Human Services Public Health Service, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and bloodborne hepatitis infection among injection drug users. Staff and volunteers participating in an exchange project authorized by the state, county, city, or county and county pursuant to this chapter shall not be subject to criminal prosecution for violation of any law related to the possession, furnishing, or transfer of hypodermic needles or syringes during participation in an exchange project. Program participants shall be allowed to possess syringes consistent with Section 11364.
SEC. 3. Section 121349.2 of the Health and Safety Code is amended to read:

121349.2. Local government, local public health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on an a biennial basis. The public shall be given the opportunity to provide input to local leaders to ensure that any potential adverse impacts on the public welfare of clean needle and syringe exchange programs are addressed and mitigated.

SEC. 4. Section 121349.3 of the Health and Safety Code is amended to read:

121349.3. The health officer of the participating jurisdiction shall present biennially at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs, including, but not limited to, relevant statistics on bloodborne infections associated with needle sharing activity and the use of public funds for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to ensure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate. For hypodermic needle and syringe exchange services authorized by the State Department of Public Health, a biennial report shall be provided by the department to the local public health officer based on the reports to the department from service providers within the jurisdiction of the local public health officer.