

AMENDED IN ASSEMBLY APRIL 13, 2010

AMENDED IN ASSEMBLY MARCH 24, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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.

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

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

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

3 121349. (a) The Legislature finds and declares that scientific
4 data from needle exchange programs in the United States and in
5 Europe have shown that the exchange of used hypodermic needles
6 and syringes for clean hypodermic needles and syringes does not
7 increase drug use in the population, can serve as an important
8 bridge to treatment and recovery from drug abuse, and can curtail
9 the spread of human immunodeficiency virus (HIV) infection
10 among the intravenous drug user population.

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

21 (c) In order to reduce the spread of HIV infection, viral hepatitis,
22 and other potentially deadly ~~blood-borne~~ *bloodborne* infections,
23 the State Department of Public Health may, notwithstanding any
24 provision of law, authorize ~~clinics, health services organizations,~~
25 ~~community-based organizations,~~ *clinics that apply for authorization*
26 *and that have sufficient staff and capacity to provide services as*
27 *described in Section 121349.1, as determined by the department,*

1 or other entities *that apply for authorization*, to provide hypodermic
2 needle and syringe exchange services *consistent with state and*
3 *federal standards, including those of the United States Public*
4 *Health Service*, in any location where the department determines
5 that the conditions exist for the rapid spread of HIV, viral hepatitis,
6 or any other potentially deadly or disabling ~~infections that are~~
7 *infection* spread through the sharing of used hypodermic needles
8 and syringes.

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

13 (e)

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

18 (f)

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

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

24 121349.1. The State Department of Public Health, or a city
25 and county, or a county, or a city with or without a health
26 department, in consultation with the State Department of Public
27 Health, that acts to authorize a clean needle and syringe exchange
28 project pursuant to this chapter shall authorize the exchange of
29 clean hypodermic needles and syringes, as recommended by the
30 ~~United States Secretary of Health and Human Services~~ *Public*
31 *Health Service*, subject to the availability of funding, as part of a
32 network of comprehensive services, including treatment services,
33 to combat the spread of HIV and bloodborne hepatitis infection
34 among injection drug users. Staff and volunteers participating in
35 an exchange project authorized by the state, county, city, or city
36 and county pursuant to this chapter shall not be subject to criminal
37 prosecution for violation of any law related to the possession,
38 furnishing, or transfer of hypodermic needles or syringes during
39 participation in an exchange project. Program participants shall
40 be allowed to possess syringes consistent with Section 11364.

1 SEC. 3. Section 121349.2 of the Health and Safety Code is
2 amended to read:

3 121349.2. Local government, local public health officials, and
4 law enforcement shall be given the opportunity to comment on
5 clean needle and syringe exchange programs on ~~an~~ a biennial basis.
6 The public shall be given the opportunity to provide input to local
7 leaders to ensure that any potential adverse impacts on the public
8 welfare of clean needle and syringe exchange programs are
9 addressed and mitigated.

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

12 121349.3. The health officer of the participating jurisdiction
13 shall present biennially at an open meeting of the board of
14 supervisors or city council a report detailing the status of clean
15 needle and syringe exchange programs, including, but not limited
16 to, relevant statistics on bloodborne infections associated with
17 needle sharing activity and the use of public funds for these
18 programs. Law enforcement, administrators of alcohol and drug
19 treatment programs, other stakeholders, and the public shall be
20 afforded ample opportunity to comment at this annual meeting.
21 The notice to the public shall be sufficient to ~~assure~~ *ensure*
22 adequate participation in the meeting by the public. This meeting
23 shall be noticed in accordance with all state and local open meeting
24 laws and ordinances, and as local officials deem appropriate. For
25 hypodermic needle and syringe exchange services authorized by
26 the State Department of Public Health, a biennial report shall be
27 provided by the department to the local ~~public~~ health officer based
28 on the reports to the department from service providers within the
29 jurisdiction of the local ~~public~~ health officer.