

AMENDED IN SENATE MAY 27, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1743

Introduced by Assembly Member Ting
(Coauthor: Senator Monning)

February 14, 2014

An act to amend Sections 4144.5, 4145.5, and 4148.5 of, and to repeal Sections 4144, 4145, 4148, and 4149.5 of, the Business and Professions Code, and to amend Section ~~H364.1~~ *11364* of, and to repeal Section ~~H364~~ *11364.1* of, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1743, as amended, Ting. Hypodermic needles and syringes.

Existing law, until January 1, 2015, authorizes a pharmacist or physician to furnish 30 or fewer hypodermic needles and syringes for human use to a person 18 years of age or older solely for his or her personal use.

This bill would delete that January 1, 2015, date of repeal and would, *until January 1, 2021*, authorize a pharmacist or physician to provide an unlimited number of hypodermic needles and syringes to a person 18 years of age or older solely for his or her personal use.

Under existing law it is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphanelia used for unlawfully injecting or smoking specified controlled substances. Existing law, until January 1, 2015, exempts from this prohibition the possession of 30 or fewer hypodermic needles and syringes if acquired from an authorized source, *and from January 1, 2015, through December 31, 2018, inclusive, exempts from this prohibition possession solely for personal*

use of 10 or fewer hypodermic needles or syringes if acquired from an authorized source.

This bill would ~~delete that January 1, 2015, date of repeal and would, instead, and until January 1, 2021,~~ exempt the possession of any amount of hypodermic needles and syringes that are acquired from an authorized source.

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 4144 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 4144.5 of the Business and Professions Code
- 4 is amended to read:
- 5 4144.5. A person may sell or obtain hypodermic needles and
- 6 hypodermic syringes without a prescription or permit, for uses that
- 7 the board determines are industrial, and that person shall not be
- 8 required to comply with Section 4145.5 or 4146.
- 9 SEC. 3. Section 4145 of the Business and Professions Code is
- 10 repealed.
- 11 SEC. 4. Section 4145.5 of the Business and Professions Code
- 12 is amended to read:
- 13 4145.5. (a) Notwithstanding any other provision of law, a
- 14 pharmacist or physician may, without a prescription or a permit,
- 15 furnish hypodermic needles and syringes for human use, and a
- 16 person may, without a prescription or license, obtain hypodermic
- 17 needles and syringes from a pharmacist or physician for human
- 18 use, if the person is known to the furnisher and the furnisher has
- 19 previously been provided a prescription or other proof of a
- 20 legitimate medical need requiring a hypodermic needle or syringe
- 21 to administer a medicine or treatment.
- 22 (b) Notwithstanding any other provision of law *and until*
- 23 *January 1, 2021*, as a public health measure intended to prevent
- 24 the transmission of HIV, viral hepatitis, and other bloodborne
- 25 diseases among persons who use syringes and hypodermic needles,
- 26 and to prevent subsequent infection of sexual partners, newborn
- 27 children, or other persons, a physician or pharmacist may, without
- 28 a prescription or a permit, furnish hypodermic needles and syringes
- 29 for human use to a person 18 years of age or older, and a person

1 18 years of age or older may, without a prescription or license,
2 obtain hypodermic needles and syringes solely for personal use
3 from a physician or pharmacist.

4 (c) Notwithstanding any other provision of law, a pharmacist,
5 veterinarian, or person licensed pursuant to Section 4141 may,
6 without a prescription or license, furnish hypodermic needles and
7 syringes for use on animals, and a person may, without a
8 prescription or license, obtain hypodermic needles and syringes
9 from a pharmacist, veterinarian, or person licensed pursuant to
10 Section 4141 for use on animals, providing that no needle or
11 syringe shall be furnished to a person who is unknown to the
12 furnisher and unable to properly establish his or her identity.

13 (d) A pharmacy that furnishes nonprescription hypodermic
14 needles and syringes shall store hypodermic needles and syringes
15 in a manner that ensures that they are available only to authorized
16 personnel, and are not accessible to other persons.

17 (e) In order to provide for the safe disposal of hypodermic
18 needles and syringes, a pharmacy or hypodermic needle and syringe
19 exchange program that furnishes nonprescription hypodermic
20 needles and syringes shall *counsel consumers on safe disposal and*
21 provide consumers with one or more of the following disposal
22 options:

23 (1) It shall establish an onsite, safe, hypodermic needle and
24 syringe collection and disposal program that meets applicable state
25 and federal standards for collection and disposal of medical sharps
26 waste.

27 (2) It shall furnish, or make available, mail-back sharps
28 containers authorized by the United States Postal Service that meet
29 applicable state and federal requirements for the transport of
30 medical sharps waste, and shall provide tracking forms to verify
31 destruction at a certified disposal facility.

32 (3) It shall furnish, or make available, a sharps container that
33 meets applicable state and federal standards for collection and
34 disposal of medical sharps waste.

35 (f) ~~A~~ *Until January 1, 2021, a* pharmacy that furnishes
36 nonprescription syringes shall provide written information or verbal
37 counseling to consumers at the time of furnishing or sale of
38 nonprescription hypodermic needles or syringes on how to do the
39 following:

40 (1) Access drug treatment.

1 (2) Access testing and treatment for HIV and hepatitis C.

2 (3) Safely dispose of sharps waste.

3 SEC. 5. Section 4148 of the Business and Professions Code is
4 repealed.

5 SEC. 6. Section 4148.5 of the Business and Professions Code
6 is amended to read:

7 4148.5. All stocks of hypodermic needles or syringes shall be
8 confiscated if found outside the licensed premises of any person
9 holding a permit under Section 4141 and found not in the
10 possession or under the control of a person entitled to an exemption
11 under Section 4143, 4144.5, or 4145.5, or under Section ~~11364.5~~
12 *11364*, 121349, or 121349.1 of the Health and Safety Code.

13 SEC. 7. Section 4149.5 of the Business and Professions Code
14 is repealed.

15 ~~SEC. 8. Section 11364 of the Health and Safety Code is~~
16 ~~repealed.~~

17 *SEC. 8. Section 11364 of the Health and Safety Code is*
18 *amended to read:*

19 11364. (a) It is unlawful to possess an opium pipe or any
20 device, contrivance, instrument, or paraphernalia used for
21 unlawfully injecting or smoking (1) a controlled substance specified
22 in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of
23 Section 11054, specified in paragraph (14), (15), or (20) of
24 subdivision (d) of Section 11054, specified in subdivision (b) or
25 (c) of Section 11055, or specified in paragraph (2) of subdivision
26 (d) of Section 11055, or (2) a controlled substance ~~which~~ *that* is
27 a narcotic drug classified in Schedule III, IV, or V.

28 (b) This section shall not apply to hypodermic needles or
29 syringes that have been containerized for safe disposal in a
30 container that meets state and federal standards for disposal of
31 sharps waste.

32 ~~(e) Pursuant to authorization by a county, with respect to all of~~
33 ~~the territory within the county, or a city, with respect to the territory~~
34 ~~within the city, for the period commencing January 1, 2005, and~~
35 ~~ending December 31, 2018, subdivision (a) shall not apply to the~~
36 ~~possession solely for personal use of 10 or fewer hypodermic~~
37 ~~needles or syringes if acquired from an authorized source.~~

38 ~~(d) This section shall be inoperative until January 1, 2015.~~

39 (c) *Until January 1, 2021, as a public health measure intended*
40 *to prevent the transmission of HIV, viral hepatitis, and other*

1 *bloodborne diseases among persons who use syringes and*
2 *hypodermic needles, and to prevent subsequent infection of sexual*
3 *partners, newborn children, or other persons, this section shall*
4 *not apply to the possession solely for personal use of hypodermic*
5 *needles or syringes if acquired from a physician, pharmacist,*
6 *hypodermic needle and syringe exchange program, or any other*
7 *source that is authorized by law to provide sterile syringes or*
8 *hypodermic needles without a prescription.*

9 ~~SEC. 9. Section 11364.1 of the Health and Safety Code is~~
10 ~~amended to read:~~

11 ~~11364.1. (a) It is unlawful to possess an opium pipe or any~~
12 ~~device, contrivance, instrument, or paraphernalia used for~~
13 ~~unlawfully injecting or smoking (1) a controlled substance specified~~
14 ~~in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)~~
15 ~~of Section 11054, specified in paragraph (14), (15), or (20) of~~
16 ~~subdivision (d) of Section 11054, specified in subdivision (b) or~~
17 ~~(e) of Section 11055, or specified in paragraph (2) of subdivision~~
18 ~~(d) of Section 11055, or (2) a controlled substance which is a~~
19 ~~narcotic drug classified in Schedule III, IV, or V.~~

20 ~~(b) This section shall not apply to hypodermic needles or~~
21 ~~syringes that have been containerized for safe disposal in a~~
22 ~~container that meets state and federal standards for disposal of~~
23 ~~sharps waste.~~

24 ~~(c) As a public health measure intended to prevent the~~
25 ~~transmission of HIV, viral hepatitis, and other bloodborne diseases~~
26 ~~among persons who use syringes and hypodermic needles, and to~~
27 ~~prevent subsequent infection of sexual partners, newborn children,~~
28 ~~or other persons, this section shall not apply to the possession~~
29 ~~solely for personal use of hypodermic needles or syringes if~~
30 ~~acquired from a physician, pharmacist, hypodermic needle and~~
31 ~~syringe exchange program, or any other source that is authorized~~
32 ~~by law to provide sterile syringes or hypodermic needles without~~
33 ~~a prescription.~~

34 ~~SEC. 9. Section 11364.1 of the Health and Safety Code is~~
35 ~~repealed.~~

36 ~~11364.1. (a) It is unlawful to possess an opium pipe or any~~
37 ~~device, contrivance, instrument, or paraphernalia used for~~
38 ~~unlawfully injecting or smoking (1) a controlled substance specified~~
39 ~~in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)~~
40 ~~of Section 11054, specified in paragraph (14), (15), or (20) of~~

1 ~~subdivision (d) of Section 11054, specified in subdivision (b) or~~
2 ~~(e) of Section 11055, or specified in paragraph (2) of subdivision~~
3 ~~(d) of Section 11055, or (2) a controlled substance which is a~~
4 ~~narcotic drug classified in Schedule III, IV, or V.~~

5 ~~(b) This section shall not apply to hypodermic needles or~~
6 ~~syringes that have been containerized for safe disposal in a~~
7 ~~container that meets state and federal standards for disposal of~~
8 ~~sharps waste.~~

9 ~~(c) As a public health measure intended to prevent the~~
10 ~~transmission of HIV, viral hepatitis, and other bloodborne diseases~~
11 ~~among persons who use syringes and hypodermic needles, and to~~
12 ~~prevent subsequent infection of sexual partners, newborn children,~~
13 ~~or other persons, this section shall not apply to the possession~~
14 ~~solely for personal use of 30 or fewer hypodermic needles or~~
15 ~~syringes if acquired from a physician, pharmacist, hypodermic~~
16 ~~needle and syringe exchange program, or any other source that is~~
17 ~~authorized by law to provide sterile syringes or hypodermic needles~~
18 ~~without a prescription.~~

19 ~~(d) This section shall remain in effect only until January 1, 2015,~~
20 ~~and as of that date is repealed, unless a later enacted statute, that~~
21 ~~is enacted before January 1, 2015, deletes or extends that date.~~