

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 10, 2010

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
(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 *or her* 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 infection spread through the sharing of used hypodermic needles and syringes. *The bill would require the entities to submit an application to the department, would require a 45 day public comment period, would specify that participants shall not be subject to criminal prosecution for possession of needles and syringes acquired under the program, and would make conforming changes.*

The bill would also require the department to ~~allow local entities to apply for authorization 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 bloodborne infections, the State
- 23 Department of Public Health may, notwithstanding any other

provision of law, authorize entities that *provide services set forth in paragraph (1) of subdivision (d)*, apply for authorization—and ~~that under this chapter~~, and have sufficient staff and capacity to provide services as described in Section 121349.1, as determined by the department, 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 infection spread through the sharing of used hypodermic needles and syringes.

(d) In order for an entity to be authorized to conduct a project pursuant to this chapter by the State Department of Public Health, its application to the department shall demonstrate that the entity complies with all of the following minimum standards:

(1) The entity provides, directly or through referral, any of the following services:

- (A) Drug abuse treatment services.*
- (B) HIV or hepatitis C screening.*
- (C) Hepatitis A and hepatitis B vaccination.*
- (D) Screening for sexually transmitted infections.*
- (E) Housing services for the homeless, for victims of domestic violence, or other similar housing services.*
- (F) Services related to provision of education and materials for the reduction of sexual risk behaviors, including, but not limited to, the distribution of condoms.*

(2) The entity has the capacity to commence needle and syringe exchange services within three months of authorization.

(3) The entity has adequate funding to do all of the following at reasonably projected program participation levels:

- (A) Provide needles and syringe exchange services for all of its participants.*
- (B) Provide HIV and viral hepatitis prevention education services for all of its participants.*
- (C) Provide for the safe recovery and disposal of used syringes and sharps waste from all of its participants.*

(4) The entity has the capacity, and an established plan, to collect evaluative data in order to assess program impact, including, but not limited to, all of the following:

- (A) The total number of persons served.*

1 (B) The total number of syringes and needles distributed,
2 recovered, and disposed of.

3 (C) The total numbers and types of referrals to drug treatment
4 and other services.

5 (5) If the application is provisionally deemed appropriate by
6 the State Department of Public Health the department shall, at
7 least 45 days prior to approval of the application, provide for a
8 period of public comment as follows:

9 (A) Post on the department's Internet Web site the name of the
10 applicant, the nature of the services, and the location where the
11 applying entity will provide the services.

12 (B) Send a written and an electronic mail notice to the local
13 public health officer of the affected jurisdiction.

14 ~~(d)~~

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

19 ~~(e)~~

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

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

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

1 ~~Section 11364. Program participants shall not be subject to~~
2 ~~criminal prosecution for possession of needles or syringes acquired~~
3 ~~from an authorized needle and syringe exchange project entity.~~

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

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

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

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