

CHAPTER 183

AN ACT concerning the sale and possession of hypodermic syringes and needles, and supplementing Title 2C of the New Jersey Statutes and Title 45 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.2C:36-6.2 Sale by licensed pharmacy of hypodermic syringe or needle under certain circumstances.

1. a. Notwithstanding any State law, rule or regulation to the contrary, a licensed pharmacy may sell a hypodermic syringe or needle, or any other instrument adapted for the administration of drugs by injection, to a person over 18 years of age who presents valid photo identification to demonstrate proof of age or who otherwise satisfies the seller that he is over 18 years of age, as follows:

(1) without a prescription if sold in quantities of 10 or fewer; and

(2) pursuant to a prescription issued by a person authorized to prescribe under State law if sold in quantities of more than 10.

b. A licensed pharmacy that provides hypodermic syringes or needles for sale shall also be required to:

(1) maintain its supply of such instruments under or behind the pharmacy sales counter such that they are accessible only to a person standing behind a pharmacy sales counter; and

(2) make available to each person who purchases any such instrument, at the time of purchase, information to be developed by the Department of Health and Senior Services to the purchaser, about:

(a) the safe disposal of the instrument, including local disposal locations or a telephone number to call for that information; and

(b) substance abuse treatment, including a telephone number to call for assistance in obtaining treatment.

c. In addition to any other provision of law that may apply, a person who purchases a hypodermic syringe or needle pursuant to subsection a. of this section and sells that needle or syringe to another person is guilty of a disorderly persons offense.

d. The Department Health and Senior Services, in consultation with the Department of Human Services and the New Jersey State Board of Pharmacy, may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of subsection b. of this section. The Department of Health and Senior Services shall make the information that is to be developed pursuant to subsection b. of this section available to pharmacies and purchasers of hypodermic syringes or needles through its Internet website.

C.2C:36-6.3 Affirmative defense to criminal action, construction of act.

2. It is an affirmative defense to any criminal action arising under chapter 36 of Title 2C of the New Jersey Statutes for possession of a hypodermic syringe or needle that the item was obtained pursuant to the authority of section 1 of P.L.2011, c.183 (C.2C:36-6.2). The affirmative defense established herein shall be proved by the defendant by a preponderance of the evidence. It shall not be necessary for the State to negate any such fact in any criminal complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding. Nothing in this act shall be construed to limit or constrain in any way a prosecution for the possession, manufacture, or distribution of a controlled dangerous substance or for any other conduct proscribed by chapter 35 or chapter 36 of Title 2C of the New Jersey Statutes.

3. This act shall take effect on the 180th day after enactment, except that the Department of Health and Senior Services, in consultation with the Department of Human Services and the New Jersey State Board of Pharmacy, may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 17, 2012.