

1 AN ACT in relation to hypodermic syringes and needles.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Drug Paraphernalia Control Act is amended  
5 by changing Sections 3.5 and 4 as follows:

6 (720 ILCS 600/3.5)

7 Sec. 3.5. Possession of drug paraphernalia.

8 (a) A person who knowingly possesses an item of drug  
9 paraphernalia with the intent to use it in ingesting,  
10 inhaling, or otherwise introducing cannabis or a controlled  
11 substance into the human body, or in preparing cannabis or a  
12 controlled substance for that use, is guilty of a Class A  
13 misdemeanor for which the court shall impose a minimum fine  
14 of \$750 in addition to any other penalty prescribed for a  
15 Class A misdemeanor. This subsection (a) does not apply to a  
16 person who is legally authorized to possess hypodermic  
17 syringes or needles under the Hypodermic Syringes and Needles  
18 Act.

19 (b) In determining intent under subsection (a), the  
20 trier of fact may take into consideration the proximity of  
21 the cannabis or controlled substances to drug paraphernalia  
22 or the presence of cannabis or a controlled substance on the  
23 drug paraphernalia.

24 (Source: P.A. 88-677, eff. 12-15-94.)

25 (720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

26 Sec. 4. Exemptions. This Act shall not apply to:

27 (a) Items marketed for use in the preparation,  
28 compounding, packaging, labeling, or other use of cannabis or  
29 a controlled substance as an incident to lawful research,  
30 teaching, or chemical analysis and not for sale.

1 (b) Items marketed for, or historically and customarily  
2 used in connection with, the planting, propagating,  
3 cultivating, growing, harvesting, manufacturing, compounding,  
4 converting, producing, processing, preparing, testing,  
5 analyzing, packaging, repackaging, storing, containing,  
6 concealing, injecting, ingesting, or inhaling of tobacco or  
7 any other lawful substance.

8 Items exempt under this subsection include, but are not  
9 limited to, garden hoes, rakes, sickles, baggies, tobacco  
10 pipes, and cigarette-rolling papers.

11 (c) Items listed in Section 2 of this Act which are  
12 marketed for decorative purposes, when such items have been  
13 rendered completely inoperable or incapable of being used for  
14 any illicit purpose prohibited by this Act.

15 (d) A person who is legally authorized to possess  
16 hypodermic syringes or needles under the Hypodermic Syringes  
17 and Needles Act.

18 In determining whether or not a particular item is exempt  
19 under this subsection, the trier of fact should consider, in  
20 addition to all other logically relevant factors, the  
21 following:

22 (1) the general, usual, customary, and historical  
23 use to which the item involved has been put;

24 (2) expert evidence concerning the ordinary or  
25 customary use of the item and the effect of any  
26 peculiarity in the design or engineering of the device  
27 upon its functioning;

28 (3) any written instructions accompanying the  
29 delivery of the item concerning the purposes or uses to  
30 which the item can or may be put;

31 (4) any oral instructions provided by the seller of  
32 the item at the time and place of sale or commercial  
33 delivery;

34 (5) any national or local advertising concerning

1 the design, purpose or use of the item involved, and the  
2 entire context in which such advertising occurs;

3 (6) the manner, place and circumstances in which  
4 the item was displayed for sale, as well as any item or  
5 items displayed for sale or otherwise exhibited upon the  
6 premises where the sale was made;

7 (7) whether the owner or anyone in control of the  
8 object is a legitimate supplier of like or related items  
9 to the community, such as a licensed distributor or  
10 dealer of tobacco products;

11 (8) the existence and scope of legitimate uses for  
12 the object in the community.

13 (Source: P.A. 91-357, eff. 7-29-99.)

14 Section 10. The Hypodermic Syringes and Needles Act is  
15 amended by changing Sections 1, 2, 4, and 5 and adding  
16 Section 2.5 as follows:

17 (720 ILCS 635/1) (from Ch. 38, par. 22-50)

18 Sec. 1. Possession of hypodermic syringes and needles.

19 (a) Except as provided in subsection (b), no person, not  
20 being a physician, dentist, chiropodist or veterinarian  
21 licensed under the laws of this State or of the state where  
22 he resides, or a registered professional nurse, or a  
23 registered embalmer, manufacturer or dealer in embalming  
24 supplies, wholesale druggist, manufacturing pharmacist,  
25 registered pharmacist, manufacturer of surgical instruments,  
26 industrial user, official of any government having possession  
27 of the articles hereinafter mentioned by reason of his  
28 official duties, nurse or a medical laboratory technician  
29 acting under the direction of a physician or dentist,  
30 employee of an incorporated hospital acting under the  
31 direction of its superintendent or officer in immediate  
32 charge, or a carrier or messenger engaged in the

1 transportation of such articles, or the holder of a permit  
2 issued under Section 5 of this Act, or a farmer engaged in  
3 the use of such instruments on livestock, or a person engaged  
4 in chemical, clinical, pharmaceutical or other scientific  
5 research, shall have in his possession a hypodermic syringe,  
6 hypodermic needle, or any instrument adapted for the use of  
7 controlled substances or cannabis by subcutaneous injection.

8 (b) A person who is at least 18 years of age may  
9 purchase from a pharmacy and have in his or her possession up  
10 to 20 hypodermic syringes or needles.

11 (Source: P.A. 77-771.)

12 (720 ILCS 635/2) (from Ch. 38, par. 22-51)

13 Sec. 2. Sale of hypodermic syringes and needles.

14 (a) Except as provided in subsection (b), no such  
15 syringe, needle or instrument shall be delivered or sold to,  
16 or exchanged with, any person except a registered pharmacist,  
17 physician, dentist, veterinarian, registered embalmer,  
18 manufacturer or dealer in embalming supplies, wholesale  
19 druggist, manufacturing pharmacist, industrial user, a nurse  
20 upon the written order of a physician or dentist, the holder  
21 of a permit issued under Section 5 of this Act, a registered  
22 chiropodist, or an employee of an incorporated hospital upon  
23 the written order of its superintendent or officer in  
24 immediate charge; provided that the provisions of this Act  
25 shall not prohibit the sale, possession or use of hypodermic  
26 syringes or hypodermic needles for treatment of livestock or  
27 poultry by the owner or keeper thereof or a person engaged in  
28 chemical, clinical, pharmaceutical or other scientific  
29 research.

30 (b) A pharmacist may sell up to 20 sterile hypodermic  
31 syringes or needles to a person who is at least 18 years of  
32 age. A syringe or needle sold under this subsection (b) must  
33 be stored at a pharmacy and in a manner that limits access to

1 the syringes or needles to pharmacists employed at the  
 2 pharmacy and any persons designated by the pharmacists. A  
 3 syringe or needle sold at a pharmacy under this subsection  
 4 (b) may be sold only from the pharmacy department of the  
 5 pharmacy.

6 (Source: Laws 1955, p. 1408.)

7 (720 ILCS 635/2.5 new)

8 Sec. 2.5. Educational materials; guidelines for disposal.

9 (a) The Illinois Department of Public Health must  
 10 develop educational materials and make copies of the  
 11 educational materials available to pharmacists. Pharmacists  
 12 must make these educational materials available to persons  
 13 who purchase syringes and needles as authorized under  
 14 subsection (b) of Section 1. The educational materials must  
 15 include information regarding safer injection, HIV  
 16 prevention, syringe and needle disposal, and drug treatment.

17 (b) The Illinois Department of Public Health must create  
 18 guidelines to advise local health departments on implementing  
 19 syringe and needle disposal policies that are consistent with  
 20 or more stringent than any available guidelines regarding  
 21 disposal for home health care products provided by the United  
 22 States Environmental Protection Agency.

23 (720 ILCS 635/4) (from Ch. 38, par. 22-53)

24 Sec. 4. Penalty. A person who ~~Whoever~~ violates any  
 25 provision ~~previsions~~ of Section ~~Seetions~~ 1 or 2 ~~and~~ 3 ~~of~~  
 26 this Act ~~is shall-be~~ guilty of a Class A misdemeanor for the  
 27 first such offense; and a Class 4 felony for a second or any  
 28 succeeding offense ~~-he-shall-be-guilty-of-a-Class-4-felony.~~

29 (Source: P.A. 77-2830.)

30 (720 ILCS 635/5) (from Ch. 38, par. 22-54)

31 Sec. 5. Prescriptions.

1        Except as provided under Section 2, a licensed physician  
2        may direct a patient under his immediate charge to have in  
3        possession any of the instruments specified in Sections 1 and  
4        2 which may be dispensed by a registered pharmacist or  
5        assistant registered pharmacist in this state only (1) upon a  
6        written prescription of such physician, or (2) upon an oral  
7        order of such physician, which order is reduced promptly to  
8        writing and filed by the pharmacist, or (3) by refilling any  
9        such written or oral prescription if such refilling is  
10       authorized by the prescriber either in the original  
11       prescription or by oral order which is reduced promptly to  
12       writing and filed by the pharmacist in the same manner and  
13       under the same conditions as any other prescription issued by  
14       a practitioner licensed by law to write prescriptions, or (4)  
15       upon a signed statement of a the patient, upon proper  
16       identification, stating that the prescriptions or instruments  
17       specified in Sections 1 and 2 were lost or broken, as the  
18       case may be, the name and address of the prescriber, the name  
19       and address of the patient and the purpose for which the  
20       prescription was ordered; ~~provided, however, that the~~  
21       ~~registered pharmacists or assistant registered pharmacists~~  
22       ~~who deliver or sell any instruments specified in Sections 1~~  
23       ~~and 2 shall send a copy of such affidavit to the Department~~  
24       ~~of State Police by the 15th of the month following the month~~  
25       ~~in which such instruments were delivered or sold.~~ Such  
26       written or oral prescriptions when reduced to writing for  
27       instruments specified in Sections 1 and 2 shall contain the  
28       date of such prescription, the name and address of the  
29       prescriber, the name and address of the patient, the purpose  
30       for which the prescription is ordered, the date when  
31       dispensed and by whom dispensed.

32       Provided, however, that a licensed physician or other  
33       allied medical practitioner, authorized by the laws of the  
34       State of Illinois to prescribe or administer controlled

1 substances or cannabis to humans or animals, may authorize  
2 any person or the owner of any animal, to purchase and have  
3 in his possession any of the instruments specified in  
4 Sections 1 and 2, which may be sold to him without a specific  
5 written or oral prescription or order, by any person  
6 authorized by the laws of the State of Illinois to sell and  
7 dispense controlled substances or cannabis, if such  
8 authorization is in the form of a certificate giving the name  
9 and address of such licensed physician or other allied  
10 medical practitioner, the name, address and signature of the  
11 person, or of the owner of the animal, so authorized, the  
12 purpose or reason of such authorization, and the date of such  
13 certificate and in that event, no other prescription, writing  
14 or record shall be required to authorize the possession or  
15 sale of such instruments.

16 (Source: P.A. 84-25.)

17 (720 ILCS 635/3 rep.)

18 Section 15. The Hypodermic Syringes and Needles Act is  
19 amended by repealing Section 3.

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.