

Amendment to SB 234-FN

1 Amend the bill by replacing all after section 3 with the following:

2
3 4 Controlled Drug Act; Disposal of Controlled Drugs in Possession of Practitioner. Amend
4 RSA 318-B:17-a to read as follows:

5 318-B:17-a Disposal of Controlled Drugs in Possession of Practitioner. No person other than
6 the pharmacy board, its officers, agents, and inspectors is authorized to destroy any out-dated,
7 deteriorated, excessive or otherwise unwanted or confiscated controlled drugs which are in the
8 possession of a practitioner, veterinarian, pharmacy, peace officer, nursing home, manufacturer,
9 wholesaler, clinic, or laboratory or hospital. No payment shall be made to any person or institution
10 for any drug surrendered for destruction. A record shall be maintained which indicates the name,
11 strength, and quantity of all drugs destroyed; the place and manner of destruction; the date and
12 time destroyed; the name of the practitioner or institution surrendering the drugs; and the
13 signature and title of the person witnessing destruction. Such records shall conform to any federal
14 requirements and shall be open to inspection by all federal or state officers charged with the
15 enforcement of federal or state controlled drug laws. ***This section shall not apply to residual***
16 ***amounts in hypodermic syringes and needles.***

17 5 Controlled Drug Act; Penalties; Exception Added. Amend the introductory paragraph of
18 RSA 318-B:26, I(c) to read as follows:

19 (c) ***Except for residual amounts in hypodermic syringes and needles,*** in the case
20 of a violation involving any of the following, a person may be sentenced to a maximum term of
21 imprisonment of not more than 7 years, a fine of not more than \$100,000, or both. If any person
22 commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person
23 may be sentenced to a maximum term of imprisonment of not more than 15 years, a fine of not more
24 than \$200,000, or both:

25 6 New Subparagraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26, I by inserting
26 after subparagraph (d) the following new subparagraph:

27 (e) In the case of a violation involving a hypodermic syringe or needle containing a
28 residual amount of a controlled substance, as defined in RSA 318-B:1, XXIX-a, a person may be
29 sentenced to a maximum term of imprisonment of not more than 6 months, a fine of not more than
30 \$2,000, or both.

31 7 New Subparagraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26, II by inserting
32 after subparagraph (e) the following new subparagraph:

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1 (f) In the case of a violation involving a hypodermic syringe or needle containing a
2 residual amount of a controlled substance, as defined in RSA 318-B:1, XXIX-a, a person shall be
3 guilty of a misdemeanor.

4 8 Repeal. RSA 318:52-d, recording and filing of prescriptions for hypodermic syringes and
5 needles, is repealed.

6 9 New Subdivision; Syringe Service Programs. Amend RSA 318-B by inserting after section 42
7 the following new subdivision:

Syringe Service Programs

9 318-B:43 Syringe Service Programs Authorized.

10 I.(a) The following entities, if self-funded, may operate a syringe service program in New
11 Hampshire to prevent the transmission of disease and reduce morbidity and mortality among
12 individuals who inject drugs, and those individuals' contacts:

- 13 (1) Federally qualified health centers.
- 14 (2) Community health centers.
- 15 (3) Public health networks.
- 16 (4) AIDS service organizations.
- 17 (5) Substance misuse support or treatment organizations.
- 18 (6) Community based organizations.

19 (b) The commissioner of the department of health and human services shall adopt rules,
20 pursuant to RSA 541-A, further defining the entities in subparagraph (a).

21 II. Any entity operating a syringe service program in New Hampshire shall:

22 (a) Provide referral and linkage to HIV, viral hepatitis, and substance use disorder
23 prevention, care, and treatment services, as appropriate.

24 (b) Coordinate and collaborate with other local agencies, organizations, and providers
25 involved in comprehensive prevention programs for people who inject drugs to minimize duplication
26 of effort.

27 (c) Attempt to be a part of a comprehensive service program that may include, as
28 appropriate:

- 29 (1) Providing sterile needles, syringes, and other drug preparation equipment and
30 disposal services.
- 31 (2) Educating and counseling to reduce sexual, injection, and overdose risks.
- 32 (3) Providing condoms to reduce risk of sexual transmission of viral hepatitis, HIV,
33 or other STDs.
- 34 (4) Screening for HIV, viral hepatitis, STDs, and tuberculosis.
- 35 (5) Providing naloxone to reverse opioid overdoses.
- 36 (6) Providing referral and linkage to HIV, viral hepatitis, STD and tuberculosis
37 prevention, treatment, and care services, including antiretroviral therapy for hepatitis C virus

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(HCV) and HIV, pre-exposure prophylaxis (PrEP), post-exposure prophylaxis (PEP), prevention of mother-to-child transmission, and partner services.

(7) Providing referral and linkage to hepatitis A virus (HAV) and hepatitis B virus (HBV) vaccination.

(8) Providing referral and linkage to and provision of substance use disorder treatment including medication assisted treatment for opioid use disorder which combines drug therapy such as methadone, buprenorphine, or naltrexone with counseling and behavioral therapy.

(9) Providing referral to medical care, mental health services, and other support services.

(d) Posting its address, phone number, program contact information, if appropriate, hours of operation, and services offered on its Internet website.

(e) Reporting quarterly to the department, which report shall include the following information regarding the program's activities:

- (1) Number of needles/syringes distributed.
- (2) Number of needles/syringes taken back.
- (3) Number of HIV tests performed or delivered by the program.
- (4) Number of HCV tests performed/delivered by program.
- (5) Delivery of substance misuse treatment/care.
- (6) Delivery of HIV care.
- (7) Delivery of HCV care.
- (8) Number of referrals to substance misuse treatment/services.
- (9) Number of referrals to HIV testing.
- (10) Number of referral to HCV testing.
- (11) Number of referrals to HIV care.
- (12) Number of referrals to HCV care.

318-B:44 Syringe Service Programs; Affirmative Defense. It is an affirmative defense to prosecution under this chapter for possession of a hypodermic syringe or needle that the item was obtained through participation in a syringe service program. The affirmative defense 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 section shall be construed to limit a prosecution for the possession, manufacture, or distribution of a controlled substance or any violation of RSA 318-B.

10 Effective Date. This act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill:

I. Exempts residual amounts of controlled substances in hypodermic syringes and needles from the provisions of the controlled drug act.

II. Authorizes persons other than pharmacists to dispense hypodermic syringes and needles and allows them to be sold in retail establishments other than pharmacies.

III. Adds certain penalties.

IV. Authorizes the operation of syringe service programs in New Hampshire.